

1. CALL TO ORDER

2. MINUTES

A. September 8, 2020 PAB Meeting Minutes

3. OLD BUSINESS

4. NEW BUSINESS

A. Variance Request

- (1) Request from **Rochester & Associates, Inc.** to vary the lot width and front yard setback requirements on a 231.53± acres tract located north of the intersection of Gaines Mill Road and Heritage Glen Drive, having road frontage on Eberhart Cemetery Road (a/k/a **0 and 2901 Gaines Mill Road; 3490 Eberhart Cemetery Road**), having a zoning classification of Residential-I (R-I).

Ward Number: Three

Tax Parcel Number(s): 15-022-000-001, 001A and 009

Request: Single-family subdivision

B. Annexation Request

- (1) Request from **Smith, Gambrell & Russell, LLP** to annex a 4.011± acres tract located west of the intersection of Atlanta Highway and West Park Drive, adjacent to and southeast of the Norfolk Southern Railroad right-of-way (a/k/a **2500 West Park Drive**) and to establish zoning as Light Industrial (L-I).

Ward Number: Four

Tax Parcel Number(s): 08-011-000-009 (Part)

Request: Existing warehouse

C. Rezoning Request

- (1) Request from **Walker-Lanier, LLC** to rezone a 0.50± acre tract located on the northwest side of the intersection of Lanier Avenue and Walker Street (a/k/a **989 Lanier Avenue, NE and 1437 Walker Street, NE**) from Residential-I (R-I) to Residential-II (R-II).

Ward Number: Two

Tax Parcel Number(s): 01-087-004-015

Request: Existing duplex home and two new duplex homes

D. Code Amendment Request

- (1) Request from the **City of Gainesville Department of Water Resources** to amend the Unified Land Development Code and the Code of Ordinances. The code revisions focus on specific modifications to existing Articles and Titles relating to stormwater management requirements, floodplain management and flood damage prevention, stream buffer protection, and water conservation practices related to large irrigated landscapes. Gainesville Department of Water Resources (DWR) prepared the revisions to achieve minimum regulatory compliance with the Georgia Environmental Protection Division (GAEPD) and the Metropolitan North Georgia Water Planning District (MNGWPD) model ordinance recommendations. The following Articles and Titles are to be amended as bulleted below.

Code of Ordinances

- Part 3, The Code of Ordinances
 - Title 4, Public Works and Health
 - Title 5, Municipal Utilities

Unified Land Development Code

- Article 9-1, Enactment and Legal Status Provisions
- Article 9-2, Interpretations and Definitions
- Article 9-8, Overlay Zones
- Article 9-9, Site and Architectural Design Review
- Article 9-13, Subdivisions and Land Development
- Article 9-14, Soil Erosion, Sedimentation and Pollution Control
- Article 9-15, Floodplain Management
- Article 9-16, Buffers, Landscaping and Tree Protection
- Article 9-17, Access, Parking and Loading Requirements
- Article 9-20, Building and Property Maintenance Regulations
- Article 9-22, Applications and Procedures
- Article 9-24, Administration and Enforcement

5. MISCELLANEOUS

6. ADJOURNMENT

CITY OF GAINESVILLE

AGENDA REQUEST

Date Submitted: 9/17/2020
Presenter: N/A
Item of Business: September 8, 2020 PAB Meeting Minutes
Meeting Date: 10/13/2020

Purpose of Request:

The purpose of this request is to allow the Planning and Appeals Board to approve the minutes from the referenced meeting.

History/Background:

Facts & Issues for Consideration:

The draft minutes were reviewed by the Planning Manager and Community Development Director.

Department Recommendation:

Approval of the minutes as presented.

Department Director:

Rusty Ligon

If funding is involved, are funds approved within the current budget?

N/A

Amount Requested:

Source of Funds:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type
 Draft Minutes	Minutes

**GAINESVILLE PLANNING AND APPEALS BOARD
DRAFT MINUTES OF MEETING
SEPTEMBER 8, 2020**

CALL TO ORDER Chairman Carter at 5:30 p.m.

Members Present: Chairman Doug Carter, Vice-Chair Jane Fleming and Board Members Rich White, Kelvin Simmons, Eddie Martin and Carmen Delgado

Members Absent: Board Member Ryan Thompson

Staff Present: Community & Economic Development Deputy Director Matt Tate and Recording Secretary Gwen Fleming

Others Present: Council Members Barbara Brooks and George Wangemann

MINUTES OF AUGUST 11, 2020

Motion made by Board Member White

Motion seconded by Board Member Martin

Vote – 6 favor, 1 absent (Thompson)

NEW BUSINESS

A. Annexation Requests

- 1) Request from **Packaging Specialties of GA** to annex a 4.16± acres tract located on the southwest side of Murphy Boulevard at its terminus (a/k/a **0, 2390 and 2400 Murphy Boulevard**) and to establish zoning as Light Industrial (L-I).

Ward Number: Five

Tax Parcel Number(s): 08-007-003-008J and 030; 08-008-000-040

Request: Utility improvements

Staff Presentation: Deputy Director Matt Tate gave the following staff presentation:

The applicant is proposing to annex the subject property for a water meter upgrade. There is no other change in use proposed. The property is adjacent to the city limits to the south and west and is zoned Light Industrial (I-I) within unincorporated Hall County. The surrounding uses include industrial uses and undeveloped land both within the City of Gainesville and Hall County. The subject property consists of three tracts and is the location of Packaging Specialties of Georgia which produces flexographic printing and packaging for commercial products. The existing building is approximately 68,500 square feet in size and has been expanded three times since it was originally built in 1980. Access is on Murphy Boulevard which is a County maintained road. Adjacent uses include industrial uses and undeveloped land within the City and County

The Future Development Map for the City of Gainesville places the subject property within the *Industrial* land use category and the property is located within the *Browns Bridge Corridor* Character Area which both allow for industrial uses.

The Planning Division staff is recommending approval of this annexation request with a zoning of Light Industrial (L-I) based on the Comprehensive Plan and the adjacent industrial uses.

Applicant Presentation: Tony Gilleland, 2400 Murphy Boulevard, stated he is the plant manager and wants to expand the water usage and output. He is very appreciative of the help from Mr. Tate and ready to get started.

FAVOR: None

OPPOSE: None

Planning and Appeals Board Comments: None

There was a motion to recommend approval of the annexation request and to establish zoning as Light Industrial (L-I) as presented.

Motion made by Board Member Martin

Motion seconded by Board Member Delgado

Vote – 6 favor, 1 absent (Thompson)

- 2) Request from **CenterPoint Integrated Solutions** to annex a 7.81± acres tract located on the north side of Browns Bridge Road, east of its intersection with Cherry Hill Drive (a/k/a **2602 Browns Bridge Road**) and to establish zoning as General Business (G-B).

Ward Number: Four

Tax Parcel Number(s): 08-015-009-021 (Part)

Request: CarMax Auto Superstore

Staff Presentation: Deputy Director Matt Tate gave the following staff presentation:

The applicant is proposing to annex the subject 7.81± acres property to develop a CarMax Auto Superstore which sells pre-owned vehicles. The zoning of the property is Agricultural Residential-III (AR-III) within unincorporated Hall County and the city limits boundary is located to the east and west. The surrounding uses include a church, outdoor trailer and mulch/pine straw business and single-family homes are located in the County directly across Browns Bridge Road. The property is located within the Gateway Corridor Overlay Zone and contains an older home and various out buildings that will be demolished.

The proposal includes a 7,590 square foot auto dealership building, a detached 936 square foot carwash facility to service the inventory and associated parking for customers, employees and inventory. Access is proposed from an existing shared driveway fronting Browns Bridge Road located at the western edge of the property. Coordination will be required with the Georgia Department of Transportation (GDOT). There were no departmental comments for this request. Exterior finishes to the building are to include brick, split faced block material with accent EIFS material and standing seam metal roofs intended to adhere to the Gateway Overlay standards. The subject property is within both the *Retail/Commercial* and *Mixed-Use General* land use categories and the *Browns Bridge Corridor* Character Area which support commercial uses and automotive related businesses.

The Planning Division staff is recommending conditional approval of this annexation request with a zoning of General Business (G-B) based on the Comprehensive Plan and the adjacent and nearby mixture of uses.

Applicant Presentation: Brad Lauth, 355 Union Boulevard Suite 301, Lakewood CO, stated he is the project manager with CenterPoint Integrated Solutions. Also in attendance was the development team, a representative from CarMax, attorney and civil engineer. He also said they are available to answer any questions on the request. He wanted to clarify the operating hours in the staff report and are for general operating purposes. He stated the operating hours appear to be for service and not for sales. He said sales hours are Monday through Friday 10 am to 9 pm, Saturday 9 am to 9 pm and Sunday 12 pm to 7 pm. He stated these hours are subject to the business model of CarMax and things may change in the future and may not always be the operating hours.

FAVOR: None

OPPOSE: None

Planning and Appeals Board Comments: Chairman Carter asked Mr. Tate if the Board needed to address the change of hours mentioned by Mr. Lauth. Mr. Tate stated there was no need since it is not a condition of zoning and he was aware the hours might change.

There was a motion to recommend conditional approval of the annexation request with a zoning of General Business (G-B) with the following conditions:

Conditions

1. The proposed buildings shall meet the exterior building material requirements of the Gateway Corridor Overlay Zone.
2. An electronic message board sign shall not be permitted for the subject property.
3. All access point design for the subject property shall be submitted for review by the Gainesville Public Works Director in coordination with Hall County and the Georgia Department of Transportation (GDOT). The approval of said design shall be required prior to issuance of a building permit. All required access/traffic/sidewalk improvements associated with the proposed development shall be at the full expense of the owner/developer.

Motion made by Board Member White

Motion seconded by Board Member Simmons

Vote – 6 favor, 1 absent (Thompson)

NOTE: Vice-Chair Fleming recused herself at 5:43 p.m. The annexation and zoning amendment requests by Frank Norton, Jr. were presented together although the motions were made separately.

- 3) Request from **Frank Norton, Jr.** to annex a 2.16± acres tract located on the northeast side of Quarry Street and north side of Highland Street near its intersection (**a/k/a 39, 44, 48 and 49 Quarry Street; 4 Highland Street**) and to establish zoning as Planned Unit Development (P-U-D).

Ward Number: Two

Tax Parcel Number(s): 00-063-009-001, 002, 003, 004 and 012

Request: Existing and new homes totaling 19 units

Staff Presentation: Deputy Director Matt Tate gave the following staff presentation:

The proposal includes two requests which includes the annexation of 2.16± acres with PUD zoning and a zoning amendment of a 14.43± acres tract currently zoned PUD. All together the properties total 16.59± acres and a total of 49 residential units. Some of the surrounding uses include single-family and duplex homes within the New Holland Village, Church, Gainesville Middle School, Frances Meadows Aquatic Center and land under development for the Limestone Greenway mixed-use development.

The proposed annexation includes five parcels which are adjacent to the city limits to the north, east and west. The property to be annexed is zoned R-II within unincorporated Hall County and consists of 7 existing residential units (1 single-family home and 3 duplex homes which have been or are in some phase of renovation. The applicant is proposing 12 new townhome-style rental homes to be located behind the existing homes which will total 19 residential units (existing and new). The new homes will mostly be located behind the existing homes fronting Quarry Street and Highland Street. The homes are intended to compliment the neighboring 14.43± acres Liberty Lakeview property that was previously annexed with P-U-D zoning in 2018 as part of an overall 75.12± acres mixed-use development. The second part of the request includes a PUD amendment of the same 14.43± acres Liberty Lakeview property. At this time a permit has been issued to develop three of the homes which are under construction and have temporary access to Quarry Street. The homes will eventually access the future subdivision road off of Lakeview Drive which has been permitted but has not been developed. The current zoning of the property allowed up to 33 homes and required the homes to provide three-bedrooms and two-bathrooms within a minimum of 1,100 square feet of heated floor space. The proposed amendment will include 30 homes, reducing the development by 3 homes. The amendment will provide the option to build homes with two-bedrooms and two-bathrooms within the same 1,100 square feet of heated floor space. There are no other changes proposed.

The Gainesville Future Development Map places the subject property within the *Low-Medium Density Residential* land use category which includes areas containing or planned for single-family detached or semi-detached housing at densities up to 4.0 dwelling units per acre. The proposal seeks an overall gross residential density of 2.95± dwelling units per acre which includes both the 2.16± acres annexation and 14.43± acres zoning amendment tracts totaling 49 units. The subject property is also located within the *Historic Mill Villages* Character Area which allows for medium density residential, mixed-use, commercial, public / institutional, and parks / recreation / conservation.

The Planning Division staff is recommending conditional approval of this annexation and zoning amendment request with a zoning of Planned Unit Development (P-U-D) based on the Comprehensive Plan and the adjacent and nearby residential uses.

Applicant Presentation: Frank Norton, Jr., 687 East Lake Drive, stated he represents Sanctum, the owner of Liberty Lakeview, a zoned 14.43± acres, 30 unit gated residential community currently under construction. He stated as they began creating Liberty Lakeview, the investors became interested in improving the character and appearance of the homes along Quarry Street and Highland. He stated they have purchased five properties adjacent to their fourteen acres. New Holland itself is an island within the County

and are proposing to annex houses that physically touch their property although their firm is involved in purchasing other properties and restoring other assets in the New Holland community. He said they could redevelop the houses under the current county codes, they felt the need for unity, control, standards throughout the entire community. This is the original Wendell Stark Development and they were designed as a historical buffer with lower intensity than the retail proposed to transition the historic homes of New Holland with his major impact development which is currently underway on Limestone. They have discovered several things one being the site of the original water tower for New Holland and have been moved for sewer issues. He also pointed out that this use to be the cattle range in late 1800's and stables that were built in the community park and are incorporated some of those ruins in the amenity area. There is a historic cottage section, some townhome sections and a tower section. The development is to be environmentally sensitive and are trying to save as many trees as possible. Gibbs Construction has been hired to tag major trees, realign the roads and to try to build the houses especially on the Tower hill in between the trees with the tree and four floor plans available. The entire property will be fenced, secured parking element off Quarry Street as well as a gated entrance off Lakeview. There will be four product types, two historic product types and two-story townhouse which were originally built as a duplex with one bedroom and a study for the residents. He stated they have also purchased one of the three bedroom/two bath houses on Highland and are converting the townhouses to a duplex residence. Also, a new product with single interns and a strong demand for a roommate plan. They are asking for modifications to build 24 two-and-a-half bath townhouses, 18 single family two-bedroom cottages which are 1400 square feet, the two bedroom/two bath are roughly 1200 square feet. Also, a sidewalk has been added along Quarry with grass and a picket fence much like New Holland use to be to try to keep the historical character. They are using antique fixtures and added another full bath upstairs for a one bedroom study plus 2 baths. Also, tenants will be provided with private rear patios and a charcoal grill anchored for safety and insurance purposes. There is also a cottage product similar to Enota with three bedroom/two bath houses with an extra feature of a study carol, working fireplaces with firewood stations throughout. Everything has laminate floor and granite counter tops including the historical units and all with standard stainless steel appliances furnished with an alarm system included in the rent. The townhouse product is similar in concept to the four houses built on Forest Avenue and the 14 houses under construction in Midland which are 75 square feet bigger. The third space or amenity space was originally planned across the power line but for social distancing and other issues, it was moved closer to the overall development. It fronts Highland and uses the original foundation of the stables as decking, multiple station playground and will be building the first outside gym in Hall County with a fitness station, a small library, central Amazon box station and some guest parking overflow and it's in place with about 90 percent complete.

FAVOR: None

OPPOSE: Odis Sisk, 31 Quarry Street, stated he directly attaches to this piece of property as well. He stated after living at this location through the entire process staring back since 2018, coming to multiple City Council meetings he's seen the ball has been slowly rolling, change this a little bit, come back next time change a little until now it is exactly what they intended for this to be. But the words that are important to think about are control, fencing, security, for those parts and pieces being in that one little area now that is still the county, and everything else that is going to be annexed into the city, they have segregated the entire neighborhood. He purchased a 120 year old neighborhood. Annexing these particular properties into the city destroys a lot of things. For one thing technically it does not meet PUD standard which means it would have to be 1.5 acres. These are individual

plots of land as where a PUD status normally are one large piece of land that are planned as units and then developed as units. Integrating these historic homes into this other unit, it's not feasible. He stated these are individual homes so that does not meet the 1.5 acres as individual homes. They are bundling multiple properties together to try to get them to go together into this property. He stated if you took two of the townhomes which they are planning on building, that's the exact same footprint of one historic home. But putting 3 other townhomes behind the other one and compares to three 30 foot RV's. So Gainesville has a Historic Preservation Manual and Design Guideline. So if this is annexed into the city it should meet historic preservation codes or guidelines. In doing so the placement of those individual houses which his neighbor owns the next house over now he has 6 properties looking into his neighbor's house and has lived there many years. Mr. Sisk's house was purchased by family in 1953 and was renovated over the years. The homes purchased by Mr. Norton belonged to Hall County residents and have been given two options which is either pay a rent increase or 30 to 60 days to get out. Also he stated concern for his neighbors having two other homes built close behind them along with the children having to change schools from East Hall to Gainesville. He stated this annexation is separating their community. He stated this is a historic community and he did not leave it alone but branded it with a huge star on the side of it and have done it to all the homes they own through the process. He stated as a county resident he does not get any benefit of the 26 parking areas. With the addition 400 people going back and forth and Mr. Norton said these individuals they are targeting have odd hours and coming at all times of the night. So the kind of people they are targeting inside the gated community are not to mingle with lower individuals on the outside and this is creating a social problem in the neighborhood. The neighbors are seventy plus years old during the pandemic and have been given 60 days to get out and that in itself is so unethical. The homes being built on the back side are not cottages and the townhomes they plan to build does not look historical at all. It looks like two modular homes stacked on top of each other. Mr. Sisk major concern is breaking the property line issues because being a county resident, he values having property line. By putting these properties into the city and into this zoning then those property lines are dissolved. So then surrounding his property could be two to four townhomes. There have been many issues with the street only being 18 feet wide and a telephone pole has been hit many times because two cars can't pass at the same time. It is not making it any better by adding more and more homes into this area. Also, Gainesville has tree ordinance, PUD zoning. According to Angela Sheppard, from an email sent to her says PUD Zone developments are designed to meet the tree and landscape standards and are a part of PUD zoning. There has been no tree preservation. Also, as of April 14th a report was sent to Mr. Eddie Hughes, a Norton representative about the pine trees near the water tower which has a seventy year old property line variance and the fence has been moved. He has been asking for someone to come out and Mr. Hughes came out on January 6th and a report on April 14th and there is nothing. The other issue is the temporary driveway has not been approved yet and according to the email from the City on May 1st was only to be used as a temporary access point to get cars into those houses until the other driveways are built. Currently utilities are installed already for every one five homes on the site. So it's already planned and he seems to know that at some point in time the City is going to allow them. Mr. Sisk asked the Board the question "Have you come through this area in New Holland during the construction process – has anyone driven a vehicle through the neighborhood" and requested that before the next meeting the Board come and chat with him and meet his neighbors, see what New Holland has to offer without the annexation. He stated it looks like greed not need. He stated there are three historic mills in Gainesville and this one is still active and it has a community. His neighbor talked with him about being evicted but also the playground can be seen from the side street and the kids can't enter and if so, it's a trespassing issue. He believes this is not a neighborhood but a compound. He would like to

see a neighborhood built and be able to walk all around and not an exclusionary zone. He stated if it is that nice then leave it the way it is and appreciate the houses being restored. The neighbors do not appreciate the big blue and red stars all over the houses and would request it to be removed because in 1901 that was not a part of it. Also, his neighbor pays six hundred dollars for rent and has been told to pay eight hundred or move out. His neighbors approached him and asked to help so that's the reason for being at the meeting. He would like to meet face to face before this is allowed to take place.

Oppose: Tony Rolland, and his fiancé lives at 18 Quarry Street, at the corner of Highland and Quarry. They are wanting to add on to their historic home, make it bigger and will not look modernized on the outside. He does appreciate the historic aspects of New Holland community. There are good things Mr. Norton is doing and there are bad things but Quarry Street is a speed way with people traveling 50 to 55 mph on the side street. He stated the idea of building a community is great but townhomes and those in particular look like trailers stacked on top along with the red and blue stars are hideous. He stated he appreciates the investment in the community but turning it into a high-density location with very cheap looking townhomes does not meet architectural standards of the historic neighborhood and also the narrow streets will be a challenge with the school area.

Oppose: Otis Sisk, said the request from the original traffic survey suggest that the gate at middle school be open to help deflect some of the traffic to a red light. He requested the Board to consider for it to occur for safety reasons.

Chairman Carter stated the road that runs through the middle school, the Board does not have any authority to give an order to the city school about the gate but would need to be taken up with the city school board. Chairman Carter stated there was five minutes of rebuttal time remaining for Mr. Norton.

Rebuttal: Mr. Norton, stated New Holland is a special place with 98 houses on northern side and only about 15 percent are owner occupied and others are rental houses and in decay. An investment group affiliated with their firm purchased nine properties last week with termite issues, two with structural issues and are moving tenants out to repair and bring those houses back up to standards. Their firm is proud of its historic preservation legacy and still own twenty-eight historic homes over a hundred years old throughout Northeast Georgia. They recognize the inherit value to the fabric of the community. They are trying to build a community to serve northeast Georgia Medical Center and to serve the needs of all our community. He stated it is a temporary parking lot and if the zoning doesn't happen the temporary parking lot on Quarry does have to disappear so they can then access the three houses they built through the main road.

Planning and Appeals Board Comments: Board Member Simmons asked about clarification from Mr. Norton regarding the number of houses purchased by an investment group/local investor and were accumulated over a period of time. Mr. Norton confirmed that nine rental homes were recently purchased. Board Member Martin stated he has owned several of the homes in the New Holland community over the years but no longer has any of them.

There was a motion to recommend conditional approval of the annexation request with a zoning of Planned Unit Development (P-U-D) with the following conditions:

Conditions

1. All of the front yards of the existing and new residential units shall be sodded with grass. In addition, the rear of the proposed single-family homes fronting Lakeview Drive, Quarry Street and Highland Street shall be designed with exterior architectural features to resemble a front facade.
2. In addition to the proposed 6-foot tall privacy fence, the owner/developer shall plant vegetation consisting of evergreen and deciduous trees between the subject property and the adjacent neighboring residential homes fronting Quarry Street and Highland Street. The location, spacing, size and type of trees planted shall be subject to the approval of the Director of the Community and Economic Development Department.
3. The exterior of the proposed homes shall be constructed with hardie-plank siding and pitched roofs similar to the existing two-story structures located along Quarry Street and Highland Street.
4. All access point design for the subject property shall be submitted for review by the Gainesville Public Works Director in coordination with Hall County. All required access/traffic/sidewalk improvements associated with the proposed development shall be at the full expense of the developer/property owner. As determined by the Public Works Director, the proposed sidewalk network shall connect with the future proposed sidewalks along Lakeview Drive, Quarry Street, Highland Street and within proposed Liberty Lakeview subdivision road.

Motion made by Board Member Martin

Motion seconded by Board Member White

5 favor, 1 recusal (Fleming), 1 absent (Thompson)

B. Zoning Amendment Request

- 1) Request from **Frank Norton, Jr.** to amend the existing Planned Unit Development (P-U-D) zoning on a 14.43± acres tract located east of Lakeview Drive and north of Highland Street, having road frontage on the northwest side of Spring Street (a/k/a **0 Lakeview Drive NE; 52, 54 and 56 Quarry Street NE**).

Ward Number: Two

Tax Parcel Number(s): 00-082-003-002

Request: 30 residential cottage and townhomes

There was a motion to recommend conditional approval of the zoning amendment request to allow 30 residential cottage and townhomes within Planned Unit Development (P-U-D) zoning as presented with the following conditions:

Conditions

1. All of the front yards of the existing and new residential units shall be sodded with grass. In addition, the rear of the proposed single-family homes fronting Lakeview Drive, Quarry Street and Highland Street shall be designed with exterior architectural features to resemble a front facade.
2. In addition to the proposed 6-foot tall privacy fence, the owner/developer shall plant vegetation consisting of evergreen and deciduous trees between the subject property and the adjacent neighboring residential homes fronting Quarry Street and Highland Street. The location, spacing, size and type of trees planted shall be

subject to the approval of the Director of the Community and Economic Development Department.

- 3. The exterior of the proposed homes shall be constructed with hardie-plank siding and pitched roofs similar to the existing two-story structures located along Quarry Street and Highland Street.**
- 4. All access point design for the subject property shall be submitted for review by the Gainesville Public Works Director in coordination with Hall County. All required access/traffic/sidewalk improvements associated with the proposed development shall be at the full expense of the developer/property owner. As determined by the Public Works Director, the proposed sidewalk network shall connect with the future proposed sidewalks along Lakeview Drive, Quarry Street, Highland Street and within proposed Liberty Lakeview subdivision road.**

Motion made by Board Member Martin

Motion seconded by Board Member White

Vote – 5 favor, 1 recusal (Fleming), 1 absent (Thompson)

ADJOURNMENT

There was a motion to adjourn the meeting at 6:25 p.m.

Motion made by Board Member Simmons

Motion seconded by Board Member Martin

Vote – 5 favor, 2 absent (Fleming, Thompson)

Respectfully submitted,

Doug Carter, Chairman

Gwen Fleming, Recording Secretary

CITY OF GAINESVILLE

AGENDA REQUEST

Date Submitted: 9/16/2020

Presenter: Matt Tate

Item of Business: Request from **Rochester & Associates, Inc.** to vary the lot width and front yard setback requirements on a 231.53± acres tract located north of the intersection of Gaines Mill Road and Heritage Glen Drive, having road frontage on Eberhart Cemetery Road (a/k/a **0 and 2901 Gaines Mill Road; 3490 Eberhart Cemetery Road**), having a zoning classification of Residential-I (R-I).
Ward Number: Three
Tax Parcel Number(s): 15-022-000-001, 001A and 009
Request: Single-family subdivision

Meeting Date: 10/13/2020

Purpose of Request:

The applicant is proposing to vary the lot width requirements from 75-feet to 60-feet and front yard setback requirements from 30-feet to 15-feet for all of the lots within a proposed new subdivision. The subject property was previously annexed and rezoned with conditions in 2006 with a zoning of Residential-I (R-I) for 300 single-family lots. The property is currently undeveloped and is heavily wooded with streams. The applicant is basing the hardship on the steep topography and existing streams which significantly limits the area that can be developed. The plan proposes a total of 286 homes with an amenity area and access on Gaines Mill Road directly across from the entrance to Heritage Pointe subdivision. The property is surrounded by single-family homes within the city and county.

History/Background:

Facts & Issues for Consideration:

Department Recommendation:

Planning staff recommended approval with six conditions. See the Staff Recommendation report for details.

Department Director:

Rusty Ligon

If funding is involved, are funds approved within the current budget?

N/A

Amount Requested:

Source of Funds:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type
☐ Staff Recommendation Report	Report
☐ Location Maps	Backup Material
☐ Narrative	Backup Material
☐ Statement of Hardship	Backup Material
☐ Elevations	Backup Material
☐ Site Plan	Backup Material

**GAINESVILLE PLANNING AND APPEALS BOARD
STAFF RECOMMENDATION**

Applicant Rochester & Associates, Inc.
Property Owner El Chahal Property Holdings, LLC
Location 0 and 2901 Gaines Mill Road;
3490 Eberhart Cemetery Road
Request Vary the lot width and front yard setback
requirements
Size 231.53± acres
Zoning Residential-I (R-I)
Ward Three
Proposed Use Single-family subdivision
Planning Division Staff Recommendation **Approval, with conditions**
Date October 13, 2020

▪ **Request**

The applicant is proposing to vary the lot width and front yard setbacks for all of the lots within the proposed new subdivision. Specifically, the request proposes to vary the lot width requirements from 75-feet to 60-feet and front yard setback requirements from 30-feet to 15-feet with a minimum 20-foot setback from the back of the sidewalk to the face of the garage. The plan proposes a total of 286 homes with an amenity area and access on Gaines Mill Road directly across from the entrance to Heritage Pointe subdivision.

▪ **Background Information and Existing Conditions**

The subject property was previously annexed and rezoned with conditions in 2006 with a zoning of Residential-I (R-I) for 300 single-family lots. Each lot will be a minimum of 10,000 square feet in size as originally proposed which is the minimum lot size required within R-I zoning. The property is currently undeveloped and is heavily wooded with streams and is located within the North Oconee Water Supply Watershed Protection Overlay Zone. The intent of this overlay is to minimize the transport of pollutants and sediment to the water supply, to maintain the yield of water supply watersheds, and to ensure water can be treated to meet federal and state drinking water standards, within the North Oconee River small water supply watershed. The surrounding uses include single-family homes and undeveloped land within the city and county.

▪ **Significant Factors**

The Ordinance requires that the applicant's claim for hardship must be based on the size or shape of the lot, its topography, or other physical characteristics inherent in the lot itself and not on the desired aesthetics. Further, the Code states that a variance shall not be granted as a convenience to the applicant or as a way to gain any advantage or interest over similarly zoned properties.

The applicant is basing the hardship on the steep topography and existing streams which significantly limits the area that can be developed. In order to reduce the amount of clearing and disturbance and to avoid the steep slopes, the development follows the existing ridge lines for most of the proposed plan which impacts the total road frontage available. In addition, the proposed reduced front yard setback will provide for less grading and impervious surface area without impacting the use of the sidewalks.

- **Other Departmental Comments**

City of Gainesville Public Works will provide solid waste pick-up for the proposed homes. There are no other departmental comments for this request.

- **Supporting Documents**

Statement of Hardship, Plat, Concept Plan, Architectural Elevations.

- **Analysis**

(1) Are there extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography?

The property consists of rolling terrain and numerous streams which appear to limit the developable area.

(2) Would the application of the Unified Land Development Code to this particular piece of property create an unnecessary hardship?

The purpose of the building setback requirement is to provide for uniformity of building placement, sufficient access, as well as to provide for adequate separation from neighboring properties for fire safety. Sufficient access and adequate separation do not appear to be an issue if the variance were granted. The reduction of the lot width and front yard setbacks is similar to the development requirements within other subdivisions including Cresswind, Mundy Mill and Amberleigh. These developments faced many of the same development challenges but were zoned Planned Unit Development (P-U-D).

(3) Are there conditions that are peculiar to the property which adversely affect its reasonable uses or usability as currently zoned?

The property is zoned Residential-I (R-I) and is limited to 300 single-family lots by condition of zoning. According to the applicant, the development will only yield 240 lots without relief. The property would retain its right to be used for single-family purposes regardless of the proposed variances.

(4) Would relief, if granted, cause substantial detriment to the public good or impair the purposes and intent of this ordinance?

The proposed reduced lot widths and front yard setbacks will reduce the area to be graded for each lot which is within an environmentally sensitive area. Approving the variance request would not appear to have any direct impact on the adjacent properties or cause detriment to the public good.

(5) There must be a proved hardship by showing beyond a doubt the inability to make a reasonable use of the land if the zoning ordinance were applied literally.

The extreme topographical challenges and the number of streams that traverse the property do present a physical hardship for the property. Residential-I (R-I) zoning allows for a density of 4 dwelling units per acres which based on the size of the property would allow 926 lots. However, the property is restricted to no more than 300 lots per zoning condition. The applicant states the property can only be developed with 286 lots with relief given or a maximum of 240 lots if the variance were not approved.

(6) The hardship cannot be self-created; e.g., as in a case where the lot was purchased with the knowledge of an existing restriction.

The applicant was aware of the setback and lot width requirements but did not realize the need for variances until the property was engineered.

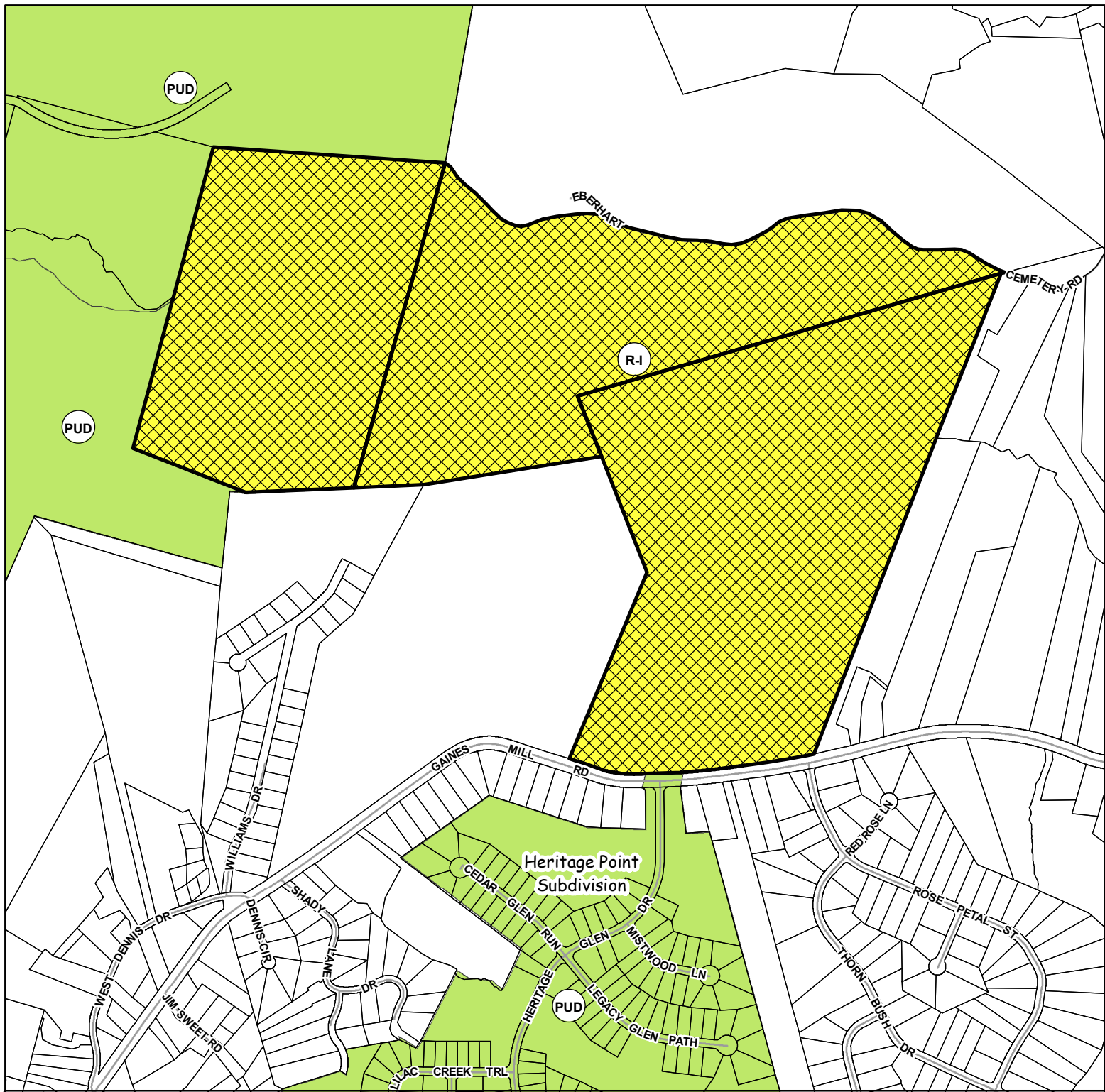
▪ **Staff Recommendation**

The Planning Division staff is recommending **conditional approval** of this variance request based on the topography and streams located within the subject property.

The following zoning conditions are from the original Zoning Ordinance 2006-27.

Conditions

1. The proposed development shall be limited to a maximum of 300 building lots as generally shown on the concept plan.
2. The proposed homes shall be consistent with the architectural renderings submitted with the application and shall have a minimum of 1,800 square feet of heated floor space.
3. There shall be a 100-foot wide natural buffer maintained along the Gaines Mill Road frontage, except as required for the entrance.
4. A minimum of 50% of the subject property will be preserved as open green space.
5. All access point designs shall be approved by the Gainesville Public Works Director and the Hall County Traffic Engineer.
6. Any road or access improvements deemed necessary by the Gainesville Public Works Director and the Hall County Traffic Engineer for the scope of the project shall be the expense of the applicant/developer. The scope of the project shall be defined as the area in which the subject property fronts along Gaines Mill Road.



Applicant:

ROCHESTER & ASSOCIATES, INC

VARIANCE REQUEST

Request:

Vary the lot width and front yard setback requirements on 231.53+/- acres within Residential-I (R-I) zoning for a single-family subdivision

Subject Property Address:

0 and 2901 Gaines Mill Road;
3490 Eberhart Cemetery Road

Tax Parcel:

15-022-000-001, 001A & 009

Meeting Date: 10/13/2020

Map Prepared: 09/08/2020



Subject Property

N



0 480 960 1,440 1,920 Feet

1" = 800'



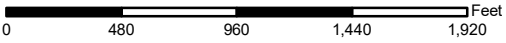
CITY OF

GAINESVILLE

COMMUNITY AND ECONOMIC DEVELOPMENT





Applicant: ROCHESTER & ASSOCIATES, INC		 Subject Property Aerial from 2018  1" = 800' 
VARIANCE REQUEST		
Request: Vary the lot width and front yard setback requirements on 231.53+/- acres within Residential-I (R-I) zoning for a single-family subdivision		
Subject Property Address: 0 and 2901 Gaines Mill Road; 3490 Eberhart Cemetery Road	Tax Parcel: 15-022-000-001, 001A & 009	 CITY OF GAINESVILLE COMMUNITY AND ECONOMIC DEVELOPMENT
Meeting Date: 10/13/2020 Map Prepared: 09/08/2020		

Statement of Hardship

2901 Gaines Mill Road

Applicant, Rochester & Associates, Inc., is seeking a variance for three parcels of land located at 2901 Gaines Mill Road, Gainesville, GA 30507. This property was zoned R-1, with conditions, on 7/18/06 (2006-27) for a single family subdivision with a maximum of 300 lots. The property is now under contract to a national builder and this request is necessary for the successful development in conformance with the zoning approval.

The property is comprised of 231.53 acres within three parcels and is bisected by a tributary of the North Oconee and falls within the watershed protection requirements. Over 50% of the site contains slopes in excess of 25%. In order to efficiently develop the site, roads must be placed primarily along ridge lines to avoid deep cuts and fills during grading. Since the total amount of ridge lines are limited, the lot width becomes the controlling factor in establishing density. By application of the current lot frontage requirement (75') the actual density (240) is reduced by 20% from the zoning approval density (300). The feasibility of the project is not sustainable at this density level.

We are proposing a lot width reduction from 75' to 60' in order to bring the density back closer to the approved number of lots. The minimum lot area of 10,000 SF would remain unchanged. The lot width variance will reduce the need for grading in steep areas and excessive clearing.

We have also requested a variance to the front setback. The current requirement of a 30' front setback tends to create more lot grading and more impervious surface from driveway construction. We are proposing a front setback of 15' with a minimum setback of 20' from back of sidewalk to face of garage. This will allow for parking to occur within the driveway without impacting the use of the sidewalks.

We appreciate your consideration of these requests and are available to address questions or concerns as needed.

Variance Request

STATEMENT OF HARDSHIP

The Gainesville Planning and Appeals Board has the authority, in specific cases, to grant variances from the terms of the Unified Land Development Code of the City of Gainesville, Georgia, when the variance will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the Unified Land Development Code will, in specific cases, result in unnecessary hardship and so that the resolution shall be observed, public safety and welfare secured, and substantial justice done. The authority to grant such variances shall be limited to those instances where a hardship is clearly established as required by the Unified Land Development Code. Variances may be granted only upon a finding by the Gainesville Planning and Appeals Board that:

Describe how each situation listed below relates to your application.

1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography. (The hardship must relate to the physical character of the lot and not to a personal or economic hardship.)
The majority of the site contains slopes in excess of 25%. In order to reduce the amount of clearing and disturbance, the proposed layout follows the ridge lines for most of the plan in order to avoid the steep slopes. This negatively impacts the total road frontage available for lots and in order to achieve the allowable zoning density, this request is necessary.

2) The application of the requirements of this resolution to this particular property would create an unnecessary hardship.
A hardship exists due to topographic constraints. In order to be sensitive to the environmental considerations of the site, approval of these variances will mitigate unnecessary impacts.

3) There are conditions that are peculiar to the property which adversely affect its reasonable use or usability as currently zoned.
The majority of the site contains slopes in excess of 25%. The approval of these variances will mitigate impacts in these steep areas.

4) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Ordinance. For example, granting the variance would not confer any special privilege that is denied by this regulation to other property in the same zoning district. Such conditions are not the result of any actions of the property owner.
Approval of these variances would not result in additional density but will mitigate impacts in environmentally sensitive areas. These requests are not the result of any actions of the property owner.

5) There must be a proved hardship by showing beyond a doubt the inability to make a reasonable use of the land if the zoning ordinance were applied literally.
The available area for lot development is limited by the amount of land suitable for development without massive clearing and grading of the site. Without these variances the use of the land for this purpose would be not be feasible within the current zoning district.

6) The hardship cannot be self-created; e.g., as in a case where the lot was purchased with the knowledge of an existing restriction.
The hardship was revealed during preliminary engineering of the site and could not have been accurately determined prior to that time.

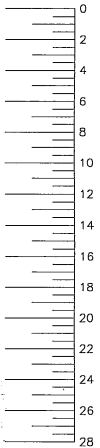
I hereby certify that the above information and all attached information is true and correct.

Signature of Applicant

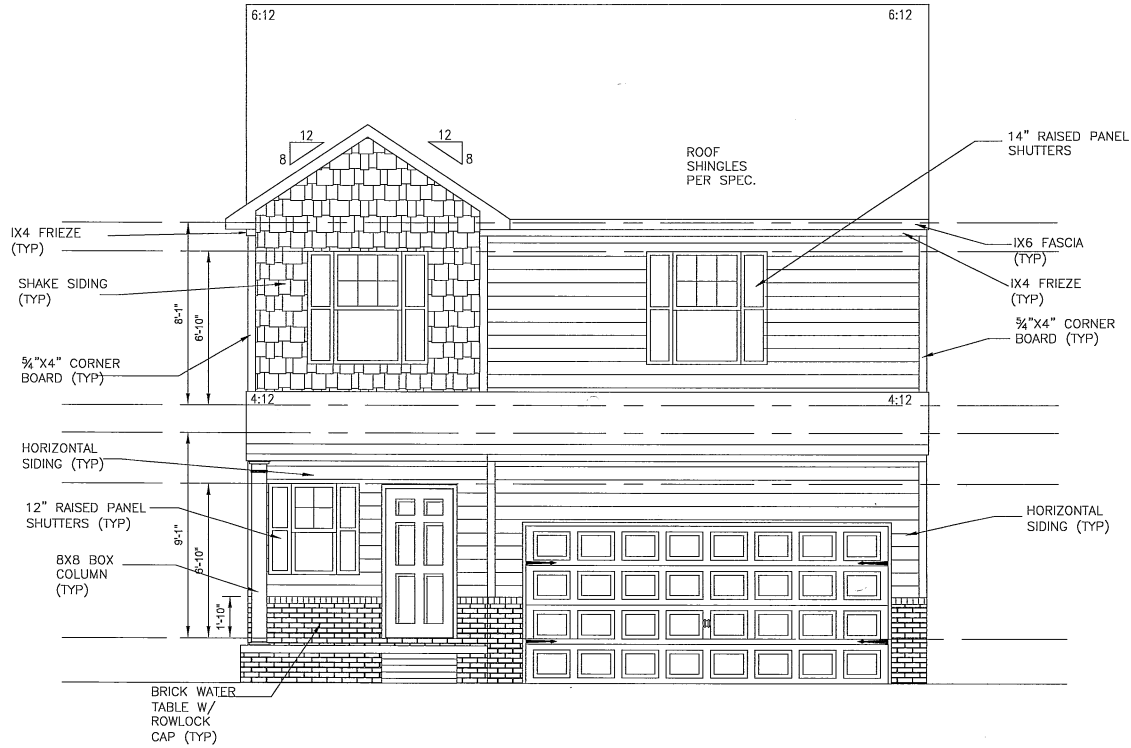
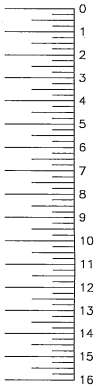
Bradley Duncel

Date 8/28/20

1/8"



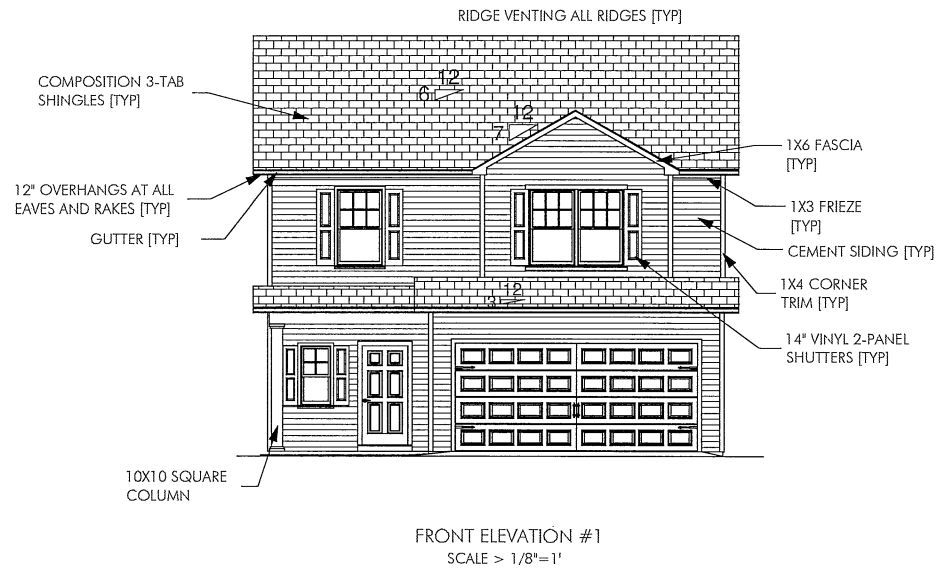
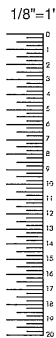
3/16"



FRONT ELEVATION

ALL WALLS ARE 2X4
UNLESS NOTED OTHERWISE

1	
REVISION NUMBER - REFER TO COVER SHEET	
REV: 06.30.15	
REV: 06.33.15	
LGI Homes expressly reserves it's property rights in these plans and drawings. These plans and related drawings are not to be reproduced without written consent.	
DRAWING SCALE: 3/16" = 1'-0"	
RELEASE DATE 1.10.15	SET NUMBER 1
OPTION NO.	
MODEL HARDING (BSMT)	DRAWING TITLE FRONT ELEVATION
SHEET NO.	OPTION DESCRIPTION
A1.1ASB1	
SEQUENCE NO.	A1



FRONT ELEVATION

A04

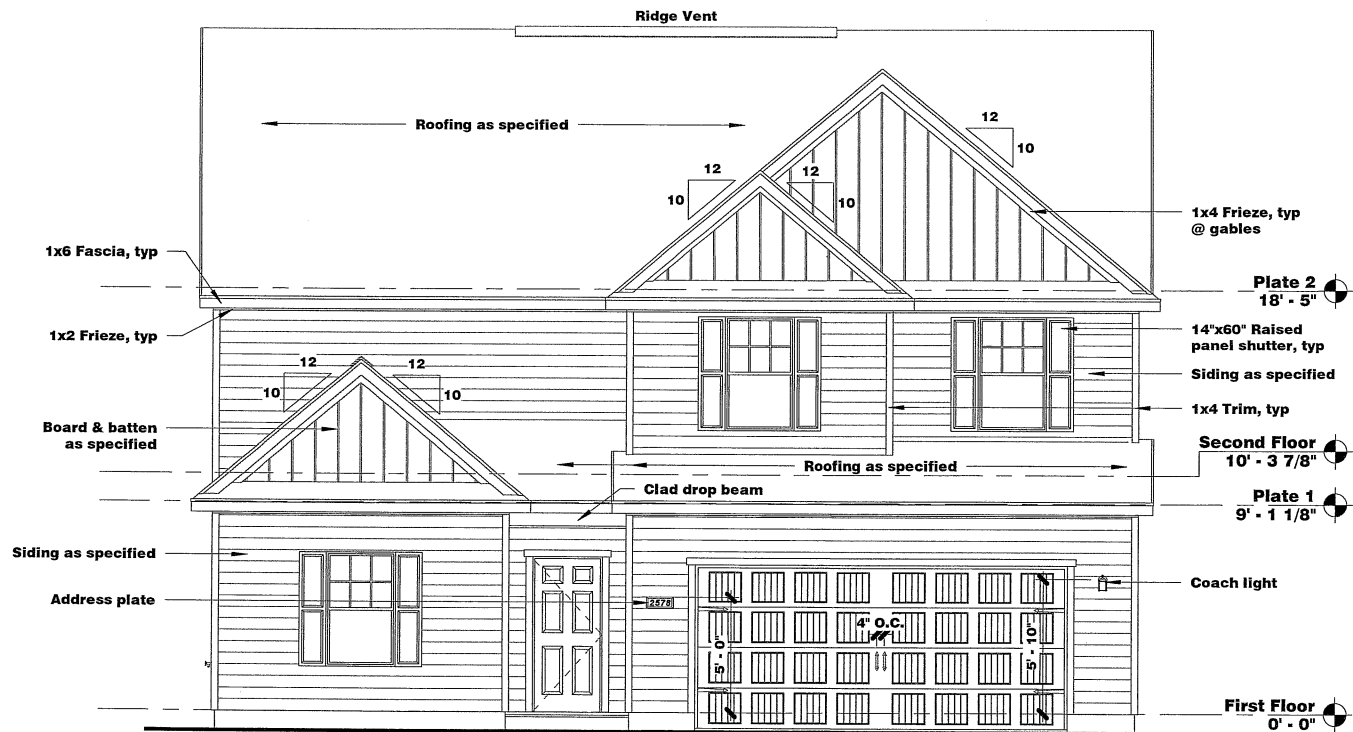
Call (423) 946-7306
www.customizedhomeplans.com

CustomizedHomePlans.com

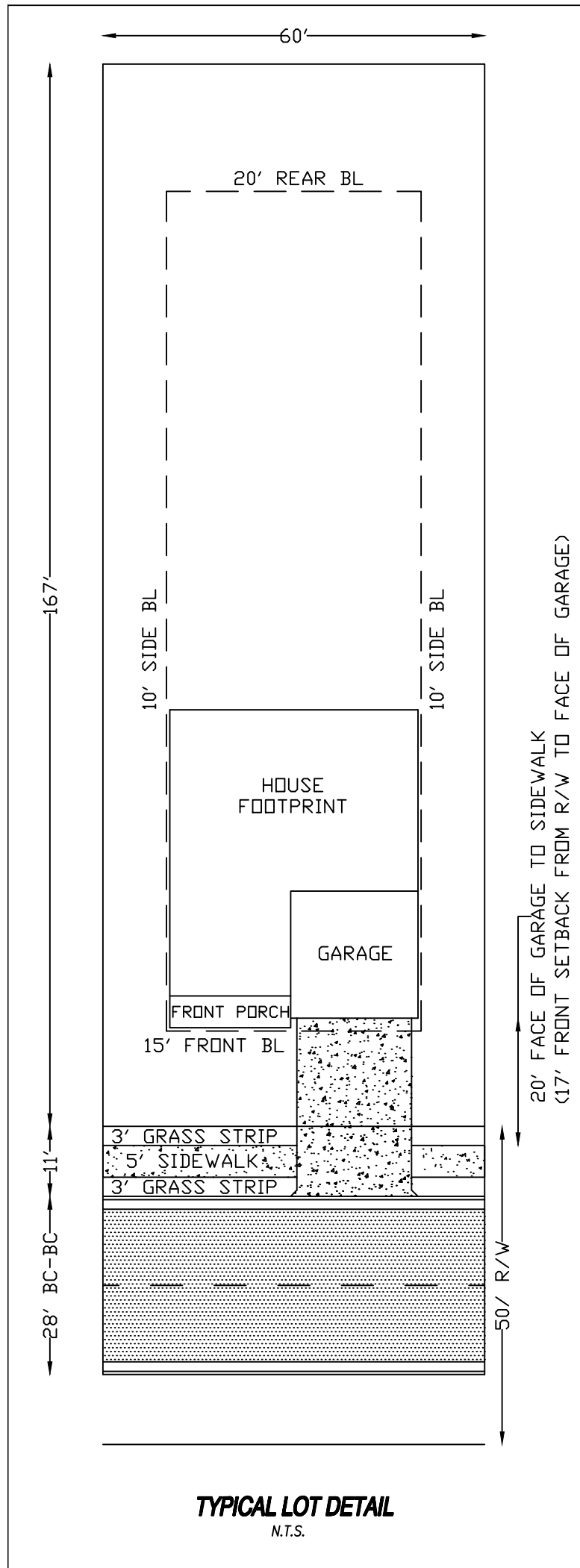
THE AVERY
GEORGIA

REV 05/30/19





1 Front Elevation
3/16" = 1'-0"



TYPICAL LOT DETAIL
N.T.S.

CITY OF GAINESVILLE

AGENDA REQUEST

Date Submitted: 9/16/2020

Presenter: Matt Tate

Item of Business: Request from **Smith, Gambrell & Russell, LLP** to annex a 4.011± acres tract located west of the intersection of Atlanta Highway and West Park Drive, adjacent to and southeast of the Norfolk Southern Railroad right-of-way (a/k/a **2500 West Park Drive**) and to establish zoning as Light Industrial (L-I).
Ward Number: Four
Tax Parcel Number(s): 08-011-000-009 (Part)
Request: Existing warehouse

Meeting Date: 10/13/2020

Purpose of Request:

The applicant is proposing to annex the subject 4.011+/- acres property with a zoning of Light Industrial (L-I) in order to bring the entire property under one jurisdiction. The property is partially wooded with a creek, and contains a small 222 square foot portion of the adjacent 758,374 square foot warehouse/distribution facility. There are no proposed changes at this time. The subject property is zoned Agricultural Residential-III (AR-III) and is adjacent to a 49.04± acres parent tract zoned Light Industrial (L-I) that was originally annexed in 1990 for the Gainesville Industrial Park West. The two properties combined consist of 53.34+/- acres.

History/Background:

Facts & Issues for Consideration:

Department Recommendation:

Planning staff recommended approval. See the Staff Recommendation report for details.

Department Director:

Rusty Ligon

If funding is involved, are funds approved within the current budget?

N/A

Amount Requested:

Source of Funds:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type
☐ Staff Recommendation Report	Report
☐ Location Maps	Backup Material
☐ Narrative	Backup Material
☐ Site Plan	Backup Material

**GAINESVILLE PLANNING and APPEALS BOARD
STAFF RECOMMENDATION**

Applicant Smith, Gambrell & Russell, LLP
Property Owner Gainesville (GA) Owner, LLC
c/o Miles River Partners, LLC
Locations 2500 West Park Drive
Request Annex with L-I zoning
Size 4.011± acres
Ward Four
Proposed Use Existing warehouse
Planning Division Staff Recommendation **Approval**
Date October 13, 2020

▪ **Applicant's Proposal and Background Information**

The applicant is proposing to annex the subject 4.011± acres property with a zoning of Light Industrial (L-I) in order to bring the entire property under one jurisdiction. The property is partially wooded with a creek, and contains a small 222 square foot portion of the adjacent 758,374 square foot Continental General Tire warehouse/distribution facility. There are no proposed changes at this time. The subject property is zoned Agricultural Residential-III (AR-III) and is adjacent to a 49.04± acres parent tract zoned Light Industrial (L-I) that was originally annexed in 1990 for the Gainesville Industrial Park West. The two properties combined consist of 53.34± acres.

▪ **Adjacent Land Use and Zoning**

Location	Use	Zoning
North	Railroad right-of-way; Undeveloped industrial land	AR-III -County L-I -City
South	Continental General Tire; Undeveloped industrial land	L-I -City
East	Continental General Tire	L-I -City
West	Railroad right-of-way; Single-family home	R-I -County

▪ **Other Departmental Comments**

There were no departmental comments for this request.

▪ **Zoning History**

The following zoning actions have taken place in the immediate area during the last ten years:

2018 – A request by Hydro Extruder, LLC to annex a 10.98± acres tract and a 11.29± acres tract with a zoning of Light Industrial (L-I) located at 2829 Mountain View Road and 2949 Old Oakwood Road was conditionally approved to expand the existing industrial use.

2016 – A request by Butler Property, LLC to amend a 92.06± acres tract located within the Mundy Mill development at 3035 Old Oakwood Road SW and 3523 Mountain View Road SW zoned Planned Unit Development (P-U-D) was approved to change the location of some of the single-family homes, multi-family apartments, commercial and industrial uses.

2011 – A request by Butler Property, LLC to amend the zoning conditions for a 65.425± acres tract located within the Mundy Mill development at 2975 Mountain View Road SW; and 3755 Meeks Drive SW zoned Planned Unit Development (P-U-D) was approved to amend conditions 17 and 18 to reduce the minimum square footage for apartments.

2010 – A request by the City of Gainesville to amend the zoning conditions for a 605.0± acres tract known as the Mundy Mill development zoned Planned Unit Development (P-U-D) was approved to amend conditions 1, 2, 4, 5, 11, 16, 17, 22, 23, 25, 28 and 29 for better clarification.

▪ **Staff Analysis**

(1) Is the proposed use suitable in view of the zoning and development of adjacent and nearby property?

The property is surrounded by industrial uses. The adjacent zoning is Light Industrial (L-I) zoning except for the railroad right-of-way which is zoned Agricultural Residential-III (AR-III) within Hall County. The proposal is suitable in light of the surrounding properties.

(2) Will the proposed use adversely affect the existing use or usability of adjacent or nearby property?

The proposed annexation request will not affect the existing use or usability of the adjacent or nearby properties. There are no planned changes for the property as it is already used for light industrial purposes.

(3) Is the proposed use compatible with the purpose and intent of the Comprehensive Plan?

It is staff's opinion that the proposal is consistent with the Comprehensive Plan. The Future Development Map for the City of Gainesville places the subject property within the *Industrial* land use category. This category includes areas containing or planned for a wide range of office, business, light industrial, manufacturing, research and development uses.

According to the Character Area map for the City of Gainesville, the subject properties are located within the Economic Development Gateways character area which appears to support the applicant's proposal. This character area represents the industrial, warehousing and other commercial enterprises that parallel the I-985 and Norfolk-Southern railroad corridor. The primary vision for the area is to continue to support economic development while preserving and strengthening important natural and cultural resources. These areas include a wide range of office, business, light industrial, manufacturing, research, and development uses; and commercial uses that directly support or are otherwise linked to the dominant business use as well as mixed-use, residential (existing uses only), public / institutional, transportation / communications / utilities, and parks / recreation / conservation uses.

(4) Are there substantial reasons why the property cannot or should not be used as currently zoned?

The property is currently zoned Agricultural Residential-III (AR-III) within Hall County and is nonconforming due to the existing light industrial use. The proposed annexation will clean up the City boundary and bring the entire property under one jurisdiction with an appropriate zoning of Light Industrial (L-I).

(5) Will the proposed use cause an excessive or burdensome use of public facilities or services, including but not limited to streets, schools, water or sewer utilities, and police or fire protection?

City water, sewer, and public safety services are currently provided to the subject property and capacity is sufficient. Gainesville Fire Station #4 is located approximately 1.7± miles away off of Memorial Park Drive which currently services adjacent and nearby properties.

Direct impacts to the school system should be limited as the proposed request is for industrial purposes.

Additional impacts to roads are not anticipated above the current use of the overall property. The property is located within Industrial Park West which has been designed for future industrial uses.

(6) Is the proposed use supported by new or changing conditions not anticipated by the Comprehensive Plan or reflected in the existing zoning on the property or surrounding properties?

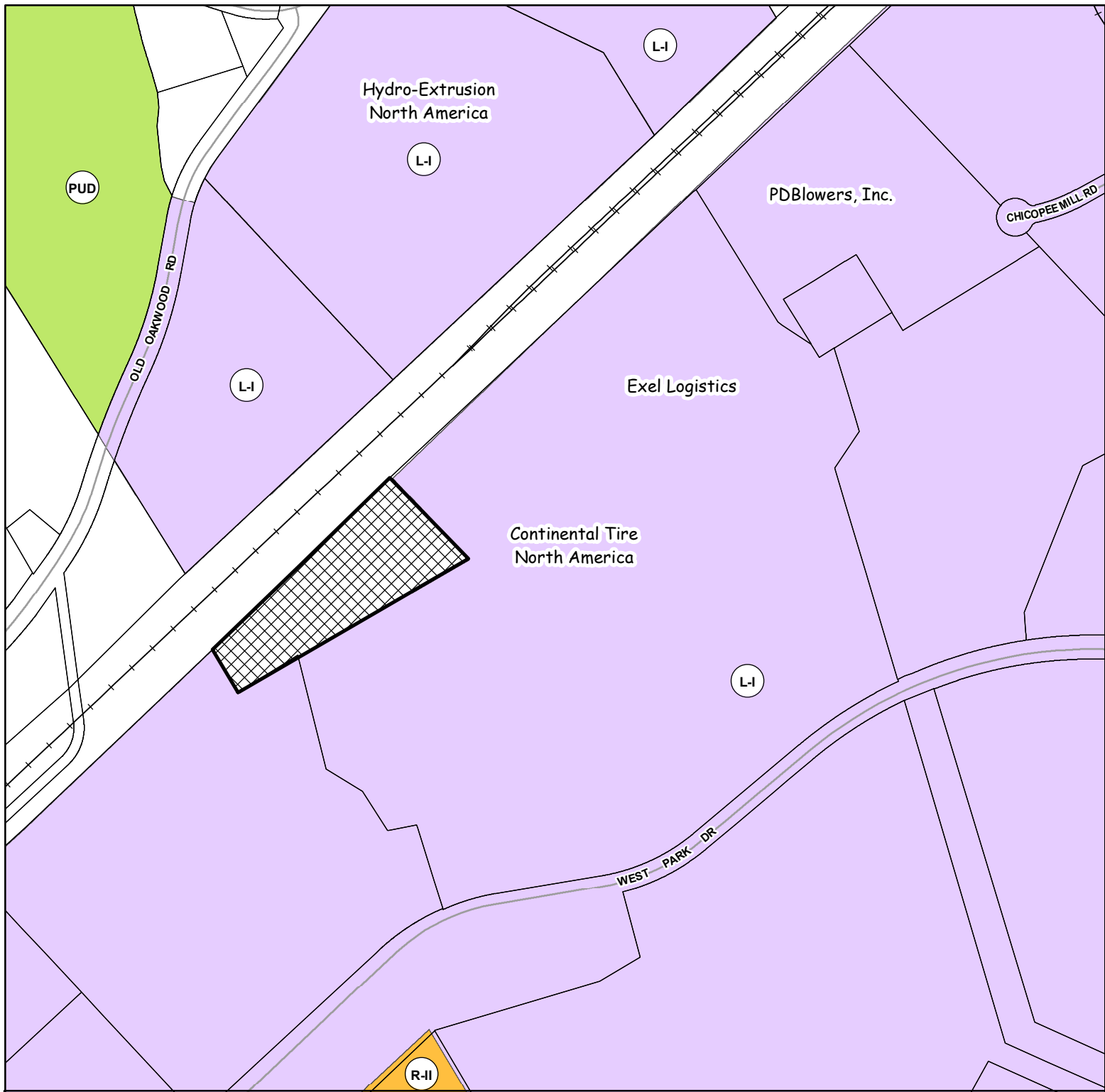
The area has experienced industrial growth over the past 25 years due to the location of existing railroad and the establishment of the Industrial Park West property. Most recently the new 324,000 square foot Fox Factory assembly and fabrication plant was constructed to the south along West Park Drive and Atlanta Highway. Available industrial parcels within the industrial park are limited, and nearby uses such as the University of North Georgia, Chicopee Woods and the nearby Mundy Mill mixed-use development will further limit the long-term industrial growth within the surrounding area.

(7) Does the proposed use reflect a reasonable balance between the promotion of the public health, safety, morality, or general welfare and the right to unrestricted use of property?

Based on the Comprehensive Plan and the adjacent industrial uses, the proposal appears to reflect a reasonable balance between the promotion of the public health, safety, morality, or general welfare and the right to unrestricted use of property.

▪ **Staff Recommendation**

The Planning Division staff is recommending **approval** of this annexation request with a zoning of **Light Industrial (L-I)** based on the Comprehensive Plan and the adjacent industrial uses.



Applicant:
SMITH, GAMBRELL & RUSSELL, LLP

ANNEXATION REQUEST

Request:
 Annex 4.011+/- acres and establish zoning as Light Industrial (L-I)
 for an existing warehouse

Subject Property Address:
 2500 West Park Drive

Tax Parcel:
 08-011-000-009 (Part)

Meeting Date: 10/13/2020

Map Prepared: 09/01/2020

 Subject Property

N



0 240 480 720 960 Feet

1" = 400'



CITY OF
GAINESVILLE

COMMUNITY AND ECONOMIC DEVELOPMENT





Applicant:
SMITH, GAMBRELL & RUSSELL, LLP

ANNEXATION REQUEST

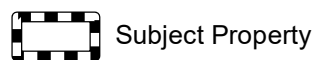
Request:
Annex 4.011+/- acres and establish zoning as Light Industrial (L-I)
for an existing warehouse

Subject Property Address:
2500 West Park Drive

Tax Parcel:
08-011-000-009 (Part)

Meeting Date: 10/13/2020

Map Prepared: 09/01/2020



Subject Property

Aerial from 2018

0 240 480 720 960 Feet



1" = 400'



CITY OF
GAINESVILLE

COMMUNITY AND ECONOMIC DEVELOPMENT



NARRATIVE REPORT
AS REQUIRED BY THE CITY OF GAINESVILLE
REGARDING

**Rezoning and Annexation of
4.011 acres of land at 2500 West Park Drive
Gainesville, GA 30504**

From

AR-III to L-I

Prepared and Submitted For Owner by:

Smith, Gambrell & Russell, LLP

**Kathryn M. Zickert
Dennis J. Webb, Jr.
Joseph A. Brock**

**1230 Peachtree Street, N.E.
Suite 3100
Atlanta, GA 30309-3952**

**Phone: (404) 815-3704
Fax: (404) 685-7004
Email: kmzickert@sgrlaw.com**

These applications seek to annex and rezone a 4.011 acre tract that is already part of an existing industrial park. In 1990, the City annexed and rezoned a 186.534 acre tract of land for development of the park. (See Ex. 1) Thereafter the assemblage was subdivided, and the current owner ended up with a 49.04 acre portion of the annexed property. It also owns a 4.001 acre tract, contiguous to the 49.04 acres, which is located in unincorporated Hall County. Ultimately a 758,374 square foot, one-story warehouse/distribution facility was built on the combined acreage, (53.04 acres) notwithstanding the fact that the Hall County piece is not zoned for industrial use. These Applications have been filed to “clean up” the zoning on the site. The use is not changing or expanding in any way.

- A.** Is the proposed use suitable in light of the zoning and development of the Subject Property?

Yes. The Subject Property is already developed for an industrial use. It is bordered on the northwest by the Norfolk Southern railway land, and is in the middle of a large industrial park. All adjacent zoning is light industrial and adjacent uses are all industrial as well.

- B.** Will the proposed use adversely affect the existing use or usability of adjacent and nearby property?

No. The use will not change.

- C.** Is the proposed use compatible with the purpose and intent of the Comprehensive Plan?

Yes. The Future Land Use Map designates this entire area for continued industrial uses.

- D.** Are there substantial reasons why the property cannot or should not be used as currently zoned?

Yes. Approximately 20% of the tract cannot be used for industrial purposes under the Hall County Zoning District. Approximately 222 SF of the actual building is in Hall County. The Zoning needs to be consistent.

- E.** Will the proposed use cause an excessive or burdensome use of public facilities, including but not limited to streets, schools, water or sewer utilities and police or fire protection?

No. The use will not change. There will be no increase in traffic, and school-age children will not live in this warehouse. Water and sewer already serves the site. Police or fire protection demand will not change.

- F.** Is the proposed use supported by new or changing conditions not anticipated by the Comprehensive Plan or reflected in the existing zoning on the property or surrounding properties?

Yes. The property is currently under contract to be closed November 17, 2020. During due diligence the inconsistent zoning was discovered. The tract will not be purchased unless this inconsistency is resolved.

- G.** Does the proposed use reflect a reasonable balance between the promotion of the public health, safety, morality or general welfare and the right to unrestricted use of property?

Yes. This property should have been annexed and zoned in 1990 as part of the original assemblage. There is no reason for a tract to be zoned AR-111 in the midst of an industrial park.

The Applicant respectfully requests that is Application be approved, and looks forward to working with the City during this process.

Respectfully submitted,



Kathryn M. Zickert
Attorney for Applicant

Smith, Gambrell & Russell, LLP
1230 Peachtree Street, NE
Promenade, Suite 3100
Atlanta, GA 30309-3952
Phone: (404) 815-3704

SURVEY NOTES:

- 1.) THIS PLAT HAS BEEN DONE FOR THE USE AND PURPOSE OF THE CLIENT AScribed AND CONTRACTED WITH BELOW. ALL OTHER PARTIES ARE SUBSEQUENTLY PUT ON NOTICE AS TO THE LIMITED DEGREE OF RELIANCE UPON THIS PLAT BY THIRD PARTIES.
- 2.) THE PUBLIC RECORDS REFERENCED ON THIS PLAT ARE ONLY THOSE USED AND/OR NECESSARY TO THE BOUNDARY OF THIS PROPERTY AND THOSE FURNISHED IN TITLE COMMITMENT NC3-695522-CH2, FIRST AMERICAN TITLE INSURANCE COMPANY.
- 3.) THE NORTH MERIDIAN SHOWN HEREON IS BASED ON GRID NORTH AS OBTAINED BY GPS.
- 4.) UNDERGROUND UTILITIES ARE BASED ON SURFACE FIELD INVESTIGATION ONLY. THERE ARE OTHER UNDERGROUND UTILITIES WHICH ARE NOT SHOWN HEREON. UNDERGROUND UTILITIES SHOULD BE MARK BY A QUALIFIED UNDERGROUND UTILITY LOCATION SERVICE.
- 5.) THE CURRENT OWNER OF THE PROPERTY SHOWN HEREON IS GAINESVILLE AND HALL COUNTY DEVELOPMENT AUTHORITY, TAX PARCELS 08011 000007, 08011 000008 & 08011 000009.
- 6.) ACCORDING TO THE PLANNING MANAGER OF THE CITY OF GAINESVILLE COMMUNITY DEVELOPMENT THIS PROPERTY CONSIST OF TWO ZONING CLASSIFICATIONS AND AS SHOWN HEREON A PORTION IS LOCATED WITHIN UNINCORPORATED HALL COUNTY.
- 7.) THERE ARE 119 REGULAR PARKING SPACES, 60 TRAILER SPACES AND 5 HANDICAPPED PARKING SPACES FOR A TOTAL OF 184 PARKING SPACES ON THE SUBJECT PROPERTY.
- 8.) THERE IS NO EVIDENCE OF EARTH MOVING WORK.
- 9.) THERE IS NO EVIDENCE OF CURRENTLY ONGOING BUILDING CONSTRUCTION NOR BUILDING ADDITIONS.
- 10.) THERE IS NO EVIDENCE OF ANY CHANGES IN STREET RIGHT-OF-WAY.
- 11.) THERE IS NO EVIDENCE OF THE SITE USE OF SOLID WASTE DUMP AND STORAGE OF HAZARDOUS WASTE OR A DUMP OR SANITARY LANDFILL.
- 12.) THE SITE PLAN FOR THE CONTINENTAL TIRE PROJECT LOCATED AT 2500 WEST PARK, GAINESVILLE, GEORGIA, AS REVIEWED AND APPROVED BY THE GAINESVILLE-HALL COUNTY PLANNING DEPARTMENT ON DECEMBER 16, 1999, THE HALL COUNTY SOIL AND WATER CONSERVATION DISTRICT ON DECEMBER 6, 1999 AND THE DEPARTMENT OF GAINESVILLE PUBLIC UTILITIES ON DECEMBER 16, 1999, STATES THAT THE DEVELOPMENT WILL CONTAIN A 75,000 SQUARE FOOT FACILITY AND 114 PARKING SPACES. THE NUMBER OF CURRENT PARKING SPACES IS 184, WHICH EXCEEDS THE APPROVED NUMBER OF SPACES ON THE SITE PLAN.

PLAT REFERENCES:

- 1.) PLAT FOR THE CITY OF GAINESVILLE, PREPARED BY FARLEY COLLINS ASSOCIATES, DATED 1-18-1995, RECORDED ON PLAT SHEET 419, PAGE 284, HALL COUNTY, GEORGIA RECORDS.
- 2.) SURVEY FOR 1988 AUGUSTUS PARTNERS, L.P., PREPARED BY BATES-LONG & ASSOCIATES, DATED 12-01-1999.

DEED REFERENCES:

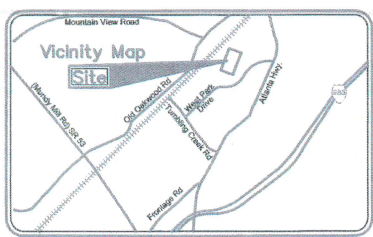
- 1.) LIMITED WARRANTY DEED FROM THE CITY OF GAINESVILLE, GEORGIA TO THE GAINESVILLE AND HALL COUNTY DEVELOPMENT AUTHORITY, RECORDED IN DEED BOOK 3622, PAGE 258, (40.3567 ACRES - TAX PARCELS 08011 000008 & 08011 000009)
- 2.) LIMITED WARRANTY DEED FROM THE CITY OF GAINESVILLE, GEORGIA TO THE GAINESVILLE AND HALL COUNTY DEVELOPMENT AUTHORITY, RECORDED IN DEED BOOK 3606, PAGE 317, (4.0088 ACRES - TAX PARCEL 08011 000007)

FLOOD NOTE:
ACCORDING TO FIRM COMMUNITY PANEL NUMBERS 13139C0185F & 13139C0301F, HALL COUNTY, GEORGIA DATED 9-29-2006, THIS PROPERTY LIES WITHIN ZONE X, AND IS NOT LOCATED WITHIN A 100 YEAR FLOOD HAZARD ZONE.

LEGEND

- IPF = IRON PIN FOUND
- IPF = IRON PIN SET (1/2" REBAR)
- OT = OPEN TOP PIPE
- CT = CRIMP TOP PIPE
- CMF = CONCRETE MONUMENT FOUND
- RRRF = RAILROAD RAIL FOUND
- PSB = POINT OF BEGINNING
- R/W = RIGHT OF WAY
- P/L = PROPERTY LINE
- C/L = CENTERLINE
- L/L = LAND LOT LINE
- N/L = ROW OR FORMERLY
- DB = DEED BOOK
- PL = PLAT
- PF = POWER POLE
- UT = UTILITY
- WT = WATER TOWER
- TE = TELEPHONE POLE
- TR = TRANSFORMER
- OT = OVERHEAD TELEPHONE
- UT = UNDERGROUND POWER
- UT = UNDERGROUND TELEPHONE
- UT = UNDERGROUND WATER LINE
- UT = GAS VALVE
- UT = ELECTRIC BOX
- UT = FIRE HYDRANT
- UT = WATER METER
- UT = WATER VALVE
- UT = POST INDICATOR VALVE
- UT = GROUND LIGHT
- UT = BACK OF CURB
- UT = DRAINAGE EASEMENT
- UT = SANITARY SEWER EASEMENT
- UT = SANITARY SEWER MANHOLE
- UT = SANITARY SEWER STRUCTURE
- UT = HEADWALL
- UT = CATCH BASIN
- UT = BUILDING SETBACK LINE
- UT = OUTLET CONTROL DEVICE
- UT = DRAIN INLET
- UT = DRAIN ALLET
- UT = CURB ALLET
- UT = YARD ALLET
- UT = JUNCTION BOX
- UT = CORRUGATED METAL PIPE
- UT = REINFORCED CONCRETE PIPE
- UT = CORRUGATED PLASTIC PIPE
- UT = CAST IRON PIPE
- UT = CAST IRON PIPE
- UT = CHAINLINK FENCE
- UT = HANDICAP RAMP
- UT = HANDICAP PARKING
- UT = EDGE OF PAVEMENT
- UT = RECORD
- UT = MEASURED

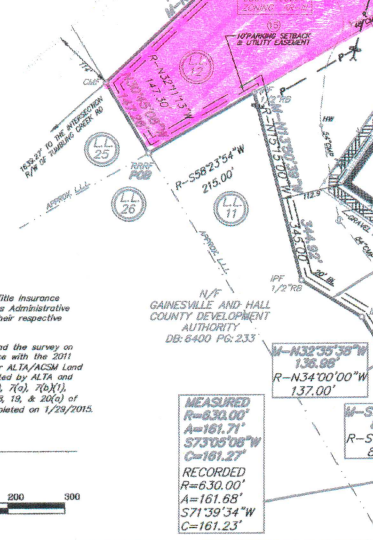
CERTIFICATION
I, Gainesville Park, LLC, First American Title Insurance Company, KeyBank National Association, as Administrative Agent for itself and other Lenders, and their respective successors, nominees and assigns
This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and ACSM, and includes Items 1, 2, 3, 4, 6(a), 7(a), 10(a), 11(a), 12(a), 13, 14, 16, 17, 18, 19, and 20(a) of Table A thereto. The field work was completed on 1/29/2015.
Date of Plot or Map: February 10, 2015
Susan S. Anderson, RLS 2933



Utility Notes
The location of Utilities shown hereon are from observed evidence of above ground appearances only. The surveyor was not provided with underground plans or surface ground markings to determine the location of any subsurface utility. The water lines (location & size) shown hereon were taken from Gainesville-Hall County GIS maps and are approximate.
Before digging in this area, call utility locators at 1-800-282-7411 for field locations (request for ground markings) of underground utility lines.

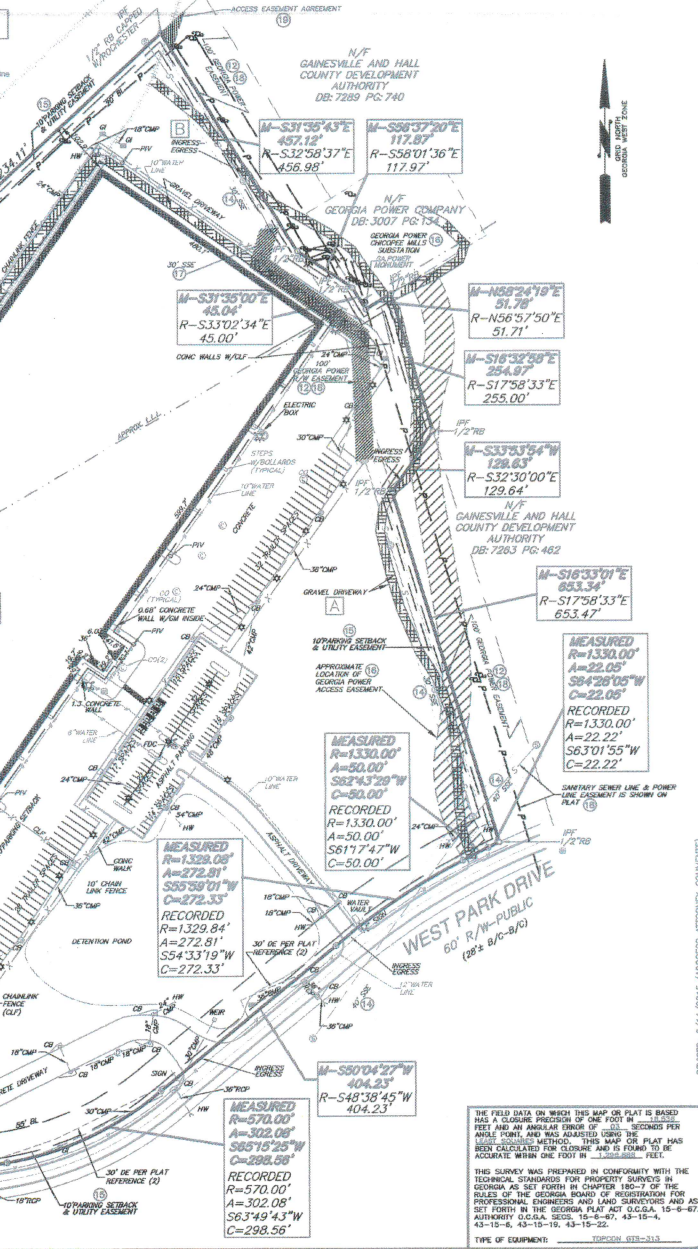
AREA
2,323,502 SQ. FT.
53.340 ACRES

NORFOLK SOUTHERN RAILROAD
114' FROM CENTERLINE - PRIVATE
730.40' 730.14'



Statement of Encroachments

- A Gravel drive to the Georgia Power Substation meanders along east property line and encroaches subject property.
- B Unapproved owner's Gravel Drive from Georgia Power Substation crosses the east property line north of the substation and encroaches subject property.



Moreland Altobelli Associates, Inc.
Engineering, Planning, Landscape Architecture, Land Acquisition, Surveying
15000304, BOX 63002016
805 W. GAINESVILLE BLVD., SUITE 100
GAINESVILLE, GEORGIA 30601
PHONE (770) 332-4021 FAX (770) 332-4023

REVENUE: 2/1/2015 (ADDRESS ATTORNEY COMMENTS)

ALTA/ACSM LAND TITLE SURVEY FOR:
GAINESVILLE PARK, LLC, KEYBANK NATIONAL ASSOCIATION
& FIRST AMERICAN TITLE INSURANCE COMPANY
LAND LOTS 11 & 12 - 4th DISTRICT
CITY OF GAINESVILLE & HALL COUNTY, GEORGIA

SHEET 1 of 2 SHEETS
DATE: 02/04/2015
DATE OF THIS SURVEY: 01/29/2015
DRAWN BY: SA
CHECKED BY: RAO
JOB NO.: 1502004

CITY OF GAINESVILLE

AGENDA REQUEST

Date Submitted: 9/21/2020

Presenter: Matt Tate

Item of Business: Request from **Walker-Lanier, LLC** to rezone a 0.50± acre tract located on the northwest side of the intersection of Lanier Avenue and Walker Street (a/k/a **989 Lanier Avenue, NE and 1437 Walker Street, NE**) from Residential-I (R-I) to Residential-II (R-II).
Ward Number: Two
Tax Parcel Number(s): 01-087-004-015
Request: Existing duplex home and two new duplex homes

Meeting Date: 10/13/2020

Purpose of Request:

The applicant is proposing to rezone the subject property for the purpose of constructing two, new residential duplex structures (four units). The property currently contains a residential duplex facing Walker Street that will remain for a total of six units. The property is considered nonconforming and previously contained a four-unit (quadplex) home that burned down in 2013. One of the new duplex homes will face towards Lanier Avenue and one will face towards Walker Street. The existing driveway on Lanier Avenue will be improved and will serve as access for each home. Parking will be provided behind the duplex homes. The adjacent uses include single-family owner-occupied homes, rental homes and an office.

History/Background:

Facts & Issues for Consideration:

Department Recommendation:

Planning staff recommended approval with five conditions. See the Staff Recommendation report for details.

Department Director:

Rusty Ligon

If funding is involved, are funds approved within the current budget?

N/A

Amount Requested:

Source of Funds:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type
☐ Staff Recommendation Report	Report
☐ Location Maps	Backup Material
☐ Narrative	Backup Material
☐ Plat	Backup Material
☐ Concept Plan	Backup Material
☐ Architectural Rendering	Backup Material

**GAINESVILLE PLANNING and APPEALS BOARD
STAFF RECOMMENDATION**

Applicant and Property Owner..... Walker-Lanier, LLC
Location..... 989 Lanier Avenue, NE
1437 Walker Street, NE
Request..... Rezone from R-I to R-II
Total Acres 0.5± acre
Ward..... Two
Proposed Use..... Existing duplex home and two new duplex homes
Planning Division Staff Recommendation **Approval, with conditions**
Date..... October 13, 2020

▪ **Applicant's Proposal and Background Information**

The applicant is proposing to rezone the subject property for the purpose of constructing two, new residential duplex structures (four units). The property currently contains a residential duplex facing Walker Street that will remain. All total, there will be six units. The property is considered nonconforming and previously contained a four-unit (quadplex) home that burned down in 2013. One of the new duplex homes will face Lanier Avenue and one will face Walker Street. The existing driveway on Lanier Avenue will be improved and will serve as access for each home. Parking will be provided behind the duplex homes. The adjacent uses include single-family owner-occupied homes, rental homes and an office.

▪ **Adjacent Land Use and Zoning**

Location	Use	Zoning
North	Single-family homes	Residential-I (R-I)
South	Single-family homes and triplex home	Residential-II (R-II)
East	Single-family homes	Residential-I (R-I)
West	Right at Home health care service	Residential and Office (R-O)

▪ **Other Departmental Comments**

City of Gainesville Public Works will provide solid waste pick-up for the proposed homes. There were no departmental comments for this request.

▪ **Zoning History**

The following zoning actions have taken place in the immediate area during the last ten years:

2017 - A request by The 5 MCS, LLC to rezone a 5.24± acres tract located at 1012 Enota Avenue from Residential-I (R-I) and Planned Unit Development (P-U-D) to Planned Unit Development

(P-U-D) was approved with conditions for an assisted living facility, townhome cottages and a single-family home.

2017 - A request by Adams & Copeland, LLC for a special use for a hair salon and office within the Office and Institutional (O-I) zoning district located at 1665 Thompson Bridge Road was approved with conditions.

2017 - A request by Montecito Development for a special use for a convenience store with fuel pumps within the Neighborhood Business (N-B) zoning district located at 1281 Thompson Bridge Road was denied.

2017 - A request by Montecito Development to rezone a 0.48± acres tract located at 149 Enota Avenue from Office and Institutional (O-I) to Neighborhood Business (N-B) zoning district with a special use was denied.

2016 - A request by Jack Bailey to rezone a 0.61± acre tract located at 1665 Thompson Bridge Road NW from Residential-I (R-I) to Office and Institutional (O-I) was approved with conditions for an insurance office.

2016 - A request by Teresa Vickers for a special use for a hair salon within the Office and Institutional (O-I) zoning district located at 977 and 983 Enota Avenue was approved with conditions.

2015 - A request by David P. Johnson to rezone a 1.458± acres tract located at 1537 and 1551 Thompson Bridge Road; and 135 Virginia Circle from Residential-I (R-I) to Neighborhood Business (N-B) with a special use for restaurant with drive-thru and retail was denied.

2014 – A request by Polestar Development, LLC to rezone a 1.741± acres tract located at 1435 Thompson Bridge Road from Residential-II (R-II) to Regional Business (R-B) for a grocery store and fuel service station was approved with conditions.

2013 - A request by Michael Slate to rezone a 0.67± acre tract located at 971 Lanier Avenue NE from Residential-I (R-I) to Residential and Office (R-O) for a professional office was approved with conditions.

2012 - A request by WAG Properties, Inc. to annex a 0.68± acre tract located at 1868 Thompson Bridge Road for a transportation logistics brokerage was approved with General Business (G-B) zoning.

2011 - A request by Greg Loyd for a special use for a Dunkin Donut restaurant with a drive thru within the Neighborhood Business (N-B) zoning district located at 1151 Thompson Bridge Road was approved with conditions.

2011 - A request by Jamie Collins to rezone a 1.149± acres tract located at 1452, 1464 and 1472 Thompson Bridge Road NE from Residential-I (R-I) and Neighborhood Business (N-B) to General Business (G-B) for a Taco Bell restaurant was approved with conditions.

2011 - A request by One Eleven, LLC for a special use for the Little Yellow Coffee House with a drive-thru within the Neighborhood Business (N-B) zoning district located at 996 Thompson Bridge Road was approved with conditions.

2010 - A request by Pam Abernathy for a special use for a single-family residence within the Office and Institutional (O-I) zoning district located at 1745 Thompson Bridge Road was approved with conditions.

2010 - A request by Yonah Burger for a special use for a restaurant with a drive-thru within the Neighborhood Business (N-B) zoning district located at 1191 and 1195 Thompson Bridge Road was approved with conditions.

Analysis

(1) Is the proposed use suitable in view of the zoning and development of adjacent and nearby property?

The surrounding properties contain a mixture of land uses and zoning districts which include single-family homes, residential duplex, office, bank and restaurant uses. These properties are zoned Residential-I (R-I), Residential-II (R-II), Planned Unit Development (P-U-D), Office and Institutional (O-I), Neighborhood Business (N-B) and General Business (G-B). It appears that the proposed duplex homes are suitable in view of the zoning and development of adjacent and nearby properties as it would serve as a transition between the adjacent nonresidential property.

(2) Will the proposed use adversely affect the existing use or usability of adjacent or nearby property?

Given the small scale of the proposal, the use in itself would not appear to adversely affect the existing use or usability of the adjacent or nearby property. The property would function in a similar manner prior to the quadplex home burning. However, the immediate area currently experiences residential and commercial traffic due to its proximity to the established Riverside neighborhood to the northeast and the Thompson Bridge Road commercial corridor. Lanier Avenue and nearby Virginia Avenue experience thru traffic for vehicles heading east to Northeast Georgia Medical Center and other uses off of South Enota Drive.

(3) Is the proposed use compatible with the purpose and intent of the Comprehensive Plan?

The Future Development Map for the City of Gainesville places the property within the Low-Medium Density Residential land use category, which includes areas containing or planned for single-family detached or semi-detached housing at densities ranging from two to four dwelling units per acre.

According to the Character Area map for the City of Gainesville, the subject property is located within the *Traditional Neighborhoods* Character Area specifically within the *Northern Neighborhoods subarea*. The vision for this area anticipates minimal change guarding against incompatible infill development and the threat of encroaching urban sprawl. Commercial encroachment should be minimized and should respect and mirror the small scale of the surrounding neighborhoods, while preserving the purity of the landscape and quality of housing. The area is not a primary destination for business; however, neighborhood serving business development is encouraged. Land uses allowed in the *Northern Neighborhoods subarea* include low-density/medium-density residential, and mixed-use / commercial.

(4) Are there substantial reasons why the property cannot or should not be used as currently zoned?

The property is zoned Residential-I (R-I) which allows for a single-family home. The property is considered non-conforming as it contains a residential duplex which is permitted within a zoning of Residential-II (R-II) up to a density of 12 dwelling units per acre. The applicant intends to reestablish the same number of dwelling units previous to the quadplex burning at a density of 12 dwelling units per acre.

(5) Will the proposed use cause an excessive or burdensome use of public facilities or services, including but not limited to streets, schools, water or sewer utilities, and police or fire protection?

The proposed use will have minimal impacts to public facilities. Water and sewer capacity is adequate to serve the proposed use. The Gainesville Fire and Police Departments currently respond to the property and nearest City of Gainesville Fire Station #2 is approximately 2.2 miles from the subject property. Impacts to the City school system are expected to be minimal depending on the number of school aged children living within the duplexes. There are currently no school aged children living within the property; however, the duplex homes will be marketed for all demographics.

According to the "Trip Generation Manual" as published by the Institute of Transportation Engineers, the proposed use at build out could generate approximately 57± new trips per weekday and 6± trips per A.M and P.M peak hour. The trip generation is based on a total of 6 residential units.

(6) Is the proposed use supported by new or changing conditions not anticipated by the Comprehensive Plan or reflected in the existing zoning on the property or surrounding properties?

The proposal appears suitable in light of the mixture of uses located along Lanier Avenue and Juanita Avenue. In addition, the proposed duplex homes are designed with the appearance of single-family homes which is more conforming with the nearby neighborhood. In many cases, previous single-residential homes over the past 20 years have been improved and repurposed for small nonresidential uses. However, multi-family residential uses and nonresidential uses are not expected to expand northeast beyond Walker Street.

(7) Does the proposed use reflect a reasonable balance between the promotion of the public health, safety, morality, or general welfare and the right to unrestricted use of property?

Based on the surrounding mixture of uses, the proposal with the zoning conditions recommended by staff appears to promote a reasonable balance between the promotion of the public health, safety, morality, or general welfare, and the right to unrestricted use of property.

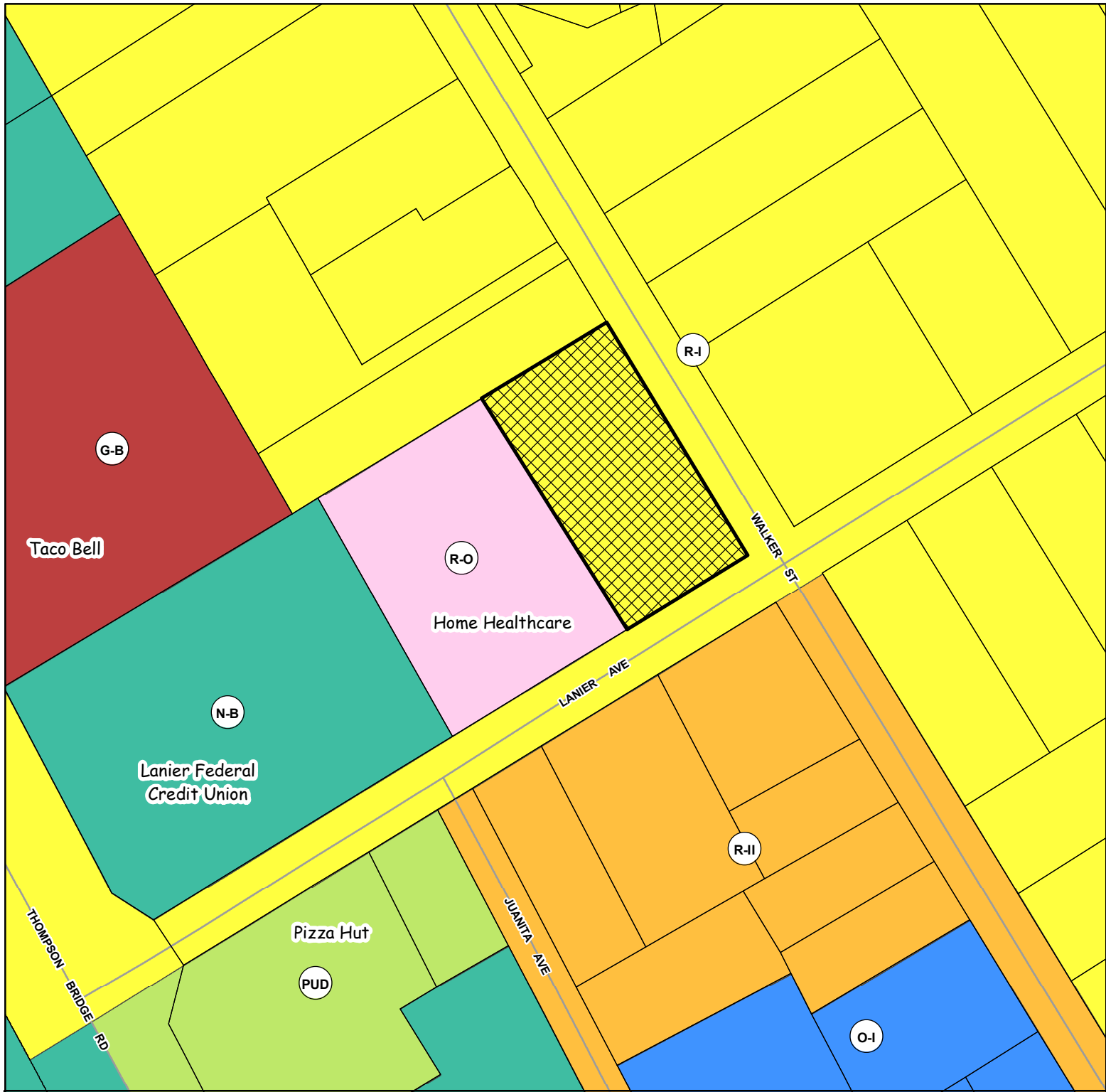
▪ **Staff Recommendation**

The Planning Division staff is recommending **conditional approval** of this rezoning request with **Residential-II (R-II) zoning**, based on the Comprehensive Plan and the surrounding mixture of uses.

Conditions

- 1. The subject property shall be limited to a maximum of 6 residential units consisting of the existing duplex home and two additional duplex homes.**
- 2. Any new or replacement structure(s), exterior facade change(s), and/or future development at this location shall be of a single-family residential appearance not to exceed two stories in height including a basement level. In addition, the side of the proposed duplex homes facing the intersection of Walker Street and Lanier Avenue shall have an architectural appearance of a front facade or shall be buffered with evergreen trees.**

- 3. The existing trees located within the subject property shall remain except for what is only necessary to be removed for the development. A minimum of three, 3" caliper in size hardwood trees shall be planted within the front yard and are subject to the approval of the Director of Community and Economic Development Department.**
- 4. All access point design for the subject property shall require review and approval by the Gainesville Public Works Department Director. All required access/traffic/sidewalk improvements associated with the proposed development shall be constructed at the full expense of the property owner/developer.**
- 5. An updated as-built survey/plat of the subject property, indicating existing conditions and all improvements shall be recorded prior to obtaining a Certificate of Occupancy for the future use.**



Applicant:

WALKER-LANIER, LLC

REZONING REQUEST

Request:

Rezone 0.50+/- acre from Residential-I (R-I) to Residential-II (R-II) for existing duplex home and two new duplex homes

Subject Property Address:

989 Lanier Avenue, NE; and
1437 Walker Street, NE

Tax Parcel:

01-087-004-015

Meeting Date: 10/13/2020

Map Prepared: 09/18/2020



Subject Property



0 60 120 180 240 Feet

1" = 100'

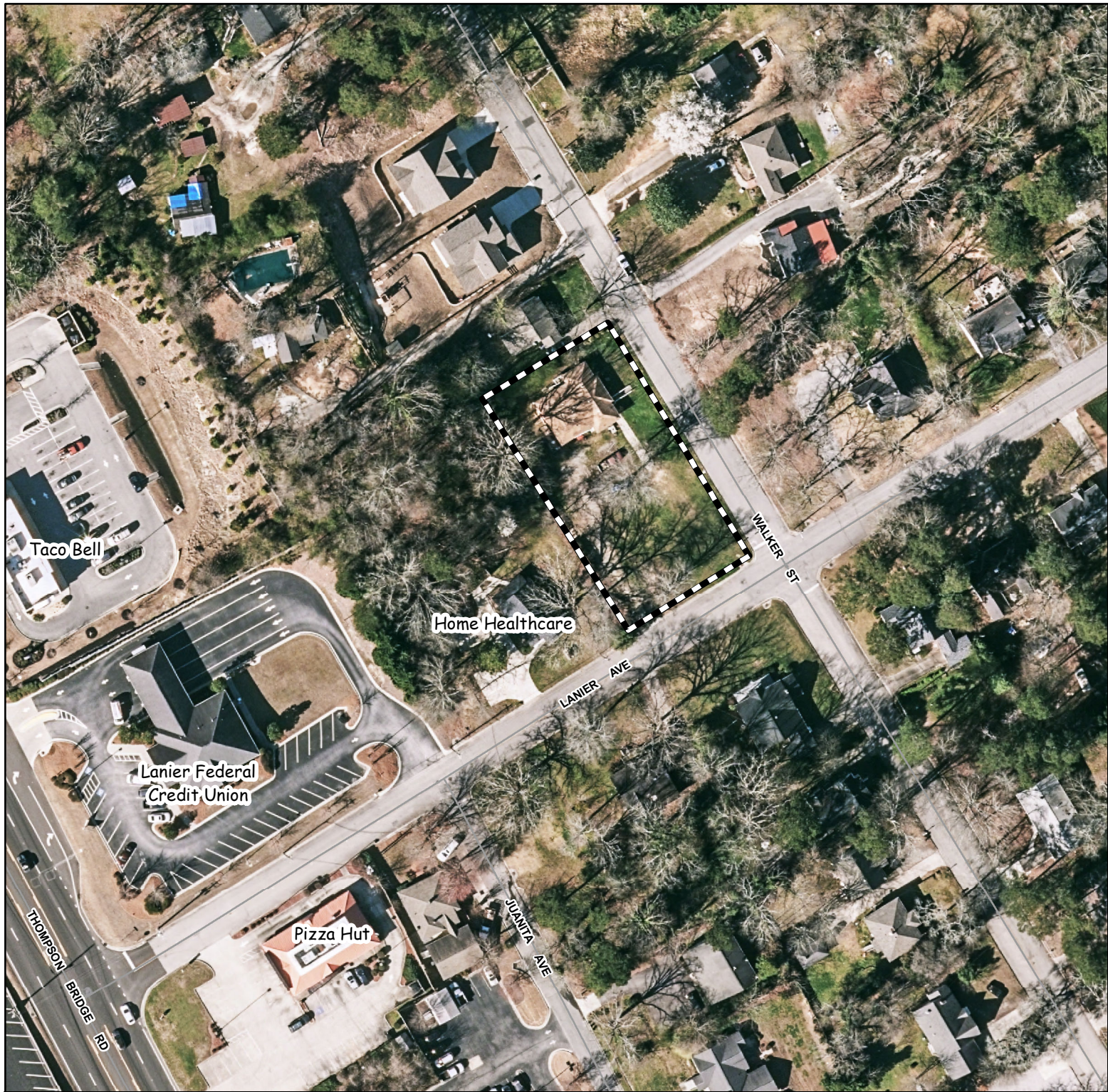


CITY OF

GAINESVILLE

COMMUNITY AND ECONOMIC DEVELOPMENT





Applicant:

WALKER-LANIER, LLC

REZONING REQUEST

Request:

Rezone 0.50+/- acre from Residential-I (R-I) to Residential-II (R-II) for existing duplex home and two new duplex homes

Subject Property Address:

989 Lanier Avenue, NE; and
1437 Walker Street, NE

Tax Parcel:

01-087-004-015

Meeting Date: 10/13/2020

Map Prepared: 09/18/2020



Subject Property

Aerial from 2018

0 60 120 180 240 Feet

1" = 100'



CITY OF

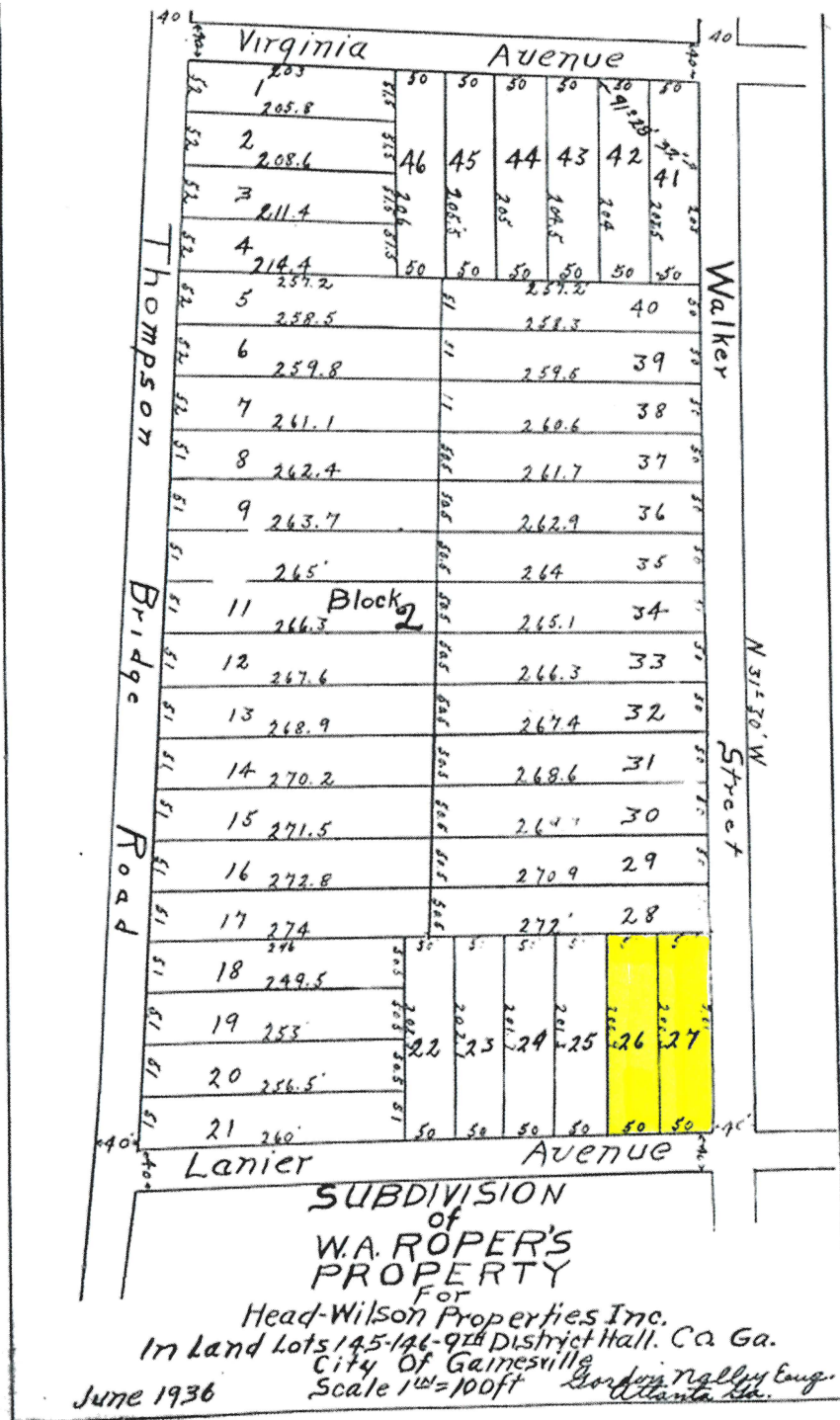
GAINESVILLE

COMMUNITY AND ECONOMIC DEVELOPMENT



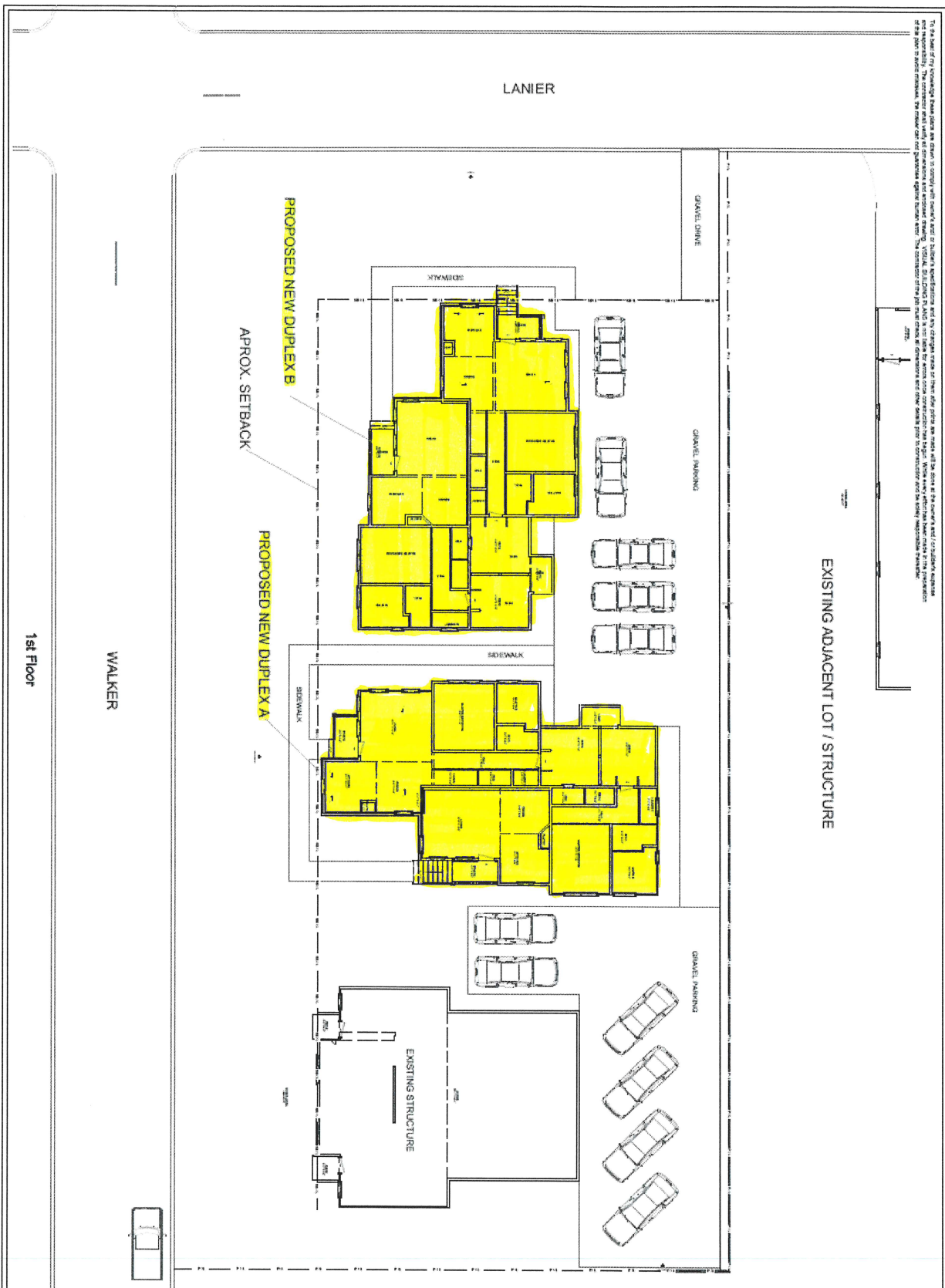
Narrative

The property located at 989 Lanier Ave. is a .5+/- lot that has an existing duplex on it. At one time the property had a quad plex also that burned about 7 years ago. I am proposing to build back 2 duplex dwellings that will consist of 2 bedrooms and 2 bathrooms have hardwood floors throughout and central heat/air. The existing driveway on Lanier Avenue will be improved and will continue to provide access to the existing duplex as well as the proposed new homes. The intent of the project will be to keep the street view looking similar to the adjacent houses. Entries into the units will be inside a single-entry door that will face the street. The picture provided is to give an idea of the look of the exterior, size of the project and an idea of the materials to be used. Some changes made be made to the floor plan, such as taking the garages out and maybe the fireplaces. Also, while doing the construction on these dwellings I intend to use some of these same finishes on the existing dwelling to upgrade its look as well and also have some professional landscaping done after the projects are complete.



Drawings are intellectual property of Visual Building Plans (Darren Smith) and are protected by copyright laws. Do not use without written permission from Visual Building Plans

To the best of my knowledge these plans are drawn to comply with current local building codes and regulations and are not intended to be used for any other purpose. The user of these plans is responsible for obtaining all necessary permits and for ensuring that the plans comply with all applicable laws and regulations. The user of these plans is also responsible for ensuring that the plans are used in accordance with the intended purpose and for ensuring that the plans are not used for any other purpose.



1st Floor

Visual Building Plans Gainesville, Ga. 30506 678-467-0734 darren@visualbuildingplans.com	Conceptual Duplex Location	Mike martin Multi Unit Rental Walker and Lanier Gainesville, Ga. 30501	Released for construction 6-29-20				2nd Edit Fields Unless Noted Otherwise																								
			<table border="1"> <thead> <tr> <th colspan="4">REVISION TABLE</th> </tr> <tr> <th>NUMBER</th> <th>DATE</th> <th>REVISED BY</th> <th>DISCRIPTION</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>					REVISION TABLE				NUMBER	DATE	REVISED BY	DISCRIPTION																
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NUMBER	DATE	REVISED BY	DISCRIPTION																												
DATE: 10/1/2020 SCALE: 1/4" = 1'-0" SHEET: 1	DRAWINGS PROVIDED BY: DARREN SMITH																														



Photographed homes may reflect modifications from original design. Reference floor plans and renderings for accuracy.



Main Level – (click floor plan to reverse)

CITY OF GAINESVILLE

AGENDA REQUEST

Date Submitted: 9/21/2020

Presenter: Matt Tate

Item of Business: Request from the **City of Gainesville Department of Water Resources** to amend the Unified Land Development Code and the Code of Ordinances. The code revisions focus on specific modifications to existing Articles and Titles relating to stormwater management requirements, floodplain management and flood damage prevention, stream buffer protection, and water conservation practices related to large irrigated landscapes. Gainesville Department of Water Resources (DWR) prepared the revisions to achieve minimum regulatory compliance with the Georgia Environmental Protection Division (GAEPD) and the Metropolitan North Georgia Water Planning District (MNGWPD) model ordinance recommendations. The following Articles and Titles are to be amended as bulleted below.

Code of Ordinances

- Part 3, The Code of Ordinances
 - Title 4, Public Works and Health
 - Title 5, Municipal Utilities

Unified Land Development Code

- Article 9-1, Enactment and Legal Status Provisions
- Article 9-2, Interpretations and Definitions
- Article 9-8, Overlay Zones
- Article 9-9, Site and Architectural Design Review
- Article 9-13, Subdivisions and Land Development
- Article 9-14, Soil Erosion, Sedimentation and Pollution Control
- Article 9-15, Floodplain Management
- Article 9-16, Buffers, Landscaping and Tree Protection
- Article 9-17, Access, Parking and Loading Requirements
- Article 9-20, Building and Property Maintenance Regulations
- Article 9-22, Applications and Procedures
- Article 9-24, Administration and Enforcement

Meeting Date: 10/13/2020

Purpose of Request:

Gainesville Department of Water Resources (DWR) prepared the revisions to achieve minimum regulatory compliance with the Georgia Environmental Protection Division (GAEPD) and the Metropolitan North Georgia Water Planning District (MNGWPD) model ordinance recommendations.

History/Background:

Facts & Issues for Consideration:

Department Recommendation:

Planning staff recommended approval as presented.

Department Director:

Rusty Ligon

If funding is involved, are funds approved within the current budget?

N/A

Amount Requested:

Source of Funds:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description		Type
	DWR Ordinance Amendment Part 3, Title 4 & 5	Ordinance
	DWR Ordinance Amendment Article 9-1, 9-2, 9-8	Ordinance
	DWR Ordinance Amendment Article 9-9	Ordinance
	DWR Ordinance Amendment Article 9-13	Ordinance
	DWR Ordinance Amendment Article 9-14	Ordinance
	DWR Ordinance Amendment Article 9-15	Ordinance
	DWR Ordinance Amendment Article 9-16	Ordinance
	DWR Ordinance Amendment Article 9-17	Ordinance
	DWR Ordinance Amendment Article 9-20	Ordinance
	DWR Ordinance Amendment Article 9-22	Ordinance
	DWR Ordinance Amendment Article 9-24	Ordinance

THE CODE OF ORDINANCES

CITY OF GAINESVILLE, GEORGIA

Title 4 - PUBLIC WORKS AND HEALTH^[1]

Footnotes:

--- (1) ---

Cross reference— Public safety, Tit. 3; solid waste, Ch. 4-3; municipal utilities, Tit. 5; licenses, permits and business regulations, Tit. 6; business license fees, Tit. 10.

Related law reference— Public health, § 2.1.1.

State Law reference— Health, O.C.G.A. § 31-1-1 et seq.; control of rabies, O.C.G.A. § 31-19-1 et seq.

CHAPTER 4-1. - ANIMALS^[2]

Footnotes:

--- (2) ---

Cross reference— License fees, Tit. 10; recreation and parks, Ch. 1-7; motor vehicles and traffic, Ch. 3-4; offenses against public health generally, § 3-5-12; sewage from poultry processing plants, § 5-1-44 et seq.

State Law reference— Animals, OCGA Title 4; Georgia Animal Protection Act, OCGA § 4-11-1 et seq.; cruelty to animals, OCGA § 16-12-4; slaughter, preparation, sale or transportation of animals, meat or meat food products, OCGA § 26-2-110; game and fish, Title 27; civil liability for damage by animal, OCGA § 51-2-6 et seq.

ARTICLE 5. - PET DEALERS, KENNEL OR STABLE OPERATORS AND ANIMAL SHELTERS^[4]

Footnotes:

--- (4) ---

Cross reference— Licenses, permits and business regulations, Tit. 6; license fees, Tit. 10.

Sec. 4-1-101. - 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:

Animal shelter means any facility operated by or under contract for the state, a county, a municipal corporation or any other political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned or unwanted dogs, cats and other animals; any veterinary hospital or clinic operated by a veterinarian or veterinarians licensed under the Georgia Veterinary Practice Act, as now or hereafter amended, which operates for such purpose in addition to its customary purposes; and any facility operated, owned or maintained by a duly incorporated humane society, animal welfare society or other nonprofit organization for the purpose of providing for and promoting the welfare, protection and humane treatment of animals.

Humane care of animals includes, but is not limited to, proper medical treatment, adequate heat, ventilation, exercise and sanitary shelter, wholesome and adequate food and water consistent with the normal requirements and feeding habits of the animal's size, species and breed.

Kennel or stable operator means any person who operates an establishment other than an animal shelter where dogs, cats and/or horses are maintained for boarding, holding, training or similar purposes.

Pet dealer means any person who sells, offers to sell, exchanges, or offers for adoption dogs, cats, birds, fish, reptiles or other animals customarily obtained as pets in this state. However, a person who sells only animals that he has produced and raised, not to exceed thirty (30) animals a year, shall not be considered a pet shop dealer unless such a person is licensed for a business by the city or has a state sales tax number. The city council may with respect to any breed of animals decrease the thirty (30) animal per year exception in the foregoing sentence to a lesser number of any animals for any species which is commonly bred and sold for commercial purposes in lesser quantities. Operation of a veterinary hospital or clinic by a licensed veterinarian shall not constitute the veterinarian a pet dealer under this article. Pet dealer shall include not only the owner of the animals offered for sale, exchange or adoption, but also the person in charge of the premises where the animals are housed and maintained.

(Code 1958, § 4-30)

State Law reference— Definitions relating to animal protection, OCGA § 4-11-2; Georgia Veterinary Practice Act, OCGA § 43-50-1 et seq.

Sec. 4-1-102. - Penalty.

Any person found guilty of violating any of the provisions of this article shall upon conviction in the municipal court of the city be punished as provided for in section 1-1-7 of this Code. Each day in which any such violation or violations shall continue shall be deemed a separate offense.

(Code 1958, § 4-40)

Sec. 4-1-103. - Duty to provide humane care.

It shall be unlawful for any pet dealer, kennel or stable operator or animal shelter in the city to fail to provide humane care for the animals it offers to sell, exchange or offers for adoption.

(Code 1958, § 4-31)

Sec. 4-1-104. - Animals to be free of disease, injury or abnormality.

It shall be unlawful for any pet dealer or animal shelter to sell, exchange or offer for adoption any animal unless such animal shall appear to be free of disease, injuries or abnormalities unless such injury or abnormality is disclosed in writing to the purchaser before the sale, adoption or exchange and the purchaser waives in writing any objection to the injury or abnormality.

(Code 1958, § 4-32)

Sec. 4-1-105. - Maintenance, construction of buildings and premises.

(a) All buildings and premises used by pet dealers, kennel or stable operators or animal shelters shall be maintained in a sanitary condition and shall:

(1) Have equipment available for proper storage or disposal of waste material to control vermin and insects.

- (2) Take effective control measures to prevent infestation of animals and premises with parasites and vermin.
- (3) Provide water from a source having sufficient pressure to properly clean kennels, cages, runs, equipment and utensils.
- (4) Provide and make handwashing facilities available to workers and customers.
- (b) All buildings and premises used by pet dealers, kennel or stable operators and animal shelters shall be constructed so as to provide adequate shelter for the comfort of the animals and shall provide adequate facilities for separation of diseased animals to avoid exposure to healthy and saleable animals.
- (c) All buildings and premises used by pet dealers, kennel or stable operators and animal shelters shall be cleaned daily or more often if necessary with chemicals to destroy germs and bacteria and to prevent the accumulation of debris, dirt or waste.

(Code 1958, § 4-33)

[Cross reference - Stormwater and Illicit Discharges and Illegal Connections, Ch. 4-7.](#)

Sec. 4-1-106. - Construction, maintenance of cages.

Cages used by pet dealers, kennel or stable operators and animal shelters shall be constructed of a material that is impervious to urine and water and able to withstand damage from gnawing and chewing. The cages must be clean and sanitized and maintained in a relative state of thermal neutrality. All cages shall be of sufficient size to allow the animal to comfortably stand, sit and lie and offer freedom of movement.

(Code 1958, § 4-34)

Sec. 4-1-107. - Overcrowding prohibited.

All animals group-housed by pet dealers, kennel or stable operators and animal shelters shall be maintained in compatible groups without overcrowding. Each animal shall have sufficient room to comfortably stand, sit and lie and have freedom of movement.

(Code 1958, § 4-35)

Sec. 4-1-108. - Records; contents.

Pet dealers shall maintain records for a minimum period of six (6) months concerning the purchase, sale or transfer of its animals, and such records shall include the source of the animal, the date of purchase, the date of sale, description and sex of the animal sold, and the name and address of the purchaser. Records concerning fish and rodents are not required.

(Code 1958, § 4-36)

Sec. 4-1-109. - Inspection of premises and records.

The premises and records required by this article of pet dealers, kennel or stable operators and animal shelters shall be open for inspection by authorized employees and agents of the city during reasonable hours.

(Code 1958, § 4-37)

Sec. 4-1-110. - Notice, correction of violations.

Any person found to be violating any provision of this article shall be notified in writing of such violation and such written notice shall provide a reasonable time, but not less than three (3) nor more than thirty (30) days, for the satisfactory correction thereof unless such violation is causing irreparable harm to the health and welfare of any animal. If such violation is causing irreparable harm to the health and welfare of any animal, the animal shall be impounded by the city and delivered to the Hall County Humane Society. If such violation is corrected within thirty (30) days from the date the animal is impounded, same shall be returned to its original owner upon the payment by the owner of the costs of feeding and boarding the animal, and if not corrected within such thirty-day period, the animal shall be disposed of in accordance with the rules and policies of the Hall County Humane Society covering abandoned animals.

(Code 1958, § 4-38)

Sec. 4-1-111. - Appeal.

Any person who receives a written notice pursuant to section 4-1-110 may appeal the decision to the city manager. Such appeal shall be taken within three (3) days from the date such person receives the notice pursuant to section 4-1-110 by notifying the clerk of the city in writing and specifying the grounds of appeal. The city manager shall within five (5) days after the receipt of the notice of appeal fix a date and time for the hearing of the appeal and after due notice to the parties at interest have a hearing on the appeal within ten (10) days of the date the notice of appeal was received by the city clerk and decide the same within a reasonable time. The city manager shall have the authority to affirm or deny the violations of this article. If the city manager affirms the violations, the person found to be in violation shall have the same number of days to correct such violation or violations as was set forth in the original notice, and such time shall run from the date of the decision by the city manager. If the violation or violations are not corrected within the specified time and animals have been impounded, same shall be disposed of pursuant to section 4-1-110. If the city manager determines that the provisions of this article have not been violated, the person who received the notice of the violation or violations shall have no further duty as a result of such notice and any animal impounded pursuant to section 4-1-110 shall be returned to its owner within twenty-four (24) hours of the decision of the city manager that no violations of this article have occurred.

(Code 1958, § 4-39)

Secs. 4-1-112—4-1-130. - Reserved.

CHAPTER 4-3. - SOLID WASTE^[7]

Footnotes:

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Editor's note— Ord. No. 2010-33, § I, adopted Sept. 21, 2010, amended Ch. 4-3 in its entirety as set out herein. The former Ch. 4-3 pertained to similar subject matter and derived from Ord. No. 2005-09, § I(Att. A), adopted April 19, 2005; Ord. No. 2008-10, §§ I—III, adopted April 1, 2008.

Sec. 4-3-1. - Purpose.

The purpose of this chapter is to protect the public health, safety, environment, and general welfare through the proper disposal of garbage and the regulation and prevention of litter. The objectives of this chapter are:

- (1) To specifically prohibit any and all littering on public or private property in the city; and
- (2) To prevent the desecration of the beauty and quality of life of the city and prevent harm to the public health, safety, environment, and general welfare, including the degradation of water and aquatic resources caused by improper garbage disposal and litter.

(Ord. No. 2010-33, § I, 9-21-10)

Sec. 4-3-2. - Definitions.

The following words, term and phrases, when used in this chapter, shall have the following meanings:

Biomedical waste means that term as defined in [O.C.G.A. § 12-8-22](#), [latest revision on January 1, 2010](#).

Business means any person, corporation, partnership, or other legal entity which exerts substantial efforts within the city, engages in, causes to be engaged in, and/or represents or holds out to the public to be engaged in any occupation or activity with the object of gain or benefit, either directly or indirectly.

City is the City of Gainesville, Georgia.

Commercial enterprise means for the purpose of economic gain.

Commercial establishment means a business or other organization that buys and/or sells goods, makes products, or provides professional services. For the purposes of this chapter, a commercial enterprise shall not include single-family rental dwellings or multi-family dwellings.

Commercial hauler means any person who collects and/or transports solid waste for a fee, as a business, or as an adjunct to a business.

Commercial solid waste means discarded items from a commercial establishment as defined herein, including, but not limited to, waste material from industrial processes, manufacturing processes, slaughter houses, packing plants, poultry processing plants or similar industries, and large quantities of condemned foods. Commercial solid waste also includes waste material from the construction, remodeling and repair operations on houses, commercial buildings, multiple dwelling and other structures, such as concrete, bricks, plaster, stone, earth, lumber, roofing materials, gutters, shavings and sawdust.

Construction/demolition waste means waste building materials and rubble resulting from construction, remodeling, repair and demolition operations of pavements, houses, commercial buildings and other structures. Such wastes include, but are not limited to, asbestos, asbestos containing waste, wood, brick, metal, concrete

wallboard, paper cardboard, inert waste, landfill material, and other nonputrescible wastes which have a low potential for groundwater contamination.

Contract representative(s) means a person, persons or entity that has a contract, other than a franchise agreement, with the City of Gainesville for the collection, conveyance or disposal of solid waste generated by or accumulated from single-family dwellings in the city.

Curbside means a location near the street, behind the curb line and not blocking a sidewalk, where trash receptacles are readily accessible to collection vehicles.

Customer means an individual or entity that pays the monthly solid waste fee.

Dump means to throw, discard, place, deposit, discharge, burn, or dispose of a substance.

Enclosed structure is any structure that has a roof and at least two (2) closed sides.

Franchisee means a person, persons or entity granted a franchise by the city who, under written agreements, for compensation by those receiving services, does the work of collecting and transporting solid waste from industries, offices, retail outlets, businesses, institutions and similar locations.

Garbage means domestic wastes composed of meat, vegetable, and fruit scraps and other discarded items ordinarily generated as by-products of a private residence.

Hazardous waste means that term as defined in O.C.G.A. § 12-8-62, latest revision on January 1, 2010.

Litter means any misplaced or improperly discarded solid waste, any organic or inorganic waste material, rubbish, refuse, garbage, trash, hulls, peelings, debris, grass, weeds, ashes, sand, gravel, slag, brickbats, metal, plastic, and glass containers, broken glass, dead animals or intentionally or unintentionally discarded materials of every kind and description which are not "hazardous waste" as such term is defined in O.C.G.A. §16-7-51.

Multi-family dwelling means any building which is arranged, designed or used for living quarters for two (2) or more families on a permanent or long-term basis.

Person means an individual, and shall also include sole proprietors, corporations, partnerships or any other form of business organization, including a commercial hauler.

Public or private property means the right-of-way of any road or highway; any body of water or watercourse or the shores or beaches thereof; any park, playground, building, refuge, or conservation or recreation area; timberlands or forests; and residential, commercial, industrial, or farm properties.

Public works department means the city department responsible for roads, drainage, traffic, airport, sanitation, the cemetery and engineering.

Receptacle means any container approved by the public works department for use in the temporary storage, collection and disposal of garbage or recyclables.

Recyclables shall mean those items known to be made from or contain materials deemed desirable for reuse or remanufacture. Recyclables include, but are not limited to, paper, glass, aluminum, plastic and corrugated cardboard.

Refuse means discarded items that have not been bagged or containerized and/or will not fit into the receptacle, are not yard trimmings, are not prohibited items according to section 4-3-9 and do not require a special fee for pick-up according to section 4-3-8.

Single-family dwelling means any building which is arranged, designed or used for living quarters for one (1) family on a permanent or long-term basis.

Solid waste means any discarded putrescible and nonputrescible waste, except water-carried body waste and recovered materials and shall include garbage, rubbish, refuse, cartons, boxes, wood, tree branches, yard trimmings, furniture and appliances, metal, tin cans, glass, crockery, or dunnage; ashes; street refuse; dead animals; sewage sludges; animal manures; industrial waste, such as waste materials generated in industrial operations; residue from

incineration; food processing waste; demolition waste; abandoned vehicles; dredging waste; construction waste; and any other waste material in a solid, semi-solid or liquid state not otherwise defined.

Yard trimmings means waste resulting from normal yard maintenance, such as weeds, grass and hedge trimmings, leaves, brush, pine straw, tree limbs and similar items.

(Ord. No. 2010-33, § I, 9-21-10; Ord. No. 2011-20, §§ I—III, 12-20-11; Ord. No. 2013-17, § I, 9-17-13)

Sec. 4-3-3. - City responsible for sanitation services generally.

- (a) All solid waste generated by or accumulated from single-family dwellings in the city shall be collected, conveyed and disposed of by the city through its employees, designated agents or contract representatives. The city shall also be the solid waste provider for all single-family dwellings on private streets and in gated communities built on lots that have not received final plat approval as of the effective date of this section.
- (b) All solid waste generated or accumulated by multi-family dwellings, including condominiums and townhomes, in the city shall be collected, conveyed and disposed of by the city through its employees, designated agents or contract representatives, unless such service is not provided by the city as determined by the city manager or his/her designee.
- (c) All solid waste generated or accumulated by commercial establishments in the city shall be collected, conveyed and disposed of in accordance with section 4-3-4.
- (d) The city will collect garbage, refuse, recyclables and yard trimmings in accordance with a schedule as established from time to time by the city and kept on file in the public works department.
- (e) This article shall not prohibit the producers of industrial solid waste or the owner of premises upon which industrial solid waste has accumulated from collecting, transporting and disposing of such waste, subject to pertinent laws and regulations, if such service is not provided by the city.

(Ord. No. 2010-33, § I, 9-21-10; Ord. No. 2011-20, § IV, 12-20-11; Ord. No. 2013-17, § I, 9-17-13)

Sec. 4-3-4. - Commercial operations and haulers.

(a) *Commercial establishments.*

- (1) All commercial establishments within the city shall arrange for proper solid waste collection, conveyance, and disposal from the city or an approved franchisee.
- (2) All solid waste containers shall be maintained on private property except where permission is granted by the city council to utilize public alleys, streets or sidewalks.
- (3) All commercial establishments shall maintain solid waste containers in a sanitary condition free from odor and shall prevent the overflow or scattering of solid waste on the premises, nearby properties or public streets and places.
- (4) Provisions of this section shall not apply to persons who, as an incidental part of providing construction or demolition services, and using vehicles, dumpsters or roll-off containers which they own or lease, remove construction or demolition debris from the sites at which they are performing such services. This provision shall not be construed to relieve such persons of any requirements under federal or state law.

(b) *Commercial haulers.*

- (1) No individual, partnership, corporation, commercial hauler or other entity may collect and dispose of solid waste for a fee within the city without obtaining a franchise from the governing authority of the city.
- (2) Commercial haulers shall comply with all city ordinances, the provisions set forth in this chapter, and the franchise agreement with the city. Any violations by the franchisee of any city ordinance, the provisions

of this chapter or any provision of the franchise agreement may result in suspension or revocation of the franchise agreement.

- (3) Franchises granted by the city are non-transferable.

(Ord. No. 2011-20, § V, 12-20-11)

Editor's note— Ord. No. 2011-20, § V, adopted Dec. 20, 2011, amended § 4-3-4 in its entirety to read as set out herein. Former § 4-3-4 pertained to commercial and industrial operations and derived from Ord. No. 2010-33, § I, adopted Sept. 21, 2010.

Sec. 4-3-5. - Collection days designated.

Garbage shall be collected from customers in the city twice weekly, except for city holidays, or when conditions exist where collection is deemed hazardous by the public works director. Refuse, recyclables and yard trimmings shall be collected from customers in the city once weekly, except for city holidays, or when conditions exist where collection is deemed hazardous by the public works director.

(Ord. No. 2010-33, § I, 9-21-10)

Sec. 4-3-6. - Preparation and storage of garbage and recyclables for collection.

(a) *Preparation.*

- (1) All garbage shall be placed in plastic bags. Plastic bags shall be securely tied at the top. Garbage placed in the plastic bag must not exceed the capacity of the bag causing it to tear open. Garbage placed in receptacles unbagged will not be collected. Bags that are wet, torn, or unsecured will not be collected
- (2) All garbage must be stored in garbage receptacles with a properly fitted lid that is to remain closed except for filling, emptying or cleaning. Excessive garbage in the receptacle that prevents the lid from closing, garbage that is piled on top of the receptacle, or garbage that is placed outside of the receptacle will not be collected.
- (3) The amount of garbage to be collected shall not exceed ninety-six (96) gallons per collection. Garbage exceeding a quantity of ninety-six (96) gallons will not be collected, even if it is bagged and placed in a receptacle. Customers may choose to pay an additional monthly fee for collection of up to an extra ninety-six (96) gallons according to the fee schedule in title 10 of this Code.
- (4) Recyclables shall be placed in a receptacle, as provided by the city.
- (5) Receptacles shall be ready for pick-up no later than 7:00 a.m. on the designated collection day.

(b) *Receptacles.*

- (1) Each occupied dwelling unit or household shall provide at least one (1), but not more than three (3), garbage receptacles to store garbage prior to collection by the public works department. Receptacles shall not exceed a total combined capacity of ninety-six (96) gallons.
- (2) Receptacles shall be constructed of rust-proof, moisture-proof material and shall be equipped with a properly fitted cover and handles or grips to allow for safe and convenient handling.
- (3) Receptacles shall be maintained in a working and sanitary condition, free from odor and shall remain completely covered at all times except for filling, emptying and cleaning. Receptacles shall be filled in such manner as to allow emptying by one (1) person and shall be maintained so as to prevent the overflow or scattering of garbage, refuse or recyclables.

- (4) Each occupied dwelling unit or household will be provided one (1) recycling receptacle by the city. The receptacle will be and shall remain the property of the city. Recycling receptacles are for recyclable materials only and are not to be used to transport or store garbage, refuse, yard trimmings or any other items.
- (c) **Placement of receptacles.**
- (1) Garbage receptacles shall be placed either curbside or within ten (10) feet of the house and visible from the driveway. Recycling receptacles shall be placed curbside for collection. All receptacles shall be placed on or in front of the property from which they originated for collection.
- (2) Receptacles shall be accessible without the need for walking or carrying a receptacle over, under or around any yard or property obstacle. No garbage shall be collected where garbage receptacles cannot be reached by sanitation personnel without unlocking or opening a door, gate or other similar obstacle; encountering hazardous conditions (i.e., unrestrained animals); or otherwise being denied reasonable access by parked vehicles, yard tools and equipment, or other similar objects.
- (3) Receptacles shall not be located within enclosed structures, which includes, but is not limited to, the dwelling unit, garage, carport, or shed.
- (4) Receptacles shall not be located within a fenced area, unless the fence is specifically designed for and solely contains the receptacles and is in compliance with subsection (1) above.
- (5) Garbage contained in sunken or underground receptacles will not be collected by the city.
- (6) Receptacles that are placed curbside shall be removed from the curb the same day as the contents are collected.
- (7) For multi-family dwelling units that are collected by the city, if receptacles are not placed curbside or directly in front of the unit, receptacles must be located within a central location for collection. The central location must be approved by the public works director or his/her designee.
- (8) The contents of receptacles not meeting these placement standards will not be collected.
- (9) Garbage receptacles shall not be placed so as to impede or obstruct the flow of surface water or block drains or manholes.

(Ord. No. 2010-33, § I, 9-21-10)

Sec. 4-3-7. - Preparation and storage of refuse for collection.

- (a) All persons utilizing city pickup of refuse or yard trimmings shall place such refuse or yard trimmings on their premises located so as to be easily accessible to street pickup. Refuse and yard trimmings shall not be placed over or next to fixed items such as fire hydrants, telephone or electrical boxes, mailboxes or anything that could be damaged by equipment or personnel picking up said items. Refuse shall be placed immediately behind the sidewalk. If there is no sidewalk, items and materials shall be placed immediately behind the curb or off the pavement and shall not be located as to impede or obstruct either pedestrian or vehicular traffic or the flow of surface water or block drains.
- (b) The City of Gainesville will not be responsible for repairing, replacing or reimbursing for items that are removed or damaged by the city as a result of being placed curbside in such a manner that it appears that the items are intended for removal by the city or the items are not visible as a result of being mixed with other items placed curbside.
- (c) No customer shall place for collection limbs or cuttings greater than five (5) feet in length or fifty (50) pounds in weight. Yard trimmings shall be kept separate from other debris and not exceed the load equivalent of one (1) cubic yard per week and not exceed four (4) cubic yards per dwelling per month. Limbs and cuttings in excess of this amount shall be subject to the provisions of section 4-3-8.

- (d) Refuse shall not exceed the load equivalent of one (1) cubic yard per week and not exceed four (4) cubic yards per dwelling per month. Refuse in excess of this amount shall be subject to the provisions of section 4-3-8.
- (e) Grass trimmings, small shrubbery trimmings, pine needles, etc., shall be bagged.
- (f) Leaves shall be placed in plastic bags from the months of February through September for collection at curbside. During the months of October through January, leaves shall be placed in neat piles immediately behind the curb on curbed streets and immediately adjacent to the roadway on uncurbed streets. In no event shall they be placed in the gutters or drainage ditches, or impede or obstruct the flow of surface water or block drains. Leaf piles shall not contain any other garbage, trash, recyclable materials or debris such as rocks, bricks or concrete.
- (g) All needles, broken glass or similarly sharp or pointed objects must be disposed of in containers that are rigid, puncture-resistant and leakproof, and which are taped closed or tightly lidded to completely contain the contents therein and prevent any spillage or puncture.

(Ord. No. 2010-33, § I, 9-21-10; Ord. No. 2011-20, § VI, 12-20-11)

Sec. 4-3-8. - Items and materials requiring additional fees for collection.

- (a) Special pickups of appliances, furniture, white goods, electronics, or other similar items that require the use of a dump truck, flatbed truck or boom arm loader, or have special disposal requirements will be picked up on a special fee basis only. A special service fee will be assessed to the customer according to the fee schedule established and kept on file in the public works department. Customers shall make arrangements with the public works department for pickup. Special pickup items shall not be placed on the curb prior to 12:00 p.m. the day before the pickup date. Customers shall not place these items curbside without making prior arrangements for pickup.
- (b) Special pickups or garbage in excess of ninety-six (96) gallons shall result in an excessive disposal fee that will be assessed to the customer according to the fee schedule established and kept on file in the public works department. This fee shall not apply to customers that pay the monthly fee for an additional collection of ninety-six (96) gallons, provided that the garbage collected does not exceed ninety-six (96) gallons.
- (c) Refuse or yard trimmings placed curbside that exceed the allowed capacity established in section 4-3-7 shall be subject to a special service fee assessed to the customer according to the fee schedule established and kept on file in the public works department. Customers shall make arrangements with the public works department for special pickup of refuse or yard trimmings exceeding the allowed capacity.
- (d) Customers that fail to make arrangements for special pickup of items placed curbside within five (5) working days of placing the items shall be deemed to have abandoned the items. Items may be collected by the city and a special service fee, according to the fee schedule established and kept on file in the public works department, plus any additional costs incurred by the city, shall be assessed to the customer on the customer's water bill. The customer shall pay the fee in accordance with the water bill payment policies established by the city.
- (e) Whenever any condition shall exist which constitutes an emergency, an immediate and/or grave hazard to public health and safety requiring immediate action, the condition may immediately be abated or otherwise remedied summarily. The special service fee, and any additional costs incurred by the city, shall be assessed to the customer on the customer's water bill. The customer shall pay the fee in accordance with the water bill payment policies established by the city.

(Ord. No. 2010-33, § I, 9-21-10; Ord. No. 2011-20, § VII, 12-20-11)

Sec. 4-3-9. - Items and materials prohibited.

- (a) The city shall not be responsible for collecting or hauling discarded building materials, dirt, broken concrete, bricks, rock or debris resulting from repairs, major cleanups (this includes, but is not limited to, cleaning out of basements, attics, storage areas, or major cleanups from move-ins or move-outs), remodeling, or construction waste (plumbing fixtures, including, but not limited to, sinks, bath tubs, shower stalls, toilets, cabinets, doors, windows, roofing debris, lumber, siding, landscape timbers, crossties, carpet and/or floor coverings). Such material must be disposed of by the contractor, tenant, or owner of the property, unless it is on a special fee basis by agreement with the public works director or his/her designee.
- (b) The city shall not be responsible for collecting or hauling trees, bushes, or other vegetation from commercial tree trimmers, landscapers, grading contractors or building contractors, except on a special fee basis by agreement with the public works director or his/her designee.
- (c) For rental properties, garbage, refuse, yard trimmings or other solid waste originating from the property during the cleanup between tenants shall be the responsibility of the landlord and/or the property owner. The following shall apply to garbage, refuse, yard trimmings or other solid waste originating from the property of a landlord cleaning up between tenants:
 - (1) Following an eviction, any property, garbage, refuse, belongings, or other items shall be placed on some portion of the landlord's property, immediately behind the sidewalk or if there is no sidewalk, immediately behind the curb or off the pavement and shall not be located as to impede or obstruct or divert either pedestrian or vehicular traffic or the flow of surface water or block drains.
 - (2) After execution of a writ of possession, such property shall be regarded as abandoned. Any property, garbage, refuse, belongings, or other items placed curbside following an eviction shall be removed within twenty-four (24) hours of the physical eviction by the property owner. If the property is not removed within twenty-four (24) hours, the city may commence removal at the expense of the property owner and the property owner shall be deemed in violation of this Code.
- (d) The following items, products, or materials will not be collected and it shall be a violation of this chapter for any person to place such items, products, or materials curbside or in any receptacle, or container for collection: rubber tires, wheels, automotive parts, acid, explosive material, ~~inflammable~~-flammable liquids, dangerous or corrosive material of any kind, hazardous or bio-medical waste or any waste requiring special disposal procedures by the Rules of Solid Waste Management of the State of Georgia Department of Natural Resources ch. 391-3-4.

(Ord. No. 2010-33, § I, 9-21-10)

Sec. 4-3-10. - Solid waste plan required for building permit.

The city shall not issue a building permit for a multi-family dwelling, condominium or commercial establishment until the public works director or his/her designee gives his approval to proposed plans for the storage and disposal of solid waste.

(Ord. No. 2010-33, § I, 9-21-10; Ord. No. 2011-20, § VIII, 12-20-11)

Sec. 4-3-11. - Billing procedure.

The monthly solid waste collection fee for each of the premises to which the city supplies water service shall be billed and collected in the same manner and at the same time as water service is billed and collected. Multi-family dwellings shall be billed for a total number of units, whether units are occupied or unoccupied, unless the unit is not receiving water service. In the event that a structure does not receive a water bill, then monthly solid waste

collection fee shall be billed and collected separately in the same manner, as if the premises received a water bill. Such charges, and additional special service fees, are in the amounts fixed in title 10 of this Code.

(Ord. No. 2010-33, § I, 9-21-10; Ord. No. 2011-20, § IX, 12-20-11)

Sec. 4-3-12. - Unauthorized use of dumpsters and prohibiting scavenging.

- (a) It shall be unlawful for any person to throw, deposit or otherwise leave solid waste in dumpsters that are leased and paid for private use, except by permission of the owner or lessee. This prohibition includes dumpsters on government property. Only dumpsters marked "For Public Use" shall be used by the public and it shall be unlawful to import household trash to these dumpsters.
- (b) It shall be unlawful for any person to scavenge or remove items from dumpsters, garbage receptacles or recycling receptacles.
- (c) The owner of each dumpster shall display one (1) sign in easy to read print, which shall contain the following information:
 - (1) Notice that the unauthorized and unlawful use of the dumpster is a violation of the Code of Ordinances of the City of Gainesville.
 - (2) Warning that violators will be prosecuted.
- (d) Any person found guilty of violating the provisions of this section shall on conviction thereof be punished as prescribed in section 1-1-7 of this Code.

(Ord. No. 2011-20, § X, 12-20-11)

Editor's note— Ord. No. 2011-20, § X, adopted Dec. 20, 2011, amended § 4-3-12 in its entirety to read as set out herein. Former § 4-3-12 pertained to nonpayment of fees deemed violation requiring termination of collection and water service and derived from Ord. No. 2010-33, § I, adopted Sept. 21, 2010.

Sec. 4-3-13. - Litter control.

- (a) It shall be unlawful for any person or persons to dump, deposit, throw, or leave or to cause or permit the dumping, depositing, placing, throwing, or leaving of litter on any public, private property or any waters in the city unless:
 - (1) The property is designated by the state or by any of its agencies or political subdivisions for the disposal of litter and the person is authorized by the proper public authority to use such property;
 - (2) The litter is placed into a litter receptacle or container installed on such property; or
 - (3) The person is the owner or tenant in lawful possession of such property or has first obtained consent of the owner or tenant in lawful possession or unless the act is done under the personal direction of the owner or tenant, all in a manner consistent with the public welfare.
- (b) No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the city shall keep the sidewalk adjacent to their business, all off-street parking areas, all loading and unloading areas, and all landscaped areas associated with their business premises free of litter.
- (c) It shall be unlawful for any person utilizing any vehicle, moving or parked, to cause any paper, wastes, cartons, rubbish, feathers, gravel, earth, trimmings, limbs or garbage of any kind to be littered, thrown, deposited or scattered upon any street, sidewalk or public place or any private property. Precautions, as are necessary, to

contain transported materials, including covering of open trucks, shall be utilized to prevent such littering and scattering.

- (d) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, boat, aircraft, or other conveyance in violation of this section, it shall be prima facie evidence that the operator of the conveyance has violated this section.
- (e) Whenever any litter is dumped, deposited, thrown or left on public or private property in violation of this section is discovered to contain any article or articles, including, but not limited to, letters, bills, publications, or other writings which display the name of the person or entity thereon in such a manner as to indicate that the article belongs or belonged to such person or entity, it shall be a rebuttable presumption that such person or entity has violated this section.
- (f) It shall be unlawful for any person to dump waste unless authorized to do so by law or by a duly issued permit:
 - (1) In or on any public highway, roads, street, alley, or thoroughfare, including any portion of the right-of-way thereof, or on any other public lands except in containers or areas lawfully provided for such dumping;
 - (2) In or on any waters within the city; or
 - (3) In or on any private property, unless prior consent of the owner has been given and unless such dumping will not adversely affect the public health and is not in violation of any state or local law, rule, or regulation.

(Ord. No. 2010-33, § I, 9-21-10; Ord. No. 2011-20, § XI, 12-20-11)

Sec. 4-3-14. - Disposal of dead animals.

The disposal of dead animals shall be in compliance with section 4-1-9.

(Ord. No. 2010-33, § I, 9-21-10)

Sec. 4-3-15. - Disposal of scrap tires.

- (a) The owner or occupant of any premises shall be responsible for the sanitary handling and disposal of all scrap tires on the premises used or occupied by such person.
- (b) It shall be unlawful to cause or allow the dumping of scrap tires at any place in the city, including, and without limitations, in or on any public highway, road, street, alley, or thoroughfare, including any portion of the right-of-way thereof or any waters in the city. Scrap tires shall not be disposed of on any public or private property in the city unless such scrap tires originate in the city and:
 - (1) The property is designated by the city and the Georgia Environmental Protection Division for the collection or disposal of scrap tires and the person is authorized to use such property;
 - (2) The scrap tires are placed into a container installed specifically for such property; and
 - (3) The property has a valid solid waste handling permit or other applicable identification numbers, approvals and/or permits issued by the Georgia Environmental Protection Division (EPD) when required.
- (c) All persons defined as scrap tire generators, scrap tire carriers, scrap tire processors, including scrap tire sorters, and retail tire dealers shall be subject to rules as defined in Chapter 391-3-4 et seq. of the Georgia Rules for Solid Waste Management and handle scrap tires in accordance with the provisions of O.C.G.A. § 12-8-20 et seq., and Georgia Rules for Solid Waste Management, Chapter 391-3-4 et seq., applicable to scrap tires, except where requirements of this chapter are more stringent.

- (d) It shall be unlawful for any person in a residential zone to accumulate any amount of scrap tires on or around property, which they own or occupy.

(Ord. No. 2010-33, § I, 9-21-10)

Sec. 4-3-16. - Nonpayment of fees deemed violation requiring termination of collection and water service.

Any customer failing or refusing to pay the monthly solid waste collection fee provided for in this chapter, after having been duly billed for same by the city, shall have all solid waste collection services and water service provided by the city to the premises for which the monthly charges are past due shall be terminated and discontinued by the city.

(Ord. No. 2011-20, § XII, 12-20-11)

Editor's note— Ord. No. 2011-20, § XII, adopted Dec. 20, 2011, amended § 4-3-16 in its entirety to read as set out herein. Former § 4-3-16 pertained to unauthorized use of dumpsters and prohibiting scavenging and derived from Ord. No. 2010-33, § I, adopted Sept. 21, 2010.

Sec. 4-3-17. - Penalties.

- (a) Any person found guilty of violating the provisions of this chapter shall on conviction thereof be punished as prescribed in section 1-1-7 of this Code.
- (b) Any person charged with a violation of any section or provision of this chapter shall be given a written notice and instructions from the office of the city public works director or his/her designee as to the required remedy for such violation. Failure to comply with the requirements of such written notice and instructions of the city public works director or his/her designee shall result in the termination of services by the public works director or his/her designee and shall, upon conviction in the municipal court be punished as provided in section 1-1-7.
- (c) Reinstatement of city solid waste collection shall only be provided after the person has fully complied with all the provisions of this chapter.
- (d) In addition to the fine set out in section 1-1-7 of this Code, the violator shall reimburse the city for the reasonable cost of removing the litter when the litter is or is ordered removed by the city and:
- (1) At the sound discretion of the court, the person may be directed to pick up and remove from any public street or highway or public right-of-way any litter he has deposited and any and all litter deposited thereon by anyone else prior to the date of execution of sentence; or
 - (2) At the sound discretion of the court, the person may be directed to pick up and remove any and all litter from any public property, private right-of-way, or with prior permission of the legal owner or tenant in lawful possession of such property, any private property upon which it can be established by competent evidence that he has deposited litter. Pick up and removal shall include any and all litter deposited thereon by anyone prior to the date of execution of sentence; and
 - (3) The court may publish the names of persons convicted of violating this chapter.

(Ord. No. 2010-33, § I, 9-21-10)

Sec. 4-3-18. - Enforcement.

All law enforcement agencies, officers and officials of this state or any political subdivision thereof, or any enforcement agency, officer or any official of any commission of this state or any political subdivision thereof, are hereby authorized, empowered and directed to enforce compliance with this chapter.

(Ord. No. 2010-33, § I, 9-21-10)

CHAPTER 4-4. - STREETS AND SIDEWALKS^[8]

Footnotes:

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Cross reference— Business license fees, Tit. 10; motor vehicles and traffic, Ch. 3-4; sewers and sewage disposal, Ch. 5-1; subdivisions, Ch. 8-2; closing of streets during civil emergency, § 3-1-25; peddling on streets, § 3-5-2; offenses against public health generally, § 3-5-12; depositing solid waste in street, § 4-3-10; placing of refuse for pickup, § 4-3-11; sewer connections in streets, § 5-1-100; water line extensions, § 5-2-31 et seq.; placing banner, etc., across streets, § 6-9-4; parades, § 6-9-6; design standards for subdivisions, § 8-2-66 et seq.; street access under zoning ordinance, § 9-1-11.

State Constitution reference— Power of General Assembly to provide by law for the control and regulation of outdoor advertising devices adjacent to certain highways, Art. 3, § 6, para. 2.

State Law reference— Obstructing highways, streets, sidewalks or other public passages, O.C.G.A. § 16-11-43; eminent domain, O.C.G.A. Title 22; highways, bridges and ferries, O.C.G.A. Title 32; municipal street systems, O.C.G.A. § 32-4-90 et seq.; obstructing, encroaching on or injuring public roads, leasing of property by department of transportation, O.C.G.A. § 32-6-1; legislative authority required for municipal grant of right to obstruct street, O.C.G.A. § 36-30-10; municipal streets, alleys and sidewalks generally, O.C.G.A. § 36-34-3; street improvements, O.C.G.A. § 36-39-1 et seq.; state grants for street-lighting facilities, O.C.G.A. § 36-40-20 et seq.

ARTICLE 1. - IN GENERAL

Sec. 4-4-1. - Street specifications.

The city shall not accept any new street within its corporate limits unless and until the requirements of streets and drainage of Chapter 8-2 and its appendices are met.

(Code 1958, § 19-1)

Sec. 4-4-2. - Blocking, flooding or otherwise impairing use of streets, permission required.

- (a) No person shall block, flood or otherwise interfere with or impair the use of any public street, road or thoroughfare in the city without first having secured permission from the city council.
- (b) No person shall interfere with or impair the use of any public street, road or thoroughfare in the city by allowing dirt, silt, sediment or debris to be tracked or deposited into such street from a parcel within the city.
- (c) Any person giving or transmitting any order or instruction to block, flood or otherwise impair the use of any public street, road or thoroughfare in the city without first having secured permission of the city council shall be guilty of the violation of this section.
- (d) Each day that any such street, road or thoroughfare is blocked, flooded or the use thereof impaired, shall be a separate and distinct offense and shall be punished as provided in section 1-1-7.

(Code 1958, § 19-2; Ord. No. 2008-18, § I, 6-17-08)

State Law reference— Legislative authority required for municipal grant of right to obstruct street, O.C.G.A. § 36-30-10.

Sec. 4-4-3. - Cutting or digging into—Regulated.

No person shall dig into, cut into or otherwise cause any impairment of any public road, street, alley or sidewalk in the city without a permit as specified under section 4-4-5 from the city public works director.

(Code 1958, § 19-3)

Sec. 4-4-4. - Same—Application to city.

Any person desiring that public roads, streets, alleys or sidewalks in the city be dug into, cut into or otherwise altered or impaired, shall make application to the city public works director as specified under section 4-4-5.

(Code 1958, § 19-4)

State Law reference— Excavating or blasting near underground gas pipes and utility facilities, OCGA § 25-9-1 et seq.; excavations up to boundary line, right of lateral support of soil, OCGA § 44-9-3.

Sec. 4-4-5. - Standards for utility cut permitting.

The public works director shall review applications for conformance to the Utility Accommodations Policy and Standards of the Georgia Department of Transportation, as well as city standards and policies before issuing a permit. A permit does not grant a utility an exclusive right to use of the right-of-way. If the utility installation interferes with the safe use of the right-of-way or road construction improvement, then the utility shall remove, relocate or repair its facility to remove such interference, upon notification by the public works director.

Sec. 4-4-6. - Removal of gravel, earth or rock, permission required.

It shall be unlawful for any person to dig or scrape up or carry away gravel, dirt, earth, rocks or sand from any street, lane, sidewalk, square or park of the city, or make any changes in the sidewalks or streets, without the permission of the city council.

(Code 1958, § 19-7)

Sec. 4-4-7. - Intrusions, prohibited; removal.

No person shall so construct or have constructed, or keep, have or maintain any fence, gate, doors, house, steps or other structure so as to intrude on any street or sidewalk of this city. The public works director may remove such intrusion at the expense of the owner of the property from which the same extends, and the cost of the same collected from the owner.

(Code 1958, § 19-8)

Sec. 4-4-8. - Obstructions prohibited.

No person shall obstruct the public squares, streets, sidewalks or crossings of the city.

(Code 1958, § 19-10)

State Law reference— Legislative authority required for municipal grant of right to obstruct street, OCGA § 36-30-10.

Sec. 4-4-9. - Assemblages obstructing passage.

It shall be unlawful for persons to assemble in a crowd so as to in any manner obstruct the free passage of the streets or sidewalks in the city. Each person forming a part of such assembly, after notice by any officer or police officer of the city to disperse, shall be punished as prescribed in section 1-1-7 of this Code.

(Code 1958, § 19-16)

Sec. 4-4-10. - Adjacent excavations.

All persons owning property which is immediately adjacent to any street or sidewalk, and which is below the level of such street or sidewalk, so as to make it dangerous for passersby, and all persons having unenclosed lots, open wells, cellars or other excavations shall place secure guards along or around such dangerous places.

(Code 1958, § 19-17)

Sec. 4-4-11. - Barbed wire fences.

No person shall erect or maintain within the corporate limits, on or adjoining a street, any fence composed partly or wholly of barbed wire, except as necessary for security purposes, and then only after the prior written consent and approval of the chief building inspector has been given.

(Code 1958, § 19-18)

Sec. 4-4-12. - Cellar doors—Causing obstruction prohibited.

No cellar door shall be so constructed or maintained which extends more than four (4) feet into the sidewalk of any street in this city, and any cellar door occupying or obstructing more than four (4) feet shall be closed by order of the chief building inspector.

(Code 1958, § 19-19)

Sec. 4-4-13. - Same—Manner of keeping.

Cellar doors shall be kept in perfect order. The chief building inspector shall notify the owner or occupant of any building with cellar door in bad condition to repair the same within five (5) days. If not repaired in that time, the chief building inspector shall cause the necessary repairs to be made at the expense of the owner or occupant. All cellar doors shall be kept closed at night and during the day, except when in actual use, so as not to obstruct the free passage over the whole width of the sidewalk.

(Code 1958, § 19-20)

Sec. 4-4-14. - Trees or vegetation; destruction prohibited.

It shall be unlawful to injure or destroy any trees or vegetation on the streets, sidewalks, public squares, parks, cemeteries or other property of the city, except as authorized by the city public works director.

(Code 1958, § 19-22)

Cross reference— Recreation and parks, Ch. 1-7; cemeteries, Ch. 4-2.

Sec. 4-4-15. - Display or sale of merchandise.

No person shall use any portion of the sidewalks of the city for the purpose of displaying or selling goods or merchandise of any description, except upon compliance with the following conditions:

- (1) For the purpose of encouraging and promoting trade and industry within the corporate limits of the city, the city marshal may issue a permit to a licensed business in this city to use for promotional purposes the sidewalk immediately adjacent to or in front of the building occupied by the licensed business. Display shall occupy only that part of the sidewalk in front of the licensed business and shall not extend parallel in either direction beyond the outside walls of the building in which the business is located.
- (2) A clear and unobstructed path of the sidewalk of at least forty-eight (48) inches wide shall be maintained at all times.
- (3) Such permit shall be limited to a period of three (3) days for occupancy of the sidewalk.
- (4) Applicant shall submit detailed plans of the promotion for the approval of the city marshal.
- (5) Only twelve (12) such permits each calendar year shall be issued to any one (1) applicant.
- (6) Businesses located within the central business district shall be exempt from obtaining a sidewalk permit during scheduled and or city sanctioned special events. The insurance requirements as specified in paragraph (7) shall also apply during said city sanctioned events and it shall be the responsibility of the business owner to maintain and show proof of said insurance upon the request of the city marshal or his/her designee.
- (7) The applicant shall procure and shall maintain comprehensive general liability and broad form property damage insurance as shall protect [the] city from claims for damages for bodily injury, including accidental death, as well as from claims for property damages which may arise from obstruction or use by the applicant, whether such operations are by the applicant or by any subcontractor or by anyone directly or indirectly employed by either of them. The amount of insurance shall not be less than five hundred thousand dollars (\$500,000.00).
- (8) Applicants for permits shall make application for the permit at least seven (7) days prior to the effective date of the permit.
- (9) Displays shall only be allowed on the sidewalk during the hours that the licensed business is open and is actually conducting business.
- (10) Streets may not be used for the purpose of displaying or selling goods or merchandise of any description except during scheduled and or city-sanctioned special events in which the streets have been officially closed during said event.

(Code 1958, § 19-23; Ord. No. 2010-32, § I, 9-21-10)

Cross reference— Licenses, permits and business regulations, Tit. 6; zoning, Tit. 9; building regulations, Ch. 7-1.

Secs. 4-4-16—4-4-25. - Reserved.

ARTICLE 3. - CURBS; SIDEWALKS; DRIVEWAYS**Sec. 4-4-46. - 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:

Inner curbing means only that portion of the curbing required herein along driveways and sidewalks and not constituting the curbing which borders and marks the margin of the street designated and constructed for vehicular traffic.

Street curb means the portion of concrete curbing and structure which borders and marks the margin of the street designated and constructed for vehicular traffic.

(Code 1958, § 19-60)

Sec. 4-4-47. - Improvements and permit required.

- (a) *Permit.* It shall be unlawful for any person to construct, reconstruct, alter, remove and/or replace any curb, curb and gutter, sidewalk or driveway on public property within the city without first having obtained a permit from the public works director. All such construction, reconstruction, alteration, removal or replacement shall be under supervision of the public works director and in accordance with the specifications hereinafter provided.
- (b) *Plan; application.* Before a permit required by subsection (a) above shall be issued, the abutting property owner or his duly authorized agent shall submit an application therefor in writing with a plan made a part of such application showing the location, design and layout of the proposed improvement.
- (c) *Issuance of permit.* When such written application and plan has been duly submitted and the fee is paid, the public works director shall issue a permit for such improvements, provided the plan showing the location, design, layout and specification shall conform with the basic standards, specifications, details and designs hereinafter made and provided; and, provided further, that such application has been approved by the public works director.
- (d) *Fee.* A fee as provided in Title 10 shall be charged by the public works director at the time any application for a permit as herein required is made for residential driveways or sidewalks or for commercial driveways or sidewalks, and such sum shall be paid into the general fund of the city. However, where the general contractor constructs and pours his own driveways or sidewalks provided for herein, there shall be no necessity for a separate permit fee for such purposes; provided further, however, the actual pouring for such driveways or sidewalks shall be done at a time when the public works director is making his regular inspection of the improvements being erected thereon.

(Code 1958, § 19-60)

Sec. 4-4-48. - Layout and design.

The design, layout and plans for the construction, reconstruction, alteration and/or replacement of all sidewalks, curbs, driveways, both private and commercial, shall conform and be constructed according to the design and layout, as described herein and as approved by the city engineer.

- (1) *Driveway, nonresidential.* Driveways for other than residential or dwelling house use shall be constructed of three thousand (3,000) pounds-per-square-inch portland cement concrete at least six (6) inches in thickness.

- (2) *Residential driveway, no sidewalk.* On residential driveways where no sidewalk exists, a six-inch thick concrete apron shall be constructed from the curb line three (3) feet in depth. Where sidewalks exist a six-inch thick concrete apron shall be constructed to a point three (3) feet beyond the back edge of the sidewalk. Where no curb and/or gutter exists no concrete apron will be required.
- (3) *Driveways, sidewalks.* Where a driveway of any kind of material is constructed across the sidewalk space, it shall conform to the sidewalk grade as established by the city engineer.
- (4) *Replacing sidewalks.* Where a driveway of any kind of material is constructed across an existing sidewalk, said sidewalk shall be removed and replaced with portland cement concrete for the full width of the driveway and for a distance of at least twelve (12) inches on both sides of such walk. This portion shall be not less than six (6) inches in thickness.
- (5) *Driveway, concrete street.* Where paving in the public street is of concrete, and a concrete driveway is constructed, a one-inch bituminous premolded expansion joint shall be placed approximately three (3) feet from the edge of the concrete paving and normal to the center line of the driveway.
- (6) *Driveway, nonresidential; width.* The width of the driveways for other than a residential or dwelling house shall not exceed fifty (50) feet at the throat. Where two (2) or more adjoining driveways are provided for the same property, a safety island of not less than ten (10) feet at the outer or street side of the sidewalk shall be provided. Not more than two (2) such driveways shall be allowed to any one (1) owner for any one (1) piece of property on any one (1) street for each one hundred (100) feet of continuous frontage thereof.
- (7) *Residential driveway; width.* The width of the driveways for a residential or dwelling house shall be not less than nine (9) feet or more than twenty (20) feet at the throat, except those residences or dwelling houses which are located on a major thoroughfare in which case the width of the driveway shall not be less than nine (9) feet or more than fourteen (14) feet at the throat.
- (8) *Width of driveway at curb line.* The width of the driveway opening at the curb line shall not exceed the width of the driveway at the throat plus twenty (20) feet, nor be less than the width of the driveway at the inner or property edge of the sidewalk plus ten (10) feet. In no instance should the radius be less than three (3) feet at curb corners, and this only when the driveway is flared, or more than ten (10) feet, unless otherwise authorized by the public works director.
- (9) *Driveways, grading.* All driveways shall be so graded between the gutter and the sidewalk that it will not be necessary to materially change the established grade of either and will not elevate or depress any portion of either. No part of the driveway shall extend beyond the curb line in such a manner as to change the grade of the gutter or obstruct the free flow of water in the gutter. Where elevations or depressions are necessary in the parkway strip between the curb and walk, the parkway shall be graded on both sides of the driveway to a distance sufficient to create a gradual ascent or descent. The driveway shall be constructed in such a manner as to prevent water from the gutter entering the driveway.
- (10) *Curb and gutter.* Combined curb and gutter and separate curbing shall be entirely removed for the full width of the driveway opening at the curb line. If an existing joint in the curb is within five (5) feet of the end of the driveway opening, remove the existing curbing, etc., to the joint, otherwise cut the combined curb and gutter or separate curbing, making a neat edge at right angles to the edge of the pavement and vertical. Integral curbing, which is that type placed with the pavement and molding as an integral part of it, must be removed for the full depth from the top of curb to the bottom of the pavement. The edge must be cut as above described. No combined curb and gutter, straight curb or integral curb shall be removed within five (5) feet of a public crosswalk.
- (11) *Residential driveway; gutter elevation.* On a residential drive the grade of the drive at the property line or twelve (12) feet from the curb line, whichever is greater, shall not exceed eight (8) degrees from the gutter elevation. For uphill driveway, the change in grade in any ten-foot section shall not exceed twelve (12) percent and for downhill driveways the change in grade shall not exceed eight (8) percent in any ten-foot section.

- (12) *Driveway across open ditch.* When driveways cross open ditches in the parkways, culverts shall be installed. Such culverts shall be of such size and shall be constructed of such material as ~~determined~~ approved by the ~~department of water resources~~ city engineer, depending on the conditions existing. The capacity of the culvert shall be at least equal to the upstream channel capacity. In no instances shall the size of opening be less than that obtained by a twelve-inch diameter pipe. The length of culvert shall be determined by the following method: For ditch depth of two (2) feet or less the culvert shall extend not less than five (5) feet beyond both edges of the driveway where it crosses the ditch. For each additional foot depth of ditch add two (2) feet to the above figure, except that no culvert shall be less than twenty (20) feet long and except that where headwalls are constructed at the ends of the culvert the length shall be determined by the ~~public works~~ director of the department of water resources.
- a. Where existing catch basins or storm inlets are in the area of the proposed driveway the catch basins or inlets shall be relocated in accordance with instructions from the ~~public works~~ director of the department of water resources at the property owner's expense.
 - b. All driveways constructed or reconstructed over, across or upon any public street or public parkway in the city shall be kept and maintained at all times in accordance with the provisions hereof by the persons so constructing, reconstructing or using the same as an adjunct or appurtenance to lands or properties immediately adjacent thereto.

(Code 1958, § 19-61)

Sec. 4-4-49. - Miscellaneous provisions.

- (a) *Property in corner of intersecting streets.* On property situated at the corner of intersecting streets, sidewalks shall extend to the street curb line of the intersecting street. Sidewalks may be required on both the side and front streets when the need thereof for pedestrian traffic is apparent. No driveway entrances shall be permitted within twenty-five (25) feet of the street right-of-way line except to facilitate access to residential and commercial units on minor street intersections where a driveway or curb cut will not substantially interfere with traffic. Total vehicular volume entering the intersection from all approaches must not exceed an average of forty (40) vehicles per hour for any eight (8) hours of an average day and a line of sight stopping distance of two hundred fifty (250) feet must be available on all approaches.
- (b) *Sidewalks adjacent to off-street parking.* Where sidewalks are to be adjacent to an off-street parking area, a concrete inner curb must be built three (3) feet from property line to separate the parking area from the sidewalks. This inner curb must be at least six (6) inches in width and extend a minimum of six (6) inches above the driving surface and a minimum of six (6) inches below the driving surface. A permanent barrier or fence equivalent to this curb may be used in lieu of the concrete curb, after approval by the city engineer.
- (c) *Construction of step or off-set.* No step or offset shall be constructed in any sidewalk outside property lines, except where certain conditions necessitate such step or offset and then only at the instance of written instruction from the city engineer. Where such step or offset is likely to occur, the contractor shall notify the city engineer before constructing same.
- (d) *Backing into street from parked position.* No driveway or curb cuts shall be permitted which will permit or encourage the backing of vehicles in such a manner as to back directly into a street from a parked position; except to facilitate residential units on a minor street where parking stalls may be provided as an open curb cut; providing that there is a sidewalk provided in front of the stall, and this sidewalk runs parallel to the right-of-way for a minimum distance of one hundred (100) feet on either side of the stalls except, where the sidewalk reaches an intersecting street or driveway.

(Code 1958, § 19-62; Ord. No. 92-52, § 1, 12-1-92)

CHAPTER 4-7. - STORMWATER AND ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS^[11]

Footnotes:

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Editor's note— For additional provisions relating to stormwater management, the user's attention is directed to chapter 9-13-12 of the Unified Land Development Code, which is housed in a separate publication.

Sec. 4-7-1. - Findings.

It is hereby determined that:

- (1) Discharges to the municipal separate storm sewer system that are not composed entirely of stormwater runoff contribute to increased nonpoint source pollution and degradation of receiving waters;
- (2) These non-stormwater discharges occur due to spills, dumping and improper connections to the municipal separate storm sewer system from residential, industrial, commercial or institutional establishments.
- (3) These non-stormwater discharges not only impact waterways individually, but geographically dispersed, small volume non-stormwater discharges can have cumulative impacts on receiving waters.
- (4) The impacts of these discharges adversely affect public health and safety, drinking water supplies, recreation, fish and other aquatic life, property values and other uses of lands and waters;
- (5) These impacts can be minimized through the regulation of spills, dumping and discharges into the (municipal/county) separate storm sewer system;
- (6) Localities in the State of Georgia are required to comply with a number of State and Federal laws, regulations and permits which require a locality to address the impacts of stormwater runoff quality and nonpoint source pollution due to improper non-stormwater discharges to the municipal separate storm sewer system; and
- (7) Therefore, the city of Gainesville adopts this chapter to prohibit such non-stormwater discharges to the municipal separate storm sewer system. It is determined that the regulation of spills, improper dumping and discharges to the municipal separate storm sewer system is in the public interest and will prevent threats to public health and safety, and the environment.

Sec. 4-7-2. - Purpose and intent.

The purpose of this chapter is to:

- (1) Protect the public health, safety, environment and general welfare through the regulation of non-stormwater discharges to the municipal separate storm sewer system to the maximum extent practicable as required by Federal law;

- (2) Establish methods for controlling the introduction of pollutants into the municipal separate storm sewer system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process;
- (3) Designate a stormwater management ordinance administrator which shall implement the provisions of this chapter~~these ordinances~~, and
- (24) To assure the continued, efficient operation of the city stormwater system by specifically prohibiting illicit discharges and illegal connections and specifically:
- Regulate the contribution of pollutants to the municipal separate storm sewer system by any person;
 - Prohibit illicit discharges and illegal connections to the municipal separate storm sewer system;
 - Require owners of private stormwater management systems to maintain the system such that said system functions as originally designed;
 - Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the municipal separate storm sewer system; and
 - To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this chapter.

(Ord. No. 2008-19, § I, 6-17-08)

Sec. 4-7-3. - Applicability.

The provisions of this chapter~~ordinance~~ shall apply throughout the corporate limits~~area~~ of the city of Gainesville.

Sec. 4-7-4. - Compatibility with other regulations.

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

Sec. 4-7-5. - Severability.

If the provisions of any section, subsection, paragraph, subdivision or clause of this chapter shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this chapter.

Sec. 4-7-6. - Definitions.

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

Accidental discharge means a discharge prohibited by this chapter ~~into the city's separate storm sewer system,~~ which occurs by chance and without planning or ~~consideration-thought~~ prior to occurrence.

Approved stormwater discharge means a discharge of rainwater into the city's separate ~~stormwater~~ sewer system approved in advance of connection by the ~~public works department~~ department of water resources.

City means the City of Gainesville, Georgia.

Clean Water Act means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity means activities subject to the Georgia Erosion and Sedimentation Control Act or NPDES General Construction Permits. These include construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

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

Drainage system means the surface and subsurface system for the removal of water from the land, including both the natural elements of streams, marshes, swales, and ponds, whether of an intermittent or continuous nature, and the man-made element which includes culverts, ditches, channels, detention facilities, and the storm sewer system.

Illicit discharge means any direct or indirect non-stormwater discharge to the municipal separate storm sewer system, except as exempted in section 4-7-3.

Illegal connection means either of the following:

- (1) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or
- (2) Any pipe, open channel, drain or conveyance connected to the municipal separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

Industrial stormwater permit means a national pollutant discharge elimination system (NPDES) permit issued to an industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

Municipal (city's) separate storm sewer system (MS4) means any facility designed or used for collecting and/or conveying stormwater, including but not limited to any roads with drainage systems, highways, city streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which is ~~not part of a publicly-owned treatment works.~~

- (1) Owned or maintained by the city of Gainesville;
- (2) Not a combined sewer; and
- (3) Not part of a publicly-owned treatment works.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit means a permit issued by the Georgia EPD under authority delegated pursuant to 33 USC § 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-stormwater discharge means any discharge to the storm drain system that is not composed entirely of stormwater.

Owner means the person in whom is vested the ownership, dominion, or title of property. This term shall also include a tenant, any agent of the owner, or tenant including a developer.

Person means, except to the extent exempted from this chapter, 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.

Pollutant means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, dirt, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; concrete and cement; excessive heat; and noxious or offensive matter of any kind.

Pollution means the contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent and includes but is not limited to, a change in temperature, taste, color, turbidity, or odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

Premises means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

~~*Public works department* means the department of the city responsible for roads, drainage, traffic, airport, sanitation, the cemetery and engineering.~~

Runoff means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation. Also known as stormwater runoff.

~~*Runoff* means on the surface of the ground resulting from precipitation on the land which reaches the drainage system. Also known as stormwater runoff.~~

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

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 person, as determined by the public works department of water resources.~~

Stormwater management means the collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner intended to prevent increased flood damage, streambank channel erosion, habitat degradation and water quality degradation, and to enhance and promote the public health, safety and general welfare.

Stormwater management ordinance administrator means the ~~public works~~ department of water resources of the city.

Stormwater management system means the entire set of structural and nonstructural stormwater management facilities and practices that are used to capture, convey and control the quantity and quality of the stormwater runoff from a premise.

Stormwater Runoff or Stormwater means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stream means a natural body of running water flowing continuously or intermittently in a channel on or below the surface of the ground.

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.

Water resources department means the department of the city responsible for municipal utilities, including water, wastewater and stormwater facilities and all related management of water resources. The department of water resources shall administer, implement, and enforce the provisions of this chapter.

(Ord. No. 2008-19, § I, 6-17-08)

Sec. 4-7-7. - Prohibition of illicit discharges

- (a) It is unlawful for any person to throw, drain, ~~run~~ or otherwise discharge, cause, or allow others under such person's control to throw, drain, or otherwise discharge into any component of the city's ~~municipal~~ separate storm sewer system ~~or to cause, permit or suffer to be thrown, drained, run, or allow to seep or otherwise discharge into such system all matter of any pollutants or waters containing any pollutants, nature excepting only such other than~~ stormwater or surface water as authorized in this chapter.
- (b) It shall be the responsibility of the discharger to provide to the ~~public works department~~department of water resources with the appropriate certifications that discharges to the city separate storm sewer system meet the requirements of this chapter, and do not have an adverse effect on the storm sewer system, receiving stream, or otherwise endanger life, limb, public property or constitute a nuisance. In forming an opinion as to the acceptability of water to the system, the department of water resources shall be guided by Public Law 92-500 and the Clean Water Act, their amendments, and the regulations promulgated thereunder and will give consideration to such factors as the quantities of subject pollutants in relation to flows and velocities in the storm sewer, materials of construction of the storm sewer, capacity of the storm sewer system, and other pertinent factors.
- (c) The ~~public works department~~department of water resources may exempt the following discharges from the prohibition provision of subsection (a) unless such discharges are identified as possible pollution sources:
- (1) Water line flushing performed by a government agency, diverted stream flows, rising ground waters, and ~~unpolluted uncontaminated~~ ground water infiltration.
 - (2) ~~Unpolluted-Uncontaminated~~ pumped ground water.
 - (3) Discharges from potable water sources, foundation or footing drains (not including active groundwater dewatering systems), air conditioning condensation, irrigation water, springs, water from crawl space pumps, ~~footing drains~~, lawn watering, landscape irrigation, individual residential car washing, flows from natural riparian habitats and wetlands, swimming pool discharges, and street ~~rinse-wash~~ water.
 - (4) Discharges or flows from fire fighting and other discharges specified in writing by the city as being necessary to protect public health and safety.
 - (5) Other ~~unpolluted uncontaminated~~ water.
 - (6) The prohibition provision above shall not apply to any non-stormwater discharge permitted under an NPDES permit or order issued to the discharger and administered under the authority of the state and the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the municipal separate storm sewer system.

(Ord. No. 2008-19, § I, 6-17-08)

Sec. 4-7-8. - Prohibition of illegal connections.

The construction, connection, use, maintenance or continued existence of any illegal connection to the city separate storm sewer system is prohibited.

- (a) It is unlawful for any person, company, corporation, and/or entity to connect any pipe, open channel, any other conveyance system that discharges anything except approved stormwater discharges, based on the exemptions listed in subsection 4-7-~~7(c)(3)(b)~~, to the city separate storm sewer system, or allow such connection to continue.
- (b) Connections to the separate storm sewer system which are in violation of this article must be disconnected. The owner of the property where the connection originates shall be responsible for redirecting such connections to ~~an approved~~ location approved by the department of water resources.
- (c) This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (d) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the city requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the city.

(Ord. No. 2008-19, § I, 6-17-08)

Sec. 4-7-~~9~~. - Owner to maintain stormwater management system.

The owner of a stormwater management system is to maintain such system in functional and working order as to control the quality and quantity of water as originally designed and constructed.

(Ord. No. 2008-19, § I, 6-17-08)

Sec. 4-7-~~10~~. - Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the city department of water resources prior to allowing discharges to the city's separate storm sewer system.

(Ord. No. 2008-19, § I, 6-17-08)

Sec. 4-7-~~11~~. - Access and inspection of properties and facilities.

The city shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this chapter.

- (1) If a property or facility has security measures in force which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to representatives of the city.
- (2) The owner or operator shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, photography, videotaping, examination and copying of any records that are required under the conditions of an NPDES permit to discharge stormwater.
- (3) The city shall have the right to set up on any property or facility such devices as are necessary in the opinion of the city to conduct monitoring and/or sampling of flow discharges.

- (4) The city may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the city. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the city and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.
- (6) Unreasonable delays in allowing the city access to a facility is a violation of this chapter.
- (7) If the city has been refused access to any part of the premises from which stormwater is discharged, and the city is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the city may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. No. 2008-19, § I, 6-17-08)

Sec. 4-7-~~12~~. - Notification of accidental discharges and spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non-stormwater discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the city's separate storm sewer system, or state waters, ~~or waters of the U.S.~~, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.

Said person shall notify the authorized enforcement agency in person or by phone, facsimile, e-mail, or in person no later than twenty-four (24) hours of the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city within three (3) business days of the phone or in person notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.

In the event of such a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified.

Failure to provide notification of a release as provided above is a violation of this chapter.

(Ord. No. 2008-19, § I, 6-17-08)

Sec. 4-7-~~13~~. - Violations, enforcement and penalties.

- (a) *Violations.* It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. Any person who has violated or continues to violate the provisions of this chapter, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the city is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures

necessary to abate the violation and/or restore the property. The city is authorized to seek costs of the abatement as outlined in this section.

(b) *Notice of violation.* Whenever the city finds that a violation of this chapter has occurred, the city may order compliance by written notice of violation.

(1) The notice of violation shall contain:

- a. The name and address of the alleged violator;
- b. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- c. A statement specifying the nature of the violation;
- d. A description of the remedial measures necessary to restore compliance with this chapter and a time schedule for the completion of such remedial action;
- e. A statement of the penalty or penalties that shall or 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 as provided in subsection (c) by filing a written notice of appeal within thirty (30) days of service of notice of violation.

(2) Such notice may require without limitation:

- a. The performance of monitoring, analyses, and reporting;
- b. The elimination of illicit discharges and illegal connections;
- c. That violating discharges, practices, or operations shall cease and desist;
- d. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- e. Payment of costs to cover administrative and abatement costs; and
- f. The implementation of pollution prevention practices.

(c) *Appeal of notice of violation.* Any person receiving a notice of violation may appeal the determination of the city. The notice of appeal must be received in writing by the city clerk's office within ~~thirty (30)~~fifteen (15) days from the date of the notice of violation. Hearing on the appeal before the city's administrative hearing officer, as provided in chapter 1-8, shall take place within thirty (30) days from the date of receipt of the notice of appeal. The decision of the administrative hearing officer shall be final.

(d) *Enforcement measures after appeal.* If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within thirty (30) days of the decision of the administrative hearing officer upholding the decision of the city, then representatives of the city may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(e) *Costs of abatement of the violation.* Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of the city of the abatement, including administrative costs. The property owner may file a written protest objecting to the assessment or to the amount of the assessment within thirty (30) days of such notice. If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken as provided in subsection (c), within thirty (30) days after a decision on said appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this chapter shall become liable to the city by reason of such violation.

- (f) *Civil penalties.* In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within thirty (30) days, or such greater period as the city shall deem appropriate, after the city has taken one or more of the actions described above, the city may impose a penalty not to exceed one thousand dollars (\$1,000.00) (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.
- (g) *Criminal penalties.* For intentional and flagrant violations of this chapter, the city may issue a citation to the alleged violator requiring such person to appear in the municipal court of the city to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for sixty (60) days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.
- (h) *Violations deemed a public nuisance.* In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, welfare, and environment and is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by law.
- (i) *Remedies not exclusive.* The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and the city may seek cumulative remedies.

The city may recover attorney's fees, court costs, and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.

(Ord. No. 2008-19, § I, 6-17-08)

Sec. 49-7-14. - Falsifying information.

Any person who knowingly makes any false statements, representations or certifications in any application, permit, record, report, plan, drawing, plat, or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or inspection method required under this chapter shall be in violation of this ordinance and subject to the fines, penalties and punishment provided for in section 1-1-7 and other penalties as provided for in this chapter.

Title 5 - MUNICIPAL UTILITIES^[1]

Footnotes:

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Cross reference— General government, Tit. 1; fiscal affairs, Tit. 2; public works and health, Tit. 4; licenses, permits and business regulations, Tit. 6; planning, Tit. 8; schedule of fees, Tit. 10; tampering with utility property, § 3-5-16.

State Law reference— State grants for public purposes, OCGA § 36-40-20 et seq.

CHAPTER 5-1. - SANITARY SEWERS AND SEWAGE DISPOSAL^[2]

Footnotes:

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Editor's note— Ord. No. 98-63, § I, adopted Dec. 1, 1998, repealed Chapter 5-1 and replaced it in its entirety to read as herein set out. The former Chapter 5-1 pertained to similar subject matter. See the Code Comparative Table for more information.

Cross reference— Pollution and contamination, Ch. 3-6; solid waste, Ch. 4-3; streets and sidewalks, Ch. 4-4; Stormwater and Illicit Discharges and Illegal Connections, Ch 4-7; water, Ch. 5-2.

State Law reference— Acquisition and construction of water and sewage systems, OCGA § 36-34-5; state grants for sewerage services, OCGA § 36-40-20 et seq.; industrial waste treatment, OCGA § 36-60-2; public utilities, OCGA Title 46.

ARTICLE 1. - IN GENERAL

Sec. 5-1-1. - Purpose and policy.

This chapter sets forth uniform requirements for users of the wastewater collection and publicly owned treatment works (POTW) for the City of Gainesville and enables the city to comply with all applicable state and federal laws including the Clean Water Act (33 U.S.C. 1251 et seq.) (hereinafter referred to as "the Act"), and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this chapter are:

- (1) To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
- (2) To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;
- (3) To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;
- (4) To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;
- (5) To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
- (6) To enable the city to comply with its NPDES permit conditions, sludge use and disposal requirements and any other federal or state laws to which the POTW is subject; and

- (7) To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the POTW.

This chapter shall apply to all users of the POTW. The chapter authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance and enforcement activities; establishes administrative review procedures; requires industrial user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-2. - Administration.

Except as otherwise provided herein, the ~~public utilities~~ director of the department of water resources shall administer, implement and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the ~~public utilities~~ director may be delegated by the ~~public utilities~~ director to other city personnel.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-3. - Definitions.

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:

Absolve means to excuse; to free from an obligation or the consequences of guilt or liability.

Accidental discharge or spillage means a release of wastewater into the sanitary sewerage system or into a natural or man-made outlet, which occurs occurring or arises arising by chance or unexpectedly without planning or consideration prior to occurrence. ~~to the sewerage system or to a natural or man-made outlet.~~

Acidity means the quantitative capacity of aqueous solutions to react with hydroxyl ions, as measured by titration with a standard solution of a base to a specified end point.

Administrative action (a fine or order) means an enforcement action authorized by the ~~city's control authority's legal authority~~ administrative hearing officer which is taken without the involvement of a court.

Administrative fine means a punitive monetary charge unrelated to actual treatment costs which is assessed by the control authority rather than a court.

Administrative order means a document which orders the violator to perform a specific act or refrain from an act. For example, the order may require users to attend a show cause meeting, cease and desist discharging or undertake activities pursuant to a compliance schedule.

Admissible evidence means evidence which can be presented in court.

Advanced waste treatment means wastewater treatment beyond the secondary or biological stage that includes removal of nutrients such as phosphorus and nitrogen and a high percentage of suspended solids.

Aeration means to circulate oxygen through a substance, as in wastewater treatment where it aids in purification.

Aeration tank means a tank which serves as a chamber for injecting air into water.

Aerobic means life or processes that depend on the presence of oxygen.

Affidavit means a sworn statement in writing under oath before an authorized magistrate or officer.

Affirmative defense means a user may have a favorable, legal argument to an enforcement action if the criteria as outlined in section 5-1-24 of this chapter is met.

Algae means plants which grow in sunlit waters and which are a food for fish and small aquatic animals and put oxygen in the water.

Alkalinity means the capacity of water to neutralize acids, as determined by the water's content of carbonates, bicarbonates, hydroxides and occasionally borates, silicates and phosphates.

Approval authority means the State of Georgia, Department of Natural Resources, Environmental Protection Division. The approval authority is responsible for approval and oversight of control authority pretreatment programs, including an evaluation of the effectiveness of local enforcement.

Approved state program means a state or interstate permit program which meets the requirements of Section 402(b) of the Act and which has been submitted to and approved by EPA under its NPDES permit regulations and under Section 402(c) of the Act.

Arbitrary or capricious allegation means an assertion that a decision or action taken by the control authority was unreasonable or not founded upon sound judgment.

Authorized representative of a user means any one (1) of the following:

- (1) If the user is a corporation, authorized representative shall mean:
 - a. A responsible corporate officer, which includes a president, secretary, treasurer or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions;
 - b. The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000.00) (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- (2) If the industrial user is a partnership, or sole proprietorship, an authorized representative shall mean a general partner or proprietor, respectively;
- (3) If the industrial user is a federal, state or local governmental facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee;
- (4) A duly authorized representative of the individual designated in paragraphs (1), (2) or (3) of this section if:
 - a. The authorization is made in writing by the individual described in paragraphs (1), (2) or (3),
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates, such as the position of plant manager, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
 - c. The written authorization is submitted to the City of Gainesville.
- (5) If an authorization under paragraph (4) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of paragraph (4) of this section must be submitted to the City of Gainesville prior to or together with any reports to be signed by an authorized representative.

Bacteria means single-celled microorganisms that lack chlorophyll. Some cause diseases, others aid in pollution control by breaking down organic matter in air and water.

Bacterial analysis means the examination of water and wastewater to determine the presence, number and identification of bacteria.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Celsius expressed in milligrams per liter.

Biodegradable means any substance that decomposes quickly through the action of microorganisms.

Biological oxidation means the way that bacteria and microorganisms feed on and decompose complex organic materials. Used in self-purification of water bodies and activated sludge wastewater treatment.

Biological wastewater treatment means forms of wastewater treatment in which bacterial or biochemical action is intensified to stabilize, oxidize and nitrify the unstable organic matter present.

Board of health means the county board of health or an authorized agent or representative.

Buffer means any of certain combinations of chemicals used to stabilize the pH values or alkalinities of solutions.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

Building inspector means the chief building inspector of the City of Gainesville or Hall County or his authorized agent or representative.

Building sewer means the extension from the building drain to the public sanitary sewer or other place of disposal, also called house connection.

Burden of proof means the duty of providing a disputed assertion or charge in court.

By-pass means the intentional diversion of ~~wastestreams~~ waste streams from any portion of an industrial user's treatment facility.

Categorical industry means a category of significant industrial users which by nature of its process meets the requirements identified in categorical standards.

Categorical standards means the National Categorical Pretreatment Standards or Pretreatment Standards as referenced in the Clean Water Act and outlined in 40 CFR Chapter I, Subchapter N, Parts 405 through 471.

Certified means giving certain factual knowledge of and attesting to the validity of the preparation of all the information in all correspondence to the control authority.

Cease and desist order means an administrative order directing an industrial user to immediately halt illegal or unauthorized discharges.

CFR means the Code of Federal Regulations.

cfs means cubic feet per second, a measure of the amount of water passing a given point.

Chain-of-custody means a written record of sample possession for all persons who handle (collect, transport, analyze, dispose of) a sample, including names, dates, times.

Chemical oxygen demand (COD) means a measure of the oxygen required to oxidize organic and oxidizable inorganic compounds in water.

Chlorinator means a device for adding chlorine gas to sewage to kill infectious germs.

City means the City of Gainesville, represented by its elected officials or their authorized agents or employees.

City council means the city council of the City of Gainesville or its authorized agent or representative.

City engineer means the staff professional engineer responsible for serving as director of the ~~street~~ department of water resources and responsible for implementing and enforcing the applicable engineering requirements of this Code and those other engineering requirements providing professional engineering services to other departments of the city.

Civil litigation means a lawsuit filed in a civil court. If the court rules that the defendant user violated the law the court may impose civil penalties, injunctions or other equitable remedies and/or cost recovery.

Civil penalty means a punitive monetary award granted by a court to the control authority against a noncompliant user.

Coliform organism means an organism found in the intestinal tract of humans and animals, its presence in water indicates pollution and potentially dangerous bacterial contamination.

Combined sewer means a sewer intended to receive both wastewater and storm or surface water.

Commercial user means all users of the POTW other than residential users (including, but not limited to business, industry and organizations) producing a wastewater discharge that may be subject to federal, state, or local wastewater regulations.

Compatible pollutant means BOD, suspended solids, pH and fecal coliform bacteria, and such additional pollutants as are now or may be in the future specified and controlled in this city's NPDES permit for its wastewater treatment works where such works have been designed and used to reduce or remove such pollutants.

Complete waste treatment system means a complete waste treatment system consisting of all the treatment works necessary to meet the requirements of Title III of the Act, involved in:

- (1) The transport of wastewaters from individual homes or buildings to a plant or facility where treatment of the wastewater is accomplished;
- (2) The treatment of the wastewater(s) to remove pollutants; and
- (3) The ultimate disposal, including recycling or reuse, of the treated wastewater(s) and residues which result from the treatment process.

One (1) completed waste treatment system would normally include one (1) treatment plant or facility, but also may include two (2) or more connected or integrated treatment plants or facilities.

Compliance order means an administrative order directing a noncompliant industry to achieve or restore compliance by a date specified in the order.

Compliance schedule means a schedule of required activities (also called milestones) necessary for a user to achieve compliance with all pretreatment program requirements.

Composite sample means a combination of individual samples of water or wastewater taken at selected intervals to minimize the effect of the variability of the individual samples. Composite samples may be flow or time proportional.

Consent agreement means a legally enforceable agreement between the city and the noncompliant user designed to restore the user to compliance status.

Consent decree means a court supervised settlement agreement, the violation of which may be considered contempt of court.

Constituents means the combination of particles, chemicals or conditions which exist in the nondomestic wastewater.

Contaminated nonprocess wastewater means any water which may, during manufacturing or processing, come into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of:

- (1) Rainfall runoff;
- (2) Accidental spills;
- (3) Accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed twenty-four (24) hours after discovery; and

(4) Discharges from safety showers and related personal safety equipment.

Provided, that all reasonable measures have been taken to prevent, reduce and control such contact to the maximum extent feasible, and to mitigate the effects of such contact once it has occurred. This definition may also include boiler blowdown or cooling water which contains any pollutant other than heat.

Contribute means the addition, discharge or introduction of any substance into the POTW as hereinafter defined.

Control authority means the city's director or his duly authorized representative or agent.

Conventional pollutants means pollutants described as biochemical oxygen demand (BOD), total suspended solids (TSS), pH, fecal coliform bacteria, oil and grease (O&G), total phosphorus (P), total Kjeldahl Nitrogen (TKN) and such additional pollutants as are now or may in the future be specified and controlled in the city's NPDES permit for its wastewater treatment works where said works have been designed and used to reduce or remove such pollutants.

Cooling water means the water discharged from any use such as air conditioning, cooling, refrigeration or to which the only pollutant added is heat.

Criminal intent means a state of mind which is a necessary element of all crimes. Criminal intent may be general (intent to perform an act) or specific (intent to break a law).

Criminal negligence means negligence of such a character, or occurring under such circumstances, as to be punishable as a crime (such as a flagrant and reckless disregard of the safety of others or willful indifference to the injury likely to follow).

Criminal prosecution means a criminal charge brought by the city against an accused violator.

Daily discharge means the amount of a pollutant present in a facility's effluent as measured during a calendar day or any twenty-four-hour period which reasonably represents the calendar day for the purposes of sampling.

Decentralized wastewater system: A closed-loop system designed or used to receive sewage from a building sewer and to affect separation and organic decomposition of sewerage solids, and discharging sewage effluent to an absorption field or other management system. Also referred to as an on-site wastewater disposal system or septic tank.

Defendant means the party against whom relief or recovery is sought.

Deposition means a discovery device by which one (1) party addresses verbal questions to the other party or to a witness for the other party. Depositions are conducted under oath outside the courtroom, usually in the office of an attorney. A transcript is made of the deposition which may be used as evidence at trial.

Detergent means:

- (1) Any of a group of synthetic, organic, liquid or water-soluble cleaning agents that are inactivated by hard water and have wetting and emulsifying properties but, unlike soap, are not prepared from fats and oils, and
- (2) A substance that reduces the surface tension of water, including foaming agents and surfactants.

Deterrent value means a threat of reprisal which is sufficient to discourage the user from future violations.

Direct discharge means the discharge of a pollutant or the discharge of pollutants to a natural or man-made outlet.

Director means the director of the ~~public utilities~~ department of water resources of the City of Gainesville, including the wastewater facilities, treatment works and water pollution control operations, or his authorized deputy, agent or representative.

Discharge means the release of wastewater to the sewerage system or to a natural or man-made outlet.

Discharge of a pollutant and discharge of pollutants means:

- (1) Any addition of any pollutant or combination of pollutants to navigable waters from any point source, or
- (2) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft when being used as a means of transportation.

This definition includes discharges into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers or other conveyances owned by a state, municipality or other party that do not lead to treatment systems; and discharges through pipes, sewers or other conveyances, leading into treatment systems owned in whole or in part by a third party other than a state or municipality.

Discovery means a variety of pretrial devices used by one (1) party to obtain relevant facts and information about the case from the other party.

Dissolved oxygen (DO) means a measure of the amount of oxygen available for biochemical activity in a given amount of water. Adequate levels of DO are needed to support aquatic life. Low dissolved oxygen concentrations can result from inadequate waste treatment.

Domestic wastewater means sewage produced by residential or commercial users that is not considered process wastewater or contaminated nonprocess wastewater providing parameters not in excess of the following: BOD two hundred fifty (250) mg/L; TSS two hundred fifty (250) mg/L; fats, oil and grease one hundred (100) mg/L; total phosphorus seven (7) mg/L; TKN forty (40) mg/L; arsenic four-tenths (0.4) mg/L; cadmium four hundred forty-seven thousandths (0.447) mg/L; chromium two and fifty-four hundredths (2.54) mg/L; copper three hundred seventy-six thousandths (0.376) mg/L; cyanide five hundredths (0.05) mg/L; lead one hundredth (0.01) mg/L; mercury twenty-five one hundred-thousandths (0.00025) mg/L; molybdenum five and five hundred seventy-eight thousandths (5.578) mg/L; nickel two and seven hundred ten thousandths (2.710) mg/L; selenium two hundredths (0.020) mg/L; silver ten and seven hundred ninety-four thousandths (10.794) mg/L; and zinc one and eighty-five hundredths (1.85) mg/L.

Double jeopardy means the prohibition against a second prosecution after a trial for the same offense.

Easement means an acquired legal right for the specific use of land owned by others.

Effluent means waste material, such as smoke, liquid industrial refuse or sewage, discharged into the sewer system or environment; generally referring to water pollution.

Effluent limitation means any restriction established by a state or the EPA on quantities, rates and concentrations of chemical, physical, biological and other constituents that are discharged from point sources into navigable waters or waters of the contiguous zone.

Emulsified grease means grease in a colloidal state such that it remains dispersed throughout the liquid and will not separate by gravity until the colloidal agent is inactivated.

Enabling legislation means a state law or charter which creates and empowers a control authority.

Environment means the sum of all external conditions affecting the life, development and survival of organisms.

EPA means the United States Environmental Protection Agency or, where appropriate, the term may also be used as designation for the regional administrator or other duly authorized official of said agency.

EPD means the State of Georgia Department of Natural Resources, Environmental Protection Division or its duly authorized representative.

Excessive contaminant penalty means a financial charge imposed on the user when a contaminant exceeds the violation level for that parameter. Excessive contaminant penalties are designed to recapture the economic benefit of noncompliance and deter future violation.

Falsification means the user's intentional alteration of a record, an account or any document, so as to render it untrue to the control authority.

Fat, oil grease (F.O.G.) means that material which may be extracted from the acidified sample as prescribed in 40 CFR, Part 136 and others. Such materials include fats, oils, waxes and related compounds of animal, vegetable or mineral origin.

Fecal coliform bacteria means a group of organisms found in the intestinal tracts of people and animals. Their presence in water indicates pollution and possible dangerous bacterial contamination.

Fees means a schedule of charges imposed to recover treatment costs (not punitive in nature).

Felony means a crime punishable by imprisonment for greater than one (1) year (depending on state law).

Fine means a punitive monetary charge for a violation of the law. Often used synonymously with "penalty," although the term "fine" generally implies the use of administrative rather than civil (judicial) procedures.

Flammable means a substance which will burn readily or quickly.

Floatable grease means grease in such a state that it is insoluble in the liquid waste and will separate from the liquid by gravity in properly designed grease separation facilities.

Floc means a clump of solids formed in sewage by biological or chemical action, in order to enhance the settleability of the pollutant solids.

Food processing industry means a permitted user engaged in the production of food or food products, and having a ~~wastestream~~ **waste stream** similar to domestic wastewater in respect to nonconventional pollutants. Where analyses of wastewater or historical data indicate the presence of nonconventional pollutants, the director may impose nonconventional limits on food processing industry.

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

Good faith effort or progress means prompt and vigorous pollution control measures undertaken by the discharger which shows that extraordinary efforts (not a "business-as-usual" approach) have been made to achieve compliance.

gpm means gallons per minute, a measurement of water flow.

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

Grand jury means a body of citizens whose duties consist of determining whether probable cause exists that a crime has been committed, and whether an indictment should be returned against a named defendant.

Grease means fat, oil, grease (F.O.G.).

Harm means a user's discharge which contains constituent(s) that inflict(s) injury or loss, hurt or damage to the POTW, its personnel or the environment.

Hazardous substance means any substance designated under 40 CFR Part 116 pursuant to Section 311 of the Act.

Heavy metals means metallic elements like mercury, chromium, cadmium, arsenic and lead with high molecular weights. Even at low concentrations they can damage living things and tend to bioaccumulate in the food chain.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks utilized to store, treat or transport waste.

Inadmissible means evidence not allowed to be presented in court.

Incompatible pollutant means any pollutant which is not a "compatible pollutant" as defined in this section.

Indirect discharge means the discharge or introduction of nondomestic wastewater from any source regulated under Section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

Indictment means a written accusation of criminal conduct by a grand jury.

Industrial means industrial user.

Industrial discharge permit means a document issued by the control authority to industrial and significant industrial users of the POTW designed to meet the objectives as stated in section 5-1-1 of this chapter.

Industrial user means any commercial user of a publicly owned treatment works which discharges up to the equivalent of twenty-five thousand (25,000) gallons per day of process wastewater and/or contaminated non-process wastewater and is issued a wastewater discharge permit, such that in the opinion of the director may have a significant impact, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from the treatment works.

Industrial wastewater means nondomestic wastewater.

Influent means the wastewaters arriving at the city's wastewater treatment plants for treatment.

Injunction, injunctive relief means a court order which restrains or compels action by the user.

Interference means the inhibition or disruption of the POTW's treatment processes, operations or sewer system which may contribute to a violation of any requirement of its NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act, or any criteria guidelines or regulations developed pursuant to the Solids Waste Disposal Act (SWDA), the Clean Water Act (Act), the Toxic Substances Control Act or more stringent State criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

Interrogatories means a discovery device consisting of written questions submitted by one (1) party to the other party or witness.

Judicial action or case means an enforcement action that involves a court. (The action may either be civil or criminal in nature).

Jurisdiction means the extent of authority of a governmental entity's power to make and enforce laws.

Legal authority means the source of a control authority's jurisdiction and regulatory powers.

Libel suit means a suit against a person who is responsible for a written statement that allegedly conveys an unjustly unfavorable impression of another person.

Litigation means an enforcement action brought in a judicial (court) forum.

May means permissive (See "Shall").

Metered water means the amount of all sources of water, including wells, consumed by the sewer customer.

MGD means millions of gallons per day. MGD is a measurement of water flow.

mg/L means milligrams per liter and shall mean ratio by weight—interchanged with ppm.

Misdemeanor means a crime punishable by imprisonment of less than one (1) year (depending on state law).

Municipal utilities means drinking water, wastewater and stormwater management facilities and services owned and operated by the city department of water resources.

National categorical pretreatment standard or categorical standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) or (c) of the Act which applies to nondomestic users.

National pollutant discharge elimination system (NPDES) means the program for issuing, conditioning and denying permits for the discharge of pollutants from point sources into navigable waters pursuant to Section 402 of the Federal Water Pollution Control Act.

Natural outlet means any outlet-opening into a watercourse, pond, ditch, lake or other body of surface or groundwater.

Neutralization means the reaction of acid or alkali with the opposite reagent until the concentrations of hydrogen and hydroxyl ions in the solution are approximately equal.

New source means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- (1) The building, structure, facility, or installation is constructed at a site at which no other structure is located, or
- (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source, or
- (3) The production of wastewater generating processes of the building structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria as described above, but otherwise alters, replaces, or adds to existing process or production equipment.

Construction of a new source as defined here has commenced if the owner or operator has:

- (1) Begun, or caused to begin as part of a continuous on-site construction program:
 - a. Any placement, assembly, or installation of facilities or equipment; or
 - b. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation in this definition.

Nitrification means the conversion of nitrogenous matter into nitrates by bacteria.

Nondomestic user means commercial user.

Nondomestic wastewater means wastewater from commercial users as distinct from domestic wastewater, includes process wastewater and contaminated nonprocess wastewater.

Nonfood processing industry means a permitted user engaged in the production of goods and materials other than food or food products, having a ~~wastestream~~ waste stream subject to nonconventional pollutants limits as determined by the director.

Nongovernmental means any user of the treatment works identified in the Standard Industrial Classification Manual, 1972, as amended, published by the U.S. Office of Management and Budget, except those public agencies classified in Division J. Public Law 92-500, and its amendments, and the regulations promulgated thereunder, shall take precedence in the event of conflicting interpretations.

Nonpermitted user means a commercial user of a POTW which discharges up to the equivalent of twenty-five thousand (25,000) gallons per day of process wastewater or contaminated nonprocess wastewater and in the opinion of the director may not have a significant impact on that treatment works or upon the quality of effluent from the treatment works. The guidelines are contained in section 5-1-1 of this chapter.

Nonpoint source pollution means a form of water pollution that does not originate from a discrete point such as a sewage treatment plant or industrial discharge, but involves the transport of pollutants such as sediment, fertilizers, pesticides, heavy metals, oil, grease, bacteria, organic materials and other contaminants from land to surface water and groundwater via mechanisms such as precipitation, stormwater runoff, and leaching. Nonpoint source pollution is a by-product of land use practices such as agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.~~a source of pollution which is not a point source, such as farm or forest land runoff or urban storm water runoff.~~

Nonsettleable solids means wastewater matter that will stay in suspension for an extended period of time.

Notice of noncompliance (or notice of violation) means a control authority document notifying an industrial user that it has violated pretreatment standards and/or requirements. Generally used when the violation is relatively minor and the control authority expects the violation to be corrected within a short period of time.

Nutrients means elements or compounds essential to growth and development of living things, including carbon, oxygen, nitrogen, potassium and phosphorus.

Other pollutants means those pollutants found in water or wastewater except as identified as conventional pollutants including, but not limited to, metals, volatile organics and pesticides that wastewater treatment plants have not been designed to treat. Incompatible pollutants are other pollutants.

Outlet means any openingoutlet, natural or man-made, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

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

Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Penalty means a monetary or other punitive measure, usually associated with a court action. For purposes of this chapter, the term is used synonymously with fine.

Permitted user means a commercial user having a wastewater discharge from industrial process, trade, institution or business as distinct from domestic sewage. These are regulated under federal, state or local discharge limits and are permitted as such on the basis that the user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard. A permitted user is either: 1) an industrial user, or 2) a significant industrial user. Guidelines are contained in section 5-1-1 of this chapter.

Person or owner shall mean any individual; sole proprietor; firm; company; joint stock company; association; society; corporation; group; partnership; copartnership; trust; estate; governmental or legal entity; or their authorized representatives, agents or assigns as defined earlier under "authorized representative of a user." The masculine gender shall include the feminine, the singular shall include the plural where indicated by context. For enforcement remedies as outlined in section 5-1-21, the president of a company, corporation, firm, association, society or group will be responsible for any violations. If there is no president, then the individual in charge of the day-to-day operations of the company, corporation, firm, association, society or group will be responsible for any violations. A sole proprietor or individual shall be responsible for violations of sole proprietorships or individually-owned users, respectively. All partners of a partnership shall be responsible for violations of the partnership. The city may use its discretion for punishment if an authorized representative meeting the earlier definition's requirements has been designated.

pH means the logarithm of the reciprocal of the concentration of hydrogen ions in grams per liter of solution. A stabilized pH will be considered as a pH which does not change beyond the specified limits when the waste is subject to aeration. pH shall be determined by standard methods as outlined in 40 CFR, Part 136.

Phosphorus means an essential ~~food~~ element that can contribute to the eutrophication of water bodies. Total phosphorus is also included in this definition.

Plaintiff means a person or organization seeking remedy from a court. For purposes of this chapter, the plaintiff is the City of Gainesville.

Plea bargain means an agreement between a prosecuting attorney and a criminal defendant whereby the defendant pleads guilty to a lesser charge and/or a reduction of sentence in exchange for cooperation in investigating or prosecuting the crime (e.g., waiving a trial).

Point source means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water. It does not mean:

- (1) Sewage from vessels; or
- (2) Water, gas or other material that is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well is used either to facilitate production or for disposal purposes is approved by authority of the state in which the well is located, and if such state determines that such injection or disposal will not result in the degradation of ground or surface water resources.

Pollution means the presence of matter or energy whose nature, location or quantity produces undesired environmental effects.

POTW means publicly owned treatment works.

ppm means parts per million; a way of expressing minute concentrations. In air, ppm is usually a volume/volume ratio; in water, a weight/volume ratio. For small concentrations suspended or dissolved in water, ppm may be used interchangeably with milligrams per liter.

Pretreatment means the application of physical, chemical and biological processes to reduce the amount of pollutants in or alter the nature of the pollutant properties in wastewater prior to discharging such wastewater into the publicly owned wastewater system, except as prohibited by 40 CFR 403.6(d).

Pretreatment requirement means any substantive or procedural requirement related to pretreatment imposed on a commercial user, other than a pretreatment standard.

Pretreatment standard (or national categorical pretreatment standard) means any regulation established by the United States Environmental Protection Agency (EPA) in accord with Sections 307(b) and 307(c) of the Clean Water Act (Act) (33 USC 1347) which contains pollutant discharge limits which apply to a specific category of industrial users.

Priority pollutant means any contaminant in water which is identified as being toxic, carcinogenic, mutagenic, teratogenic or is chemically similar to compounds identified as such by the EPA. The list includes one hundred twenty-nine (129) compounds and such other compounds as may be added from time to time.

Process wastewater means any water which, during manufacturing, processing, or commercial use comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product or waste product and is discharged either directly or indirectly into the sewerage system.

Prohibited substances means those waters, wastes and/or wastewaters which are not allowed into the city's sewerage system as described in section 5-1-67 of this chapter.

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in ~~public~~ sanitary sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

Proprietary information means information about a commercial chemical, product or process which is considered to be confidential business information or a trade secret by an industrial or commercial user because if divulged, the information could put the industrial or commercial user at an unfair competitive disadvantage with competitors in the same industry.

Publicly owned treatment works (or POTW) means a wastewater treatment works as defined by Section 212 of the Act (PL 92-500) which is owned, in this case, by the city. This definition includes any sewers that convey wastewater to such treatment works, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. The term shall also mean the City of Gainesville, a governmental body which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

POTW treatment plant means that portion of the POTW designed to provide treatment to wastewater.

Public sewer means a ~~common sewer~~ sanitary sewer controlled by a governmental agency or ~~public~~ municipal utility.

Raw sewage means untreated wastewater.

Residential user means a housing customer who discharges a wastewater not in excess of the parameters defined for domestic wastewater.

Reportable noncompliance means criteria for identifying when a control authority should be reported in the NPDES quarterly noncompliance report for failure to implement its approved pretreatment program.

Request for admission means a discovery device where a written statement of fact concerning the case is submitted to the adverse party and which that party is required to affirm or deny. Those statements that are admitted will be treated by the court as having been established and need not be proved at trial.

Request for production means a discovery device which requests the opposing party to produce some document or thing which may tend to resolve an issue in dispute in the case.

Sample means a representative portion of a wastewater discharge. The analytical results may be used by the control authority for compliance monitoring, surcharges, and/or other actions as necessary. See composite sample and grab sample.

Sanitary sewer means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

Sanitary waste means domestic wastewater.

Search warrant means a document issued by a magistrate or judge which authorizes government entry into private premises to either observe compliance with applicable laws or collect evidence of noncompliance.

Self monitoring means sampling and analysis of wastewater performed by the permitted user.

Septic tank: An approved watertight tank designed or used to receive sewage from a building sewer and to affect separation and organic decomposition of sewerage solids, and discharging sewage effluent to an absorption field or other management system. Also referred to as an on-site wastewater disposal system.

Settleable solids means wastewater matter which either settles to the bottom or floats to the top of a quiescent clarifier.

Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Sewage (or wastewater) means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface water and stormwater ~~storm waters~~ as may be present.

Sewer means a pipe or conduit that carries wastewater, ~~or drainage water.~~ Also called sanitary sewer.

Sewerage means the entire system of sewage collection, treatment and disposal. The term also applies to all effluent carried by sewers.

Sewerage systems means the sanitary sewers, pumping stations, force mains and treatment plant(s) and appurtenances.

Shall means mandatory (See "May").

Show cause order means an administrative order directing a noncompliant user to appear before the control authority, explain its noncompliance and show cause why more severe enforcement actions against the user should not go forward.

Significant industrial user means:

(1) Any commercial user that:

- a. Discharges twenty-five thousand (25,000) gallons per day or more of wastewater;
- b. Contributes a ~~wastestream~~ waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the treatment plant;
- c. Contains in its waste a priority pollutant in amounts as defined in standards issued under Section 307(a) of the Federal Water Pollution Control Act;
- d. Impacts, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works as found by the control authority, in connection with the issuance of a National Pollutant Discharge Elimination System permit to the public owned treatment works receiving the waste; or
- e. Is designated as such by the City of Gainesville on the basis that the user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- f. Is subject to categorical pretreatment standards.

Significant noncompliance means a violation which meets one (1) or more of the following criteria:

- (1) Is a part of a pattern of noncompliance beginning with a noncompliant sample and extending from the date of collection of that sample forward for a period of six (6) months:
 - a. Chronic violations of wastewater discharge limits sixty-six (66) percent or more of measurements exceed maximum limits.
 - b. Technical Review Criteria (TRC) violations thirty-three (33) percent or more of measurements that exceed maximum limit by factors below:
 1. Conventional pollutants by a factor of 1.4,
 2. Nonconventional pollutants by a factor of 1.2.
- (2) Failure to accurately report noncompliance;
- (3) Any violation of effluent limit that the city believes has caused interference, slug, pass-through or endangered health;
- (4) Any discharge that has caused imminent endangerment to human health or environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a permit or enforcement order for starting construction, completing construction, or attaining final compliance;

- (6) Failure to provide within thirty (30) days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Is considered by the city to adversely affect the operation or implementation of the city's pretreatment program.

Significant violation means significant noncompliance. Users in significant violation shall be listed in the city's most circulated newspaper.

Significant violator means any commercial user, industrial user or significant industrial user or their designee which meets at least one (1) of the qualifications of significant violation.

Single-family dwelling means a dwelling unit occupied by a single family.

Slug means any discharge of water or wastewater which meets any of the following criteria:

- (1) Has a pH less than three (3) or greater than eleven (11).
- (2) Contains two and one-half (2.5) times the maximum daily concentration of pollutants as specified in this chapter or additional pollutants that may be specified in an industrial pretreatment permit.
- (3) Is discharged at a rate two and one-half (2½) times the flows during normal operations that may be listed in an industrial pretreatment permit, unless a maximum instantaneous discharge is established in the user's permit.

Due to the nature of a slug discharge, grab samples may be used for the purpose of compliance sampling for any pollutant parameters.

Spill means a release of wastewater, occurring or arising by chance or unexpectedly, to the sewerage system or to a natural or man-made outlet.

Standard industrial classification (SIC) means the classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.

Standard methods means those sampling and analysis procedures established by and in accordance with EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended or the "Standard Methods of the Examination of Water and Wastewater" as prepared, approved and published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation. In cases where procedures vary, the EPA methodologies shall supersede.

Standard of strict liability means liability which attaches without regard to the user's "negligence" or "intent" to violate. Noncompliant users will be found liable for pretreatment violations if the control authority proves that a violation occurred.

Statute of limitations means a law which prescribed the period within which an enforcement action may be pursued by the control authority.

Stipulation means a voluntary agreement between opposing parties as to facts or issues in controversy.

Storm drain (or storm sewer) means a pipe or conduit that carries a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source~~stormwater~~.

Stormwater means flow on the surface of the ground, resulting from precipitation.

Surcharge means the charge for treating pollutant loadings above domestic sewage concentrations.

Suspended solids (SS) means total suspended matter that either floats on the surface of or is in suspension in water, wastewater or other liquids, and that is removable by laboratory filtering prescribed in "Standard Methods for the Examination of Water and Wastewater," latest editions, as published by the American Public Health Association and others, and referred to as filterable residue.

Termination of service means the discontinuation of either:

- (1) Water service by a formal notice of termination to the user; or the turning off of water; or removal of the water meter of a noncompliant user, or
- (2) ~~Sanitary sewer~~~~sewer~~ service by a formal notice of termination to the user; or physical blockage of the ~~sanitary~~ sewer connection; or other actions as may be necessary to prevent the discharge of wastewater to the ~~sanitary~~ sewer from a noncompliant user.

Testimony means a solemn declaration made by a witness under oath in response to interrogation by a lawyer or public official which is used as evidence.

The Act means the Federal Water Pollution Control Act of 1972, Public Law 92-500, as amended by the Clean Water Act of 1977, and as may be amended from time to time (33 U.S.C. 1251 et seq.).

Total Kjeldahl Nitrogen (TKN) means the combination of ammonia and organic nitrogen.

Total phosphorus (TP) means an essential food element that can contribute to the eutrophication of water bodies.

Total solids means the sum of dissolved and undissolved constituents in water or wastewater, usually expressed as milligrams per liter.

Total suspended solids (TSS) (or suspended solids (SS)) means total suspended matter that either floats on the surface of or is in suspension in water, wastewater or other liquids, and that is removable by laboratory filtering prescribed and is determined as prescribed in 40 CFR 136 or "Standard Methods for the Examination of Water and Wastewater", latest edition, as published by the American Public Health Association, and others, and referred to as filterable residue.

Toxic pollutants means sixty-five (65) classes of pollutants included in the Clean Water Act (Act) of 1977, and under Section 307, such other pollutants as the administrator of EPA or director of the city determines to be harmful to organisms when discharged into waters. Upon review of these sixty-five (65) classes of pollutants, the administrator has designated one hundred twenty-nine (129) specific compounds as priority pollutants.

Unpolluted water means water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided and produces no adverse environmental impact.

Upset means unintentional and temporary noncompliance by a facility or a process within a facility.

USC means United States Code.

User means any person who contributes, causes or permits the introduction of wastewater in the city's POTWs and has beneficial use of the sewerage system.

User charge means a charge levied on users of a treatment works, or that portion of the ad valorem taxes paid by a user, for the user's proportionate share of the cost of the operation and maintenance (including replacement) of such works.

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

Violation means an exceedance by any amount of any maximum daily concentration or categorical limit or rule or regulation in this chapter.

Waste means unwanted materials left over from manufacturing processes or refuse from places of human or animal habitation.

Wastewater means the used water and solids from a community (including sewage and used water from industrial processes) that flow to a treatment plant. Stormwater, surface water, and groundwater infiltration also may be included in the wastewater that enters a wastewater treatment plant. ~~spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences and/or~~

~~commercial buildings, and/or industrial plants and/or institutions, together with any groundwater and/or surface water and/or storm water that may be present.~~

Wastewater discharge permit means a document issued by the control authority to industrial and significant industrial users of the POTW designed to meet the objectives as stated in section 5-1-1 of this chapter.

Wastewater facilities means the structures, equipment and processes required to collect, carry away or treat domestic and industrial wastes and dispose of the effluent.

Wastewater treatment works means an arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with "water reclamation facility" or "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant."

Watercourse means a natural or artificial channel for the passage of water either continuously or intermittently.

Water pollution means the addition of enough harmful or objectionable material to damage water quality.

Water pollution control agencies of jurisdiction means the Federal Environmental Protection Agency (EPA) operating under authority of the Federal Water Pollution Control Act, as amended, and the Georgia Environmental Protection Division operating under the authority of the Georgia Water Quality Control Act, as amended, each of which agencies is empowered to adopt such rules and regulations as it deems necessary to carry out the intent of these respective laws.

(Ord. No. 98-63, § I, 12-1-98; Ord. No. 2004-54, § I, 7-20-04)

State Law reference— Definitions relating to water pollution, OCGA § 12-5-22.

Sec. 5-1-4. - Protection from damage; dumping of certain wastes in storm or sanitary sewers prohibited; forfeiture of involved vehicles.

- (a) *Protection from damage.* No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the sewerage system. Any person violating this section shall on conviction thereof be punished as prescribed in section 1-1-7 of this Code.
- (b) *Dumping of certain wastes in storm or sanitary sewer prohibited; forfeiture of involved vehicles.* No person, firm or corporation shall place, dump, dispose of, or cause to be placed, dumped or disposed of in a natural outlet or sanitary sewerage system or cause said discharge to be conveyed directly to the sanitary sewerage system or otherwise of the city, any contents or matter of or from any septic tank, wastewater water holding tank, grease trap, or other container serving the purpose of a septic tank, wastewater holding tank or grease trap, which contents or matter is made up wholly or partly by the sanitary sewer, kitchen or toilet waste from any residential source or commercial or industrial waste from business processes from any commercial or industrial facility.
- (c) *[Violations.]* Any person, firm, or corporation violating subsection (a) of this section shall upon conviction in the municipal court be punished according to the provisions of section 1-1-7 of this Code.
- (d) *[Forfeiture of vehicles.]* Any motor vehicle, trailer, and all other articles and contrivances utilized in the hauling, transporting, dumping, placing, or disposition of any contents or matter in any public sanitary sewer in violation of subsection (b) of this section are declared to be contraband and shall be subject to seizure, confiscation, and forfeiture according to the terms, provisions, conditions, and procedure set out in O.C.G.A. § 3-10-11, as far as such terms and procedures can be made to apply.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-5. - Authority to enter property to inspect and sample.

The director, the director of EPD, the regional administrator of EPA, and/or their authorized representatives, agents, or employees bearing proper credentials and identification shall be permitted to enter all properties subject to this chapter at any time without prior notice for the purposes of inspection, observation, measurement, sampling, testing and copying any records required to be kept in accordance with the provisions of this chapter.

The director or his representatives shall have no authority to inquire into processes including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sanitary sewers or waterways or facilities for waste treatment. These individuals shall have access to all areas which are potentially relevant to the wastewater discharge, including chemical storage areas.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-6. - Authority to use negotiated easement.

- (a) The director and other duly authorized employees of the city bearing proper credentials and identifications shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within such easement. All entry and subsequent work, if any, on such easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.
- (b) Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss, damage, fine, penalty or fee occasioned the city by reason of such violation or violations, including, but not limited to, any fee, penalty or fine assessed against the city by any state or federal agency as a result of such violation or violations.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-7. - Charges generally.

All users of the public sanitary sewerage system shall pay such service charges, surcharges, connection fees or other charges for the use of same as are now or hereafter provided by Title 10 of this Code or by other ordinances of the city.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-8. - Authority to enforce.

The ~~public utilities~~ director and other duly authorized employees of the city shall have the authority to enforce all provisions of this chapter and ordinance, including necessary enforcement actions.

The ~~public utilities~~ director shall serve as the final authority regarding disputes over utilitywater and wastewater service bills, except where otherwise noted herein.

(Ord. No. 98-63, § I, 12-1-98; Ord. No. 99-67, § I, 10-5-99)

Secs. 5-1-9—5-1-20. - Reserved.

ARTICLE 2. - PENALTIES**Sec. 5-1-21. - Administrative enforcement remedies.**

- (a) *Industry to notify city of violation.* When any person violates any provision of this chapter, except section 5-1-4, such person shall immediately notify the director or the director's designee or the POTW utilized by the user of such violation and immediately correct the violation or discontinue the use of water service and sanitary sewer service of the city. Any enforcement action taken based on information gained from this provision shall be enforceable under sections 5-1-21, 5-1-22(a) and (b), and 5-1-23 of this chapter.
- (b) *Penalty for violation.* Whenever the director finds that any user has violated or is violating this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirement, the director or his agent may serve upon said user a written notice of violation. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.
- (c) *Excessive contaminant penalties.* At the point where a users discharge exceeds the violation level for a particular pollutant, excessive contaminant penalties are imposed on the user. Excessive contaminant penalties are designed to recapture the economic benefit of noncompliance and deter future violations. These penalties escalate with the degree of violation and are based on contaminant level and amount of discharge.
- (d) *Consent agreement.* The director is hereby empowered to enter into consent agreements, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such agreements will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the agreement. Consent agreements shall have the same force and effect as administrative orders issued pursuant to subsections (f) and (g) below and shall be judicially enforceable.
- (e) *Show cause hearing.* The director may order any user which causes or contributes to violation(s) of this ordinance, wastewater discharge permits, or order issued hereunder, or any other pretreatment standard or requirement, to appear before the director and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other action against the user.
- (f) *Compliance order.* When the director finds that a user has violated or continues to violate the ordinance, wastewater discharge permit or orders issued hereunder, or any other pretreatment standard or requirement, he may issue an order to the user responsible for the discharge directing that the user come into compliance by the addition and/or correct operation and maintenance of adequate treatment facilities, devices or other related appurtenances. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring and management practices designed to minimize the amounts of pollutants discharged to the sanitary sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

- (g) *Compliance schedules.* Consent agreements and compliance orders may contain compliance schedules for meeting pretreatment standards. The following conditions shall apply to compliance schedules:
- (1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for meeting pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
 - (2) No increment in a compliance schedule shall exceed nine (9) months.
 - (3) No later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the control authority including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for the delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such reports to the control authority.
- (gg) *Cease and desist orders.* When the director finds that a user is violating this chapter, the user's wastewater discharge permit, any order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the director may issue an order to the user directing it to cease and desist all such violations and directing the user to:
- (1) Immediately comply with all requirements.
 - (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.
- Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user.
- (h) *Administrative fines.*
- (1) Notwithstanding any other section of this chapter, any user that is found to have violated any provision of this chapter, its wastewater discharge permit, and orders issued hereunder, or any other pretreatment standard or requirement may be fined in an amount not to exceed one thousand dollars (\$1,000.00) for each day the violation remains unremedied after receipt of the notice of violation. ~~Such fines shall be assessed on a per violation, per day basis.~~ In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.
 - (2) Assessments may be added to the user's next scheduled sanitary sewer service charge and the director shall have such other collection remedies as may be available for other service charges and fees.
 - (3) Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten (10) percent of the unpaid balance and interest shall accrue thereafter at a rate of one and one-half (1.5) percent per month. A lien against the individual user's property will be sought for unpaid charges, fines and penalties.
 - (4) Users desiring to dispute such fines must file a written request for the director to reconsider the fine along with full payment of the fine amount within ten (10) days of being notified of the fine. Where a request has merit, the director shall convene a hearing on the matter within ten (10) days of receiving the request from the industrial user. In the event the user's appeal is successful, the payment together with any interest accruing thereto shall be returned to the industrial user. The city may add the costs of preparing administrative enforcement actions such as notices and orders to the fine.
 - (5) Issuance of an administrative fine shall not be a prerequisite for taking any other action against the user.
- (i) *Emergency suspensions.* The director may immediately suspend the wastewater treatment service and/or wastewater permit of a user whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons, as referenced in subsection 5-1-21(k)(2) of this chapter. The director may also

immediately suspend a user's discharge that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment, as referenced in subsection 5-1-21(k)(2) of this chapter. Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit and/or its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director shall take such steps as deemed necessary, including immediate severance of the sanitary sewer connection and/or discontinuance of the water service to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The director shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless the termination proceedings set forth in subsection (j), below, are initiated against the user. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the director prior to the date any show cause or termination hearing under subsections (e), above, and (j), below, and within three (3) days. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(j) *Termination of discharge.* In addition to those provisions in subsection (i), above, and subsection 5-1-151(f) any user that violates the following conditions of this chapter, wastewater discharge permits, orders issued hereunder, or any applicable or state and federal law, is subject to discharge termination.

- (1) Violation of wastewater discharge permit conditions.
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge.
- (3) Failure to report significant changes in operations wastewater volume, constituents and characteristics prior to discharge.
- (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.
- (5) Violation of the pretreatment standards in article 4 of this chapter.

Noncompliant users will be notified of the proposed enforcement action and may show cause under subsection (e) above of this chapter why the proposed action should not be taken. A terminated permit under any of the above provisions shall mean the user shall not discharge process wastewater into the city's sewerage system.

(k) *Authority to disconnect service.*

- (1) The director, city manager or mayor shall have the authority to enforce the provisions of this chapter by the discontinuance of water service and sanitary sewer service in the event any person shall continue to violate the provisions of this chapter after receiving oral or written notice of the violation from the city.
- (2) Whenever the director, city manager or mayor determines that a person is violating or has violated any provision of this chapter, except for section 5-1-4, and determines that the violation of this chapter will cause immediate damage or harm to the sanitary sewers, sewerage treatment process, environment, equipment or treatment facilities of the city, or that the violation endangers the public health, safety or general welfare of the community, the director, city manager or mayor shall have the power and authority to immediately revoke, orally or in writing, the sewerage permit of the person violating any provision of this chapter and terminate that person's water service and sanitary sewer service.
- (3) Any person aggrieved by having a sewerage permit revoked by the director, city manager, or mayor shall have the right to appeal the revocation to the city council. Such appeal shall be taken within five (5) days from the date of the revocation by notifying the clerk of the city in writing and specifying the grounds of appeal. The city council shall, within five (5) days after the receipt of the notice of appeal, fix a date and time for the hearing of the appeal and after due notice to the parties at interest, have a hearing on the appeal within ten (10) days of the date the notice of appeal was received by the city and decide the same within a reasonable time.

- (4) The director, city manager or mayor shall have the power and authority to reinstate the sewerage permit and allow the use of the city's water and sanitary sewer service if the person who had been violating the provisions of this chapter shall discontinue and cease such violations.
- (5) Any user who violates any provision of this chapter shall upon oral notification by the city and within ten (10) days of such violation or violations furnish the director a written report concerning such violation or violations, which report shall specifically detail the cause of the violation or violations and the steps implemented by the person to assure that the violation or violations will not occur in the future. Submission of this plan in no way relieves the user of liability for any violations occurring before or after the receipt of notification. This section shall not restrict the authority of the director provided under subsection 5-1-151(f) of this chapter (Code 1958, § 18-53).
- (l) *User to receive due process.* Noncompliant users will be notified of the proposed enforcement action, with the exception of subsections (i) and (k)(2), above, and may show cause under subsection (e), above, why the proposed action should not be taken within five (5) days from the date of the action by notifying the city clerk in writing and specifying the grounds of appeal. Any enforcement action taken based on information gained from this provision shall be enforceable under sections 5-1-21, 5-1-22(a) and (b), and 5-1-23 of this chapter.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-22. - Judicial remedies.

If any person discharges sewage, industrial wastes or other wastes into the wastewater disposal system contrary to the provisions of this chapter or any order or permit issued hereunder, or if any person violates other provisions of this chapter, the director, mayor or city manager, through the city attorney, may commence an action for appropriate legal and/or equitable relief in the Municipal Court for Gainesville, Georgia.

- (a) *Injunctive relief.* Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of this chapter, wastewater discharge permit, or orders issued hereunder, or any other pretreatment requirement, the director, mayor, or city manager, through counsel may petition the court through the city's attorney, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels specific performance of the wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the industrial user. Such other action as appropriate for legal and/or equitable relief may also be sought by the city. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.
- (b) *Civil penalties.*
 - (1) Any user which has violated or continues to violate this chapter, any order or wastewater discharge permit hereunder, or any other pretreatment standard or requirement may be liable to the director, mayor or city manager, for a civil penalty of at least one thousand dollars (\$1,000.00) plus actual damages incurred by the POTW per violation per day for as long as the violation continues. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation. In addition to the above described penalty and damages, the director may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city. In addition, any person violating any of the provisions of this chapter shall become liable to the city for any judgment, expense, loss, damage, fine, penalty or fee occasioned by the city by reason of such violation or violations, including, but not limited to, any fee, penalty or fine assessed against the city by any state or federal agency as a result of such violation or violations.
 - (2) In determining the amount of liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance

history of the user and any other factor as justice requires. The director shall have such remedies to collect these fees as it has to collect other sanitary sewer service charges.

- (3) Filing a suit for civil penalties shall not be a prerequisite for taking any other action against a user.
- (c) *Criminal prosecution.*
- (1) Any person that violates any provision of this chapter, any orders or wastewater discharge permits issued hereunder, or any other pretreatment requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than six (6) months, or both.
- (2) Any person that introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of not more than one thousand dollars (\$1,000.00) and/or be subject to imprisonment for six (6) months. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.
- (3) Any person that knowingly falsifies information as described in section 5-1-197 of this chapter shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than six (6) months or both.
- (4) In the event of a second conviction, a person shall be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than six (6) months or both.
- (d) *Remedies nonexclusive.* The provisions in articles 2 and 8 are not exclusive remedies. The city reserves the right to take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's wastewater enforcement response plan. However, the city reserves the right to take other action against any user when the circumstances warrant. Further, the city is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently.
- (e) *Penalty for violation; generally.* Any person found to be violating any provision of this ordinance shall be punished as provided for in section 1-1-7 or as provided within this article of the Code of the city and/or as allowed under 40 CFR 403.8 and/or 403.12. Each day in which any such violation shall continue shall be deemed a separate offense.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-23. - Supplemental enforcement remedies.

- (a) *Performance bonds.* The director may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this ordinance, any orders or a previous wastewater discharge permit issued hereunder, unless such user first files a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the director to be necessary to achieve consistent compliance.
- (b) *Liability insurance.* The director may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this ordinance, any order, or a previous wastewater discharge permit issued hereunder, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.
- (c) *Water supply severance.* Whenever a user has violated or continues to violate the provisions of this ordinance, orders, or wastewater discharge permit issued hereunder, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.
- (d) *Public nuisances.* Any violation of this ordinance, wastewater discharge permits, or orders issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the director or his/her designee. Any person(s) creating a public nuisance shall be subject to the provisions of the city code governing

such nuisances, including reimbursing the city for any costs incurred in removing, abating or remedying said nuisance.

- (e) *Informant rewards.* The director is authorized to pay up to one thousand dollars (\$1,000.00) for information leading to the discovery of noncompliance by a user. In the event that the information provided results in an administrative fine or civil penalty levied against the user, the director is authorized to disperse up to five (5) percent of the collected fine or penalty to the informant. However, a single reward payment may not exceed five thousand dollars (\$5,000.00).
- (f) *Contractor listing.* Users which have not achieved consistent compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the city. Existing contracts for the sale of goods or services to the city held by a user found to be in significant noncompliance with pretreatment standards may be terminated at the discretion of the city.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-24. - Affirmative defenses to discharge violations.

- (a) *Treatment upsets.*
 - (1) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical, state and/or local pretreatment standards and/or requirements, including wastewater discharge permit conditions, because of factors beyond the reasonable control of the permitted user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
 - (2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical, state and/or local pretreatment standards and/or requirements if the requirements of subparagraph (3) below are met.
 - (3) Any permitted user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and the permitted user can identify the cause(s) of the upset;
 - b. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
 - c. The permitted user has submitted the following information to the POTW and treatment plant operator within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):
 - 1. A description of the indirect discharge and cause of noncompliance;
 - 2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - 3. Steps are being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
 - (4) In any enforcement proceeding, the permitted user seeking to establish the occurrence of an upset shall have the burden of proof.
 - (5) Permitted users will have the opportunity for a judicial determination on any claim of upset in an enforcement action brought for noncompliance with categorical, state and/or local pretreatment standards and/or requirements.

- (6) The permitted user shall control production or all discharges to the extent necessary to maintain compliance with categorical, state and/or local pretreatment standards and/or requirements upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.
- (b) *General/specific prohibitions.* A permitted user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in articles 3 and 4 of this ordinance if it can prove that it did not know or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: (1) a local limit exists for each pollutant discharged and the industrial user was in compliance with each limit directly prior to, and during, the pass through or interference, or (2) no local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.
- (c) *Treatment bypasses.*
- (1) A permitted user may allow a bypass to occur which does not cause pretreatment standards or requirements, including permit conditions, to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subparagraphs (2) and (3) below of this section.
- (2) a. If a permitted user knows in advance of the need for a bypass, it shall submit prior notice to the POTW, at least ten days before the date of the bypass if possible.
- b. A permitted user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards and/or requirements to the POTW within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the permitted user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass. The POTW may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- (3) a. Bypass is prohibited, and the POTW may take enforcement action against a permitted user for a bypass, unless;
1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and
2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance.
- b. The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the two conditions listed above in paragraph (3)a. of this section.

(Ord. No. 98-63, § I, 12-1-98)

Secs. 5-1-25—5-1-39. - Reserved.

ARTICLE 3. - USE OF PUBLIC SANITARY SEWERS GENERALLY**Sec. 5-1-40. - Discharge of certain materials and wastes.**

Generally, wastewater acceptable for treatment is sewage with:

- (1) BOD₅ of two hundred fifty (250) milligrams per liter or less.
- (2) Suspended solids of two hundred fifty (250) milligrams per liter or less.
- (3) Fat, oil, grease of one hundred (100) milligrams per liter or less.
- (4) Total phosphorus of seven (7) milligrams per liter or less.
- (5) Total Kjeldahl nitrogen of forty (40) milligrams per liter or less.
- (6) Any wastewater accepted with effluent contaminants in excess of the limits of subsections (1), (2), (3), (4), and (5) of this section shall be charged a surcharge to be computed as described in sections 10-1-17 and 10-1-19.

(Ord. No. 98-63, § I, 12-1-98; Ord. No. 01-70, § I, 12-18-01)

Sec. 5-1-41. - Discharges to the environment.

It shall be unlawful to discharge to the environment, including any natural outlet within the city, or in any area under the jurisdiction of the city any wastewater, other polluted waters or polluting substances, except where suitable treatment has been provided in accordance with ~~thesubsequent~~ provisions of this chapter.

(Ord. No. 98-63, § I, 12-1-98; Ord. No. 01-70, § II, 12-18-01)

Sec. 5-1-42. - Unlawful construction.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

(Code 1958, § 18-4; Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-43. - Owners required to connect.

The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the city, and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at the owner(s) expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sanitary sewer where available, and elevation permits, in accordance with the provisions of this chapter, within ninety (90) days after date of official notice to do so, provided that said public sanitary sewer is within two hundred (200) feet of the property line except where approved and adequate facilities now exist and are operating properly. Approval by the building inspector or by the Hall County Health Department is required.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-44. - Violation of article provisions and penalty therefore.

Any person permitting or causing the emptying of any waste prohibited by this article into the sanitary sewer system of the city shall be guilty of violating this article, and shall be punished in accordance with article 2.

(Ord. No. 98-63, § I, 12-1-98)

Secs. 5-1-45—5-1-65. - Reserved.**ARTICLE 4. - INCOMPATIBLE USES OF PUBLIC SANITARY SEWERS****Sec. 5-1-66. - Unpolluted waters not to be discharged to sewers.**

- (a) No person shall discharge or cause to be discharged any ~~storm water~~stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer unless specifically allowed by written consent of the director.
- (b) ~~Stormwater~~Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the city engineer. ~~Industrial cooling water or unpolluted process waters may be discharged, on approval of the director, and the state EPD to a storm sewer, combined sewer or natural outlet.~~ Discharge to a natural outlet is subject to the conditions of an NPDES permit to be issued to the discharger by the Georgia Environmental Protection Division.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-67. - Discharge of prohibited substances.

- (a) *General prohibitions.* A user may not introduce into a POTW any pollutant(s) which cause pass through or interference. These general prohibitions and the specific prohibitions in paragraph (b) of this section apply to each user introducing pollutants into a POTW whether or not the user is subject to any other national, state, or local pretreatment requirements.
- (b) *Specific prohibitions.* No person shall discharge or cause to be discharged any of the following described waters, wastes and/or wastewaters to any public sanitary sewers:
 - (1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas, which may create a fire or explosion hazard in the POTW, including, but not limited to, ~~wastestreams~~ waste streams with a closed cup flashpoint of less than one hundred forty (140) degrees Fahrenheit or sixty (60) degrees Celsius using the test methods specified in 40 CFR 261.21.
 - (2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewerage treatment process or system; constitute a hazard to humans or animals; by pass through or to exceed the limitation set forth in a categorical pretreatment standard. This restriction includes, but is not limited to, discharges by any user of the collection and treatment system such that specific pollutants at the influent to the sewage treatment plant do not exceed concentrations specified below. The user discharge concentration limits, listed below, shall be the limits required on industrial discharge permits. Such limits may therefore be used as a guide in pretreatment facility design and operation. In the event that the plant influent level is exceeded or a disruption of the sewage treatment plant process occurs due to an excessive level of one

(1) or more controlled substances, the director may alter the user discharge concentration sufficiently to protect the plant and its receiving stream. Such modification shall apply to all users. In the event of toxicity being found in a POTW, the director may at his discretion require industrial users to participate in a toxicity reduction evaluation in accordance with the provisions of the city's POTW's NPDES permits. The maximum concentration values are as specified in the table, but the table is not limited to only these pollutants. Concentrations apply at the point where the wastewater is discharged to the sewerage system. All concentrations for metallic substances are for "total" metal unless indicated otherwise. At the director's discretion, the director may impose mass limitations in addition to or in place of the concentration-based limitations below.

**Maximum Daily Concentrations
Permitted Users of Flat Creek WRF
(mg/L)**

Pollutant	POTW Influent	Food Processing Industry	Nonfood Processing Industry
Arsenic	0.033	—	0.400
BOD5	400	900	900
Cadmium	0.018	—	0.447
Chromium	0.324	—	2.540
Copper	0.064	—	0.376
Cyanide	0.017	—	0.05
Lead	0.019	—	0.010
Mercury	0.00009	—	0.00025
Molybdenum	0.159	—	5.578
Nickel	0.128	—	2.710
F.O.G.	100	125	125
pH (std units)	6.0—9.5	6.0—9.5	6.0—9.5

Selenium	0.010	—	0.020
Silver	0.313	—	10.794
Total Phosphorus	7	20	20
TKN	55	135	135
TSS	245	900	900
Zinc	0.197	—	1.85
TTO	—	—	2.13

Maximum Daily Concentrations
Permitted Users of Linwood WRF
(mg/L)

Pollutant	POTW Influent	Food Processing Industry	Nonfood Processing Industry
Arsenic	0.02	—	0.09
BOD5	400	900	900
Cadmium	0.004	—	0.005
Chromium	0.53	—	2.54
Copper	0.03	—	0.18
Cyanide	0.03	—	0.050
Lead	0.006	—	0.01
Mercury	0.001	—	0.00025

Molybdenum	0.08	—	1.0
Nickel	0.25	—	2.71
F.O.G.	100	125	125
pH (std units)	6.0—9.5	6.0—9.5	6.0—9.5
Selenium	—	—	0.020
Silver	—	—	10.794
Total Phosphorus	7	20	20
TKN	55	135	135
TSS	245	900	900
Zinc	0.36	—	1.85
TTO	—	—	2.13

- (3) Solids or viscous substances in quantities or of such size capable of causing obstruction to the flow in sanitary sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, underground garbage, whole blood, paunch manure, hair and fleshings, entrails, ground paper products, paper dishes, cups, egg shells, fibers, lint, rubber, latex, milk containers, etc., either whole or ground by garbage grinders.
- (4) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
- (5) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (6) Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in any amount.
- (7) Any waters or wastes having a pH lower than six (6) or greater than nine and five-tenths (9.5) or having any corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the sewage works.
- (8) Any trucked or hauled pollutants, except at discharge points designated by the POTW as outlined in section 5-1-138.

(Ord. No. 98-63, § I, 12-1-98; Ord. No. 01-70, § III, 12-18-01; Ord. No. 2004-54, § II, 7-20-04; Ord. No. 2005-20, § I, 6-21-05)

Sec. 5-1-68. - Discharge of certain other materials, wastes and practices.

- (a) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the director that such wastes will harm either the ~~sewers~~sanitary sewer, sewage treatment process or equipment, have an adverse effect on the receiving stream, reduce sludge quality or will otherwise endanger life, limb, public property or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the director shall be guided by Public Law 92-500 and the Clean Water Act, their amendments, and the regulations promulgated thereunder and will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the ~~sewers~~sanitary sewer, materials of construction of the ~~sewers~~sanitary sewer, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:
- (1) Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees Celsius), or in such quantity that the temperature at the treatment works influent exceeds one hundred four (104) degrees Fahrenheit (forty (40) degrees Celsius).
 - (2) Any water or waste containing fat, oil or grease of animal, vegetable or mineral origin; whether emulsified or not, in excess of one hundred and twenty five (125) mg/L or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees and one hundred fifty (150) degrees Fahrenheit (zero (0) and sixty-five (65) degrees Celsius).
 - (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths ($\frac{3}{4}$) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the chief building inspector.
 - (4) Any waters or wastes containing phenols or other taste or odor-producing substances, in such concentrations exceeding limits which may be established, as necessary for the POTW to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.
 - (5) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the director in compliance with applicable State or Federal regulations.
 - (6) Materials which exert or cause:
 - a. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers' earth, lime slurries and lime residue) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable solutions).
 - c. Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant overload on the sewage treatment works or significantly increase the operating cost thereof.
 - d. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
 - (7) Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent thereby violating the city's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten (10) percent from the seasonably established norm for aquatic life.

- (8) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the POTW.
- (9) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (10) In addition to the materials previously listed, any other materials or rates of discharge which may be defined by state or federal agencies of jurisdiction as being incompatible with existing or proposed sewage works, treatment facilities or treatment processes.
- (11) Any wastes or sewage that contains more than ten (10) milligrams/liter by weight of hydrogen sulfide, sulfites, sulfur dioxide or oxides of nitrogen.
- (12) Limitations on wastewater discharges. No person shall discharge, convey or permit or allow to be discharged or conveyed to a public sanitary sewer any wastewater containing pollutants of such character or quantity that will:
 - a. Not be susceptible to treatment by the treatment system;
 - b. Interfere with the process efficiency of the treatment system, or reduce the sludge quality;
 - c. Constitute a hazard to human or animal life, or to the stream or watercourse receiving the treatment plant effluent;
 - d. Violate any federal, state, or local standard or pretreatment requirement (as those terms are defined in 40 CFR, 403.3(j), 403.3(k)) applicable to the specific industrial users;
 - e. Cause the treatment plant to violate its NPDES permit or applicable receiving water standards of the state, local or federal government.
- (b) No statement in this chapter or in this section is intended or may be construed to prohibit the appropriate agency from adding, deleting or changing specific requirements or from making specific requirements more restrictive where wastes are determined to be harmful or destructive to the facilities of the sewerage system, or to create a public nuisance, or to cause the discharge from any treatment facility operated by the city to violate effluent or stream quality standards imposed or as may be imposed by the Georgia Environmental Protection Division and/or the United States Environmental Protection Agency (EPA).

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-69. - Action required by director.

If any waters or wastes are discharged, or are proposed to be discharged to the public sanitary sewers, which waters contain the substances or possess the characteristics enumerated in section 5-1-67 or 5-1-68 of this chapter, and/or which in the judgment of the director may have a deleterious effect upon the sewage system, processes, equipment, sludge quality or receiving waters, or which otherwise create a hazard to life or the environment or constitute a public nuisance, the director may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sanitary sewers;
- (3) Require control over the quantities and rates of discharge;
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing fees or sanitary sewer charges or such charges as may be set from time to time by the city council under the provisions of section 5-1-188 of this chapter; and/or

- (5) Take such other appropriate action as may be found necessary to meet POTW pretreatment program requirements established in or pursuant to 40 CFR Section 403.8(f) and/or other provisions of this chapter.

(Ord. No. 98-63, § I, 12-1-98)

Secs. 5-1-70—5-1-85. - Reserved.

ARTICLE 5. - BUILDING SEWERS AND CONNECTIONS

Sec. 5-1-86. - Permission required to make connections.

No unauthorized person(s) shall uncover, make any connections or opening into, use, alter or disturb any public sanitary sewer or appurtenance thereof without first obtaining a written permit from the chief building inspector for residential or commercial services and industrial services.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-87. - Classes of building sewer permits.

- (a) There are two (2) classes of building sewer permits:
 - (1) For residential and commercial service; and
 - (2) For service to establishments producing industrial wastes.
- (b) In either case, the owner(s) or his authorized representative shall make application on a form furnished by the city, which application shall be supplemented by any plans, specifications, or other information required by the city. In addition to the building sewer permits described here, all significant industrial users and/or other users, as determined by the director or other sections of this chapter shall obtain an industrial discharge permit as described in article 7.
- (c) The director may require a user of sanitary sewer services to provide information needed to determine compliance with this chapter. When required, this information shall be signed and sealed by a Georgia registered engineer. These requirements may include:
 - (1) Wastewaters discharge peak rate and volume over a specified time period.
 - (2) Chemical analyses of wastewaters.
 - (3) Information on raw materials, processes and products affecting wastewater volume and quality.
 - (4) Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sanitary sewer use control.
 - (5) A plot plan of ~~sewers on~~ the user's property showing sanitary sewer and pretreatment facility location.
 - (6) Details and descriptions of wastewater pretreatment facilities.
 - (7) Details and descriptions of systems to prevent and control the losses of materials through spills to the city's sanitary sewer.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-88. - Installation costs borne by owner(s).

All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s).

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-89. - Separate-Building sewer connections for every building.

An individual-separate and independent building sewer shall be provided for every building; except where one (1) building stands at the rear of another on an interior lot and no private sanitary sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway. The front building sewer may be extended to the rear building and the whole considered as one building sewer, but the city shall not be liable for any damage caused by or resulting from any such single connection aforementioned.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-90. - Old building sewer connections to meet requirements.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the chief building inspector, to meet all requirements of this chapter.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-91. - Construction to conform to Code.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city. All work shall conform to all applicable regulations of the federal occupational safety and health administration. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society of Testing Materials and Water Pollution Control Federation Manual of Practice No. 9, as amended, shall apply.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-92. - Building Sewer to be below basement floor.

Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sanitary sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-93. - Storm drains not to be connected to sanitary sewer and vice versa.

No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface water or stormwater runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the director for purposes of disposal of polluted surface drainage. No person(s) shall make connection of building drains, building

sewers, sanitary sewers, septic tanks or decentralized wastewater systems to a storm drain, separate storm sewer system or natural water course.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-94. - Building sewer~~Sewer~~ connections to conform to Code.

The connection of the building sewer into the public sanitary sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the American Society of Testing Materials and the Water Pollution Control Federation Manual of Practice No. 9, as amended. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the described procedures and materials must be approved before installation.

(Ord. No. 98-63, § I, 12-1-98)

Cross reference— Building regulations, Ch. 7-1.

Sec. 5-1-95. - Cleanout required at point of connection.

- (a) A sanitary sewer cleanout shall be installed on all building sewers as near to the point at which city maintenance begins as is possible. This point shall be the curb line, the right of way line, the property line, or the easement line, whichever is applicable. Such cleanout shall be six (6) inches in diameter and shall have a brass cleanout plug.
- (b) The installation and cost of such cleanout shall be borne by the owner(s) and/or developer(s) at the time of development.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-96. - Chief building inspector to test connection.

The applicant for the building sewer permit shall notify the chief building inspector when the building sewer is ready for inspection and connection to the public sanitary sewer. The connection and testing shall be made under the supervision of the chief building inspector or his representative.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-97. - Safety precautions during construction.

All excavations for building sewer installation shall be adequately guarded by the owner with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored by owner in a manner satisfactory to the city.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-98. - Persons to make connections—Specified.

All sanitary sewer connections or "taps" shall be made exclusively by personnel of the city. No person shall make or install any sanitary sewer connection or "tap" into the sewer system of the city except personnel of the city.)

(Ord. No. 98-63, § I, 12-1-98)

Cross reference— Plumbing Code, § 7-1-166, et seq.

Sec. 5-1-99. - Same—Penalty and license revocation for violation.

Any person other than personnel of the city installing or making any connection or "tap" into the sanitary sewer system of the city shall be punished as provided in section 1-1-7 of this Code and in addition shall have his plumber's license, or other business license, under which he is operating, revoked.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-100. - Connections—To lines laid in streets; responsibility for chokes.

- (a) Sanitary sewer~~Sewer~~ connections or "taps" hereinafter made by the city to sewer lines laid in the streets shall run from the sanitary sewer line to the curb line of the street. When such connections or "taps" are made on ~~outfall or~~ interceptor sewer lines, or any sanitary sewer line other than one laid in the street, such "tap" shall extend for a distance of not more than twenty (20) feet from the line connected with or "tapped".
- (b) The property owners or persons using sanitary sewer service shall be responsible for repairs due to sewer chokes when the sewer choke is beyond the curb line of the street or twenty (20) feet from the line connected with or tapped, whichever distance is closest to the sanitary sewer line. The city will make repairs and charge the cost thereof to the property owner or person using sanitary sewer service.

(Ord. No. 98-63, § I, 12-1-98)

Cross reference— Streets and sidewalks, Ch. 4-4.

Sec. 5-1-101. - Same—Fittings, equipment, and supervision.

- (a) All connections to ~~sewer~~ pipes comprising the sanitary sewer system of the city shall be made with an insertion type "Y" or "T" fitting under the supervision of the director.
- (b) All fittings and other equipment used in such connections shall be approved by the director before use in making any connection.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-102. - Same—Refusal to make proper connections.

No person shall, after having been duly ordered by the city council, upon recommendation of the city engineer, refuse or neglect to make proper connection between property owned and a public sanitary sewer, or to use same for sewerage purposes.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-103. - Size of sanitary sewers, grade and location of manholes.

The city shall designate the size of all sanitary sewers, the grade and location of all manholes.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-104. - Easements for construction.

Property owners using sanitary sewer service, as herein prescribed shall furnish all right-of-way easements needed for sewer construction for his use thereof.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-105. - Location of mains or conduits.

No person shall hereafter lay any main pipe for water or sewage, or any conduit for any purpose, in any street within four (4) feet on each side of the center line of any sanitary sewer, unless with the permission of the city engineer.

(Ord. No. 98-63, § I, 12-1-98)

Secs. 5-1-106—5-1-130. - Reserved.**ARTICLE 6. - PRIVATE WASTEWATER DISPOSAL****Sec. 5-1-131. - Where public sanitary sewer unavailable.**

Where a public sanitary sewer is not available under the provisions of section 5-1-43, the building sewer shall be connected to a private decentralized wastewater-~~disposal~~ system complying with the provisions of this chapter and other county or state requirements.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-132. - Private system—Permit required.

Before commencement of construction of a private decentralized wastewater-~~disposal~~ system, the owner(s) shall first obtain a written permit signed by the building inspector. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications and other information as is deemed necessary by the building inspector or health department. A permit and inspection fee, as provided in Title 10 of this Code, shall be paid to the city at the time the application is filed.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-133. - Same—Installation to be approved.

A permit for a private decentralized wastewater ~~disposal~~ system shall not become effective until the installation is completed and approved by the chief building inspector. The building inspector shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the building inspector when the work is ready for final inspection, and before any underground portions are covered.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-134. - Same—Compliance with all regulations.

Where a public sanitary sewer is not available under the provisions of section 5-1-43, the type, capacities, location and layout of ~~the provided private-decentralized~~ wastewater ~~disposal~~ system shall comply with all requirements of state and federal water pollution control agencies of jurisdiction and with the ~~local board of health~~ Hall County Health Department. No permit shall be issued for any ~~private-decentralized~~ wastewater ~~disposal~~ system employing subsurface soil absorption facilities where the front footage of the lot is less than seventy-five (75) feet and the area of the lot is less than twelve thousand (12,000) square feet. ~~Prior to issuing a permit for any private wastewater disposal system employing subsurface soil absorption facilities, such facilities must meet all regulations governing such systems as required by the city's planning and zoning regulations and Hall County Health Department regulations.~~ No septic tank or cesspool shall be permitted to discharge to any natural outlet or to any well.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-135. - Same—To be connected to public sanitary sewer.

At such time a public sanitary sewer becomes available to a property served by a ~~privatedecentralized~~ wastewater ~~disposal~~ system, as provided in section 5-1-43, a direct connection shall be made to the public sanitary sewer within ninety (90) days after notification by the building inspector or by the health department that the operation of the private facility is no longer acceptable, and any septic tanks, cesspools and similar ~~private decentralized~~ wastewater ~~disposal~~ facilities shall be cleaned of sludge and filled with suitable material.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-136. - Same—Owner to operate and maintain.

The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-137. - No conflict with board of health requirements.

No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the board of health.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-138. - Private wastewater disposal into publicly-owned septic tank receiving station.

- (a) *Permit and bond required.* No person shall discharge wastewater into the publicly owned treatment works or storage facility without a written permit signed by the director or his designated representative. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, analyses, specifications and any other information as deemed necessary by the director or any state or federal regulatory agency. All persons at the time of obtaining a written permit to discharge wastewater into the publicly owned treatment works or storage facility shall post a cash bond as provided in Title 10 of this Code.
- (b) *Designated area for private wastewater disposal.* No person shall discharge wastewater at any point of the sewerage system of the city except at the publicly owned treatment works or storage facilities at times specifically designated by the director.
- (c) *Prohibited discharges.* No person shall discharge or cause to be discharged wastewater from sources other than single-family dwellings or equivalent domestic sewage located in Hall County, Georgia. No person shall discharge or cause to be discharged the following described substances, materials, water or waste if it appears likely in the opinion of the director that such wastes will harm either the sewers, sewerage treatment process and/or equipment or the environment; have an adverse effect on the receiving stream; prevent the use or disposal of sludges by processes as may be selected in the future; will endanger life, limb, public property, or constitute a nuisance; or cause the treatment plant to violate its NPDES permit or applicable receiving water standards. Some of the substances prohibited are: any pumpings from grease, sand or oil interceptors and any substances prohibited by Public Law 92-500, all amendments thereto and regulations promulgated thereunder.
- (d) *Action required by the director.* If in the opinion of the director the private wastewater to be discharged into the publicly owned septic tank receiving station is from a source located outside of Hall County, Georgia, or may have deleterious effect on the sewerage works, processes, equipment, receiving waters, or the environment or would otherwise create a hazard to human or animal life or constitute a public nuisance, the director may:
- (1) Reject the waste and require the removal of the wastewater by the person who discharged the wastewater into the publicly owned treatment works or storage facility within twenty-four (24) hours after oral or hand-delivered written notice, and if the wastewater is not removed within twenty-four (24) hours after the person receives such notice, the wastewater shall be removed by the city at the person's expense.
 - (2) Require a complete analysis of such wastewater to determine compatibility with current treatment processes at the expense of the person who proposes the discharge of the wastewater into the publicly owned treatment works or storage facility.
 - (3) Require additional payment to cover the added costs of processing and treating the waste not covered by existing fees or sewerage charges as may be enacted from time to time by the city council under provisions of section 5-1-188.
 - (4) Immediately revoke, orally or in writing, the sewerage permit of the person violating any provision of this chapter and terminate that person's future use of the publicly owned treatment works or storage facility.
- (e) *Fees charged.*
- (1) All persons using the publicly owned treatment works or storage facilities shall pay such charges for the use of same as are now in effect or as may hereinafter be enacted by the city council.
 - (2) All persons discharging wastewater into the publicly owned treatment works or storage facilities shall pay a fee as provided in Title 10 of this Code.
 - (3) No person shall discharge wastewater into the publicly owned treatment works or storage facilities without having purchased a book of coupons which shall be used to pay the fees for the discharge of the wastewater into the publicly owned treatment works or storage facilities. The director shall receive

sufficient coupons to pay the fee for discharging wastewater into the publicly owned treatment works or storage facilities.

- (f) *Collection of costs or expenses.* The director shall notify the person in writing of all additional costs or expenses owed by the person to the city under subsection (d) hereof, and the person shall pay such costs or expenses to the city within thirty (30) days of the date that the written notice is mailed. If the costs or expenses are not paid within such thirty (30) days, the director shall pay the costs or expenses out of the person's posted cash bond and the person shall post a new cash bond under subsection (a) hereof and shall not discharge wastewater into the publicly owned treatment works or storage facilities until a new cash bond is posted pursuant to subsection (a).
- (g) *Identification of wastewater source.* No person shall discharge wastewater into the publicly owned treatment works or storage facilities, without having supplied the following information to the director:
 - (1) The name and address of the owner or tenant of each residential single-family dwelling from which wastewater is collected;
 - (2) The number of gallons of wastewater collected from said residential single-family dwelling;
 - (3) Any other information deemed necessary by the director.
- (h) *Exceptions by council.* No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city council and private waste collectors subject to payment therefor by the private waste collectors.

(Ord. No. 98-63, § I, 12-1-98)

Secs. 5-1-139—5-1-150. - Reserved.

ARTICLE 7. - INDUSTRIAL WASTEWATER DISCHARGE PERMIT SYSTEM

Sec. 5-1-151. - Wastewater discharge permits.

- (a) *Wastewater discharge permit required.*
 - (1) All significant industrial users and other industrial users as determined by the director proposing to connect to or discharge into any part of the wastewater treatment system must first obtain a discharge permit therefor. All existing significant industrial users and other industrial users connected to or discharging to any part of the city system must also obtain a wastewater discharge permit.
 - (2) Extra jurisdictional industrial users permit required.
 - a. Any existing significant industrial user and other industrial user located beyond the city limits shall submit a wastewater discharge permit application, in accordance with subsections (b) and (c) below, within thirty (30) days of the effective date of this chapter. New significant industrial users and other industrial users located beyond the city limits shall submit such applications to the director thirty (30) days prior to any proposed discharge into the POTW.
 - b. Alternately, the director may enter into an agreement with the neighboring jurisdiction in which the significant industrial user or other industrial user is located to provide for the implementation and enforcement of Gainesville's approved pretreatment program requirements against said industrial

user. Such intermunicipal agreement shall contain an agreement to pass at least as stringent a sewer use ordinance as in effect in the City of Gainesville and for the chapter to remain essentially similar to the city's chapter. The chapter shall be used to identify and regulate significant industrial users and industrial users, issue permits, inspect and sample industries, review reports from industries, notify industry of any violations and take enforcement action upon noncompliant industries. The City of Gainesville shall take direct enforcement action against the user should the contributing jurisdiction fail to do so in an effective and timely manner.

- (b) *Permit application.* All significant industrial users and other industrial users shall discharge wastewater only in accordance with the conditions of their wastewater discharge permit. All applications must contain the following certification statement and be signed by an authorized representative of the user. "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." Users seeking a wastewater discharge permit shall complete and file with the director an application on the form prescribed by the director. The director will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the director may issue a wastewater discharge permit subject to terms and conditions provided herein.
- (c) *Permit conditions.* Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other regulations, user charges and fees established by the city. Permits may contain the following:
- (1) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
 - (2) Limits on the average and maximum wastewater constituents and characteristics;
 - (3) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests, resampling requirements and reporting schedule;
 - (4) Requirements for submission of technical reports or discharge reports;
 - (5) Requirements for retaining plant records relating to wastewater discharge;
 - (6) Requirement of penalties for falsifying information;
 - (7) Requirements for installation and maintenance of inspection and sampling facilities;
 - (8) Requirement for written standard operating procedures for all pretreatment facilities;
 - (9) Requirements for notification to the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
 - (10) Requirements for the installation of facilities or procedures to prevent and control accidental discharge or spills at the user's premises;
 - (11) Requirement for notification of any bypasses around treatment systems;
 - (12) Requirements for notification of slug discharges;
 - (13) Requirement of a written spill prevention/contingency plan;
 - (14) Requirements for notification of any ordinance violations;
 - (15) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a public sanitary sewer;

- (16) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements;
- (17) Compliance schedules;
- (18) Statement of duration;
- (19) Statement of nontransferability;
- (20) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

Prior to issuing a discharge permit, a draft permit will be sent to the user (certified mail-return receipt requested) which will show the conditions and discharge limitations. The user will be allowed fifteen (15) days to show cause why in the user's opinion the conditions of such permit should not be required.

- (d) *Duration of permits.* Permits shall be issued for a specified time period, not to exceed three (3) years. A permit may be issued for a period of less than three (3) years, or may be stated to expire on a specific date. If the user is not notified by the director thirty (30) days prior to the expiration of the permit, the permit shall automatically be extended for one (1) month. The terms and conditions of the permit may be subject to modification and change by the director during the life of the permit, as limitations or requirements are modified and changed as outlined in subsection (f). The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance and shall be subject to the appeal provisions contained in subsection (f). A user becoming subject to national categorical pretreatment standards shall apply for a new permit on the effective date of said standards.
- (e) *Transfer of a permit.* Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation. In the event of any change in control or ownership of facilities from which the authorized discharges emanate, the industrial user shall notify the succeeding owner or controller of the existence of the wastewater discharge permit by letter, a copy of which shall be forwarded to the City of Gainesville. Upon such notification, the City of Gainesville will issue a new permit to the succeeding owner or controller.
- (f) *Authority to modify, suspend, and/or revoke service permits.* The director may modify, suspend or revoke an issued sewer permit in whole or in part during its term for failure or refusal of the permittee to carry out the requirements of this chapter, wastewater discharge permit, compliance order, or any other pretreatment standard or requirement.
 - (1) Wastewater discharge permits may be modified for good cause including, but not limited to, the following:
 - a. To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
 - b. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
 - c. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - d. Information indicating that the permitted discharge poses a threat to the city's POTW, city personnel, or the receiving waters;
 - e. Violation of any terms or conditions of the wastewater discharge permit;
 - f. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
 - g. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
 - h. To correct typographical or other errors in the wastewater discharge permit;

- i. To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

The filing of a request by the permittee for a wastewater discharge permit modification does not stay any wastewater discharge permit condition.

(2) Wastewater discharge permits may be revoked for the following reasons:

- a. Failure to notify the city of significant changes to the wastewater prior to the changed discharge;
- b. Failure to provide prior notification to the city of changed condition pursuant to section 5-1-193;
- c. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- d. Falsifying self-monitoring reports;
- e. Tampering with monitoring equipment;
- f. Refusing to allow the city timely access to the facility premises and records;
- g. Failure to meet effluent limitations;
- h. Failure to pay fines;
- i. Failure to pay sanitary sewer charges;
- j. Failure to meet compliance schedules;
- k. Failure to complete a wastewater survey or the wastewater discharge permit application;
- l. Failure to provide advance notice of the transfer of a permitted facility;
- m. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.

If within ten (10) days following receipt of notice of such proposed modifications, suspension or revocation from the director, there is no objection by the permittee in writing, said action becomes final. If the permittee files with the director an objection in writing within the specified ten-day period, such permittee shall be granted a conference with the director to discuss the proposed modifications, suspension or revocation and to attempt to reach some agreement upon them. In the event that agreement is not reached, the director shall notify the permittee in writing that he proposes that the modifications, suspension or revocation become final within three (3) days if the permittee does not object in writing. If the permittee does not object in writing, the proposed modifications, suspension or revocation shall become final. If the permittee does object in writing by filing an objection with the director and the city council, the permittee shall be granted a hearing before the city council within ten (10) days of filing of the objection. The city council shall decide whether the proposed modifications, suspension or revocation of the director shall become final. The director may immediately suspend or revoke an issued sanitary sewer permit in whole or in part without the notice provisions set forth in the preceding paragraph, provided the director concludes that the permittee has violated the provisions of this chapter and that the continued violation would constitute a hazard to human or animal life, or the environment or to the stream or watercourse receiving the treatment plant effluent, or would not be susceptible to treatment by the POTW, or which otherwise may create a hazard to life or constitute a public nuisance. Wastewater discharge permits shall be voidable upon nonuse, cessation of operations, or transfer of business ownership. All wastewater discharge permits are void upon the issuance of a new wastewater discharge permit. A terminated permit under any of the provisions set forth in this chapter shall mean the user shall not discharge process wastewater into the city's sewerage system.

- (g) *Wastewater survey.* Any commercial user may be required to complete a wastewater survey questionnaire as requested by the director.
- (h) *Slug control plan.* On a biennial basis the city conducts a survey to determine the need for industrial users to develop a program to control slug discharges. A slug discharge is any discharge of a nonroutine, episodic nature,

including but not limited to, an accidental spill or a noncustomary batch discharge. If the city decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under 40 CFR 403.5(b), with procedures for follow-up written notification within five (5) days;
- (4) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents) and/or measures and equipment for emergency response.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-152. - Exemptions.

- (a) Requests for exemption from concentration requirements by commercial users who discharge less than ten thousand (10,000) gallons per day into the sewerage system will be considered upon written application to the director demonstrating conclusively that compliance with stated concentration standards is technically or economically infeasible and that the discharge, if exempted, will not interfere with normal operations within the sewerage system. Commercial users of the sewerage system shall not be exempted from the total poundage limitation discharge requirements, applicable surcharges, and/or federal pretreatment standards.
- (b) A final decision regarding requests for exemptions will be rendered in writing by the director. Exemptions shall be subject to annual review and renewal by the director, or more frequently at the discretion of the director.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-153. - Classification of permitted users as food processing industry and nonfood processing industry.

For the purpose of allocating wastewater discharge parameters, the director may classify permitted users as either food processing industry or nonfood processing industry based on the nature of the user's process and history of wastewater discharge data. Nothing in this chapter may prevent the director from imposing discharge limits on any user more stringent than those outlined in section 5-1-67 as stated in subsection 5-1-68(b).

(Ord. No. 98-63, § I, 12-1-98)

Secs. 5-1-154—5-1-175. - Reserved.

ARTICLE 8. - INDUSTRIAL PRETREATMENT**Sec. 5-1-176. - Pretreatment facilities requirements.**

Permitted users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in sections 5-1-67 and 5-1-68 above within the time limitations specified by the EPA, the state, or the director, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the user's expense. Detailed plans and drawings showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the director before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the city under the provisions of this chapter.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-177. - Use by poultry processing plants.

- (a) No person engaged in the processing of poultry within the area served by the city's sewerage system shall discharge any poultry processing wastewater into the city sewerage system without such wastewaters having been screened to remove therefrom suspended solids such as, but not limited to, feather, grit and offal, as hereinafter provided.
- (b) Provision shall be made for the disposal of solids removed by the screening devices. Solids so removed shall not be placed in the city sanitary sewer system.
- (c) Before the installation of any screening device, two (2) complete sets of plans and specifications of the proposed work shall be submitted to the director for his review and approval (as referenced in section 5-1-186 of this chapter.

(Ord. No. 98-63, § I, 12-1-98)

Cross reference— Animals, Chapter 4-1.

Secs. 5-1-178, 5-1-179. - Reserved.**Sec. 5-1-180. - Use by textile plants.**

- (a) No person engaged in the processing of textile products or fibers shall empty any sewage or waste from such textile processing plant into the sanitary sewer system of the city without:
 - (1) Screening said waste through a screen sufficiently fine to remove such fibers from the effluent;
 - (2) Equalizing the flow of its waste into the city sanitary sewer system to a point, whereby the rate of flow into the sewer shall not be greater than the rate of flow of potable water from the city's water system into the plant;
 - (3) Securing the prior approval of the director before introducing dyes into the sanitary sewer system.
- (b) The following materials are incompatible to the operation of the city's treatment plant and shall not be permitted to be introduced into the city's sanitary sewer system:
 - (1) Nonbiochemical degradable fibers.
 - (2) Latex or latex compounds.

- (3) Rubber or rubber compounds.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-181. - Pretreatment design parameters.

Unless a special agreement as provided for in section 5-1-188 of this chapter exists, pretreatment as mentioned in section 5-1-69 shall mean the following:

- (1) Removal of all prohibited materials and correction of all unacceptable conditions mentioned in sections 5-1-67 and 5-1-68 of this chapter. Pretreatment systems or units shall be designed such that the following pollutants are not exceeded:

BOD ₅	300 mg/L
Total suspended solids	300 mg/L
Fat, oil, grease	100 mg/L
Phosphorus	7 mg/L
TKN	40 mg/L

based upon representative samples of the discharge to the city sanitary sewers, taken on days of normal plant operation, with tests being performed as detailed in 40 CFR 136, including, but not limited to, "Standard Methods for the Examination of Water and Wastewater", latest approved edition, published by the American Public Health Association and others.

- (2) The user discharge concentration limits listed in subsection 5-1-67(2) shall be the limits required on wastewater discharge permits. Such limits may therefore be used as a guide in pretreatment facility design and operation. If the user exceeds these limits or is found in violation of this chapter, the user is in a state of violation. In the event that the POTW influent level is exceeded or a disruption of the sewage treatment plant process occurs due to an excessive level of one (1) or more controlled substances, the city council may alter the user discharge concentration sufficiently to protect the plant and its receiving stream. Such modifications shall apply to all users. In the event of toxicity being found in a POTW, the director may at his discretion require industrial users to participate in a toxicity reduction evaluation in accordance with the provisions of the city's POTW's NPDES permits.
- (3) Control over quantities and rates of discharge referred to in subsection 5-1-69(3) as applied to major contributors means that the daily plant discharges shall be spread as uniformly as possible over the entire twenty-four-hour period. In no case shall the discharge in one (1) continuous eight-hour period exceed fifty (50) percent of the total twenty-four-hour discharge nor shall any amount of waste at a rate of flow, into the sanitary sewer system, be in excess of the rate of flow of potable water delivered from the city's water system into the plant.

- (4) The pretreatment or equalization of waste flows, and the design for installation of plants and equipment for the pretreatment or equalization of waste flows, shall be subject to the review and approval of the director and the chief building inspector and shall be subject to the requirements of all applicable codes, ordinances and laws. Any subsequent alterations or additions to such pretreatment or flow control facilities shall not be made without due notice to and prior approval of the director.
- (5) All users shall comply with the pretreatment standards as set forth in 40 CFR, Part 403.

(Ord. No. 98-63, § I, 12-1-98; Ord. No. 01-70, § IV, 12-18-01)

Sec. 5-1-182. - Fat, oil, grease, and sand interceptors required and maintained.

- (a) Except where more complete pretreatment may be required, fat, oil, grease and/or sand interceptors shall be provided at all service stations, commercial or industrial food-handling establishments, feed mills, and at any other commercial or industrial establishment or any institution at which such devices are necessary for the proper handling of liquid wastes containing grease and/or oil in excessive amounts, any flammable wastes, sand or other harmful ingredients except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the director and shall be maintained by the owner. The owner shall provide to the director or his/her designee, upon demand, proof, which consists of a completed and legible manifest as included in subsection (c) of this chapter, and/or frequency of interceptor cleaning. The frequency for maintaining these interceptors shall at the minimum be as follows based on the classifications listed.

Class	Description of User	Grease Trap Pumping Frequency*
I	Food establishments with an under-the-counter grease trap.	Monthly
II	Food establishments with an inground grease trap of at least one thousand five hundred (1,500) gallons and serving less than one hundred (100) customers in a twenty-four-hour day.	Two (2) times/year
III	Food establishments with an inground grease trap of at least one thousand five hundred (1,500) gallons and serving one hundred (100) customers to two hundred fifty (250) customers in a twenty-four-hour day.	Four (4) times/year
IV	Food establishments with an inground grease trap of at least one thousand five hundred (1,500) gallons and serving more than two hundred fifty (250) customers in a twenty-four-hour day.	Monthly
*The director may in writing or verbally increase or decrease a user's grease trap pumping frequency on a case-by-case basis based on actual observation of material buildup in the grease trap.		

- (b) Pumping requires the complete removal of the entire contents of the trap with no reintroduction of any portion of the waste into the trap. The city may seek additional enforcement action under O.C.G.A. § 12-8-2.
- (c) A grease trap waste hauler must obtain a grease trap waste disposal manifest prior to removal or transporting waste for disposal. It is the grease trap owner's responsibility to ensure the hauler possesses said manifest prior to pumping or the owner is in noncompliance with this chapter and shall be subjected to all applicable fines and penalties included herein.

(Ord. No. 98-63, § I, 12-1-98; Ord. No. 2005-20, § II, 6-21-05)

Sec. 5-1-183. - Owners to maintain pretreatment and flow-equalizing facilities.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-184. - Reserved.

Sec. 5-1-185. - Suitable location required for sampling and other purposes.

- (a) When required by the director, the owner of any property serviced by a building sewer carrying nondomestic wastewater shall install a suitable control manhole, vault or other structure in the building sewer in which the city may install such meters, sampling facilities and other appurtenances as necessary to facilitate observation, sampling and measurement of the wastewater.
- (b) Such structure as indicated, in subsection (a) shall:
 - (1) Be accessibly and safely located;
 - (2) Be protected against vandalism;
 - (3) Provide an accessible water source;
 - (4) Use, when possible, a cover or lid which is easily removed and is of reduced weight;
 - (5) Be supplied with suitable electrical current for the metering and sampling equipment to be installed;
 - (6) Provide suitable lighting;
 - (7) Provide adequate enclosure;
 - (8) Have unrestricted accessibility to the city and its appointed personnel; and
 - (9) Be constructed in accordance with standard details approved and provided by the director.
- (c) The structure shall be installed by the owner at his expense, and shall be maintained and kept free from any build-up or debris to be safe and accessible at all times.
- (d) In addition, the sample station shall be located to provide for easy access by city personnel and must be located where it can be reached directly from the public right-of-way. When such a location would be impractical or cause undue hardship on the user, the director may allow an exception be granted on a case-by-case basis.

(Ord. No. 98-63, § I, 12-1-98; Ord. No. 2004-54, § III, 7-20-04)

Sec. 5-1-186. - Industrial wastewater monitoring and reporting.

- (a) *Certification statement.* All permitted user reports must contain the following certification statement and be signed by an authorized representative of the permitted user:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- (b) *Discharge reports*

- (1) Baseline monitoring reports application. Within one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a categorical determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the director a report which contains the information listed in 40 CFR 403.12(b)(1)—(5). New industrial users and new sources (as defined in 40 CFR, Section 403.3(k)) shall also submit such reports to the director as required under 40 CFR, Section 403.12(b)(1)—(5). New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall give estimates of the information requested in 40 CFR 403.12(b)(4), (5).

The report shall contain the information listed in subparagraphs (1) through (7) of 40 CFR, Section 403.12(b):

- (1) *Identifying information.* The name and address of the facility, including the name of the operator and owner.
- (2) *Environmental permits.* A list of environmental control permits held by or for the facility.
- (3) *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from regulated processes.
- (4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined ~~wastestream~~ waste stream formula set out in 40 CFR 403.6(e).
- (5) *Measurement of pollutants.*
 - (a) The categorical pretreatment standards applicable to each regulated process.
 - (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be sampled and analyzed in accordance with procedures set out in section 5-1-187 of this chapter.
- (6) *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O & M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

- (7) *Compliance schedule.* If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O & M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

This requirement includes a baseline monitoring report (BMR) to be submitted to the city at least ninety (90) days prior to discharge of any pollutants to the POTW.

- (2) Periodic monitoring reports. All permitted industry shall submit a discharge report as provided in 40 CFR, Section 403.12(g) and (h). The report shall be submitted on at least a biannual basis during the months of June and December or more frequently as directed by the city. These reports shall be based on sampling and analyses performed in the period covered by the report, and performed in accordance with subsection (c). If a permitted user subject to the reporting requirements of this section monitors any pollutant more frequently than required by the city, using the procedures prescribed in subsection (d)(2), the results of the monitoring shall be included in the report.

Any permitted user subject to a categorical pretreatment standard, after the compliance date of such categorical pretreatment standards or, in the case of a new source, after commencement of the discharge into the POTW, shall, at least, submit to the director during the months of June and December a discharge report indicating the nature, concentration and flow of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in 40 CFR 403, (or amendments thereto which may be promulgated from time to time). Collection and testing of wastewater samples used for compliance monitoring must be in accordance with section 5-1-187 of this chapter.

At the discretion of the director and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the director may agree to alter the months during which the above reports are to be submitted. Such reports shall be submitted more frequently if required in the pretreatment standard or pretreatment requirements or required as part of the enforcement response program or deemed necessary by the director.

- (3) All permitted users shall promptly notify the director by phone with a subsequent written report in advance if possible, of any substantial change in the volume or character of pollutants in their discharge (change in chemical constituents or liquid materials), including the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12 (p) and subsection 5-1-186(b)(5) of this chapter, which are or may be discharged and which potentially may interfere with the operation of the public treatment system. This notification is also required in instances of potential problems, i.e., slug loads.
- (4) In all events, the reports required under this section, shall meet the requirements of 40 CFR, Section 403.12, (b) through (g).
- (5) The permitted user shall notify the city, the EPA regional waste management division director, and the state hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the ~~wastestream~~ waste stream discharged during that calendar month and an estimation of the mass of constituents in the ~~wastestream~~ waste stream expected to be discharged during the following twelve (12) months. All permitted users shall provide the notification no later than one hundred eighty (180) days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph needs to be submitted only once for each hazardous waste discharged. However,

notifications of changed discharges must be submitted under 40 CFR 403.12(j) and subsection 5-1-186(b)(3) of this chapter. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of 40 CFR 403.12(b), (d), and (e), and subsections 5-1-186(b)(2), (5), and (6) of this chapter.

Discharges are exempt from the above requirements of subsection 5-1-186(b)(5) during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e).

Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification.

Subsequent months during which the permitted user discharges more than such quantities of any hazardous waste do not require additional notification unless specifically required by the director.

In case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the city, the EPA regional waste management waste division director and the state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

In the case of any notification made under subsection (b)(6), the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

- (6) Categorical pretreatment standard compliance. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards or in the case of a new source following commencement of the introduction of wastewater in the POTW, any user subject to pretreatment standards and requirements shall submit to the city a report containing the following information:
- a. The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the city from each of the following:
 1. Regulated process streams; and
 2. Other streams as necessary to allow use of the combined ~~wastestream~~ waste stream formula of § 403.6(e).

The director may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

- b. The user shall identify the pretreatment standards applicable to each regulated process. In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required) by the standard of the city for regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations outlined in subsection 5-1-186(b)(1).
- c. A statement, reviewed by an authorized representative of the permitted user and certified to by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O & M) and/or additional pretreatment is required for the user to meet the pretreatment standards and requirements.

For users subject to equivalent mass or concentration limits established by the City of Gainesville in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other

measure of operation), this report shall include the user's actual production during the appropriate sampling period.

- (7) The reports required under this section shall carry the signature of an authorized representative certifying data accuracy and pretreatment standard compliance and/or appropriate operation and maintenance measures to ensure future compliance.
 - (8) Permitted users shall retain, and make available for inspection and copying, all records and information required to be retained under this chapter. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning compliance with this chapter, or where the user has been specifically notified of a longer retention period by the director. For each measurement or sample collected and analyzed for compliance purposes, a record of the following information shall be maintained:
 - a. The exact place, date, time and person who performed the sampling;
 - b. The exact place, date, time and person who performed the required analyses;
 - c. The analytical techniques or methods used;
 - d. All bench data derived for the purpose of calculating test results; and
 - e. The results of all required analyses.
- (c) *Records and monitoring.*
- (1) All permitted users who discharge or propose to discharge wastewaters to the wastewater treatment system shall maintain such records of production and related factors, effluent flows and pollutant amounts or concentrations as are necessary to demonstrate compliance with the requirements of this chapter, wastewater discharge permit and any applicable state, local or federal pretreatment standards or requirements.
 - (2) Such records shall be made available upon request by the director after reasonable notice. All such records relating to compliance with pretreatment standards shall be made available to officials of the U.S. Environmental Protection Agency or Georgia Environmental Protection Division upon demand. A summary of such data indicating the permitted user's compliance with this chapter shall be prepared as requested and submitted to the director after reasonable notice.
 - (3) The owner or operator of any premises or facility discharging industrial wastewater into the system shall install at their own cost and expense suitable monitoring equipment to facilitate the accurate observation, sampling and measurement of wastes as required by the director. Such equipment shall be maintained in proper working order and kept safe and accessible at all times.
 - (4) The monitoring equipment shall be located and maintained on the user's premises outside of the building. When such a location would be impractical or cause undue hardship on the user, the city council may allow such facility to be constructed in the public street or sidewalk area.
 - (5) When more than one (1) user can discharge into a ~~common-sanitary~~ sewer, the director may require installation of separate monitoring equipment for each user. When there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the director may require that separate monitoring facilities be installed for each separate discharge.
 - (6) Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the director's requirements and all applicable construction standards and specifications.
- (d) *Inspection, sampling and analysis.*
- (1) *Compliance determination.* Compliance determinations with respect to city code prohibitions and limitations may be made on the basis of either instantaneous grab samples or composite samples of wastewater unless specified in an industrial discharge permit. Composite samples may be taken over a

twenty-four hour period, or over a longer or shorter time span, as determined necessary by the director to meet the needs of specific circumstances and may require records of flow monitoring and measurement when deemed necessary by the director. When evaluating the compliance status of an industrial user or a significant industrial user, the POTW uses all samples which were obtained through appropriate sampling techniques and analyzed in accordance with the procedures established in 40 CFR Part 136. When the city splits a sample with a user, the city uses the results from each of the split samples providing the sample has been properly collected, preserved and analyzed, as referenced in subsection 5-1-186(d)(5) of this chapter. When such a split sample produces two (2) different analytical results, an average of the results from the split samples is determined and use of the resulting average number determines the compliance status of the industrial user. If one (1) or both of the analytical split sample results is determined to be invalid, the city recalculates the compliance status of the user using all valid results.

- (2) *Analysis of industrial wastewaters.* Laboratory analysis of industrial wastewater samples shall be performed in accordance with section 5-1-187 of this chapter. In the case where a concentration limit contained in a wastewater discharge permit is lower than lab detection limits, the lowest reportable detection limit shall be in accordance with lab detection limits as specified by GA EPD in accordance with 40 C.F.R. 136.
- (3) *Sampling frequency.* Sampling of industrial wastewater for the purpose of compliance determination with respect to city code prohibitions and limitations will be done at such intervals as the director may designate. Each permitted user will sample at least two (2) times each year as described in 40 CFR 403. Additional sampling may be required by the director. The city may require a permitted user to conduct a 129-priority pollutant scan at least once every three (3) years or at the time there is a process change that, in the opinion of the director, would warrant such a scan. The city will conduct at least one (1) unannounced sampling of industrial wastewaters for compliance purposes from each permitted user.
- (4) *Resampling frequency.* If sampling performed by a permitted user indicates a violation, the user shall notify the city within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis of the pollutant(s) in violation and submit the results of the repeat analysis to the city within thirty (30) days after becoming aware of the violation, except the user is not required to resample if:
 - a. The city performs sampling of the user at least once per month.
 - b. The city performs sampling of the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.
- (5) *Laboratory accreditation.* All analysis submitted to the city for the purpose of compliance determination and other purposes as the director deems necessary, shall be performed by a laboratory having been accredited by a recognized third party laboratory accreditation organization if no federal or state accreditation program is available. If a laboratory is not accredited, then the laboratory must demonstrate to the city's satisfaction that quality assurance and quality control measures are at least as stringent as those used by the city's laboratory.
- (e) *Facility operation.* The user shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities, including inspection and sampling of systems installed or used by the user to achieve compliance with all terms and conditions of this chapter. When required by the director the user shall provide for adequate documentation of pretreatment controls, such as standard operating procedures manual and/or quality control programs.
- (f) *Confidentiality.* The director shall provide appropriate confidentiality in handling and monitoring all collected information so as to avoid the disclosure, accidentally or purposefully, of trade secrets deemed vital to each industrial discharger under surveillance by this program. Public access to such information shall be limited as provided in 40 CFR, Section 403.14.

- (g) *Ordinance supersession.* Upon the promulgation of a national categorical pretreatment standard for a particular industrial subcategory, the national standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The director shall notify all affected significant industrial users of the applicable reporting requirements under 40 CFR, Section 403.12.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-187. - Method to be used for sampling and testing.

- (a) All sampling, measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with 40 CFR 403., 40 CFR 136 and amendments thereto, and the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole to the public sanitary sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. In case of laboratory procedural conflict, 40 CFR 136 takes precedence. When 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the director determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures suggested by the POTW or other parties, approved by the director.
- (b) The samples collected shall be representative of daily operations. At least four (4) grab samples must be used for pH, cyanide, total phenols, F.O.G., sulfide, and volatile organics. For all other pollutants, a continuous 24-hour composite sample collected during production hours must be obtained through flow-proportional composite sampling techniques where feasible. If conditions warrant, additional consecutive 24-hour sampling periods may be required by the city. The director may waive flow-proportional composite sampling for any user that demonstrates that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.
- (c) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined ~~wastestream~~ waste stream formula of 40 CFR 403.6(e) in order to evaluate compliance with all pretreatment standards and requirements. Where an alternative concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e), this adjusted limit along with supporting data shall be submitted to the city.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-188. - Exceptions by the city council.

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city council and any industrial concern whereby industrial wastewater of unusual strength or character may be accepted by the city for treatment, subject to payment therefor, by the industrial concern. The city council shall never knowingly enter into any such special agreement or arrangement which violates any provision of the federal general pretreatment regulations for existing or new sources of pollution (40 CFR 403) or any of the federal industrial pretreatment categorical standards.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-189. - Sanitary sewer~~Sewer~~ flow metering.

It is the industry's responsibility to maintain accurate flow measurements at all times and under all flow conditions, and to provide such information as required by the city to demonstrate that this requirement is being met. If the industry cannot prove to the city's satisfaction that accurate flows are being maintained at all times, then the city shall base all wastewater treatment charges, surcharges or penalties on the consumption metered on the city water meter as detailed in section 10-1-18. If the city has reason to believe that metered consumption does not reflect the total volume of wastewater being discharged, the city reserves the right to use it's own flow monitoring data or historical data, as deemed necessary by the director, to determine wastewater discharge. No allowances for adjusted sanitary sewer flows will be allowed unless otherwise agreed to in writing by the director. To allow for sanitary sewer billing adjustments, all plans, specifications and equipment shall be submitted to and accepted by the city. The industry shall allow thirty (30) days for the city's review and comments. When a user has an alternate water supply or other source of water such that the volume of wastewater generated is greater than the volume of metered water purchased, the city may require that a flowmeter be installed. When deemed necessary by the director or entered into agreement by the director and user, the city may maintain flow measurement equipment with all costs borne to the industrial user.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-190. - National categorical pretreatment standards.

The categorical pretreatment standards found in 40 CFR Chapter I, Subchapter N, Parts 405 through 471 are hereby incorporated. Therefore, certain users are now or shall become subject to categorical pretreatment standards promulgated by the Environmental Protection Agency found at 40 CFR Chapter I, Subchapter N, Parts 405 through 471 and specifying quantities or concentrations of pollutants or pollutant properties which may be discharged into the POTW. All users subject to a categorical pretreatment standard may also be subject to the local limitations established in subsection 5-1-67(b) or by the State of Georgia. Compliance with categorical pretreatment standards for existing sources which hereafter become subject to such standards shall be effected within three (3) years following promulgation of the standards unless a shorter compliance time is specified in the standard. Compliance with categorical pretreatment standards for new sources shall be required upon promulgation of the standard by the environmental protection agency. Within the shortest feasible time (not to exceed ninety (90) days), new sources must meet all applicable pretreatment standards.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-191. - Dilution prohibition.

No user shall increase the use of process water or, in any way, attempt to discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, or in any other pollutant-specific limitation developed by the city or the State of Georgia.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-192. - Potential problem discharges.**(a) Protection from potential problem discharges.**

- (1) Each user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this chapter. At the discretion of the director and in accordance with subsection 5-1-151(h), procedures and facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or operator's own cost and expense.
- (2) Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the director for review, and shall be approved by the director before construction of the facility. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify his facility as necessary to meet the requirements of this chapter.

(b) Notification of potential problem discharges.

- (1) In the case of any discharge including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load which may cause potential problems for the POTW (including a violation of the prohibited discharge standards in section 5-1-67 of this chapter), it is the responsibility of the user to immediately telephone and notify the city of the incident. This notification shall include the location of discharge, cause and duration of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (2) Within five (5) days following such discharge, the user shall, unless waived by the director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter.
- (3) Failure to notify the city of potential problem discharges shall be deemed a separate violation of this chapter.
- (4) A notice shall be permanently posted on the permitted user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (b)(1), above. Employers shall ensure that all employees, who may cause or suffer such a discharge to occur, are advised of the emergency notification procedure.
- (5) Any enforcement action taken based on information gained from this provision shall be enforceable under sections 5-1-21, 5-1-22(a) and (b) and 5-1-23 of this chapter

(c) Slug discharges.

- (1) The city may use instantaneous grab samples for the determination of a slug discharge as defined in section 5-1-3 of this chapter.
- (2) The analytical results may be used by the control authority for enforcement actions as deemed necessary by the director.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-193. - Notification of changed conditions.

Each permitted user is required to notify the director of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of its wastewater at least thirty (30) days before the change. For purposes of this requirement flow increases of ten (10) percent or greater, and the discharge of any previously unreported pollutants, shall be deemed significant. Responsibilities of the director include:

- (1) The director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under subsection 5-1-151(b).
- (2) The director may issue a wastewater discharge permit under subsection 5-1-151(c) or modify an existing wastewater discharge permit under subsection 5-1-151(f).
- (3) The director shall respond to the user's notice prior to the user implementing the planned changed condition(s).

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-194. - Combined wastewater formula.

Where process effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process, fixed alternative discharge limits may be derived by the city, as defined in 40 CFR 403.12(a), or by the user with written concurrence of the city. These alternative limits shall be applied to the mixed effluent. Derivation and monitoring locations are to be conducted as outlined in 40 CFR 403.6(e). All expenses incurred in development and use of the formula shall be the requesting user's responsibility.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-195. - Net/gross calculations.

Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the user's intake water in accordance with 40 CFR 403.15.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-196. - Certification of operators.

Any permitted user that provides pretreatment shall comply with the rules of the Georgia State Board of Examiners for Certification of Water and Wastewater Treatment Plant Operators and Laboratory Analysts concerning individuals engaged in such activities. (Georgia Rules & Regulations Chapter 750). At the discretion of the director, more stringent certification requirements may be imposed based on the industrial user's previous operation or potential to impact the POTW.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-197. - Falsifying information.

Any user who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or wastewater permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter shall be in violation of this ordinance and subject to the fines, penalties and punishment provided for in article 2 and other penalties as provided for in this chapter.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-198. - Annual publication of industrial users in significant noncompliance.

The city shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the industrial users and significant industrial users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements.

(Ord. No. 98-63, § I, 12-1-98)

Sec. 5-1-199. - Downgrade of significant industrial users classification.

The director may, at his discretion, downgrade a user from a significant industrial user standing, including standards, requirements and reporting status reductions, or elimination of any and/or all standards and requirements of this ordinance based on an evaluation of all information available from the user's past records. The user may at any time the director deems necessary be returned to significant industrial user standing.

(Ord. No. 98-63, § I, 12-1-98)

Secs. 5-1-200—5-1-214. - Reserved.**ARTICLE 9. - COMMERCIAL WASTE****Sec. 5-1-215. - Purpose.**

Excessive amounts of fats, oils and grease, grit, sand and other solid or viscous materials can cause blockage and obstruction in the sanitary sewer and treatment systems, causing untreated wastewater to overflow into the environment. Much of the waste material that has the potential to cause blockage or obstruction originates from commercial facilities, such as food preparation and vehicle maintenance facilities. This article sets forth minimum and uniform requirements for the treatment and disposal of commercial waste into the sanitary sewer system, and the transportation and ultimate disposal of commercial waste sludge and byproducts. The objectives of this article are:

- (1) To minimize the discharge of pollutants associated with commercial waste discharged into the sanitary sewer system that may interfere with normal operation of the system; and
- (2) To assure that the sludge and byproducts removed from commercial waste treatment systems are transported and disposed of in accordance with Chapter 391-3-6-.24 of the Rules and Regulations of the State of Georgia, Department of Natural Resources, Environmental Protection Division.

(Ord. No. 2005-20, § III, 6-21-05)

Sec. 5-1-216. - Definitions.

All terms used in this article shall be interpreted in accordance with the definitions and abbreviations as set forth in this section, or in any other section of this article:

City means the City of Gainesville, represented by its elected officials, or their authorized agent or employees.

Commercial facilities means a treatment facility constructed and intended to produce commercial, domestic, or industrial wastewaters, including facilities intended to collect, transport, and treat ~~storm water~~stormwater runoff.

Commercial wastes means:

- (1) Non-toxic, non-hazardous liquid wastewater from commercial facilities; or
- (2) Grease interceptor contents generated by a commercial food operation or institutional food preparation facility, including without limitation, fats, grease, and food scraps; or
- (3) Any oil waste residue produced from vehicle maintenance or washing that discharge to an oil-water separator or sand trap.

Commercial waste discharge permit is a wastewater discharge permit issued to commercial facilities by a local governing authority.

Commercial waste transporter permit is a permit issued by a local governing authority for an individual tank truck.

EPD means the State of Georgia Department of Natural Resources, Environmental Protection Division or its duly authorized representative.

F.O.G. means fats, oils, and grease.

F.O.G. separator means a structure or device designed to collect and retain oils, grease, and fatty substances usually found in kitchen or similar wastes.

Grease interceptor means a structure or device designed to collect and retain oils, grease, and fatty substances usually found in kitchen or similar wastes.

Grease trap refers to a F.O.G. separator.

Grit trap means a structure or device designed primarily for the accumulation and removal of grit.

Hazardous waste means any waste that has been defined as a hazardous waste in regulation promulgated by the Rules of Georgia Department of Natural Resources Environmental Protection Division, Chapter 391-3-11.

LGA means local governing authority.

Local governing authority means the governing authority of a county or municipality; or the designee of any county or municipality in this state. The local governing authority for a county would typically be the county board of commissioners and for a municipality would typically be the city council.

mg/L means milligrams per liter.

Oil-water separator means a structure or device designed primarily to collect and retain oily substances.

Originator means the owner or operator of the grease or F.O.G. interceptor, grit trap, oil-water separator, or sand trap from which commercial wastes are removed.

Registration means acceptance by the EPD of a transporter.

Registered commercial waste transporter is a business/owner registered by the State of Georgia, Environmental Protection Division and whose tank trucks are permitted by a local governing authority.

Sand trap means a receptacle designed for the accumulation and removal of sand, grit, rocks and other similar debris.

Septic tank means an approved watertight tank designed or used to receive sewage from a building sewer and to affect separation and organic decomposition of sewerage solids, and discharging sewage effluent to an absorption field or other management system.

Septic waste means the contents of a septic tank.

Transporter means any person or firm, which owns or operates one (1) or more waste tank trucks that receive or dispose of commercial waste in this state.

Tank truck means any vehicle that removes and transports commercial wastes.

User means any person who contributes, causes, or permits the introduction of wastewater into the sanitary sewer system.

(Ord. No. 2005-20, § III, 6-21-05)

Sec. 5-1-217. - Coverage and exclusions.

This article applies to any facility that generates commercial waste, to any person who removes commercial wastes, to any person who processes commercial wastes, and to any person who accepts commercial wastes for final disposal.

(Ord. No. 2005-20, § III, 6-21-05)

Sec. 5-1-218. - Requirements.

- (a) *Responsibility.* It is the responsibility of the originator to assure that commercial wastewater is properly treated and discharged into the sanitary sewer system. Any commercial waste, sludge, and byproducts from the originator's facility shall be transported by a permitted transporter, and disposed of at an EPD approved commercial waste processing and disposal facility. The originator of commercial waste shall not allow a transporter to remove waste from their facility without a current commercial waste transporter permit issued by an LGA.
- (b) *Permitting process.* There are two (2) types of permits required under this article: Commercial waste discharge permit (originator) and commercial waste transporter permit. The permits for the originator and transporter are issued by the LGA under this article. However, prior to obtaining a commercial waste transporter permit, the transporter must first register as a transporter of commercial waste with the EPD and obtain a transporter registration number. This registration number must be included in the permit number issued by the LGA. Specific details related to permits are covered later in this article.
- (c) *Manifest required.* All originators, transporters, and processing and disposal site operators, involved in the removal, transport, and disposal of commercial wastes and commercial waste sludge and byproducts, shall participate in proper maintenance of manifests. This manifest will require signatures from the originator, transporter and disposer in order to maintain and establish accountability. The approved manifest is a multi-copy form.
 - (1) The originator shall:
 - a. Sign the received manifest form and maintain such record for a period of three (3) years.
 - b. Keep a copy of all manifests for a period of three (3) years on site and shall make available for inspection by the city.
 - (2) The transporter shall:
 - a. Utilize a manifest for each location being serviced.
 - b. Sign the transporter portion of the manifest and leave a copy of the manifest with the originator.
 - c. Present the manifest to the disposal operator to complete and sign the disposal section, and shall leave one (1) copy of the manifest with the disposal site operator.
 - d. Send a completed copy of the manifest to the city within fifteen (15) days. A manifest is considered complete after the commercial waste is delivered and disposed of at the commercial waste disposal

or processing facility, and the manifest has been signed and completed by the disposal or processing facility.

- e. Send a completed copy of the manifest to the originator with the signature of the disposal site operator within thirty (30) days.
- f. Keep one (1) copy of the completed manifest form demonstrating delivery to the disposal site operator for their records and shall maintain such records for a period of three (3) years; except that the transporters manifest (or copy thereof) covering not less than the immediately preceding thirty-day period for a particular tank truck shall be kept in the transporter's tank truck. All such records shall be available for inspection.
- g. Ensure that the manifest contains all the information required on the manifest form prescribed and furnished from time to time by the city.

(Ord. No. 2005-20, § III, 6-21-05)

Sec. 5-1-219. - Limitations.

No user shall introduce into the sanitary sewer system any materials in an amount which would cause interference with the system. In addition to any limitations set forth in the pretreatment ordinance, no user shall introduce or cause to be introduced into the sanitary sewer system the following:

- (a) Solid or viscous materials in amounts which will cause obstruction of the flow to the sanitary sewer system.
- (b) Petroleum or mineral oils in concentrations greater than one hundred (100) mg/L.
- (c) Any trucked or hauled commercial waste materials.
- (d) F.O.G. of animal or vegetable origin in concentrations greater than one hundred (100) mg/l.

(Ord. No. 2005-20, § III, 6-21-05)

Sec. 5-1-220. - Originator.

(a) *Food service establishment.*

- (1) *Permit required.* No food service establishment shall discharge commercial wastewater into the sanitary sewer system without a commercial waste discharge permit issued by the city. Application for such permit must be made on a form furnished by the city. The permit is valid for up to five (5) years and is non-transferable.
- (2) *F.O.G. separator required.* All new restaurants, institutional kitchens, or other food service establishments defined as commercial users of the system, shall provide approved F.O.G. and settleable solids removal equipment or facilities sufficient to meet the limitations set forth in this article. The number and size(s) of the system(s) shall be determined by the city. Existing commercial users will be assessed on an individual basis, and will require approval by the city.
 - a. The separator(s) shall exclude sanitary wastewater and be located outside of any building and accessible for proper maintenance and inspection.
 - b. The separator must be located in an area that will allow for the dumpster pad to be connected.
 - c. In areas where additional weight loads may exist, the separator(s) shall be installed with traffic bearing covers.

- d. The separator/grease trap must be a minimum of one thousand five hundred (1,500) gallons and have three (3) baffles, and three (3) inspection openings provided, one (1) over the influent pipe, and another over the center baffle, and another over the discharge pipe for inspection purposes.
- e. The equipment or facilities shall be installed and maintained by the originator.
- f. All food service facilities defined as commercial facilities, shall be required to have a separate water meter and back-flow device, unless a specific variance is granted by the director.
- g. Alternative treatment methods. The use of any alternative method of treatment is prohibited without written approval by the city. Alternative treatment systems, such as mechanical grease recovery devices, shall only be used only after evaluation and authorization by the city.
- h. The use of chemicals, enzymes and bacteria is prohibited, unless specifically authorized in writing by the city, and only after site specific monitoring and data collection has been performed. The use of any additives shall not be considered as an alternative to an adequate treatment system or in lieu of regular maintenance, as prescribed in this article.
- i. Maintenance required. All F.O.G. separators shall be maintained at the originators expense. Maintenance shall include the complete removal of all contents of the separator. The city has established the following minimum pumping schedule and may increase or decrease the pumping frequency based on the originators compliance with the [sanitary](#) sewer use ordinance:

Class	Description of User	Grease Trap Pumping Frequency*
I	Food establishments with an under-the-counter grease trap.	Monthly
II	Food establishments with an inground grease trap of at least one thousand-five hundred (1,500) gallons and serving less than one hundred (100) customers in a twenty-four-hour day.	Two (2) times/year
III	Food establishments with an inground grease trap of at least one thousand-five hundred (1,500) gallons and serving one hundred (100) customers to two hundred fifty (250) customers in a twenty-four-hour day.	Four (4) times/year
IV	Food establishments with an inground grease trap of at least one thousand-five hundred (1,500) gallons and serving more than two hundred fifty (250) customers in a twenty-four-hour hour day.	Monthly

(b) *Maintenance and service facilities .*

- (1) *Permit required.* No maintenance or service facility shall discharge commercial wastewater into the sanitary sewer system without a commercial waste discharge permit issued by the city. Application for such permit must be made on a form furnished by the city. The permit is valid for one (1) year and is non-transferable.

- (2) *Sand/oil separator required.* All maintenance or service facilities shall provide approved oil and solids removal equipment or facilities sufficient to meet the limitations set forth in this article. The type, number, and size(s) of the system(s) shall be determined by city.
- All maintenance or service facilities defined as commercial users of the system, shall be required to have a separate water meter and back-flow device, unless a specific variance is granted by the director.
 - The separator(s) shall exclude sanitary wastewater and be located outside of any building and accessible for proper maintenance and inspection.
 - In areas where additional weight loads may exist, the separator(s) shall be installed with traffic bearing covers.
 - The separator/grease trap must be a minimum of one thousand five hundred (1,500) gallons and have three (3) baffles, and three (3) inspection openings provided, one over the influent pipe, and another over the center baffle, and another over the discharge pipe for inspection purposes.
 - The separators shall be installed and maintained by the originator.
 - Maintenance required. All separators shall be maintained at the originators expense. Maintenance shall include the complete removal of all contents of the separator. The frequency for maintaining these interceptors shall at the minimum be as follows based on the classifications listed. The city has established the following minimum pumping schedule and may increase or decrease the pumping frequency based on the originators compliance with the [sanitary](#) sewer use ordinance:

Class	Description of User	Pumping Frequency
I	Wash bay grit removal sand trap(s)	Monthly
II	Self serve carwash with less than four (4) wash bays	Four (4) times/year
III	Automatic carwash owned/operated by a service station	Four (4) times/year
IV	Self serve carwash with more than four (4) wash bays	Monthly
V	Combination self serve and automatic carwash	Monthly
VI	Full service automatic carwash	Monthly

- Monitoring* . All commercial facilities shall have an approved manhole on the discharge [sanitary](#) sewer to allow observation, sampling and flow measurement.
- Reporting spills* . All commercial facilities must report any spills to the city upon becoming aware of a spill that could impact any surrounding areas such as storm drains, adjacent streams or ground surface where the transporter has removed waste from the facility's pretreatment system. Failure to notify the city of a spill will constitute a violation and fines may be assessed to the commercial waste originator, as well as the transporter.

(Ord. No. 2005-20, § III, 6-21-05)

Sec. 5-1-221. - Transporter.

- (a) *Registration required.* Any transporter, owning or operating one (1) or more waste tank trucks that receive, transport or dispose of commercial waste in the city, must be registered with EPD.
- (b) *Permit required .* No transporter shall pump-out or vacuum F.O.G. separators, grit traps, sand traps, or oil-water separators without a valid commercial waste transporter permit issued by an LGA.
 - (1) Application for the permit must be made on a form prescribed by the EPD.
 - (2) The transporter shall include the location of the disposal site(s) on the commercial waste transporter permit application.
 - (3) No commercial waste transporter permit shall be issued if the owner of the tank truck(s) is not registered with the EPD.
 - (4) A commercial waste transporter permit shall be required for each individual tank truck owned and operated by a transporter.
 - (5) The commercial waste transporter permit issued by the LGA for operation of a tank truck shall be valid throughout the state.
 - (6) A transporter, who has trucks permitted by an LGA, and who decides to have additional trucks permitted by another LGA, must provide copies of the current commercial waste transporter permits with the new commercial waste transporter permit application.
 - (7) A transporter cannot have two (2) tank trucks permitted with the same commercial waste transporter permit number.
 - (8) This registration number shall be part of the commercial waste transporter permit number issued by the LGA. Every vehicle that transports commercial waste must display, on the vehicle, the commercial waste transporter permit number.
 - (9) Transporter permit fees. A transporter permitting fee will be assessed on an annual basis as is now or hereafter provided by Title 10 of this Code.
 - (10) Vehicle inspection. Annually the LGA shall inspect each tank truck prior to the issuance of a commercial waste transporter permit. Such inspection shall verify that the tank truck is substantially leak proof, durable, of easily cleaned construction, and is maintained in good repair. The LGA shall maintain records of each inspection.
- (c) A transporter must remove the entire contents of any commercial tank that is serviced and dispose of such contents, unmingled with hazardous wastes or septic wastes, only at a facility permitted to receive such waste.
- (d) A transporter shall provide a copy of the commercial waste transporter permit for the tank truck to each disposal site where the transporter disposes of commercial wastes.

(Ord. No. 2005-20, § III, 6-21-05)

Sec. 5-1-222. - Disposal facility.

A processing or disposal facility of commercial waste generated within the city shall maintain copies of all manifests of tank pumping at their principal place of business for a period of three (3) years and make such records available for inspection.

(Ord. No. 2005-20, § III, 6-21-05)

Sec. 5-1-223. - Enforcement.

Inspection and entry. Representatives of the city, after proper identification, shall be permitted to enter the premises of any originator, transporter, processor, or disposal site servicing the city's jurisdiction at any reasonable time for the purpose of making inspections to determine compliance with this article or the commercial waste transporter permit. Representatives of the City of Gainesville during inspections of the originator, transporter, processor, or the disposal site operator, may review records to determine compliance with provisions of these regulations. The right of inspection shall include the right to measure, observe, sample, test, record, review and make copies of all pertinent documents in accordance with this article.

(Ord. No. 2005-20, § III, 6-21-05)

Sec. 5-1-224. - Violations.

- (a) Any person who violates any provision of this article, or any terms, conditions, schedule of compliance or other requirements contained in the respective permit, shall be subject to enforcement proceedings by the City of Gainesville pursuant to this article.
- (b) Notwithstanding any other provisions of law, the city shall be authorized to impose a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each violation.

(Ord. No. 2005-20, § III, 6-21-05)

Sec. 5-1-225. - Permit revocation.

- (a) Any permit issued by the City of Gainesville may be suspended, revoked or modified by the City of Gainesville, upon finding that the holder is not in compliance with the terms of the permit or other conditions outlined in this article.
- (b) The permit may be reissued by the City of Gainesville upon remedy of the non-compliance that caused the suspension, revocation or modification of the permit.

(Ord. No. 2005-20, § III, 6-21-05)

UNIFIED LAND DEVELOPMENT CODE CITY OF GAINESVILLE, GEORGIA

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municode



Municipal Code Corporation P.O. Box 2235 Tallahassee, FL 32316
info@municode.com 800.262.2633 www.municode.com

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CURRENT OFFICIALS
of the
CITY OF GAINESVILLE

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Mayor

W. Samuel Couvillon
George Wangemann
Zack Thompson
Barbara B. Brooks
~~Ruth Bruner~~ Juli Clay
Council Members

Article 9-1 - ENACTMENT AND LEGAL STATUS PROVISIONS

Chapter 9-1-1. Chapter 9-1-2.	Preamble and Enactment Legal Status Provisions
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CHAPTER 9-1-1. - PREAMBLE AND ENACTMENT^[1]

Footnotes:

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Editor's note— This Unified Development Code is derived from Ord. No. 2005-37, adopted July 19, 2005, which repealed the former Title 9 of the City Code, and reenacted a new Title 9 as herein set out. Sections without a history note are derived from the original ordinance.

Sec. 9-1-1-1. - Title.

This ordinance shall be known as and may be cited as "The Unified Land Development Code of the City of Gainesville, Georgia" or, for brevity, "The Gainesville Development Code."

Sec. 9-1-1-2. - Scope.

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

Sec. 9-1-1-3. - Authority.

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

- (a) The Georgia General Assembly has enacted the Georgia Planning Act of 1989, (Georgia Laws, 1989, pp. 1317-1391, Act 634) which among other things provides for local governments to adopt plans and regulations to implement plans for the protection and preservation of natural resources, the environment, vital areas, and land use.
- (b) The Georgia General Assembly has enacted the Georgia Historic Preservation Act of 1980 which authorizes local governments to establish historic districts and designate individual properties as historic, and to approval or deny certificates of appropriateness for material changes in appearance in such districts or on such properties designated as historic.
- (c) The Georgia Department of Community Affairs has promulgated Minimum Standards and Procedures for Local Comprehensive Planning (Chapter 110-3-2 of Rules of the Georgia Department of Community Affairs) to implement the Georgia Planning Act of 1989. Said standards and procedures were ratified by the Georgia General Assembly, and have since been amended. Said rules require local governments that adopt a comprehensive plan pursuant to the Georgia Planning Act of 1989 to describe regulatory measures and land development regulations needed to implement local comprehensive plans.
- (d) The Georgia Department of Natural Resources has promulgated Rules for Environmental Planning Criteria, commonly known as the "Part V" Standards. Said rules were ratified by the Georgia General Assembly and have since been amended. Said rules require local governments that adopt a comprehensive plan to plan for the protection of the natural resources, the environment, and vital areas of the state.

- (e) The governing body has adopted a comprehensive plan in accordance with the requirements of the Georgia Planning Act of 1989, Rules of the Georgia Department of Community Affairs, and Rules of the Georgia Department of Natural Resources, and the comprehensive plan has been revised from time to time.
- (f) The National Pollutant Discharge Elimination System (NPDES) was established by the federal Clean Water Act in 1972 and amended by the Water Quality Act of 1987 to establish the MS4 permitting requirements that require municipalities to minimize pollutants in stormwater runoff. Communities covered under NPDES MS4 permits must additionally comply with the Georgia Water Quality Control Act (Georgia Laws 1964, p. 416, as amended) and adopt portions of the Georgia Stormwater Management Manual. The Georgia Department of Natural Resources requires local jurisdictions within the Metropolitan North Georgia Water Planning District and with Municipal Separate Storm Sewer System (MS4) permits to adopt the Model Ordinances ratified by the District Board.
- (g) The Georgia Legislature, through the enactment of the Georgia Development Impact Fee Act, Georgia Code Titles 36-71-1 through 36-71-13, has authorized the city to enact development impact fees.
- (h) The Georgia Department of Community Affairs has adopted administrative rules, chapter 110-12-2, development impact fee compliance requirements, and the city has adopted amendments to its comprehensive plan which have been found by said department to be in compliance with said administrative rules.

(Ord. No. 2006-34, § II, 8-1-06)

Sec. 9-1-1-4. - Purposes.

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

- (a) Implement the comprehensive plan including goals and policies not currently implemented by land use regulations of the city.
- (b) Promote the health, safety, welfare, morals, convenience, order, and prosperity of the citizens and the city.
- (c) Promote responsible growth, lessen congestion in the public streets, secure safety from fire and health dangers, and promote desirable living conditions.
- (d) Provide adequate access to natural light and air.
- (e) Promote the orderly and desirable subdivision of land and development of streets, blocks, and lots.
- (f) Ensure the adequate provision of public facilities, including but not limited to water, sewerage, surface drainage, roads, schools, parks, and playgrounds.
- (g) Regulate the height, bulk, and the size of buildings and structures.
- (h) Classify land uses, set out zoning districts and overlay districts, establish procedures for the handling of certain land use matters, and regulate the distribution and density of uses on the land to avoid both the undue concentration of population and the inappropriate dispersion of population, prevent the encroachment of incompatible land uses within residential areas, and preserve property values.
- (i) Provide for economically sound and stable land development by assuring the provision in land developments of adequate streets, utilities, services, traffic access and circulation, public open spaces.

Additional purposes and intentions are articulated in the various articles, chapters, and sections, as appropriate.

Sec. 9-1-1-5. - Adoption.

It is hereby ordained by the authority of the governing body that the following articles, chapters, and sections, which collectively constitute title 9 of the Code of Ordinances of the city are adopted.

CHAPTER 9-1-2. - LEGAL STATUS PROVISIONS

Sec. 9-1-2-1. - Effective date.

This Code shall take effect immediately upon its adoption, the public welfare demanding it.

Sec. 9-1-2-2. - Repeal of conflicting ordinances.

- (a) Ordinance number 98-61, adopted November 17, 1998, which repealed the former title 9 in its entirety and replaced it with a new title 9, Unified Land Development Code, is hereby repealed and replaced with this Code.
- (b) Ordinance number 99-47, "Limestone Parkway Overlay Zone," last revised June 15, 1999, is hereby repealed and replaced with chapter 9-8-3 of this Code.
- (c) Ordinance number 2000-32, relative to protection of water supply watersheds groundwater recharge areas, and wetlands, adopted February 8, 2001, is hereby repealed and replaced with chapters of the same general name in article 9-8 of this Code.
- (d) Chapter 4-6, "Soil Erosion and Sediment Control," of the City Code, including ordinance number 2001-57, adopted Sept. 18, 2001, and ordinance number 98-61, § 1, adopted Nov. 17, 1998, are hereby repealed and replaced with article 9-14 of this Code.
- (e) Chapter 4-7, "Stormwater Management," of the City Code, including section 1 of ordinance number 90-74, adopted December 27, 1990, is hereby repealed and replaced with chapter 9-13-12, "Stormwater Management," of this Code.
- (f) Title 7, "Buildings and Construction," chapter 7-1, "Building Regulations," of the City Code is hereby repealed and replaced with article 9-20 of this Code.
- (g) Chapter 8-1, "Historic Preservation," of the City Code, including Ordinance No. 2001-59, "Historical Preservation," and ordinance number 2005-07 which amended chapter 8-1, are hereby repealed and replaced with regulations in this Code.
- (h) All other conflicting ordinances or parts of ordinances are hereby repealed to the extent of their conflict. Where this Code and another [ordinance] overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 9-1-2-3. - Relationship to private restrictions.

This Code is not intended to repeal, abrogate, or impair any valid easement, covenant, or deed restriction duly recorded with the clerk of the superior court of Hall County, Georgia.

Sec. 9-1-2-4. - Validity and severability.

If any article, chapter, section, subsection, sentence, clause, phrase, or portion of this Code or any amendment thereto is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof which is not specifically declared to be invalid.

Sec. 9-1-2-5. - Validity of existing conditions of zoning.

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

Sec. 9-1-2-6. - Previously issued permits.

The provisions of this Code and any subsequent amendments shall not affect the validity of any lawfully issued and effective building or development permit if:

- (a) The development activity or building construction authorized by the permit has been commenced prior to the effective date of this Code or the amendment, or will be commenced after such effective date but within six (6) months of issuance of the permit; and
- (b) The development activity or building construction continues without interruption (except because of war or natural disaster) until the development or construction is complete. If the permit expires, any further development or construction on that site shall occur only in conformance with the requirements of this Code in effect on the date of the permit expiration.

Sec. 9-1-2-7. - Governmental bodies.

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

Sec. 9-1-2-8. - Codification.

It is the intention of the governing body, and it is hereby ordered that this Code shall become and be made a part of the City Code, and the articles, chapters, and sections of this Code may be renumbered if necessary to fit most appropriately into the City Code.

Sec. 9-1-2-9. - Amendments.

This Code may be amended by following procedures specified in the City Code for such amendment.

In cases where an amendment is proposed involving articles 9-1 through 9-11, articles 9-16 through 9-18, and articles 9-21 through 9-24 of this Code the amendment procedure shall satisfy the requirements of the Zoning Procedures Law (O.C.G.A. 36-66-1 et seq.) and chapter 9-22-8 of this Code. Amendments to articles of this Code other than those cited in this section shall be considered under procedures generally applicable to amendment to the City Code, provided that the director of [community planning](#) and [economic](#) development is notified and gives concurrence to the amendment to ensure that the proposed amendment does not conflict with this Code as a whole.

Article 9-2 - INTERPRETATIONS AND DEFINITIONS

Chapter 9-2-1 Chapter 9-2-2	Interpretations General Definitions
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CHAPTER 9-2-1. - INTERPRETATIONS

Sec. 9-2-1-1. - Responsibility for interpretation.

The director of [community planning](#) and [economic](#) development shall be responsible for the interpretation of the requirements, standards, definitions, or any other provision of this Code, unless that authority is provided to another administrative official within a specific article. Interpretations of the director or other administrative official may be appealed under the provisions of chapter 9-22-7. The director shall have administrative authority of this Code.

Sec. 9-2-1-2. - Interpretations.

In the interpretation and application of this Code all provisions shall be considered as minimum requirements. Where the literal interpretation is clear to the director, it shall be construed literally. Where the article, chapter, section, or subsection has a statement of purpose and intent, the director shall consider said purpose and intent in making the interpretation. The director shall make interpretations in a way that are liberally construed in favor of the governing body; provided, however, that where ambiguity exists the director shall interpret this ordinance in favor of the free use of property.

Sec. 9-2-1-3. - Use of figures.

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

Sec. 9-2-1-4. - Use of words and phrases.

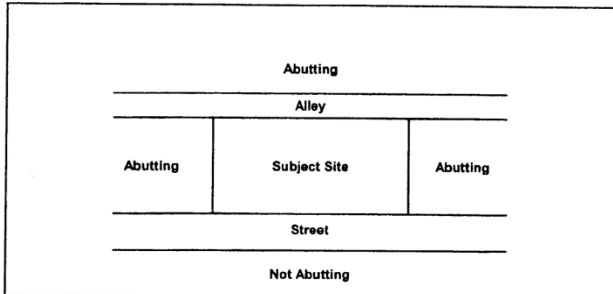
For the purpose of this Code, the following shall apply to the use of words and phrases:

- (a) Words used in the present tense include the future tense. Words used in the singular tense include the plural tense, and words used in the plural tense include the singular tense.
- (b) The masculine person "he" or "his" also means "her" or "hers."
- (c) The word "person" is intended to include any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of this state, any interstate body or any other legal entity.
- (d) The words "shall" and "must" are always mandatory and not discretionary, while the word "may" is permissive.
- (e) The word "and" indicates that all of the conditions, requirements or factors so connected must be met or fulfilled, while the word "or" indicates that at least one condition, requirement or factor so connected must be met.
- (f) The term "such as" is intended to introduce one or more examples in illustration of a requirement or point, and is intended to mean "including but not limited to the following."
- (g) The word "day" shall mean a calendar day unless otherwise specified.
- (h) Where a term is defined in this article, it shall be construed to have meaning and application throughout this Code, unless the context clearly indicates otherwise.
- (i) Where a term is defined in any article other than this article, it is generally the intent that such definition applies only within the article it appears, since it is positioned in the article to which it most readily refers;

provided, however, that this provision shall not prevent the director from interpreting that defined term as applying outside the strict context of the article in which it appears, and to that end, all definitions, regardless of location within this Code, apply equally to the use of such terms throughout the Code.

CHAPTER 9-2-2. - GENERAL DEFINITIONS

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



Abutting

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

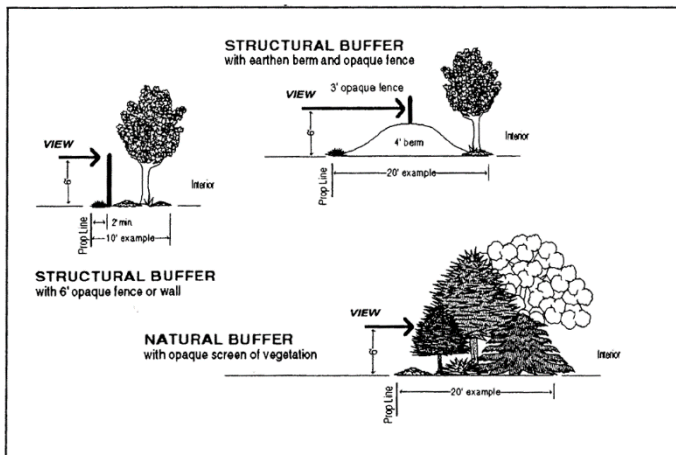
Annexation: The process by which a parcel of land is transferred from the jurisdiction of unincorporated Hall County to the jurisdiction of the city.

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

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

Buffer: A strip of land located between a side or rear property line and a building, structure, or use; or a strip of land lying adjacent to a stream. A buffer is intended to separate and obstruct the view of the site on which the buffer is located from an abutting property. A buffer is usually intended to separate and provide screening of the view of the site on which the buffer is located from an abutting property, and/or to provide stream protection, as defined and as may be required by this articleCode. The following buffer types are recognized in this article:

- (1) **Buffer, natural undisturbed:** A buffer that contains a natural area consisting of trees and/or other vegetation, undisturbed except for approved access and utility crossings, and replanted where sparsely vegetated.
- (2) **Buffer, planted:** A buffer consisting of newly planted evergreen and deciduous trees and shrubs native to the region. Deciduous trees shall be a minimum of two-inch caliper and evergreen trees a minimum of six (6) feet in height at time of planting. Required deciduous and evergreen shrubs shall be a minimum of three (3) feet at time of planting.
- (3) **Buffer, structural:** A visual screen created through construction of a solid wooden fence, decorative masonry wall, earthen berm, or combination of fence or wall with an earthen berm, which may be supplemented with vegetation, so as to present an opaque visual separation when viewed from one side to the other throughout the year.
- (4) **Buffer, stream:** A natural undisturbed or enhanced vegetated area lying adjacent to a stream. as measured horizontally from the top of the stream bank, on both banks (as applicable) of the stream.

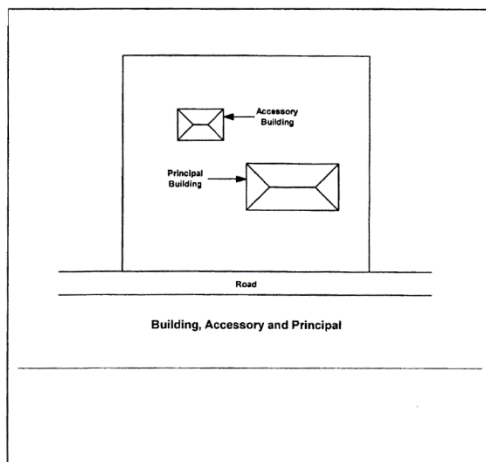


Buffer Types

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

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

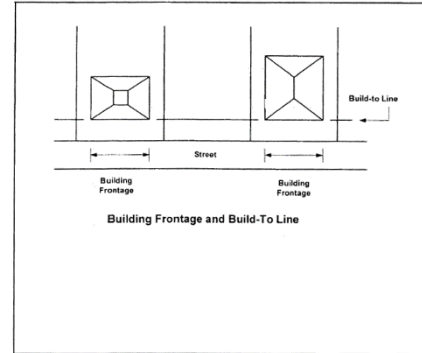
- (1) **Building, accessory:** A building subordinate to the main building on a lot and used for purposes incidental to the main or principal building and located on the same lot therewith.
- (2) **Building, principal:** A building in which is conducted the principal use of the lot on which said building is situated. In any residential zoning district, any structure containing a dwelling unit shall be defined to be the principal building on the lot on which same is situated, except for detached accessory apartments.



Building, Accessory and Principal

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

Build-to-line: A front building setback line required for a principal building on a particular property so that a continuous and consistent building setback will be achieved considering the front building setbacks of buildings on



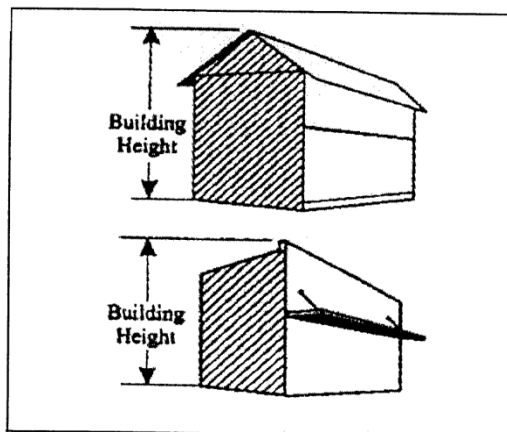
abutting and/or adjacent lots on the same side of the street or right-of-way.

Building Frontage and Build-To Line

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

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

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



Building Height

Building official: The city's official responsible for implementing and enforcing the applicable building codes of the city.

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

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

City: The City of Gainesville, Georgia.

City engineer: The director of the public works department, or the director of the department of water resources, and means the staff professional engineer or the city's official responsible for implementing and enforcing the applicable engineering requirements of this Code and those other engineering requirements of the city.

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

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

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

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

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

- (1) Model rockets and model rocket engines designed, sold, and used for the purpose of propelling recoverable aero models, toy pistol paper caps in which the explosive content averages 0.25 grains or less of explosive mixture per paper cap or toy pistols, toy cannons, toy canes, toy guns, or other devices using such paper caps; nor shall the term consumer fireworks include ammunition consumed by weapons used for sporting and hunting purposes; and
- (2) Wire or wood sparklers of 100 grams or less of mixture per item; other sparkling items which are nonexplosive and nonaerial and contain 75 grams or less of chemical compound per tube or a total of 500 grams or less for multiple tubes; snake and glow worms; smoke devices; or trick noise makers which include paper streamers, party peppers, string peppers, snappers, and drop pops each consisting of 0.25 grains or less of explosive mixture.

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

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

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

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

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

Director: The director of the department of [community planning](#) and [economic](#) development of the city, or his or her authorized designee of the [community planning](#) and [economic](#) development department. This term shall be the same as the director of the community development department or his or her authorized designee of the community development department.

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

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

Environmental health department: The Hall County Environmental Health Department.

Family: An individual, or two (2) or more persons related by blood, marriage, adoption or guardianship, or a group of not more than three (3) unrelated persons, occupying a single dwelling unit; provided, however, that domestic servants employed on the premises may be housed on the premises without being counted as a separate family or families.

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

- (1) Model rockets and model rocket engines designed, sold, and used for the purpose of propelling recoverable aero models, toy pistol paper caps in which the explosive content averages 0.25 grains or less of explosive mixture per paper cap or toy pistols, toy cannons, toy canes, toy guns, or other devices using such paper caps; nor shall the term fireworks include ammunition consumed by weapons used for sporting and hunting purposes; and
- (2) Wire or wood sparklers of 100 grams or less of mixture per item; other sparkling items which are nonexplosive and nonaerial and contain 75 grams or less of chemical compound per tube or a total of 500 grams or less for multiple tubes; snake and glow worms; smoke devices; or trick noise makers which include paper streamers, party peppers, string peppers, snappers, and drop pops each consisting of 0.25 grains or less of explosive mixture.

Floor area: The sum of all square footages (areas) of each floor of a building, measured from the interior faces of the exterior walls or from the centerline of walls separating two buildings. The following areas are excluded from

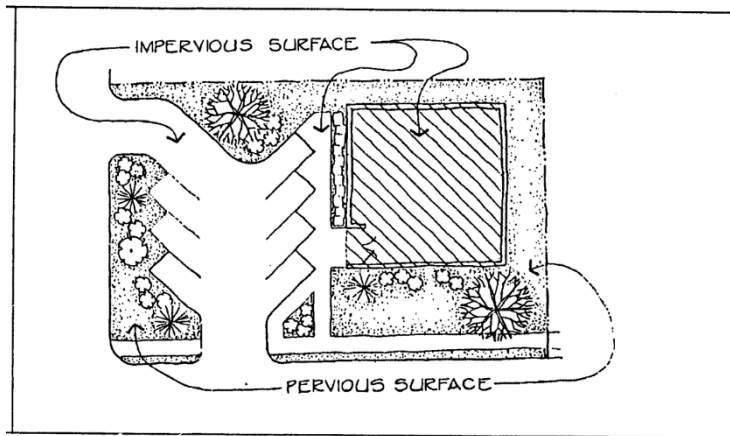
the measurement of floor area; unfinished attics, attached garages or spaces used for off-street parking and loading, breezeways, and enclosed or unenclosed decks and porches.

Floor area ratio (FAR): The ratio of the floor area of a building to the area of the lot in which the building is located. For example, a ten thousand (10,000) square foot lot with a maximum FAR of 0.5 cannot exceed a total building floor area of five thousand (5,000) square feet.

Governing body: The mayor and city council of the City of Gainesville, Georgia.

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

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



Impervious Surface

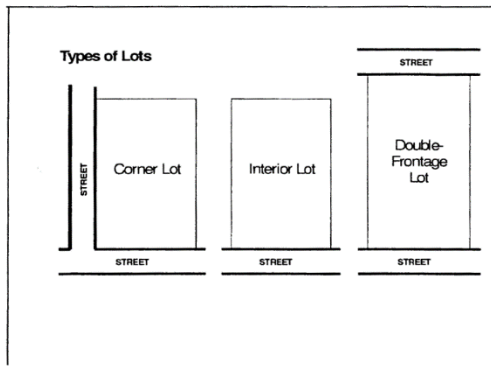
Improvements: The physical addition and changes to land that may be necessary to produce usable, desirable and acceptable lots or building sites.

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

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

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

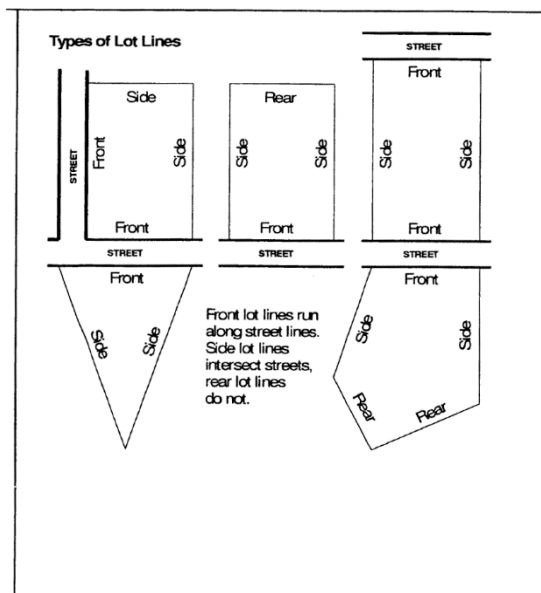
- (1) **Corner lot:** Any lot bounded by two (2) streets at their intersection.
- (2) **Double-frontage lot:** A lot bounding on two (2) or more streets, but not at their intersection, so that it is not a corner lot.
- (3) **Interior lot:** A lot having frontage on only one street.



Types of Lots

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

- (1) **Front lot line:** Any boundary line of a lot that abuts a street right-of-way line. A lot adjacent to more than one street will have more than one front lot line.
- (2) **Rear lot line:** Any boundary line of a lot that does not intersect with a street right-of-way line and is not a front lot line.
- (3) **Side lot line:** Any boundary line of a lot that intersects with a street right-of-way line and is not a front lot line.



Types of Lot Lines

Manufactured home: A dwelling fabricated in an off-site facility for installation or assembly at the building site, bearing a label certifying that it is constructed in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401, et seq.), which first became effective on June 15, 1976. The term

"manufactured home" includes a structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on site, is three hundred twenty (320) or more square feet in floor area, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term includes any structure which meets all the requirements of this definition except the size requirement and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401, et seq.

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

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

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

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

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

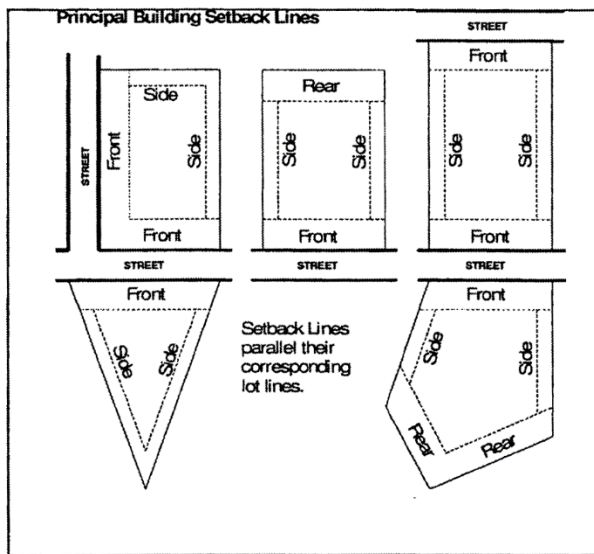
Permitted use: A use by right which is specifically authorized in a particular zoning district, or permitted by right in a particular overlay zone.

Planning and appeals board: The planning and appeals board of the City, Georgia; also known or referred to as the "planning commission."

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

Principal building setback line: A line delineating the minimum allowable distance between a property line or the right-of-way line of an abutting street and a principal building on a lot.

- (1) *Front building setback:* The minimum allowable distance between the right-of-way line of any abutting street and any part of a principal building on a lot. The front setback distance is applied along the full length of the right-of-way line and is parallel to it.
- (2) *Rear building setback:* The minimum allowable distance between a rear lot line and any part of a principal building on a lot. The rear building setback extends along the full length of the rear lot line.
- (3) *Side building setback:* The minimum allowable distance between a side lot line and any part of a principal building on a lot. The side building setback extends along the side lot line between the front building setback and a rear building setback (if any).



Principal Building Setback Lines

Property or parcel of land: See Lot.

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

~~*Public utilities director:* The director of the department of public utilities of the city, or his designee, whose duties include the review and approval of construction plans for public utilities for the city.~~

Public works director: The director of the department of public works of the city, or his/her designee, whose duties include the review and approval of construction plans for public streets for the city.

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

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

Rezoning: An amendment to the official zoning map, or an amendment to an overlay zone boundary, that changes the zoning district or overlay zone of one or more properties specified in an application; provided, however, that changes to the historic preservation overlay zone are not considered "rezoning" for purposes of this Code and are instead regulated by the provisions of chapter 9-23-3 of this Code. Rezoning also includes applications to change conditions of zoning approval.

Setback: The shortest straight line distance between a street right-of-way or lot line and the nearest point of a structure or building or projection therefrom (excluding roof overhangs of thirty (30) inches or less).

Setback, minimum: The shortest distance allowed between a street right-of-way line or any other lot line and any principal or accessory building on a lot. Minimum setback requirements for buildings are associated with the type of lot line from which the setback is taken; for instance, a "side yard setback" is measured from a side lot line.

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

Story: That portion of a building compromised between a floor and the floor or roof next above. The first floor of a two (2) or multi-story building shall be deemed the story that has no floor immediately below it and that is designed for living quarters or for human occupancy. Those stories above the first floor shall be numbered consecutively.

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

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

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

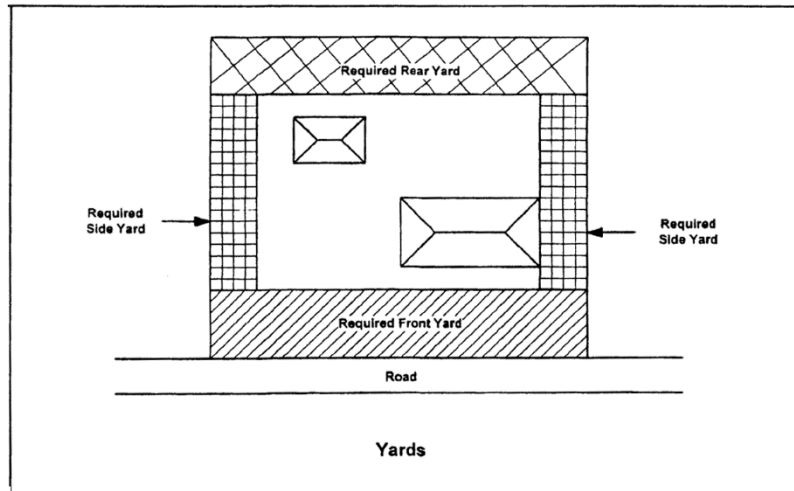
- (1) **Variance, administrative:** A variance which is authorized to be approved by an administrative official under the terms of this Code.
- (2) **Variance, improvement standards:** A variance which relieves or modifies an applicant or subdivider of certain subdivision or land development specifications or standards under the terms of this Code.
- (3) **Variance, zoning:** A minimal relaxation or modification of the strict terms of the height, area, placement, setback, yard, buffer, landscape strip, parking and loading, or other regulations which are dimensional in nature as applied to specific property when, because of particular physical surroundings, shape, or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to make a profit.

Water resources director: The director of the department of water resources of the city, or his/her designee, whose duties include the review and approval of construction plans for drinking water, sanitary sewer and stormwater for the city.

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

- (1) **Yard, front:** An open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the street right-of-way and the front line of the building projected to the side lines of the lot. For corner and double frontage lots, front yard requirements apply to all road frontages.

- (2) *Yard, rear:* An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.
- (3) *Yard, side:* An open, unoccupied space on the same lot with the principal building, situated between the building and the side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.



Yards

Zoning map: The official zoning map or maps of the city.

(Ord. No. 2007-17, § I, 5-15-07; Ord. No. 2009-47, § I, 12-15-09; Ord. No. 2011-02, § I, 1-18-11; Ord. No. 2015-29, § I, 9-15-15)

Article 9-8 - OVERLAY ZONES

Chapter 9-8-1	Airport Overlay Zone
Chapter 9-8-2	Gateway Corridor Overlay Zone
Chapter 9-8-3	Limestone Parkway Overlay Zone
Chapter 9-8-4	North Oconee Water Supply Watershed Protection Overlay Zone
Chapter 9-8-5	Groundwater Recharge Area Protection Overlay Zone
Chapter 9-8-6	Wetland Protection Overlay Zone
Chapter 9-8-7	Midtown Overlay Zone
Chapter 9-8-8	Historic Preservation Overlay Zone

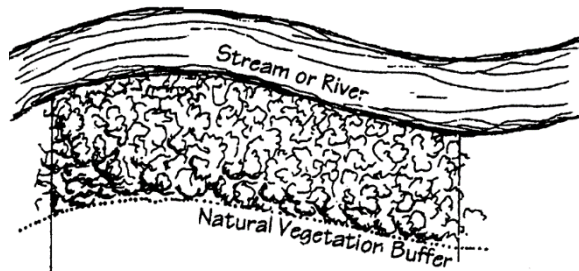
CHAPTER 9-8-4. - NORTH OCONEE WATER SUPPLY WATERSHED PROTECTION OVERLAY ZONE

Sec. 9-8-4-1. - Purpose and intent.

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

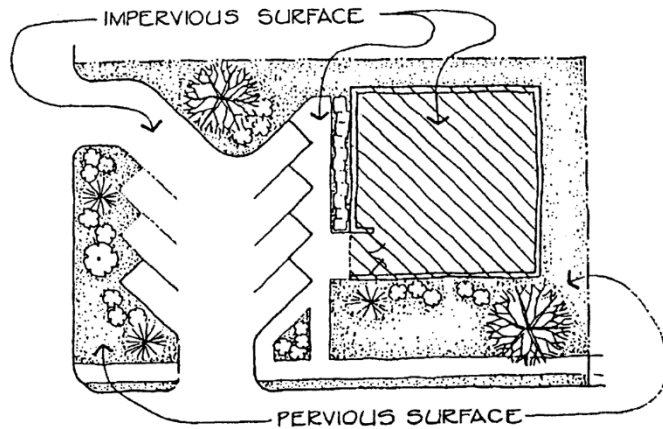
Sec. 9-8-4-2. - Definitions.

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



Buffer

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



Impervious surface service

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

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

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

~~**Utility:** A public or private water or sewer piping systems, water or sewer pumping stations, electric power lines, fuel pipelines, telephone lines, roads, driveways, bridges, river/lake access facilities, stormwater systems and railroads or other utilities identified by a local government.~~

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

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

(Ord. No. 2007-23, § I, 6-19-07)

Sec. 9-8-4-3. - Boundaries and map.

The North Oconee River water supply watershed protection overlay zone is hereby designated and shall consist of the land areas that drain to the proposed North Oconee River public water supply intake and water supply reservoir. The boundaries of the overlay zone are defined by the ridgelines of the watershed. The overlay zone boundaries are further delineated and defined on the North Oconee River water supply watershed protection overlay zone map, which is hereby incorporated and made a part of this chapter by reference.

Sec. 9-8-4-4. - Permitted uses and use restrictions.

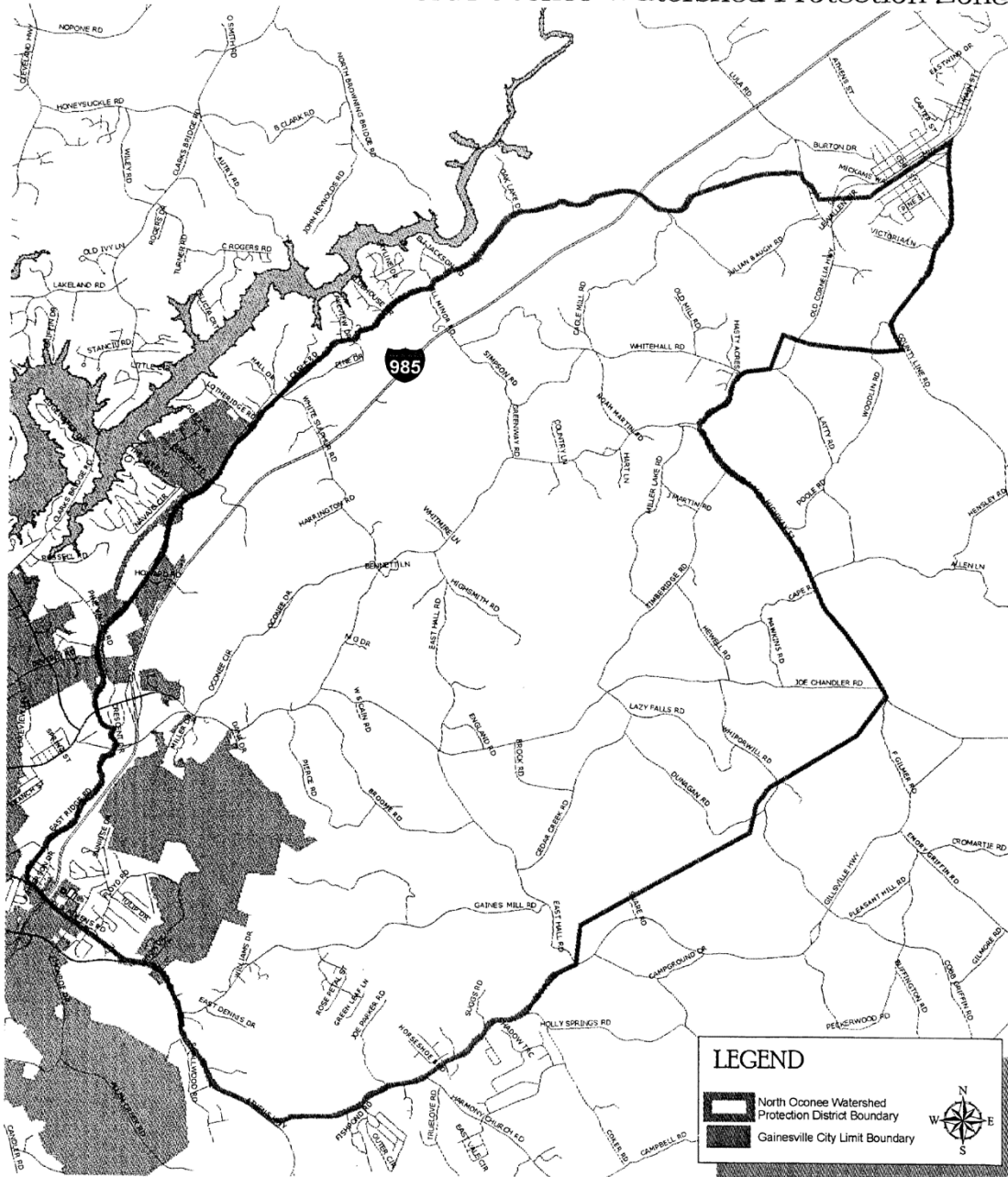
All uses allowed in the underlying zoning districts as established by this Code are permitted in this overlay zone, subject to standards established in this chapter, except for those listed or qualified below:

- (a) New hazardous waste treatment or disposal facilities are prohibited.
- (b) New sanitary landfills are allowed only if they have synthetic liners and leachate collection systems.
- (c) New facilities, located within seven (7) miles of a water supply intake or water supply reservoir, which handle hazardous material of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and amounts of ten thousand (10,000) pounds or more on any one day, shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements or the requirements of the Standard Fire Prevention Code.



City of Gainesville

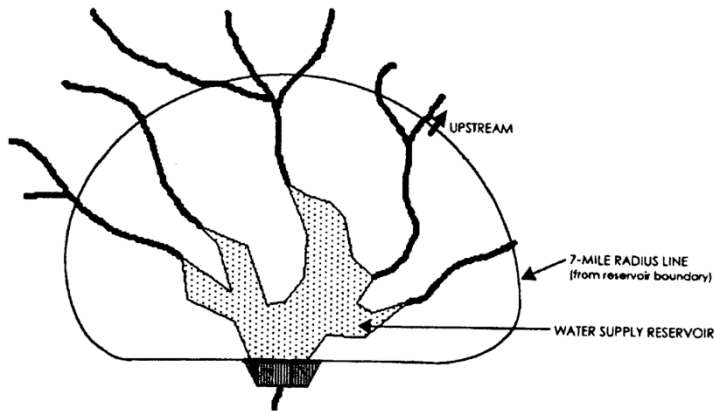
North Oconee Watershed Protection Zone



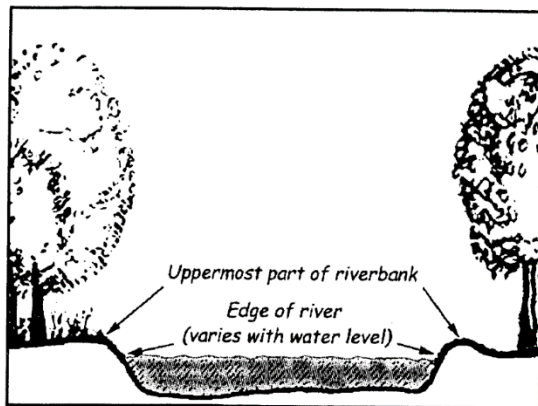
North Oconee Watershed Protection Zone

Sec. 9-8-4-5. - Requirements within seven miles of intake.

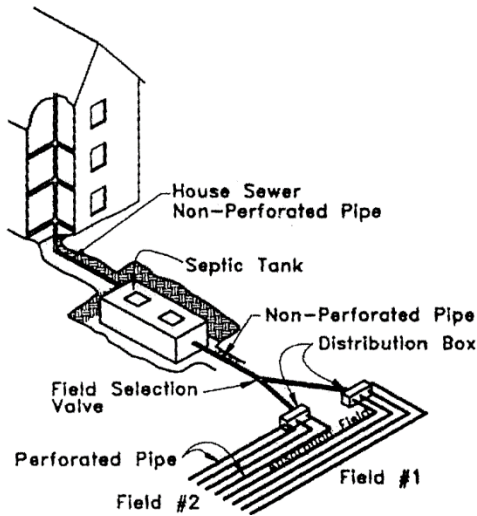
Within a seven-mile radius upstream of the North Oconee River public drinking water supply intake, the following requirements shall apply to perennial stream corridors:

**Requirements Within Seven Miles of Intake**

- (a) A buffer shall be maintained for a distance of one hundred (100) feet on both sides of the perennial stream as measured from the stream banks.

**Buffer Maintained**

- (b) No impervious surface shall be constructed within a 150-foot setback area on both sides of the perennial stream as measured from the stream banks.
- (c) Septic tanks and septic tank drainfields are prohibited in the [buffer and](#) impervious surface setback.



Septic Tanks and Drainfields

(Ord. No. 2007-23, § II, 6-19-07)

Sec. 9-8-4-6. - Requirements beyond seven miles of intake.

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

- (a) A buffer shall be maintained for a distance of fifty (50) feet on both sides of the perennial stream as measured from the stream banks.
- (b) No impervious surface shall be constructed within a 75-foot setback area on both sides of the perennial stream as measured from the stream banks.
- (c) Septic tanks and septic tank drainfields are prohibited in the impervious surface setback.

(Ord. No. 2007-23, § III, 6-19-07)

Cross Reference - Buffers, Landscaping and Tree Protection, Article 9-16

Sec. 9-8-4-7. - Exemptions.

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

- (a) *Previously existing land uses.* Land uses existing prior to the adoption of watershed protection regulations by the city (February 8, 2001). Any structure existing at that time which does not conform to the setback, buffer and/or impervious surface requirements of this chapter may be re-established if damaged or destroyed, provided the degree of non-conformity is not increased with the construction of the replacement structure.
- (b) *Forestry and ~~silviculture~~ agriculture.* Specific forestry and ~~agricultural~~-silviculture activities in the stream corridor buffer and setback areas, on land that is zoned for forestry, silviculture or agricultural uses, provided that activities are not incidental to other land development activities, activities ~~shall be~~ are consistent with best management practices established by the state forestry commission or the state department of agriculture, and provided further that the activity shall not impair the quality of the drinking water stream.

- (c) *Utility encroachment.* If utilities cannot feasibly be located outside the buffer or setback areas required by this chapter, such utility locations can be exempted with permission of the director from the stream corridor buffer and setback area provisions subject to the following conditions:
1. The utilities shall be located as far from the stream bank as reasonably possible.
 2. The installation and maintenance of the utilities shall be such to protect the integrity of the buffer and setback areas as best as reasonably possible.
 3. The utilities shall not impair the quality of the drinking water stream.

Sec. 9-8-4-8. - Impervious surface limitations.

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

(Ord. No. 2007-23, § IV, 6-19-07)

Sec. 9-8-4-9. - Compliance with reservoir management plan.

All development within the 150-foot buffer from any water supply reservoir boundary, and any uses of the reservoir itself including docks, shall, as may be applicable, comply with any reservoir management plan adopted by the local government with jurisdiction and approved by the state department of natural resources.

Sec. 9-8-4-10. - Annexation, rezoning or special use within the watershed.

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

CHAPTER 9-8-5. - GROUNDWATER RECHARGE AREA PROTECTION OVERLAY ZONE

Sec. 9-8-5-1. - Purpose and intent.

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

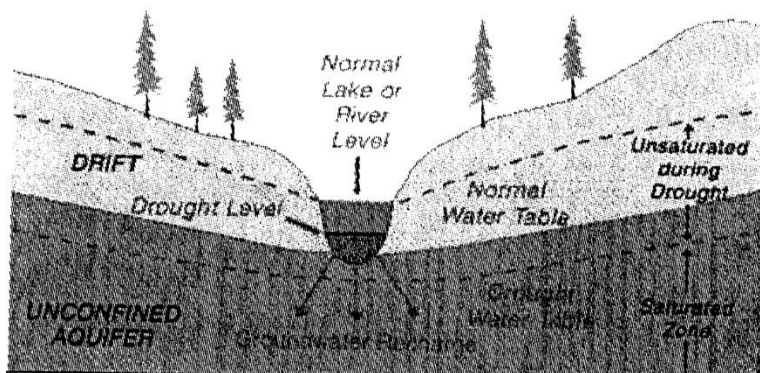
It is essential to the health, safety, and welfare of the public that the quality of subsurface public drinking water supplies be maintained. Groundwater resources exist in underground reservoirs known as aquifers. These aquifers are zones of rock beneath the earth's surface that are capable of producing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

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

Sec. 9-8-5-2. - Definitions.

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

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



Recharge of Groundwater from Surface Water, Normal & Drought Conditions

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

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

Hydrologic atlas 20: A multicolored map of the state at a scale of 1:500,000, prepared by the state department of natural resources using the DRASTIC methodology and published by the Georgia Geologic Survey in 1992, which shows areas of higher, average (or medium), and lower susceptibility of groundwater to pollution in the state. This

map is also commonly known as the Groundwater Pollution Susceptibility Map of Georgia. Note: This map shows all areas in Hall County as "lower" pollution susceptibility.

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

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

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

Sec. 9-8-5-3. - Boundaries and map.

The groundwater recharge area protection overlay zone is hereby designated and shall consist of the land areas within the jurisdiction of the city that are mapped as significant recharge areas by the state department of natural resources in hydrologic atlas 18, 1989 edition. The boundaries of the overlay zone are defined by on the groundwater recharge area protection overlay zone map, which is hereby incorporated and made a part of this chapter by reference.



Groundwater Recharge Area Protection Overlay Zone

Sec. 9-8-5-4. - Minimum lot size.

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

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

Within an area governed by this chapter, no subdivision plat shall be recorded until and unless said plat has been reviewed and approved by the director as being in compliance with the minimum lot sizes established by this section.

Sec. 9-8-5-5. - Manufactured home parks.

Manufactured home parks are prohibited within this overlay zone.

Sec. 9-8-5-6. - Agricultural waste impoundment sites.

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

Sec. 9-8-5-7. - Above ground chemical or petroleum storage tanks.

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

Sec. 9-8-5-8. - Hazardous materials handling facilities.

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

Sec. 9-8-5-9. - County environmental health department approval required.

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

Sec. 9-8-5-10. – Site guidance for groundwater infiltration best management practices (BMPs).

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

CHAPTER 9-8-6. - WETLAND PROTECTION OVERLAY ZONE

Sec. 9-8-6-1. - Purpose and intent.

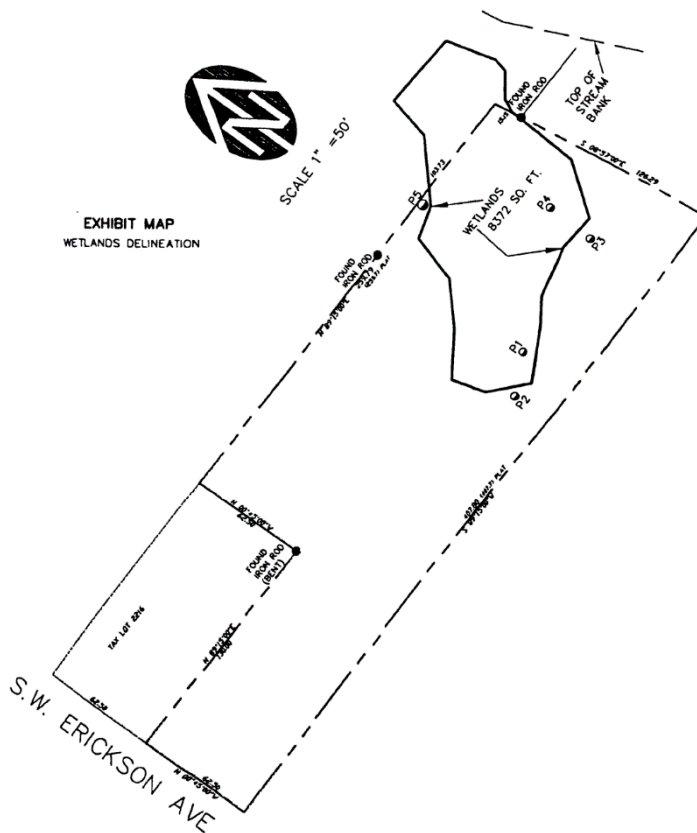
Wetlands are indispensable and fragile natural resources with significant development constraints due to flooding, erosion, and soils limitations. In their natural state, wetlands serve man and nature. They provide habitat areas for fish, wildlife and vegetation; water quality maintenance and pollution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

Sec. 9-8-6-2. - Definitions.

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

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

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



Illustrative Jurisdictional Wetland Determination

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

Sec. 9-8-6-3. - Boundaries and map.

The generalized wetlands map, as defined by this chapter, together with all explanatory matter thereon, is hereby adopted by reference hereby made a part of this Code as if fully set forth herein.

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

Sec. 9-8-6-4. - Prohibited uses.

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

- (a) Receiving areas for toxic or hazardous waste or other contaminants.
- (b) Hazardous or sanitary waste landfills.

Sec. 9-8-6-5. - Permitted uses.

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

- (a) Conservation or preservation of soil, water, vegetation, fish and other wildlife, provided it does not affect waters of the state or of the United States in such a way that would require an individual 404 permit.
- (b) Outdoor passive recreational activities, including fishing, bird watching, hiking, boating, horseback riding, and canoeing.
- (c) Forestry practices applied in accordance with best management practices approved by the state forestry commission and as specified in section 404 of the Clean Water Act.
- (d) The cultivation of agricultural crops. Agricultural activities shall be subject to best management practices approved by the state department of agriculture.
- (e) The pasturing of livestock, provided that riparian wetlands are protected, that soil profiles are not disturbed and that approved agricultural best management practices are followed.
- (f) Education, scientific research, and nature trails.
- (g) Other uses permitted under section 404 of the Clean Water Act.

Sec. 9-8-6-6. - Land development permits.

- (a) *Compliance required.* No regulated activity will be permitted within the wetland protection overlay zone without prior approval by the city in the form of a local development permit. Issuance of a local development permit is contingent upon full compliance with the terms of this Code and other applicable regulations.

- (b) *Assessment.* Prior to issuance of a local development permit, the director shall assess whether the proposed activity is of a type that could result in a disturbance of wetlands and, if so, shall also assess whether the proposed activity is located within the wetland protection overlay zone or within fifty (50) feet of the district.
- (c) *Issuance.* If the director determines that the proposed activity is of a type that could not result in a disturbance of wetlands, or if the proposed activity is not located within the wetland protection overlay zone or within fifty (50) feet of the overlay zone, the director shall follow normal procedures for issuing a development permit.
- (d) *Jurisdictional wetland determination.* If the director determines that the proposed activity is of a type that could result in a disturbance of wetlands and that the proposed activity is located within the wetland protection district, or within fifty (50) feet of the wetland protection district, a U.S. Army Corps of Engineers jurisdictional wetland determination shall be required prior to issuance of a local development permit.
- (e) *Issuance after determination.* If the U.S. Army Corps of Engineers determines that the proposed activity would not require a department of Army permit, the director shall proceed with normal procedures for issuing a local development permit. If a permit or permission is required by the Corps, the local development permit shall not be issued until compliance with Corps requirements is achieved or future compliance demonstrated.

CHAPTER 9-8-7. - MIDTOWN OVERLAY ZONE

Sec. 9-8-7-1. - Purpose and intent.

The purpose of the Midtown overlay zone is to protect the health, safety, and general welfare of the public and promote economic prosperity in Gainesville Midtown in a manner consistent with the *Redevelopment Plan - The Renaissance of Midtown Gainesville*, and the city's comprehensive plan. The intent of the overlay zone is to set higher standards for the appearance and functionality of the land uses, as applied via the site and architectural design review processes established in article 9-9 of this Code. It is also intended to encourage mixed use development and the creation of more housing, employment, and recreational opportunities in Midtown. Please refer to the *Redevelopment Plan - The Renaissance of Midtown Gainesville* for further information on the redevelopment of Midtown.

(Ord. No. 2016-09, § VIII, 6-21-16)

Sec. 9-8-7-2. - Definitions.

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

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

Parking, bicycle: An area in a parking lot or along a sidewalk that is designed and marked for the purpose of securing bicycles in an upright fashion, using a locker or open framework that is permanently attached to the ground and providing secure anchorage for three or more bicycles. Bicycle parking spaces should be in one or more convenient locations within one hundred (100) feet of the uses or principal entrances of buildings which they are intended to serve.

Pervious paving: Materials used to surface parking lots and driveways that are designed to meet the requirements of materials described in [the latest edition of](#) Volume 2 — Technical Handbook of the Georgia Stormwater Management Manual (~~First Edition, August 2001~~) as the porous concrete or modular porous paver systems under the limited application stormwater structural controls.

- (1) *Porous concrete:* A mixture of coarse aggregate, Portland cement and water that allows for rapid infiltration of water and overlays a stone aggregate reservoir.
- (2) *Modular porous paver systems:* A pavement surface composed of structural units with void areas that are filled with pervious materials such as sand or grass turf. Porous pavers are installed over a gravel base course that provides storage as runoff infiltrates through the porous paver system into underlying permeable soils.

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

(Ord. No. 2016-09, § VIII, 6-21-16)

Sec. 9-8-7-3. - Boundaries and map.

The Midtown overlay zone is hereby designated and shall consist of the land areas further delineated and defined on the Midtown overlay zone map, which is hereby incorporated and made a part of this chapter by reference, and which may be amended from time to time. The Midtown overlay zone shall include that area bounded by the Norfolk Southern rail line on the southeast, E. E. Butler Parkway on the northeast, Jesse Jewell Parkway on the northwest, and Queen City Parkway on the southwest. Also included is a 200-foot buffer surrounding the Midtown boundaries, where all of the requirements of this overlay zone apply as well.



City of Gainesville

Midtown Overlay Zone



Midtown Overlay Zone

Sec. 9-8-7-4. - Effect of overlay zone provisions.

The Midtown overlay zone is supplemental to the zoning district classifications and any locally designated historic landmark or district established in this Code. The provisions of this overlay zone apply to all applications for zoning matters, land disturbance permits, plat approval, and building permits for all property and rights-of-way within the boundaries of the Midtown overlay zone; except locally designated historic landmarks and districts which must comply with design guidelines for that historic landmark and/or district. All plan reviews, plat approval, and permits for parcels located within this overlay zone shall meet all the requirements of the base zoning district in which it is located and, in addition, shall meet the requirements of the overlay zone applicable to the parcel. In any case where the standards and requirements of the overlay zone conflict with those of the base zoning district, the standards and requirements of the overlay zone shall govern.

Sec. 9-8-7-5. - Administrative variances.

Administrative variances are governed by chapter 9-24-3 of this Code.

(Ord. No. 2016-09, § VIII, 6-21-16)

Sec. 9-8-7-6. - Prohibited and permitted uses.

All uses permitted by right or as special uses within the underlying zoning district shall be similarly permitted within the midtown overlay zone, except the following uses shall not be permitted on any property within the midtown overlay zone:

Automated or non-automated car washes.

Coin-laundry facilities.

Dollar-type stores or thrift stores.

Community donation boxes.

Gas stations (located on lots less than 2 acres in size).

Group homes, homeless shelters, rooming house or crisis centers.

Industrial uses causing the emission of noise, vibration, smoke, dust, gas, fumes and odors.

Industrial uses with outdoor storage.

Jail/correctional facility.

Kennels.

Liquor stores.

Marine sales or repair stores.

Massage parlors.

Mini-warehouses including climate controlled self-service storage facilities.

Motels or extended stay lodging.

Motor vehicle sales or service.

Pawn shops.

Psychics, fortune tellers, clairvoyants and the like.

Salvage yard.

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

Sawmill.

Sexually-oriented adult uses.

Tattoo parlors.

Taxi-cab or limousine services.

Tobacco or vaping stores.

Truck stops.

Vehicle emission testing facility.

Veterinarian or animal hospitals with outdoor kennels.

Wireless telecommunication facility or cell towers excluding co-location.

Wrecked motor vehicle compound.

In addition, loft dwellings, single-family homes, condominiums and townhouses shall be permitted by right in any non-residential district in the overlay zone.

(Ord. No. 2018-25, §§ I, II, 11-6-18)

Editor's note— Ord. No. 2018-25, §§ I, II, adopted Nov. 6, 2018, amended § 9-8-7-6 in its entirety to read as herein set out. Former § 9-8-7-6 pertained to permitted uses.

Sec. 9-8-7-7. - Property design standards.

- (a) *Minimum open space:* Fifteen (15) percent of gross acreage of tract that is two (2) acres or larger before subdivision. Buffers can be included in the open space up to the discretion of the director.
- (b) *Maximum impervious cover:* Seventy-five (75) percent of parcel; not including portions of the parcel that are in floodplain or wetlands.
- (c) *Maximum building height:* Seventy-five (75) feet.
- (d) *Maximum front yard setback:* Fifty (50) feet.
- (e) *Minimum front yard setback:* Fifteen (15) feet.

(Ord. No. 2009-47, § XI, 12-15-09; Ord. No. 2016-09, § VIII, 6-21-16; Ord. No. 2018-25, § III, 11-6-18)

Secs. 9-8-7-8—9-8-7-18. - Reserved.

Editor's note— Ord. No. 2016-09, § VIII, adopted June 21, 2016, repealed §§ 9-8-7-8—9-8-7-18 which pertained to parking, screening, connectivity, street trees, landscaping, streetlights, signs, street furniture, underground utilities, escrow in lieu of improvements, and architectural standards, respectively, and derived from Ord. No. 2009-47, §§ XII—XIV, adopted Dec. 15, 2009.

UNIFIED LAND DEVELOPMENT CODE

CITY OF GAINESVILLE, GEORGIA

Article 9-9 - SITE AND ARCHITECTURAL DESIGN REVIEW

Chapter 9-9-1	General Provisions
Chapter 9-9-2	Site and Architectural Design Review
Chapter 9-9-3	Site Design Guidelines
Chapter 9-9-4	Guidelines for Steep Slopes
Chapter 9-9-5	Architectural Design Guidelines
Chapter 9-9-6	Pedestrian Retail Design Guidelines
Chapter 9-9-7	Design Guidelines for Specific Uses
Chapter 9-9-8	Suburban Commercial Design Guidelines
Chapter 9-9-9	Sign Design Guidelines

CHAPTER 9-9-1. - GENERAL PROVISIONS

Sec. 9-9-1-1. - Findings.

- (a) The governing authority of the city finds that its citizens have widely shared human values related to the visual environment. The desire to protect certain features of the visual environment reflects a widespread pattern of community preference. That finding is supported by community visioning and character area delineation completed as a part of the city's comprehensive planning process. Regulations for design review and aesthetics are therefore based on the visual sensibilities of the average person in the community.
- (b) The governing authority of the city finds further that visual harm to a widespread pattern of community preference can occur without the imposition of the site design and architectural review provisions adopted in this article. The requirements contained in this article are related to legitimate public purposes, and they are the minimum necessary to prevent substantial harm to existing features of the visual environment of the city.
- (c) Without guidance, future developments will likely be self-contained, compartmentalized, and without coherence and relationship with other developments. Without guidance, developers are unlikely to interrelate streets, buildings, human uses, and natural systems in a manner that results in a coordinated, pleasing, and sustainable built environment across property lines.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-1-2. - Purposes.

- (a) Establishing the appropriate character of the city requires attention to the aesthetics of development, buildings, and sites. It is in the public interest to direct and control the visual appearance of buildings, structures, landscapes, and development in the city, to prevent patently offensive harm to the existing visual character of the city, and to safeguard the happiness, comfort, and general well-being of citizens.
- (b) Careful attention to the architectural design of buildings and the layout of land development sites is in the best interests of the city, its citizens, and business owners. Attractive and integrated architectural and site

design features tend to improve an area's image, raise overall property values, attract new businesses and residents, and improve the quality of life.

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

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-1-3. - Definitions.

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

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

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

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

Asymmetrical: Not symmetrical, as in a building facade that is not identical on either side of an imaginary line drawn down its center.

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

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

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

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

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

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

Build-to line: An alignment establishing a certain distance from the curb or right-of-way line to a line along which a building or buildings shall be built.

Building footprint: The outline of a building's ground plan from a top view.

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

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

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

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

Column: A vertical, cylindrical or square supporting member.

Compatibility: With regard to development, the characteristics of different land uses or activities that permit them to be located near each other in harmony and without conflict; with regard to buildings, harmony in appearance of architectural features in the same vicinity.

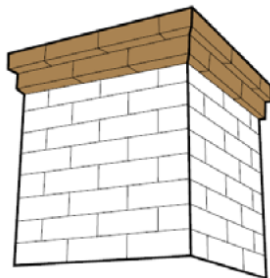
Continuity: The flow of elements or characteristics in a non-interrupted manner.

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

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

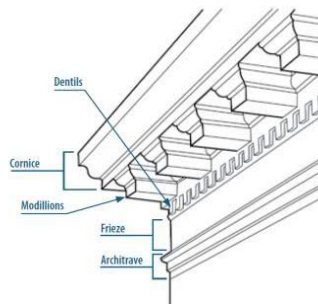
Curb break or curb cut: Any interruption or break in the line of a street curb for the purpose of connecting a driveway to a street, or otherwise to provide vehicular access to abutting property. May also refer to an opening in the curb that allows stormwater to flow into a landscaped area or best management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

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



Coping

Source: City of Gainesville Preservation Manual and Design Guidelines

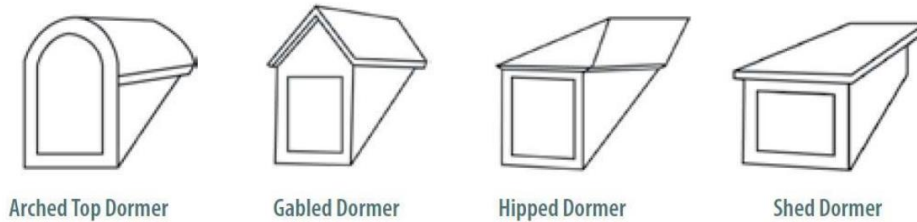


Cornice and Dentil

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

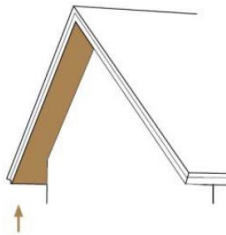
Direct light: Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminary.

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



Types of Dormers

Source: City of Gainesville Preservation Manual and Design Guidelines.

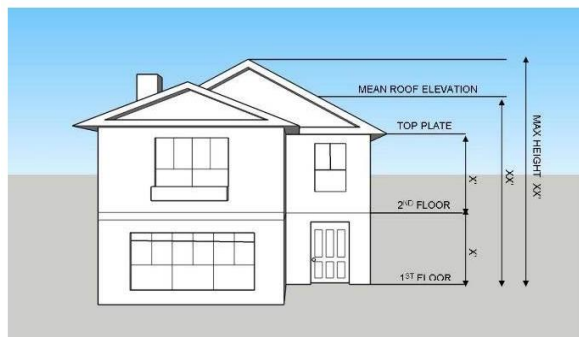


Eave

Downspout: A pipe for directing rainwater from the roof to the ground.

Eave: The edge of the roof that extends past the walls of a building.

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

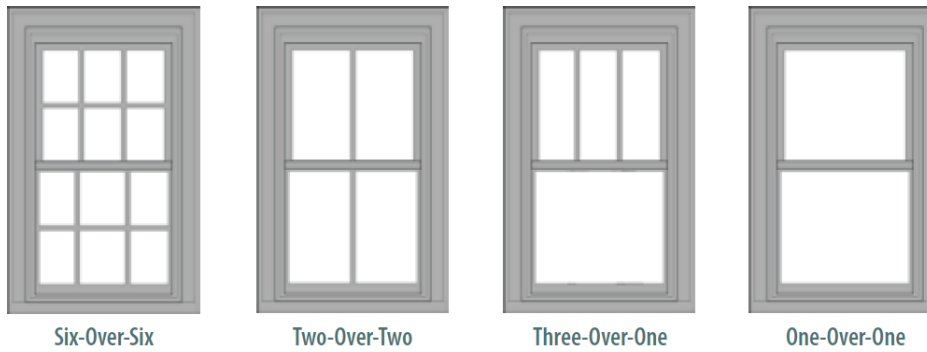


Illustrative Elevation Drawing

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

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

Fenestration: The organization of windows on a building wall.



Glazing Patterns

Source: City of Gainesville Preservation Manual and Design Guidelines.

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

Flashing: Thin pieces of metal used for water-proofing roof joints.

Footcandle: A unit of illuminance on a surface that is everywhere one (1) foot from a uniform point source of light of one (1) candle and equal to one (1) lumen per square foot. One (1) footcandle (FC) is the equivalent of ten and 76 one-hundredths (10.76) Lux (1 Lux = 0.0929 FC).

Fronting on the downtown square: Any building block face fronting on Gainesville's downtown square, which is bounded by Main Street, Spring Street, Bradford Street, and Washington Street.

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

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

Glare: Light emitting from a luminary with intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness, or that causes annoyance or discomfort.

Harmony: A quality that represents an attractive arrangement and agreement of parts of a composition, as in architectural elements.

Illuminance: The area density of the luminous flux incident at a point on the surface. It is a measure of light incident on a surface, expressed in lux or footcandles.

Isofootcandle plan: A site plan of a proposed development showing proposed outdoor illuminance with a series of isofootcandle lines that join points on a surface where the illuminance is the same.

Light trespass: The shining of light produced by a luminary beyond the boundaries of the property on which it is located.

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

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

Massing: The overall visual impact of a structure's volume; a combination of height and width and the relationship of the heights and widths of the building's components.

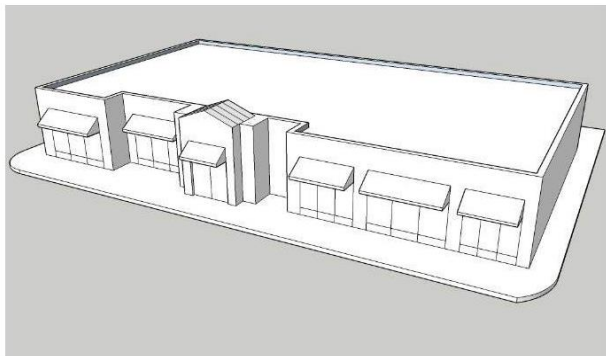
Modularity: Design composition comprised of a rhythmic organization of parts.

Modulation: A measured setback or offset.

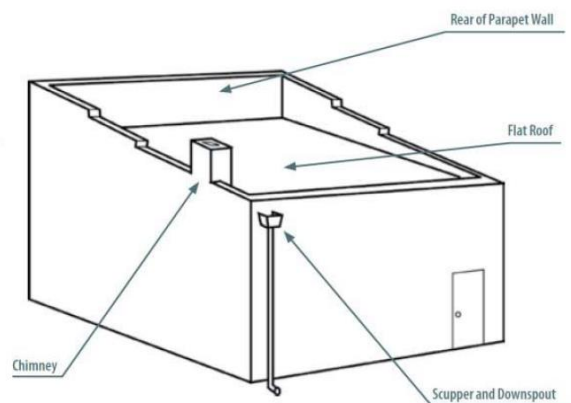
New Development: Land development activities, structural development (construction, installation or expansion of a building or other structure), and/or creation of impervious surfaces on a previously undeveloped site.

Outdoor lighting: The night-time illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

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

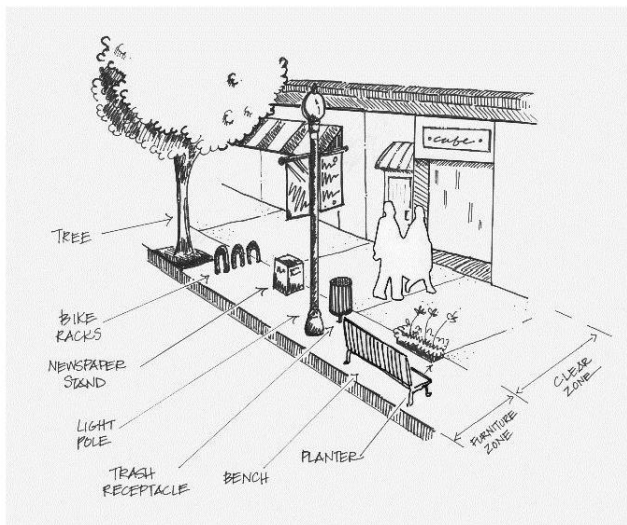


Modulation



Parapet Wall

Source: City of Gainesville Preservation
Manual and Design Guidelines



Pedestrian Scale Development

Pedestrian-scale development: Development designed with an emphasis primarily on the street sidewalk and on pedestrian access to the site and building, rather than auto access and parking areas. The building is generally placed close to the street and the main entrance is oriented to the street sidewalk. There are generally windows or display cases along building facades which face the street.

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

Porch: A projection from a building wall which is covered but enclosed on no more than one (1) side by a vertical wall.

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

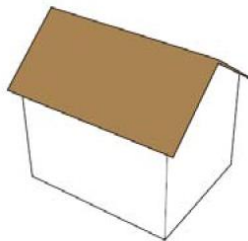
Proportion: Balanced relationship of parts of a building, signs and other structures, and landscape to each other and to the whole.

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

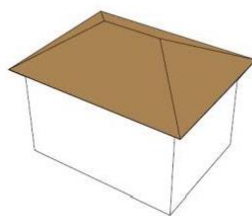
Retail display window: A window or opening in the exterior wall of any portion of a building used for business purposes, through which merchandise, services, or businesses are displayed or advertised and visible from the ground or sidewalk level.

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

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



Gable Roof



Hipped Roof

Roof, gable: A roof sloping downward in two (2) parts from a central ridge, so as to form a gable at each end.

Roof, hipped: A roof with slopes on all four (4) sides meeting at a ridge or at a single point.

Roof, pitched: A shed, gabled, or hipped roof having a slope or pitch of at least one (1) foot rise for each four (4) feet of horizontal distance.

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

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

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

Shop front: A business or retail use where the facade is aligned directly on the frontage line with the entrance at grade; typical of sidewalk retail. Shop fronts often have awnings.

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

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

Street hardware: Objects other than buildings or street furniture that are part of the streetscape. Examples are: non-pedestrian street light fixtures, utility poles, traffic lights and their fixtures, fire hydrants, etc.

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

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

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

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

Wallpack: A wall-mounted luminary.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-1-4. - General requirements.

- (a) Land development shall be required to comply with the site design review requirements of this article, unless specifically exempted from compliance with this article.
- (b) Buildings and structures shall be required to comply with the architectural design review requirements of this article, unless specifically exempted from compliance with this article.
- (c) No, grading, or alteration or improvement of land shall take place prior to approval of site design in accordance with the requirements of this article, if required.
- (d) The community development department shall not issue a minor land development permit or a land development permit if required by this Code until and unless site design review, if required, has been accomplished in accordance with this article.
- (e) No construction of building(s) or structure shall commence, and no building permit shall be issued by the community development department, prior to the approval of the architectural design of said building(s) or structure in accordance with the requirements of this article, if required.
- (f) The Central Business District exhibits a significant historical, architectural and cultural character for our community. In accordance with the community visioning and Central Core character area delineation completed as part of the City's Comprehensive Planning Process, no demolition of building(s) or structure(s) within property zoned Central Business (C-B) shall commence, and no demolition permit shall be issued by the Community Development Department, prior to the approval of the demolition of said building(s) or structure(s) by the Community and Economic Development Director (see also Chapter 9-9-2, "Site and Architectural Design Review").
- (g) A demolition permit may be denied for the following reasons:

- (1) The proposed new structure or use on the site is not compatible with the Central Core character area and the design guidelines as identified in Chapter 9-9-6.
- (2) The demolition permit allows the demolition of a historically significant building that contributes to the Central Core character area.
- (h) If the demolition of the building(s) or structure(s) is denied by the Community and Economic Development Director, the applicant shall have the right to appeal to the governing body of the City of Gainesville.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-1-5. - Exemptions.

The following are exempt from the provisions of this article:

- (a) *Previously approved.* Development consistent with previously approved site and architectural design plans, or their equivalent, as determined by the community development director.
- (b) *One- and two-family dwellings.* Per section 9-13-7-1 of this Code, detached, fee-simple single-family dwellings and their customary accessory uses and structures, as well as two-family dwellings (duplexes), are exempt from the requirement to obtain a land development permit; however, certain activities such as parking lots, patios, walkways, and retaining wall additions on lots developed for single-family detached and two-family dwellings (duplexes) may require a minor land development permit per section 9-13-6-1 of this Code. Therefore, the development of detached, single-family dwellings and two-family dwellings shall be exempt from the site plan review requirements of this article unless the director determines that a minor land development permit is required. One- and two-family dwellings shall also be exempt from the architectural review process established in this article.
- (c) *Activities in historic districts.* Any development, building, or material change in appearance within the historic district overlay zone, as established in chapter 9-8-8 of this Code. In lieu of compliance with this article, site and architectural design review within the historic district overlay zone shall be accomplished by way of a certificate of appropriateness from the Gainesville Historic Preservation Commission or approval of a minor work by the community development department as specified in section 9-8-8-7 of this Code. Notwithstanding this exemption, nothing shall prevent the historic preservation commission or the community development department from considering and applying various design guidelines of this article, if appropriate, to development and buildings within the historic district overlay zone during the process of considering the issuance of certificates of appropriateness.
- (d) *Re-occupancy.* Re-occupancy of a building for which design review has already been approved.
- (e) *Interior renovations.* Alterations and repairs to the interior of existing buildings.
- (f) *Other.* Other instances as may be determined appropriate by the community development director, including but not limited to the approval of temporary uses and structures. To this end the community development director is authorized to and may exempt a project or activity from compliance with this article for good cause shown. Any such decision to exempt an activity from compliance with this article and the reason for such exemption decision, shall be documented in writing by the community development director and shall be public record. Exemption decisions by the community development director are subject to appeal in accordance with chapter 9-22-7 of this Code.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-1-6. - Character areas recognized.

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

Central Core

Traditional Neighborhoods

City Park Neighborhood Center

Lake District

Longwood Cove

Brown's Bridge Corridor

West Side

Limestone Medical Corridor

Historic Mill Villages

Suburban Residential

Suburban Commercial

Economic Development Gateways

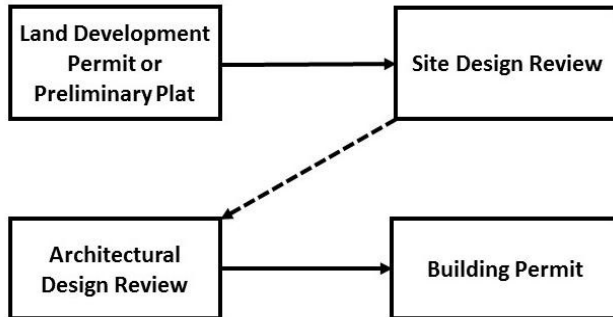
Regional Recreation/Conservation

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

CHAPTER 9-9-2. - SITE AND ARCHITECTURAL DESIGN REVIEW**Sec. 9-9-2-1. - Design review required.**

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

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-2-2. - Division of design review.**Division of Site and Design Review**

- (a) An application for site and architectural design review may be submitted as a single application or it may be divided into two (2) applications and approval processes, one (1) for the development site, and one (1) for the building or structure(s). Typically the civil review is completed prior to starting architectural review.
- (b) The division of design review applications and approval processes into two (2) distinct (i.e., site and building architecture) components is appropriate and permissible when a property owner or land developer desires to proceed with land development approval but elects at that time to defer application for the architectural review and approval of the building or buildings until a subsequent stage of the permitting process.
- (c) The division of design review applications and approval processes into two (2) distinct (i.e., site and building architecture) components is also appropriate in cases where the community development director determines that site design review, as would be required by this article, is unnecessary given the existing developed state of the lot. In such or similar instances the community development director may exempt a given building proposal from the site design requirements of this article and require only that the architectural design review process be completed.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-2-3. - Application requirements for site design review.

- (a) When a preliminary plat, minor land development permit, or land development permit is required, the application requirements for site design review shall at minimum be those plans and information required for applications for a preliminary plat, minor land development permit, or land development permit, whichever is applicable, as specified in article 9-13 of this Code. In addition, an application for site design review shall include all information necessary to demonstrate compliance with the site design requirements of this article.
- (b) The community development director or designee may refuse to act on an incomplete application or an application for site design review that fails to contain submission materials with respect to design that it finds necessary to make a decision on said application.

- (c) The community development director or designee may waive submission requirements where in his or her opinion such information is not necessary to ensure compliance with this article.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-2-4. - Process of site design approval.

- (a) The process of site design approval is administrative. It shall be the responsibility of the community development department to review development permit applications for compliance with the site design requirements of this article. The community development director or designee is authorized to review, approve, conditionally approve, or deny applications for site design approval, in accordance with this article.
- (b) When an application for a preliminary plat or land development permit is made, the applicant shall be required to comply with the site design requirements of this article, as well as all other applicable development regulations of this Code. Plans and information submitted as a part of an application for a preliminary plat, minor land development permit, or land development permit, as the case may be, shall constitute an application for site design approval as required by this article, if said application includes all the information required or necessary to ensure compliance with the provisions of this article for site design.
- (c) When site design review is applied for and accomplished in conjunction with a preliminary plat, minor land development permit, or land development permit application, a decision on site design review shall be made in accordance with procedural requirements for considering preliminary plats or the land development permit, as the case may be.
- (d) If a preliminary plat or land development permit is not required by this Code for a particular subdivision, development, or building, then compliance of said development or building with the requirements of this article relative to site design, as applicable, shall be reviewed by the community development director or designee in conjunction with a building permit application or prior to issuance of a building permit for a building on the property.
- (e) When site design review is applied for and accomplished in conjunction with an architectural design application, a decision on site design review shall be made in accordance with the procedures applicable for architectural design review as specified in this article.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-2-5. - Architectural design approval.

- (a) The community development director or designee is authorized to review, approve, conditionally approve, or deny applications for architectural design review, in accordance with this article, except as specifically provided in this section.
- (b) Where the record of application approval clearly indicates, demonstration of compliance with the architectural review requirements of this article at the time of rezoning or special use application approval, or as part of a planned unit development, shall be construed as satisfying the architectural design review requirements of this article.
- (c) No later than when an application for a building permit is made, the applicant seeking design approval shall be required to comply with the architectural design requirements of this article, as applicable. Compliance will typically be gained during the process of the applicant applying for building permit review (see section 9-20-14-6, "Application Requirements for Building Permits," of this Code). Architectural design review applications may be coordinated with existing administrative processes established by the inspections services division of the community development department for building plan reviews and the issuance of building permits. It shall be the responsibility of the community development department to review building permit applications for compliance with the architectural design requirements of this article and this Code.
- (d) The community development director shall not authorize the issuance of a building permit or certificate of occupancy as required by this Code and/or the building code applicable in the city until and unless an

application for architectural design review of the building or buildings proposed, if required, has been submitted and approved in accordance with this article.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-2-6. - Application requirements for architectural design review.

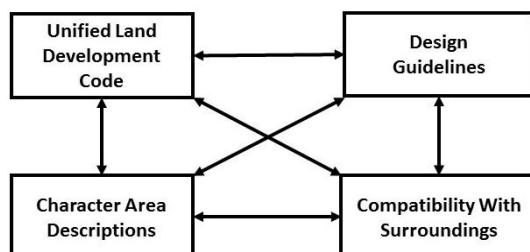
Applications for architectural design review shall include the following, and no architectural design review application shall be processed by the community development department unless it is found to be complete with regard to the requirements of this section:

- (a) Application fee (included in other review fees);
- (b) Application form furnished by the community development director, including signature of property owner or authorized agent;
- (c) Legal description of the property and survey plat of the property;
- (d) Letter of intent describing the proposed building(s) on the property, which may include a description of any special conditions voluntarily made a part of the request;
- (e) Site plan of the property at an appropriate engineering scale showing the proposed use and relevant information regarding proposed improvements;
- (f) Exterior elevation drawings drawn to scale and signed by an architect, engineer or other appropriate professional and submitted in sufficient number of copies as required by the community development director. Said exterior elevation drawings shall clearly show in sufficient detail the exterior appearance and architectural design of proposed buildings and structures or change(s) thereto;
- (g) Material and colors samples. The community development director may accept written descriptions, product summary sheets, photographs, or other information in lieu of actual color and material samples;
- (h) Other information as may be essential to demonstrate compliance with this article. An applicant for architectural design review may be also be required to submit information in the form of photographs or sketches of adjoining uses and indicate how the architectural design of the proposed project or improvement is compatible with the surrounding context.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-2-7. - Criteria for decisions on architectural design applications.

In acting upon applications for architectural design approval, the community development director or designee shall consider whether the proposal meets the following criteria:



**Criteria for Architectural
Design Review Decisions**

- (a) Whether the proposal complies with the requirements of this article and other applicable provisions of this Code;
- (b) Whether the proposal is consistent with the design guidelines of this article, as may be applicable;
- (c) Whether the proposal is consistent with the descriptions, intentions, and purposes of the character area in which the property is located, as described in the comprehensive plan, as may be applicable.
- (d) Whether the design, scale, arrangement, materials, and colors of the proposed building(s) or structure(s) is compatible with buildings and structures in the immediate surrounding area or the same zoning district.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-2-8. - Decision with regard to architectural design applications.

- (a) The community development director shall render a decision on the architectural design application as expeditiously as possible but within no more than fifteen (15) calendar days from the date a complete application is received.
- (b) If the community development director finds that the proposal meets the criteria for architectural design as specified in this article, the director shall approve the application.
- (c) If the director finds that the proposal is mostly acceptable but requires modifications, the director may approve the application with conditions or the director may request changes and require modifications to the proposed design for consideration as a modified application at a future date.
- (d) If the director finds that the proposal fails to meet the criteria for architectural design specified by this article, or does not comply with the requirements of this Code, the application shall be denied. Among other grounds for considering a design inappropriate are the following defects: character foreign to the area, arresting and spectacular effects, violent contrasts of material or color, intense or lurid colors, a multiplicity or incongruity of details resulting in a restless and disturbing appearance, and the absence of unity and coherence in composition not in agreement with the density and character of the present structure or surrounding area.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-2-9. - Notice of decision.

- (a) The community development director shall notify the applicant in writing of the action taken on design review applications promptly after the date action was taken on said application.
- (b) If the application was denied, the reasons for the denial shall be stated in the written notice of decision.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-2-10. - Reapplication and appeal.

- (a) An applicant for architectural design approval may revise plans and reapply for architectural design approval.
- (b) Any decision by the community development director with respect to a design review application required by this article may be appealed as an administrative decision, in accordance with the requirements of chapter 9-22-7 of this Code, with the following exception: the governing authority of the City of Gainesville shall be the body to hear and decide on any appeal of an administrative decision pursuant to article 9-9. Where chapter 9-22-7 refers to the planning and appeals board, for purposes of any such appeal per this article, the governing authority of the city shall be substituted.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-2-11. - Compliance with approved applications.

- (a) Approval of site and architectural design applications is conditioned on compliance with the approved application(s).
- (b) After the development and building are constructed and completed, but before issuance of a certificate of occupancy, the community development director or designee shall inspect the site and building for compliance with the approved design plans for the site or building.
- (c) The community development director shall direct the building inspector not to issue a certificate of occupancy if the site or building is not in compliance with approved design plans and stormwater management plans.
- (d) The community development director shall direct the building inspector not to issue a certificate of occupancy until all documents required by the Unified Land Development Code, including but not limited to all documents required by the City Department of Water Resources, have been submitted with proper signatures.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Cross-reference - certificate of occupancy, Ch. 9-20-11.

CHAPTER 9-9-3. - SITE DESIGN GUIDELINES

Sec. 9-9-3-1. - Purpose and intent.

This chapter provides guidelines for the design of land developments on individual sites and will be applied by the community development department during the process of site design review as required by chapter 9-9-2 of this Code.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-3-2. - Applicability.

Unless the context of a particular section clearly indicates otherwise, the site design guidelines of this chapter may be considered by the community development department to apply to all land developments and minor land developments.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-3-3. - Interpretation.

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

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-3-4. - Cross-references to existing code requirements.

At the time an application for preliminary plat is submitted, a proposed subdivision will be reviewed for compliance with existing code requirements, including but not limited to: article 9-13, "Subdivisions and Land Development," including specifically chapter 9-13-3, "Design Requirements for Blocks and Lots;" and chapter 9-13-9, "Design Requirements for Streets." Designers should consult with community development department and water resources department staff early in the process to identify key chapters and sections of this Code that impact site design.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

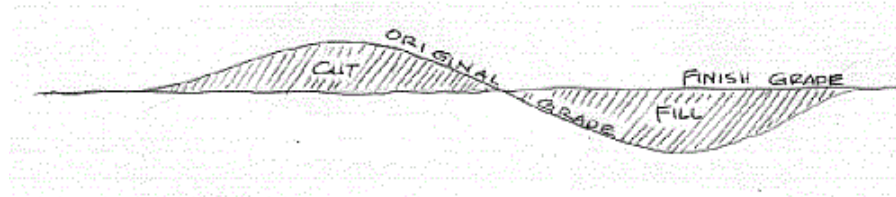
Sec. 9-9-3-5. - Existing site analysis.

- (a) Significant natural features of the site proposed to be developed, should be identified on an existing conditions map and to the extent practicable incorporated into the site plan or plans for land development.
- (b) The community development director may exempt development proposals on properties with one (1) acre or less in area, or minor land developments, from this requirement if through a site visit or other information presented the requirement for a site conditions analysis can be satisfied with other data and enforcing this requirement would be onerous given the development proposed.
- (c) Properties with one (1) acre or less in area shall be subject to stormwater requirements. The department of water resources director may exempt properties with one (1) acre or less in area, from stormwater requirements contained in this Code, if through a site visit or other information presented the stormwater requirements would be unduly onerous given the development proposed.
- (d) In cases where significant natural water features such as floodplains, wetlands, and streams exist, exemptions should be decided on a case-by-case basis by the department of water resources director.

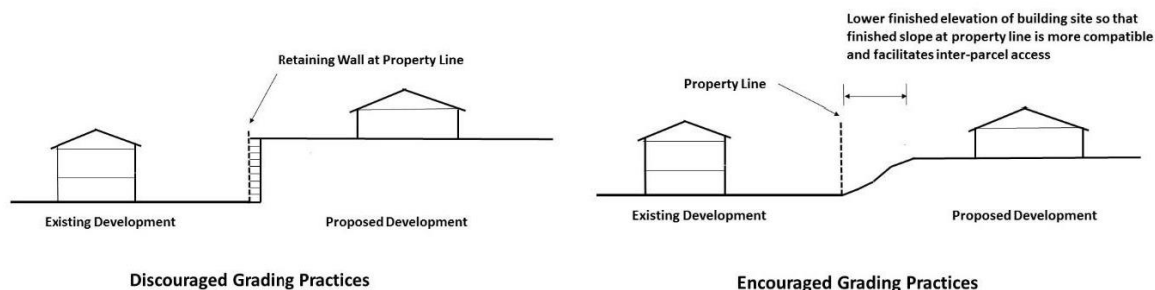
(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-3-6. - Grading.

- (a) Developments should be designed to fit the existing contours and landform of the site and, emphasis-use of available buildable areas in the most space-efficient way, to minimize clearing, grading, and the amount of earthwork, and to reduce visual impacts and erosion.
- (b) Where cut and fill is required, balancing the cut and fill is highly encouraged.

**Illustrative Cut and Fill**

- (c) Abrupt or unnatural-appearing grading should not be proposed and will not be allowed. Land development activities in areas that have slopes greater than 25 percent should not be considered unless necessary for roadway or utility construction. See Sec. 9-9-4 for guidance on development on steep slopes.
- (d) Grading should blend with the contours of adjacent properties with minimum alteration of the natural topography necessary to accomplish the development.
- (e) Where retaining walls must be used, the height and length of retaining walls should be minimized and screened with appropriate landscaping. Tall, smooth-faced concrete retaining walls should be avoided in highly visible areas. Terracing should be considered as an alternative to the use of tall or prominent retaining walls, particularly in highly visible areas on hillsides.
- (f) When cut or fill is involved in the grading of an individual building pad or development site, the finished grade of the parking lot or driveway should be terminated far enough inside the property to allow for the slope to return to that of the natural grade or finished ground elevation at the property line. When inter-parcel access is provided or required, the slope at such a property line shall not exceed ten (10) percent. The purposes of this design guideline is to both facilitate inter-parcel access at reasonable grades between compatible land uses and to avoid harsh differences in grade between abutting properties. This practice also provides for a blending of the finished site elevations in a manner so that stark contrasts in the landscape will not occur. Where inter-parcel access is not required due to incompatible land uses, grade differentiation at a property line may be permitted but should be mitigated or softened as much as possible (see illustration below).

**Discouraged and Encouraged Grading Practices**

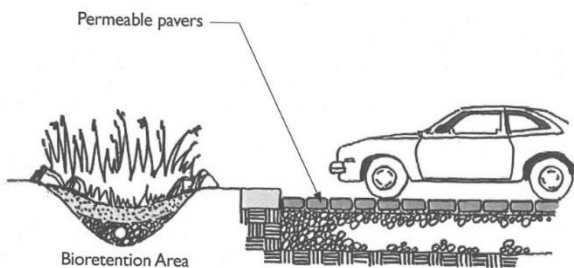
(g) Specific grading design criteria for stormwater best management practices should be followed as set forth in the latest revision of the Georgia Stormwater Management Manual (GSMM).

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

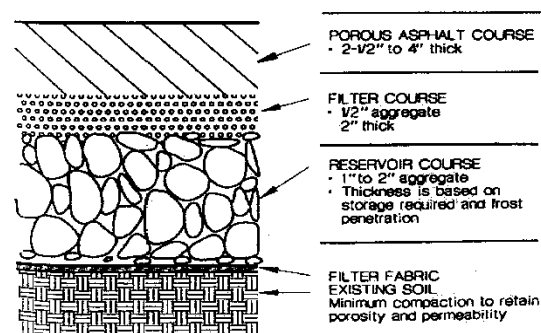
Cross-reference - excavation and grading, Ch. 9-20-3.

Sec. 9-9-3-7. - Stormwater management generally.

- (a) Stormwater management is governed by chapter 9-13-12 of this Code. One- and two-family dwellings are exempt as specified in section 9-13-12-6 of this Code.
- (b) Land developers should utilize, to the maximum extent practicable, stormwater ~~better~~ Better site-Site design ~~Design practices as described in the latest revision of the Georgia Stormwater Management Manual (GSMM).~~
- (c) During the land development permitting process, a stormwater management plan is required (see chapter 9-13-12 of this Code). The city ~~will~~ requires the land development applicant to examine and where feasible implement stormwater management methods broadly referred to as "low-impact development" and as specifically referred to in the Georgia Stormwater Management Manual as stormwater ~~better~~ Better site-Site design-Design practices and limited application structural stormwater controls (i.e., filter strips, grassed channels, and porous concrete, among others) (reference: GSMM, Vol. 2, ~~Sec. 3-3~~).
- (d) To improve infiltration, porous paving materials are encouraged for certain applications; Porous paving materials including include porous concrete, porous asphalt, porous unit paver systems, and gravel paving systems.
- (e) Grassy swales and bio-retention areas are acceptable and encouraged alternatives to curbing, piping, and detention of water. Where curb is necessary, utilize where possible a ~~pierced or broken curb option~~ curb cut to direct runoff to swales or ~~bio-retention~~ bioretention areas. Rain gardens and constructed wetlands are also encouraged to handle surface drainage of parking lots providing ten (10) or more parking spaces.



Bioretention Area and Permeable Pavers

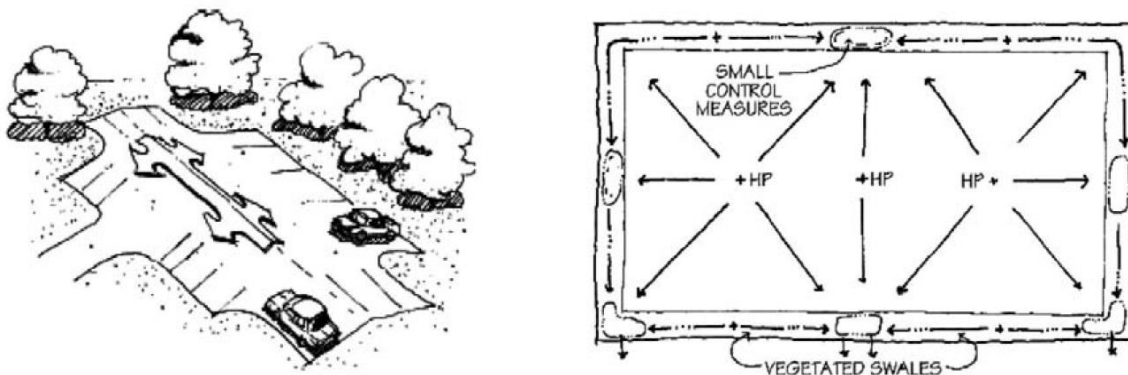


Porous Asphalt Paving Section

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

- (f) Mimic the predevelopment site hydrology by using site design techniques that store, infiltrate, evaporate, and detain runoff. Natural drainage patterns that exist on the site will need to be identified (as part of the stormwater planning process) to plan around these critical areas where water will concentrate. Where possible, natural drainage ways should be used to convey runoff over and off the site to avoid the expense and problems of constructing an artificial drainage system.

- (g) Minimize and then mitigate the hydrologic impacts of land use activities closer to the source of generation. This can be done by implementing the principle of "microstorage," or breaking up drainage areas into small manageable subcatchment areas. Break up flow directions from large paved surfaces, and direct stormwater where appropriate to drain to natural systems, vegetated buffers, natural resource areas, or infiltratable zones/soils.
- (h) Garbage receptacles shall not be placed so as to impede or obstruct the flow of surface water or block drains, manholes, or other stormwater best management practices.



Design Paved Surfaces to Disperse Flow to Vegetated Areas

Source: NC DENR in GSMM

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-3-8. - Stormwater detention.

- (a) Man-made lakes and stormwater ponds should be designed for maximum habitat value and/or to serve as amenity features.
- (b) Stormwater ponds and facilities that are located in a front yard adjacent to a public right-of-way should be landscaped around the perimeter. Any fencing surrounding a stormwater pond that is visible from the public right-of-way shall be decorative in nature, or if chain link fencing is permitted it shall be black vinyl coated.
- (c) Because detention ponds that impound water are hazardous, the following precautions should be taken: avoid steep slopes; slopes around the detention pond should be 2.5:1 or flatter; 3:1 where maintained by tractor or other equipment. Fence the area if slopes require and post with warning signs.
- (d) In the Gateway Corridor and Limestone Parkway overlay zones, stormwater detention ponds or areas should be located to the rear or side of buildings. If such a location is not feasible from an engineering standpoint, the detention area may be placed underground with the approval of the department of water resources director, or it may be approved in front of a building at surface level if it is designed as an amenity feature with shallow slopes, does not contain fencing, and is surrounded by landscaping approved by the director of community development and also subject to the approval of the department of water resources director.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-3-9. - Parking.

- (a) *Location.* For uses other than single-family and two-family residential, parking should be located to the side or rear of the building (or where there is more than one (1) building, to the side or rear of the building closest to the right-of-way line). In the Gateway Corridor and Midtown overlay zones, the community development director may limit parking in the front yard (between the building and the street right-of-way) to no more than fifty (50) percent of the total spaces provided.

- (b) *Surfacing.* See article 9-17 relative to surfacing-surface material of parking lots.
- (c) *Screening/landscaping.* Parking lots shall be landscaped according to the requirements of chapter 9-16-4 of this Code. Parking areas adjacent to any public or private street must be screened from view by low masonry walls, fences, berms and/or landscaping.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-3-10. - Loading.

For uses other than single-family and two-family residential, loading zones as may be required by this Code shall be to the side or rear of the building (or where there is more than one (1) building, to the side or rear of the building closest to the right-of-way line). See article 9-17 relative to loading areas. Storm drains should be avoided in loading areas so as to prevent release of spilled materials.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

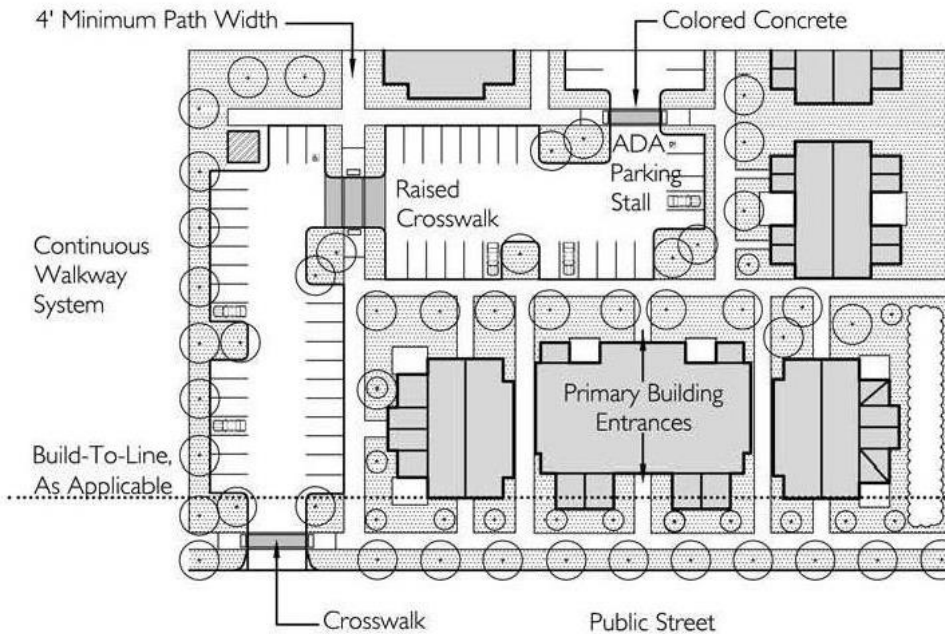
Sec. 9-9-3-11. - Utilities.

- (a) For all new construction and redevelopment, linear utilities along public streets or in public right of way ~~(electrical, cable, telephone, other)~~ must be placed underground. The director of public works may approve an exception, if subsurface rock or other unique hardships make such installation unfeasible.
- (b) All transformers and other facilities and utility boxes and equipment shall be screened through the use of architectural materials compatible with the architectural materials present on the site or, alternatively, through landscape screening. Such screening shall be adequate to completely screen such facilities from view from the right-of-way.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-3-12. - Pedestrian circulation.

- (a) Except in industrial zoning districts, pedestrian circulation should take precedence over vehicular circulation. Pedestrian ways shall be well defined, should take as direct a path as possible, and they should be separated where practical from automobile access ways. Parking aisle dividers are appropriate locations for pedestrian access facilities. Relocate landscape areas that may interfere with pedestrian "short cuts."



Illustrative Provision of Pedestrian Access

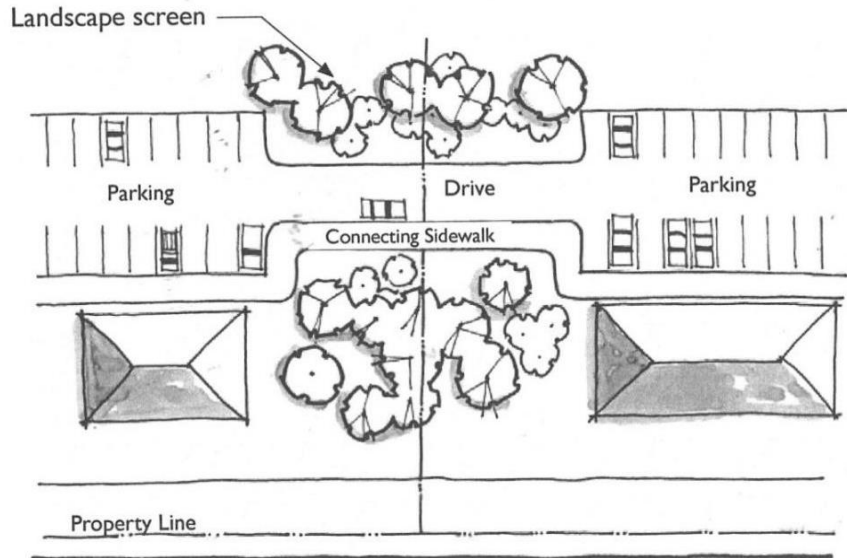
Source: Oregon Transportation and Growth Management Program, 2012
Model Development Code & User's Guide for Small Cities, 3rd Ed.

- (b) Sidewalks on individual properties shall connect to the sidewalk system within public road right-of-way, where such system exists or is planned.
- (c) All principal entries to a building shall provide direct pedestrian access to the sidewalk within a public right-of-way or along a dedicated street.
- (d) When multiple buildings are proposed on a single development site, they shall be linked with on-site pedestrian walkways.
- (e) Where pedestrian circulation crosses vehicular routes, a change in grade, paving material, or texture, or paving color should be provided to emphasize the conflict point and improve its visibility and safety. Accent strips of brick or textured paving may also be appropriate for defining pedestrian walkways.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-3-13. - Interparcel access.

- (a) *Interparcel access easements required.* For any office or retail sales or services use, the property owner shall grant an access easement as described in this section to each adjoining property that is zoned or used for an office or retail sales or services use. The purpose of the easement is to facilitate movement of customers and their vehicles from establishment to establishment (lot to lot) without generating additional turning movements on a public street. When required by this section, interparcel access easements shall be recorded in the office of the Clerk of Superior Court, Hall County, and reference to deed book and copy of such recorded easement provided to the community development director.



Illustrative Interparcel Access

(b) *Access easement provisions.*

- (1) The interparcel access easement shall permit automobile access from the adjoining property to driveways and parking areas intended for customer or tenant use; but parking spaces may be restricted to use by the owner's customers and tenants only.
- (2) The granting of such easement shall be effective upon the granting of a reciprocal easement by the adjoining property owner.
- (3) Upon the availability of access to driveways and parking areas of the adjoining lot, the pavement or other surfacing of the owner's driveways and parking areas shall be extended to the point of access on the property line.

(c) *Location of interparcel connections.* The location of vehicular connections across a property line should be mutually determined and constructed by both property owners. Connection of parking areas for vehicular access may be provided in the front portion of the site. In cases where it is not possible to provide the connection in front, it may be provided in the rear portion of the site. In the case of coordination problems or any factors preventing construction of an inter-parcel connection, the community development director shall determine the location of connection to be constructed by property owners.

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

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

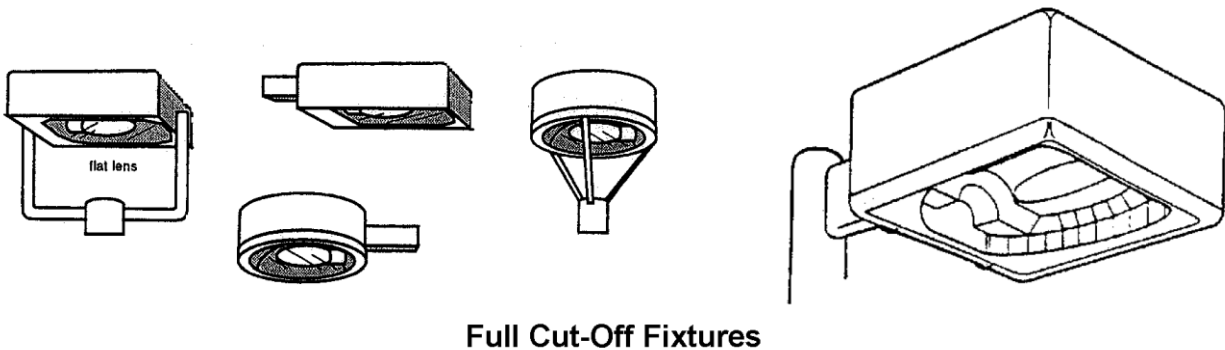
Sec. 9-9-3-14. - Outdoor lighting.

(a) *Applicability.* This section applies to existing uses, not just those required to complete design review. All public and private outdoor lighting shall be in conformance with the requirements established by this section.

(b) *Exemptions.* The following are exempt from the provisions of this section:

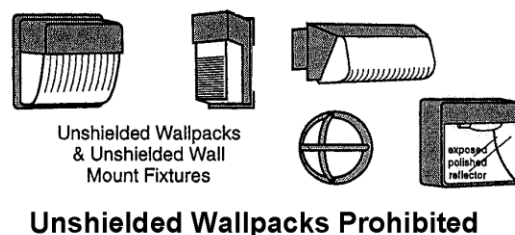
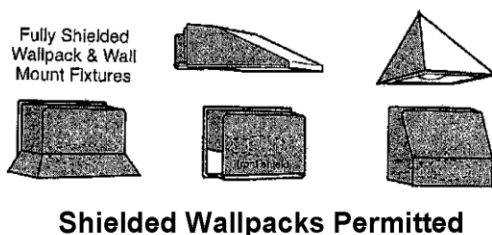
- (1) All temporary emergency lighting needed by police or fire departments or other emergency services.
- (2) All hazard warning luminaries required by federal regulatory agencies.

- (3) Any vehicular luminary.
 - (4) Safety lighting, as defined in this article.
 - (5) All outdoor light fixtures producing light directly by the combustion of natural gas or other fossil fuels.
 - (6) Holiday lights and decorations using typical unshielded low-wattage incandescent lamps, provided that they are removed within fifteen (15) days following the holiday season to which they pertain.
- (c) *Full cut-off fixtures required.* All luminaries not exempted from this section hereafter installed for parking lots, buildings, and grounds shall be full cutoff luminaries, as defined by this article, or another luminary which does not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the luminary, unless otherwise part of a lighting plan approved by the community development director.



Security lighting, as defined in this article, shall also meet this requirement unless activated by motion sensor devices.

- (d) *Wallpacks.* Wallpacks, as defined in this article, are not permitted unless fully shielded.



- (e) *Glare.* Any luminary that is aimed, directed, or focused so that the lamp is visible, or in a way that causes direct light from the luminary to be directed toward residential buildings on adjacent or nearby land, or that

creates glare perceptible to persons operating motor vehicles on public ways, shall be redirected or its light output controlled as necessary to eliminate such conditions.

- (f) *Intensity specifications.* Illuminance levels for outdoor lighting fixtures serving parking lots, buildings and grounds shall comply in design and upon installation with the standards in the table below, measured at three (3) feet above the ground or finished grade. Lighting for athletic fields and tennis courts shall be exempt from this section. In addition, the community development director may also exempt or modify the requirements of this paragraph as a part of an approved lighting plan.

OUTDOOR LIGHTING REGULATIONS

At Property Lines Including Rights-of-Way	Minimum Footcandles	Maximum Footcandles
At property line abutting a residential use	None	0.5
At property line abutting an office or institutional use	None	1.0
At property line abutting a commercial or light industrial use	None	1.5

Off-Street Parking Lots	Minimum Footcandles	Average Footcandles	Maximum Footcandles
Residential areas	0.5	2.0	4.0
Office-institutional areas	1.0	3.0	6.0
Commercial areas	2.0	6.0	12.0
Light industrial areas	1.0	4.0	8.0

- (g) *Prohibitions.* The following types of outdoor lighting are prohibited:
- (1) Strobe lights, except as may be required for towers pursuant to section 9-10-9-3 of this Code, or other state or federal lighting requirement.
 - (2) Laser lights or searchlight beams projected into the sky.
 - (3) Neon-lit signs, neon outdoor lights, and neon or any other lighting outlining of windows or doors.
- (h) *Lighting plans.* When a lighting plan is required for a specific use, as specified in article 9-10 which includes but is not limited to community recreation, athletic fields accessory to churches, automobile sales establishments, and outdoor recreation facilities, or, when a lighting plan is submitted as an alternative to compliance with the full cut-off fixture requirements or intensity specifications of this section, the lighting plan shall be submitted with the application required for the issuance of a land development permit as specified in chapter 9-13-7 of this Code.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

CHAPTER 9-9-4. - GUIDELINES FOR STEEP SLOPES**Sec. 9-9-4-1. - Applicability.**

This chapter shall apply within the Limestone Parkway overlay zone as well as to any development on slopes containing twenty-five (25) percent or more. These guidelines supplement general site design guidelines for grading provided in this article.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-4-2. - Building placement.

On hillsides or slopes with twenty-five (25) percent or more, buildings should be placed to blend with and avoid dominating the natural terrain; e.g., not on the crest of hills or ridges but below the crest. Buildings, even on separate but adjoining lots, should be grouped to complement the natural terrain and each other.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-4-3. - Cut and fill slopes.

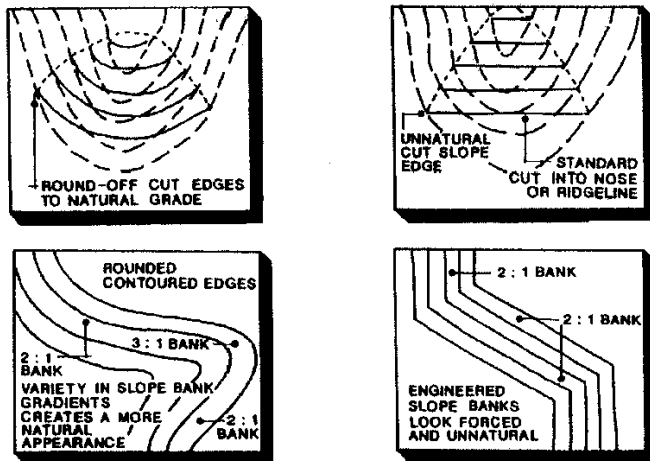
- (a) *Steepness of slope.* Cut and fill slopes shall be no more than one and one-half (1½) times natural grade (e.g., increased from ten (10) percent to fifteen (15) percent) and shall be no steeper than 2:1 (fifty (50) percent).
- (b) *Planting.* Cut or fill slopes more than ten (10) feet in height or twenty (20) feet in depth (in plan view) shall be planted with trees. Trees shall be spaced in accordance with the species planted so that the crowns will touch at maturity, but not farther apart than on 30-foot centers (approximately one (1) tree per six hundred (600) square feet). These trees shall be in addition to other requirements for trees. Landscaping shall be used around buildings to blend cuts and fills into the natural terrain.
- (c) *Location of cut and fill slopes.* Except for driveways, cut and fill slopes shall be entirely contained within a lot; i.e., natural grade at the lot lines shall be maintained.
- (d) *Angles of cuts and fills.* Sharp angles shall be rounded off, in a natural manner, at the top and ends of cut and fill slopes (within approximately five (5) feet of the sharp angle). Where this would damage tree root systems at the top of the slope, the amount of rounding off may be reduced and shrubs used instead to hide the transition.
- (e) *Retaining walls.* Retaining walls may be used to minimize cut and fill. Generally, a retaining wall shall be no higher than eight (8) feet except that a retaining wall may average twelve (12) feet for a distance of one hundred (100) feet or less. A higher wall is permitted; where used internally at the split between one- and two-story portions of a building; and, where substantially hidden from public view at the rear of a building, where it may not exceed the eave height of the building. Retaining walls shall not be stepped in height but shall be sloped from one height to another to match the terrain behind it.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-4-4. - Guidelines for adaptation of developments to hillsides.

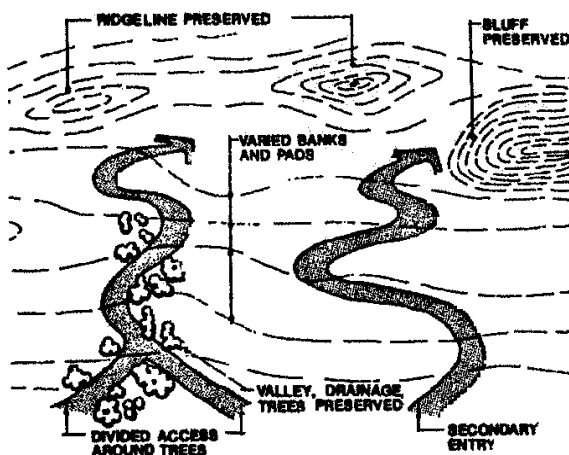
The following guidelines are established for adapting developments to hillsides and steep slopes:

- (a) Orient roads and building sites to minimize grading.
- (b) Orientation of buildings should consider views from the site as well as the aesthetic impact of views of the site from surrounding properties.



Appropriate Example of Grading Practices

- (c) Hilltops, if graded, shall be rounded to blend with natural slopes rather than leveled.
- (d) Slopes providing a transition from graded areas into natural areas shall be varied in percent grade both up-slope and across the slope, in the undulating pattern of surrounding natural slopes; so that the top or the toe (or both) of the cut or fill slope will vary from a straight line in plan view.
- (e) Parking areas shall be constructed on multiple levels and follow natural contours as necessary to minimize cut and fill.



Appropriate Example of Locating Roads on Hillsides

- (f) Roads shall follow natural topography to the extent feasible, to minimize cut and fill. Necessary grading shall be constant half-cut and half-fill along the length of the road (versus all cut or all fill at points) unless other arrangements would result in less severe alteration of natural terrain.
- (g) Repetitive padding or terracing of a series of lots ("stair-stepping" up a slope) shall not be permitted. Creation of a single large pad or terrace (especially creating a single pad or terrace of an entire lot) shall

be an exception to typical design, to deal with circumstances that can't be managed with other techniques. Typical design shall utilize full split pads (separate level for a down-slope lower story), a split foundation (adapting a single story to a slope), setting the building into a cut in the hillside, or a combination of techniques.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

CHAPTER 9-9-5. - ARCHITECTURAL DESIGN GUIDELINES

Sec. 9-9-5-1. - Purpose and intent.

This chapter provides guidelines for the architectural design of buildings and structures on individual sites which are generally appropriate on a citywide basis and will be applied by the community development department during the process of architectural design review as required by chapter 9-9-2 of this Code.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-5-2. - Applicability.

- (a) Unless the context of a particular section clearly indicates otherwise, the architectural design guidelines of this chapter may be considered by the community development department to apply to all buildings and structures.
- (b) A detached, single-family dwelling or two-family dwelling shall be exempt from the requirements of this chapter.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-5-3. - Interpretation.

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

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

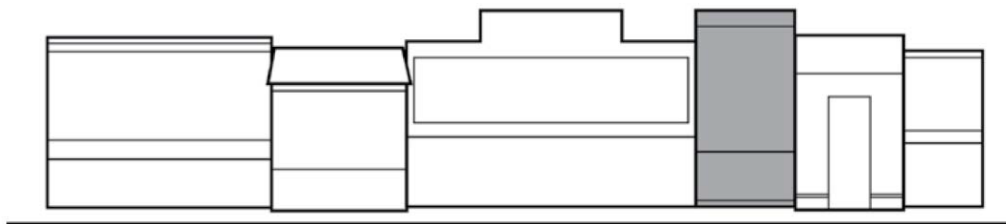
Sec. 9-9-5-4. - Architectural design compatibility.

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



Source: City of Gainesville Preservation
Manual and Design Guidelines

- (a) *Size*: The relationship of the project to its site.
- (b) *Orientation*: The relationship of buildings to streets. Buildings should front directly onto public sidewalks unless site features prohibit such building configuration.
- (c) *Scale*: The relationship of the building to those around it. Efforts to coordinate the height of buildings and adjacent structures are encouraged. This is especially applicable where buildings are located very close to each other. It is often possible to adjust the height of a wall, cornice or parapet line to match that of an adjacent building.



Scale and continuity of building addition is appropriate; however, cornice line could be better coordinated.

Source: City of Gainesville Preservation Manual and Design Guidelines

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

EXAMPLE OF APPROPRIATE FENESTRATION ON COMMERCIAL ADDITION



Source: City of Gainesville Preservation Manual and Design Guidelines

- (e) *Fenestration*: The placement of windows and doors. The building may incorporate design that is similar to or links with designs of neighboring buildings. For instance, window lines should be placed in a pattern that reflects the same elements on neighboring buildings.
- (f) *Rhythm*: The relationship of fenestration, recesses and projections.
- (g) *Setback*: Placement of the building in relation to setback of immediate surroundings.
- (h) *Materials*: The compatibility of building materials with those used in the zoning district.
- (i) *Context*: The overall relationship of the project to its surroundings.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-5-5. - Building style and design.

- (a) When more than one (1) building is constructed on a development site or within a planned development, all buildings shall reflect a compatible architectural style and create a cohesive visual relationship between the buildings.
- (b) "Theme" or stylized architecture which is characteristic of a particular historic period or trend is not encouraged, unless the existing building or site is historically important to the district or necessary for architectural harmony.
- (c) Franchise architecture will be reviewed for compatibility with surroundings and may require adjustments to be compatible with surrounding buildings in the district.
- (d) Building design should include a minimum of one-foot high cornices extending along the entire frontage and sides of buildings.
- (e) Building design should include a minimum of eighteen-inch high contrasting base extending along the entire frontage and sides of buildings.
- (f) Building design should incorporate and feature awnings, canopies, porches, porticos, patios, decks, or other covered entries to portions of the facade at the ground level.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-5-6. - Classification of building materials.

Building material can be classified based on its application as:

- (a) *Primary material:* The dominant material of a building's exterior walls. A primary material will typically comprise seventy-five (75) percent to ninety (90) percent of each exterior building face excluding windows and doors; however, architectural style and detailing of the building should dictate the appropriate composition of primary material.
- (b) *Accent material:* A material utilized to provide architectural interest and variety on a building. Accent materials will typically comprise ten (10) percent to twenty-five (25) percent of each building face excluding windows and doors, depending on architectural style and context. Accent materials are not to be utilized as a primary building material.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-5-7. - Exterior building materials and finishes.

- (a) *Finding.* The choice of materials and texture applied to the exterior of buildings has great visual significance and can affect the long-term appearance and maintenance of the built environment. Exterior building material is directly related to the durability of the building against weathering and damage from natural forces.
- (b) *Building material prohibitions.* The following types of external building materials (siding and window and door frames) are prohibited: highly reflective, shiny, or mirror-like materials; mill-finish (non-colored) aluminum metal windows or door frames; exposed, unfinished walls; exposed plywood or particle board; and unplastered, exposed concrete masonry blocks. Exterior metal siding may be used as an accent material as defined in this chapter. This provision applies also to accessory buildings and structures, including signs.
- (c) *Similar finishes on all sides.* All sides of a building may impact on its surroundings and should be considered for treatment with an architectural finish of primary materials (i.e., brick and stone), unless other materials demonstrating equal or greater quality are used. All buildings should be designed so that all sides contain similar architectural finishes and detailing.
- (d) *Durability.* The durability of building materials should be considered; materials that do not need high maintenance or frequent placement are preferred.

- (e) *Brick and stone.* Brick and stone convey permanence and are preferred primary and accent building materials for all building types.
- (f) *Wood.* Wood may be appropriate in specific contexts.
- (g) *Siding.* Horizontal aluminum and vinyl sidings should not be utilized for nonresidential applications.
- (h) *Exterior insulating and finish system (EIFS).* EIFS or Dryvit material should not be used as a primary material. Where used, EIFS should be justified based upon the design intent of the building and limited to accent applications above the pedestrian level (approximately ten (10) feet above ground).
- (i) *Fiber cement.* The use of fiber cement materials should be limited to accent applications only, except where utilized in a downtown or historic context as a substitute for wood. Fiber cement product is not considered an acceptable substitute for masonry.
- (j) *Glass.* The use of glass as a primary exterior building material may be appropriate within its surrounding context such as in office parks or pedestrian retail streets. Where used, transparent types of glass are preferred and mirror/dark tinted glass is discouraged. Mirrored glass with a reflection greater than twenty (20) percent is strongly discouraged and should not be used in lieu of exterior windows for the facade.
- (k) *Stucco.* The use of stucco is acceptable for accent applications. Stucco can be applied directly to blocks or bricks, or onto metal laths (sheets of wire mesh that help adhesion) to provide a decorative, weatherproofing coat that protects a wall's structure. Finishing options include smooth stucco with some slight texture, stucco that can be tooled to produce various patterns; a uniform rough stucco finish that is applied over smooth stucco; and pebbles added onto damp stucco ("pebbledash").
- (l) *Cast-in-place concrete.* Cast-in-place concrete may be appropriate for industrial buildings or secondary facades if sufficient articulation and detail is provided to diminish the appearance of a large, blank wall and provide a high-quality architectural finish. Cast-in-place concrete may be acceptable as an accent material; its appropriateness for primary material applications will be reviewed within the context of the design intent and surrounding character of development.
- (m) *Pre-cast concrete.* Pre-cast concrete is acknowledged as a durable and quality material. Concrete panels should be limited to industrial and selected institutional buildings and in any case should incorporate articulation and additional architectural detailing finishes when visible from a right of way or abutting property. The appearance of panel joints should be minimized.
- (n) *Concrete masonry units.* Concrete masonry units, including split face, may be acceptable as an accent.
- (o) *Architectural metal cladding.* Smooth metal panels, with sufficient metal thickness to prevent deterioration of the surface and promote durability, may be acceptable. The use of metal should account for the design intent of the building and surrounding character of development. Buildings with all-metal siding (i.e., primary and secondary finish) shall not be permitted except in industrial zoning districts. Within the Gateway Corridor overlay district/character area, metal or tin roofs are not permitted except for standing seam metal, and then only if they have a reflectance similar to (or less than) that of the siding material.
- (p) *Gateway Corridor overlay zone.* Within the Gateway Corridor overlay zone, front facades and other building sides visible from a public right-of-way shall be at least fifty (50) percent composed of brick masonry, stone masonry, split-face block masonry, or combination thereof. If used, split-face masonry shall be limited to a maximum of twenty (20) percent of the facade.
- (q) *Limestone Parkway overlay zone.* Within the Limestone Corridor [Parkway] overlay zone, exterior wall materials shall be brick masonry, stone masonry, or split-face block masonry; or wood clapboards or weather boarding. If used, split-face masonry shall be limited to a maximum of twenty (20) percent of the facade. Architectural treatment shall be consistent on all sides of the building. Standing-seam or corrugated metal walls are not permitted.

- (r) *Midtown overlay zone.* Within the Midtown overlay zone, building materials for front facades oriented to public streets shall be constructed of brick, stone, textured concrete masonry units, or glass. Metal siding is permitted as an architectural treatment on facades not oriented to public streets.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-5-8. - Roofs.

- (a) All roof surfaces on nonresidential buildings oriented to or facing a street should have a minimum pitch of three (3) inches of rise for every twelve (12) inches of run (3:12); provided, however, that flat roof surfaces may be required or approved by the community development director if compatible with surroundings, and if rooftop equipment is screened from view by building elements that are designed as an integral part of the building architecture, or by a parapet wall.
- (b) If metal is authorized as a roofing material, the metal shall not reflect light any more than the siding material used on the same building.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

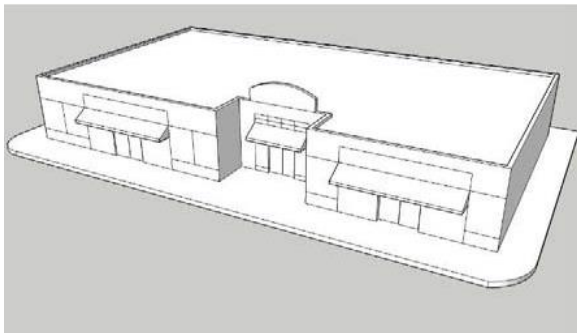
Sec. 9-9-5-9. - Buildings on corner lots or at street corners.

Buildings on street corners should be designed to address the street corner — that is, to engage the interest of drivers, pedestrians and bicyclists at the intersection. These buildings should provide a building entry or distinctive architectural elements facing the corner.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-5-10. - Modulation.

Avoid constructing buildings with blank or unmodulated facades parallel to public rights-of-ways. In the Gateway Corridor and Midtown overlay zones, the walls of building facades for office, institutional, commercial, and industrial use shall not extend more than one hundred (100) linear feet unless the front facade of the building (including roof) is designed in a way that modulates the building face into discrete architectural elements as more fully described in this section. For all other areas, the maximum building length without modulation shall be two hundred (200) feet. Modulation may be accomplished with one or a combination of the techniques described below:



- (a) Recesses and projections should be used along the front facade to break up long expanses of wall planes.
- (b) Rooflines can be modulated by alternating dormers, or using stepped roofs, gables, or other roof elements.

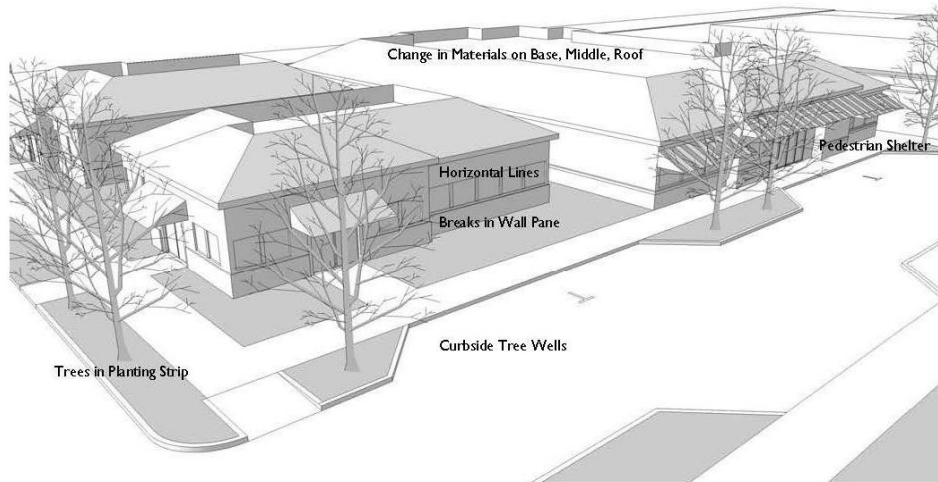
- (c) Windows with awnings above the windows can be provided in a repeating pattern or at regular intervals, or bay windows can be used to achieve some modulation.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-5-11. - Awnings and canopies.



- (a) *Finding.* Awnings and canopies should be applied to storefront commercial buildings for three (3) reasons: to minimize interior heat gain; shield merchandise in the display windows from the sun; and to provide some protection to pedestrians on the sidewalk from the elements.
- (b) *Encouraged.* Awnings are encouraged for first floor uses to provide architectural interest.
- (c) *Coordination.* Where awnings are used, they should be designed to coordinate with the design of the building and any other awnings along the same block face.
- (d) *Frame and material.* Awnings should be constructed with a durable metal internal structural frame covered by a fabric or canvas material. Flameproof vinyl or metal awnings and canopies may be appropriate. Aluminum and other metal canopies may be acceptable, particularly when integrated into shopping center designs.
- (e) *Colors.* Awning colors should be neutral or compatible with the overall color palate of the building to which they are being affixed. Solid colors are preferred over striped awnings, but striping may be permitted if colors compliment the character of the structure or group of buildings.
- (f) *Shape.* The shape of an awning should be dictated by (consistent with) the shape of the window opening to which it will be applied.
- (g) *Vertical clearance.* No portion of an awning shall be less than eight (8) feet clearance from the ground surface.
- (h) *Depth and width.* Awnings shall be a minimum of four (4) feet in depth. Awnings shall not extend beyond the width of the building or tenant space, nor encroach above the roof line or the story above.
- (i) *Lighting.* Awnings that are internally or backlit through translucent materials are discouraged if not prohibited altogether.



Illustrative Use of Awnings

Source: Oregon Transportation and Growth Management Program, 2012
Model Development Code & User's Guide for Small Cities, 3rd Ed.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-5-12. - Colors.

- (a) The primary material color (used on the majority of the building surface) of buildings and accessory buildings and structures should be harmonious and compatible with the primary material colors of other buildings within the character district in which the building or structure is located.
- (b) High-intensity or fluorescent colors shall not be used.
- (c) Facade primary material colors should be low reflectance, subtle, neutral, or earth tone colors.
- (d) Trim color (used on the window trim, fascia, balustrades, and posts) may be brighter than primary material color.
- (e) All vents, gutters, downspouts, flashing, electrical conduits, etc., should be painted to match the color of the adjacent surface primary material, unless they are being used expressly as a trim or accent element.
- (f) Accent color may be used with discretion on the building's exterior. An accent stripe may be appropriate to add interest to larger, (typically) industrial buildings.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-5-13. - Architectural lighting.

- (a) *Finding.* Well-designed and distinctive lighting of building facades is one of the best ways to attract attention and make a favorable impression with a minimal investment. Building facade lighting can help enhance the intrinsic charm, beauty, and ~~utility-use~~ of any given setting. Architectural lighting may include outlining, floodlighting, spotlighting, or any applicable combination of these techniques.
- (b) *Selectivity.* The discrete lighting of a few key architectural features or details is preferred over uniform floodlighting of the entire building facade. Focal points can also be established through careful floodlighting of major buildings, with the lighting of secondary buildings keyed in turn to these focal points.
- (c) *Reflectivity.* Highly polished surfaces such as glass, marble, glazed tile, glazed brick, porcelain enamel, and various metals can reflect the image of the light source. Designers should avoid lighting these reflective surfaces directly. Glass buildings usually cannot be lighted for nighttime viewing.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-5-14. - Accessory buildings.

Accessory buildings should be substantially similar to the principal building(s), in terms of material finish, color, and architectural detailing.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-5-15. - Fences and walls.

- (a) The design of fences and walls should be compatible with the architecture of the principal building(s) and should use similar materials.
- (b) All walls or fences fifty (50) feet in length or longer, and four (4) feet or more in height, should be designed to minimize visual monotony through changes in plane, height, material, material texture, or significant landscape massing.
- (c) All fences visible from the public right-of-way shall have their appearance softened with landscaping as approved by the community development director.
- (d) Chain-link fences visible from the public right-of-way shall be coated with vinyl with a black color.
- (e) In the Gateway Corridor overlay zone, smooth-faced concrete walls visible from the right-of-way are prohibited; walls visible from the right-of-way shall be faced with brick or stone masonry or shall be architecturally compatible in terms of design/style and color, as approved by the community development director.
- (f) In the Limestone Parkway overlay zone, walls shall be of brick masonry, stone masonry, concrete masonry, or concrete which is architecturally compatible with the principal building. Walls and fences in any required front yard shall be no more than three and one-half (3½) feet in height. Walls and fences on or within all rear and side property lines, up to the required front yard setback line, shall be no more than six (6) feet in height; except that within a yard abutting a street, such height shall be no more than three and one-half (3½) feet. See also section 9-8-3-15(e) for retaining wall requirements.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-5-16. - Trash and recycling collection areas.

- (a) All institutional, commercial, industrial, multi-family residential sites must provide appropriate refuse dumpsters and areas devoted to the storage of waste materials (including grease or oil containers where used).



Source: Carl Vinson Institute of Government, The University of Georgia. 2015 Downtown Gainesville Renaissance Strategic Vision and Plan, p. 53.

Recommended Practices for Dumpsters

- (b) All garbage dumpsters and other similar areas devoted to the storage of waste materials and grease or oil containers should be screened on three (3) sides of said dumpster or area with a minimum six (6) foot high (eight (8) feet preferred) wall constructed of materials substantially similar in appearance to the building on site. Dumpster areas must be gated on the fourth side with a material that provides opaque screening, such as a solid wooden fence or metal gate compatible matching the height of the surrounding wall and compatible in material and appearance.
- (c) Access to all service areas, including dumpster pads, shall be limited to the hours of between 6:00 a.m. and 9:00 p.m., unless an emergency situation warrants access to these areas.
- (d) Avoid locating storm drains in trash and recycling collection areas to reduce likelihood of stormwater pollution.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-5-17. - HVAC and mechanical and utility equipment.

- (a) Heating, ventilation, air conditioning (HVAC) or other mechanical equipment should not be located on the street side of developments or adjacent to open spaces. HVAC and other mechanical and utility equipment, which is located on, beside or adjacent to any building or development, shall be fully screened from view of streets and adjoining property.
- (b) The screen should exceed the height of the equipment and should utilize building materials and design which are compatible with these used for the exterior of the building.
- (c) Where mechanical and utility equipment are located on the roof of a structure, all devices should be fully screened from view of streets or adjacent property. A parapet wall or rooftop enclosure compatible in material and appearance with the building's exterior materials may be used to accomplish this screening requirement.
- (d) All building-mounted utility meters and service equipment should be located to the side or rear of the building and painted to match the exterior color of the building.
- (e) At-grade utility equipment and facilities associated with on-site electric, cable, telephone, gas or other similar utility should be screened with evergreen plantings or other acceptable alternatives.

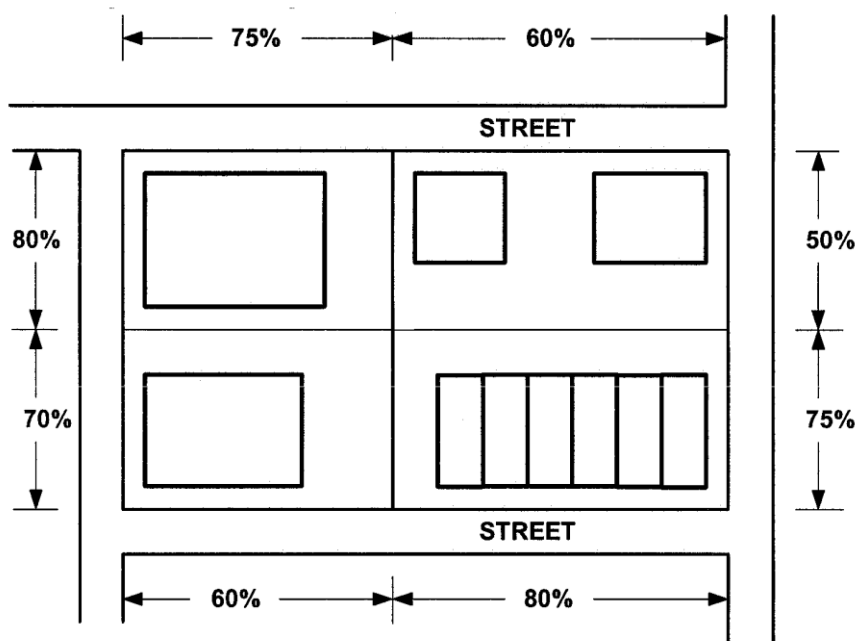
(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

CHAPTER 9-9-7. - DESIGN GUIDELINES FOR SPECIFIC USES**Sec. 9-9-7-1. - Live-work unit.****Illustrative Live-Work Units**

Live-work units are buildings or spaces within buildings that are used jointly for commercial and residential purposes, where the two (2) uses are physically connected in one (1) unit and residential use of the space is accessory to the primary use as a place of work. This use is distinguished from a home occupation and from a mixed-use building. Live-work units may have larger work spaces than permitted by home occupations, and the floor space for live/work units is specifically designed for both living and working areas. Live-work units are distinguished from mixed-use buildings in that a mixed-use building has residential and nonresidential uses in the same building, but the residential and nonresidential spaces are not necessarily connected or used by the same person.

Live-work units should meet the following requirements, which are intended to minimize the potential negative impacts on residential use within a live-work unit and on other dwelling units in the same development or near the live-work unit:

- (a) *Occupancy.* Only persons living in the dwelling unit should be engaged in the occupation.
- (b) *Use restriction.* Sales or customers should be limited or not permitted. There should be no external storage of products or materials. Use of the work space should be limited to general office and similar uses, including investors and those who perform trades via computer or by phone, but not involving the physical exchange of merchandise on the premises.
- (c) *Signs.* There should be no exterior signs including window signs except as may be permitted for the rental, lease, or sale of the property.
- (d) *Floor area.* A minimum of one thousand (1,000) square feet should be provided within each live-work unit. The work component of a live-work unit should be not be smaller than one hundred fifty (150) square feet and no larger than forty (40) percent of the total floor space in the live-work unit.
- (e) *Connection of live-work areas.* There needs to be a physical connection between the work floor area and the residential floor area of the unit.
- (f) *Pedestrian access to street.* There should be direct pedestrian access at the fronting street at or near grade level to each individual live-work unit.
- (g) *New building in relation to street.* When a new building is constructed containing one (1) or more live-work units, the building should face (parallel) the fronting street in a manner that occupies at least fifty (50) percent of the property frontage of the lot on which it is constructed.



Illustrative Building Frontages

- (h) *Location of living areas.* Residential areas should normally not be provided on the main (ground/street) floor and are not permitted fronting the downtown square.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

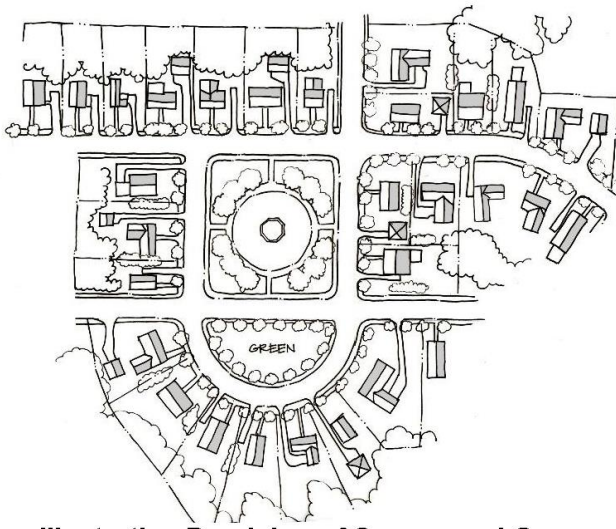
Sec. 9-9-7-2. - Mixed-use building.

The intent of this section is to guide the design of residential uses mixed with commercial and other land uses. In districts where permitted, mixed-use buildings and mixed-use development should meet the following guidelines:

- (a) *Access to residential units.* Residential uses above the first-floor retail or other nonresidential uses should have an entryway to each unit or a hallway serving one (1) or more units which should connect to a stairway opening directly to the outside at street level. Every dwelling unit with a front facade facing a street should to the maximum extent possible have its primary or shared entrance face the street. All stairways should be enclosed.
- (b) *Private exterior area.* All dwelling units above the first-floor retail or other nonresidential uses should have an exterior area (balcony) with a minimum of eighty (80) square feet, and which affords maximum privacy to occupants.
- (c) *Signs.* Windows above first-floor retail or other nonresidential uses should have no signs, except as they may pertain to the rental, lease or sale of property per the sign regulations contained in this Code.
- (d) *Mailboxes.* Residential uses above the first-floor retail or other nonresidential uses should not have outside mailboxes; inside mailboxes or mail slots should be used.
- (e) *Occupancy limits.* Residential uses above the first-floor retail or other nonresidential uses should not be rented on a daily or weekly basis and cannot be operated as boarding or rooming houses.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-7-3. - Open spaces.



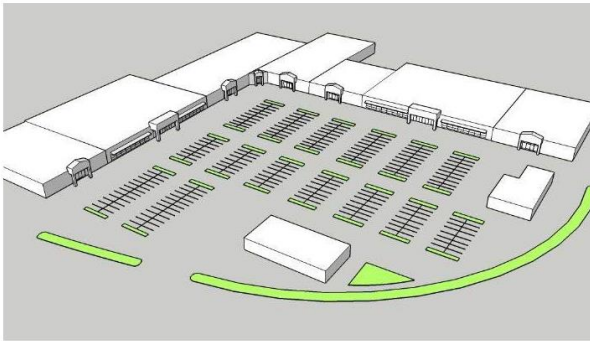
**Illustrative Provision of Square and Green
in a Traditional Neighborhood Development**

- (a) Open spaces, such as town greens and public squares, should be located and designed to add to the visual amenities of mixed-use developments, planned unit developments, suburban commercial, and office campus/office park developments.
- (b) Greens and squares should be spatially defined and distributed throughout the development so that no principal building is more than a walking distance of one thousand three hundred fifty (1,350) feet from a green, square, or park.
- (c) In large developments with multiple buildings or lots, a mix of peripheral as well as internal green space should be provided.
- (d) Residential development should be designed around active or passive neighborhood open spaces, which in turn should connect to adjacent open space networks or regional systems, where they exist or are planned.
- (e) Stormwater practices such as bioretention and bioswales may be incorporated into the landscaping in open spaces to serve both as treatment of runoff and as a public amenity.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

CHAPTER 9-9-8. - SUBURBAN COMMERCIAL DESIGN GUIDELINES

Sec. 9-9-8-1. - Purpose and intent.



Conventional Shopping Center Layout Not Preferred in Gainesville

Conventional, suburban-style layout of shopping centers result in auto-oriented development with expansive surface parking areas that are not pedestrian-friendly, lack open spaces, contribute to negative environmental impacts from stormwater runoff and should no longer be pursued for larger shopping centers in Gainesville. Instead, the city envisions more functionally appropriate shopping centers utilizing designs that resemble mixed-use developments, incorporate "main street"-type pedestrian retail character, cluster buildings to create activity centers, and integrate plazas and pedestrian places as central points of activity. Commercial site design should focus on "placemaking," or creating a unique sense of place, as its primary design goal.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-8-2. - Design guidelines.

Compliance with this section is encouraged for all suburban commercial developments and is considered mandatory for suburban commercial sites with four or more acres of land designed to include seventy-five thousand (75,000) or more square feet of retail space (including outlots).



Source: Gainesville Comprehensive Plan 2030

Illustrative Plaza or Gathering Place

- (a) Gathering places provide area for activities that promote safe community interaction, exchange, and congregation. Designers are encouraged to provide plazas or gathering places, especially where building

breaks occur, by including design elements such as play areas, landscaping, street furniture, public art, better site design or low impact development for stormwater management, and/or other attractive features that improve functionality and introduce a pedestrian orientation.

- (b) Benches should be provided near drop off areas and entryways to major buildings and at key locations along pedestrian ways and within plazas. Consideration should be given to the location of benches with respect to the ability to provide shelter from summer sun and winds and be open to direct sunlight in the winter.
- (c) One (1) or more buildings should be arranged to create a primary "main street" or internal street grid pattern. Building designs should frame and accentuate public spaces with pedestrian-scale elements and details. Pedestrian ways should be embellished with special design features such as towers, arcades, porticos, pedestrian light fixtures, bollards, planter walls, and other architectural elements that define circulation ways and outdoor spaces.
- (d) Buildings should orient, frame, and/or direct pedestrian views to parks and plazas. Buildings along roadways should provide a building scale of two (2) stories or if single-story should be no less than twenty (20) feet in height. Buildings, including those on outlots, should be massed against the primary arterial or collector roadways to create a "street wall" effect, with shared, interior surface parking. No more than forty (40) percent of any parcel frontage should be open to a view of surface parking.
- (e) Building lengths should not exceed three hundred (300) linear feet without a physical break or pedestrian access way connecting to surface parking to the rear of buildings "big box" stores should be articulated at a smaller pedestrian scale to disguise their mass.
- (f) Incorporate architectural features on all sides of a building facade facing: the primary entrance(s) of an adjacent building, public roadways, interior site amenities, and facades that are visible from public spaces.
- (g) Drive-through windows and drive-through lanes should not be utilized and may be permitted only if the access drives are designed in a way that minimizes conflict with pedestrian travel which shall take precedence.
- (h) Unique architectural components such as entryway structures and clock towers are encouraged to be integrated into the design.



Source: Gainesville Comprehensive Plan 2035

Best practices: this long-term vision for Lakeshore Mall redevelopment illustrates several desirable design principles: incorporation of a central green and interior courtyard space; buildings close to and framing the streets and driveways; and parking lots that are partially shielded from view from abutting public streets.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

CHAPTER 9-9-9. - SIGN DESIGN GUIDELINES**Sec. 9-9-9-1. - Purpose and intent.**

This chapter provides guidelines for signage.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

~~Cross Reference—Signs and Advertising Devices (Art. 9-18)~~

Sec. 9-9-9-2. - Applicability.

The sign design guidelines of this chapter shall apply to all buildings and structures located within:

- (a) The C-B, central business zoning district;
- (b) Midtown overlay zone.
- (c) In the central core character area, and any other character area, as may be determined appropriate by the community development director.
- ~~(d) In public areas near stormwater best management practices (BMPs), to help educate the public and preserve/identify existing natural vegetation. Educational signage for BMPs shall be approved by the department of water resources on a case-by-case basis.~~

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

CHAPTER 9-9-9. - SIGN DESIGN GUIDELINES**Sec. 9-9-9-1. - Purpose and intent.**

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Sec. 9-9-9-2. - Applicability.

The sign design guidelines of this chapter shall apply to all buildings and structures located within:

- (a) The C-B, central business zoning district;
- (b) Midtown overlay zone.
- (c) In the central core character area, and any other character area, as may be determined appropriate by the community development director.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-9-3. - Generally.

- (a) All signs should be of a design and include materials that are in keeping with the architectural design and exterior materials of the principal structure.
- (b) Signs shall be sized in proportion to the building. Notwithstanding the maximum areas allowed under the terms of the sign ordinance, an individual sign may be disapproved if it is found to be excessive or nonproportional in relation to the building on which it is placed or which it serves.
- (c) Uniformity of size and lettering among properties in the same district or character area is desirable, to create a pleasing visual consistency.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-9-4. - Sign materials.

- (a) Exposed surfaces of signs must be constructed of or appear to be constructed of metal, glass, stone, concrete, brick, cloth, or wood, or similar approved material. If synthetic materials are authorized, they shall have the same finished appearance as the materials specified here.
- (b) Sandblasted wood signs are not prohibited but may or may not be considered appropriate.
- (c) Plywood or unfinished wood is not an appropriate material for signs and shall not be permitted.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-9-5. - Colors.

- (a) No individual sign should have more than three (3) colors.
- (b) Colors of signs should be coordinated with overall building colors.
- (c) White or other light-colored backgrounds for signs should not be utilized.

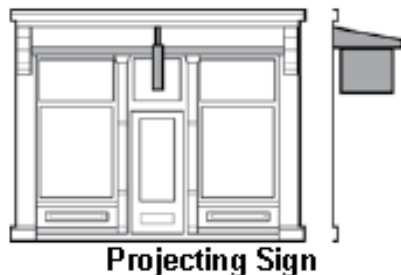
(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

Sec. 9-9-9-6. - Placement of wall signs.

- (a) Wall signs shall be mounted flush against the facade of the building adjacent to the front entryway of the unit.



- (b) Wall signs should be located on flat, unadorned parts of the building facade, somewhere above storefront display windows (where they exist) and below second-story windows (where they exist).
- (c) If the building facade or storefront has a lintel strip or signboard, the wall sign should be placed directly on it. Wall signs should be located centrally on the facade. Sign boards should not exceed two and one-half (2½) feet in height.



- (d) Projecting signs and signs suspended from canopies and awnings oriented to pedestrians (i.e., perpendicular to the wall surface of a building) should be permitted and are encouraged, provided that they are constructed to be compatible in material and appearance with the building.
- (e) Projecting and suspended signs shall not be illuminated.

(Ord. No. 2016-09, § IX(Exh. A), 6-21-16)

UNIFIED LAND DEVELOPMENT CODE

CITY OF GAINESVILLE, GEORGIA

Article 9-13 - SUBDIVISIONS AND LAND DEVELOPMENT

Chapter 9-13-1	General Provisions
Chapter 9-13-2	Definitions
Chapter 9-13-3	Design Requirements for Blocks and Lots
Chapter 9-13-4	Preliminary Plats
Chapter 9-13-5	Reserved
Chapter 9-13-6	Minor Land Development Permits
Chapter 9-13-7	Land Development Permits
Chapter 9-13-8	Improvement Requirements Generally
Chapter 9-13-9	Design Requirements for Streets
Chapter 9-13-10	Private Streets
Chapter 9-13-11	Utilities
Chapter 9-13-12	Stormwater Management
Chapter 9-13-13	Land Development Inspections
Chapter 9-13-14	Final Plats
Chapter 9-13-15	Conservation Subdivisions
Chapter 9-13-16	Corridor Map

CHAPTER 9-13-1. - GENERAL PROVISIONS

Sec. 9-13-1-1. - Purpose and intent.

This article is intended to serve the following purposes, among others:

- (1) To protect and promote the health, safety and general welfare of the residents of the city;
- (2) To encourage economically sound and stable land development;
- (3) To assure the provision of required streets, utilities, and other facilities and services to new land developments in conformance with public improvement plans of the city;
- (4) To assure adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in new land developments, especially for the purposes of assuring that all building lots will be accessible to fire fighting equipment and other emergency and service vehicles;
- (5) To assure the provision of needed open spaces and building sites in new land developments through conservation subdivision design and the dedication or reservation of land for recreational, educational, and other public purposes;
- (6) To assure the adequate provision of water supply, sewage disposal, stormwater drainage, and other necessary improvements;
- (7) To assure equitable handling of all subdivision plats and land development plans by providing uniform procedures and standards for the subdivider and land developer;

- (8) To assure, in general, the wise development of new land areas, in harmony with the comprehensive plan of the city;
- (9) To assure the accurate description of property and adequate and proper identification of property in public records;
- (10) To help conserve and protect the natural, economic and scenic resources of the city;
- (11) To help eliminate the costly maintenance problems which develop when streets and lots are laid out without proper consideration given to various public purposes;
- (12) To protect lot purchasers who generally lack the specialized knowledge to evaluate subdivision improvements and design.

Sec. 9-13-1-2. - Delegation of authority to administrative officers.

The governing body hereby delegates to the appropriate administrative officers the authority to administratively approve, conditionally approve, or disapprove preliminary plats, final plats, lot combination plats, boundary line adjustments, and dedication plats; provided, however, such delegation does not authorize appropriate administrative officers to accept public improvements for the governing body. The city director of ~~community planning~~ and ~~economic~~ development, the city director of public works, and the city director of ~~public utilities~~ ~~water resources~~ are vested with the authority, as more fully described in this section and article, to review, approve, conditionally approve, or disapprove subdivisions and land development plans and permits.

- (a) *Director of ~~community planning~~ and ~~economic~~ development.* This administrative officer shall have final authority with regard to the review and approval of land development plans and permits, preliminary plats and final plats.
- (b) *Director of public works.* This administrative officer shall review land development plans and permits and review of streets and ~~non-utility~~-related public improvements and recommendations for acceptance of public improvements by the governing body. The director of public works is further authorized to promulgate additional technical standards and construction specifications for land development improvements not already specified by this Code, including but not limited to streets, ~~storm drainage systems~~, driveways, curb cuts ~~related to traffic flow~~, and parking lots.
- (c) *Director of ~~public utilities~~ ~~water resources~~.* This administrative officer shall have final authority with regard to the design of ~~public utilities~~ ~~water~~, ~~wastewater and stormwater~~ for subdivisions and land developments. The director of ~~public utilities~~ ~~water resources~~ is further authorized to promulgate additional technical standards and construction specifications for land development improvements not already specified by this Code, including but not limited to water, ~~and~~ sanitary sewer ~~and stormwater~~ systems ~~and utilities~~.

Sec. 9-13-1-3. - Land is one lot until subdivided.

Until property proposed for subdivision has received final plat approval and been properly recorded, the land involving the subdivision shall be considered as one lot, or as otherwise legally recorded.

Sec. 9-13-1-4. - Subdivision of land.

No person shall subdivide land except in accordance with this article and Code. It shall be unlawful for any person, firm, corporation, owner, agent or subdivider, by deed or map, to sell, transfer, agree to sell, offer at public auction, negotiate to sell or subdivide any land until a preliminary plat, if required, and final plat have been approved by the director of planning and development and final plat recorded in accordance with this article. Said restriction applies to lands subdivided for nonresidential as well as residential uses. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transfer shall not exempt the

transaction from this article or from the penalties established for violations of this Code. The city through its attorney or other designated official may enjoin such transfer of, sale, or agreement by appropriate action.

The ~~community and economic development~~planning department may require that a final plat for multiple (five (5) or more) lots being subdivided off an existing road be validated by stamp from the public works department. ~~The community and economic development~~The planning department may also require that any final plat be validated by stamp from the ~~public utilities~~department of water resources and/or Hall County Environmental Health Department.

Sec. 9-13-1-5. - Reference to state and federal land subdivision laws.

The subdivision of land shall comply, as applicable, with the federal and state full disclosure requirements for land sales. All subdivision plats shall also comply with applicable state law regarding accuracy and content of all such subdivision plats.

Sec. 9-13-1-6. - Special review of subdivisions along state routes.

No subdivision plat containing land which abuts a state route shall be approved until such plat has been submitted for review and comment by the state department of transportation, in accordance with the provisions of O.C.G.A. 32-6-151.

Upon receiving such a plat, the city shall submit two copies of the proposed subdivision plat to the state department of transportation if such proposed subdivision includes or abuts on any part of the state highway system. The state department of transportation, within thirty (30) days of receipt of the plat, shall recommend approval and note its recommendation on the copy to be returned to the director of planning and development or recommend rejection. Failure of the state department of transportation to act within this 30-day period shall constitute approval. If the plat is recommended for rejection, the reasons for rejection and requirements for approval shall be given the director of planning and development in writing; but such recommendation shall be advisory only and shall not be binding on the director or planning and appeals board.

Sec. 9-13-1-7. - Lots must comply with zoning requirements.

No person shall subdivide land, and the director of planning and development shall not approve any subdivision of land, unless the lots created pursuant to said subdivision meet or exceed all applicable requirements of the zoning district and/or overlay zone, as applicable, and as may be amended from time to time.

Sec. 9-13-1-8. - Improvements required for final platting.

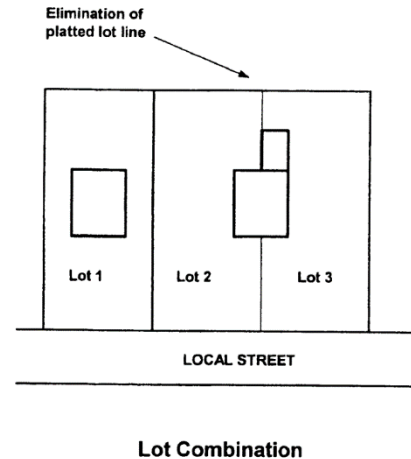
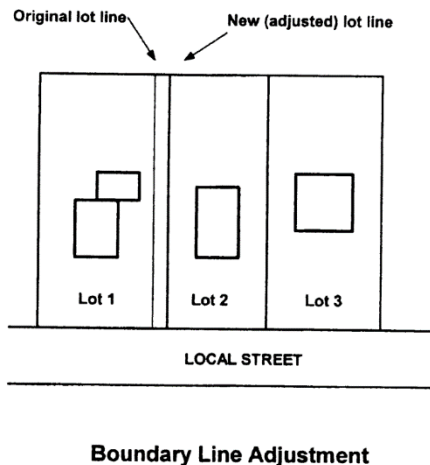
No final subdivision plat shall be approved by the director of ~~community~~planning and ~~economic~~ development or accepted for recordation by the clerk of superior court until all improvements required by this article have been constructed in a satisfactory manner and approved by the director of public works or, in the case of drinking water, wastewater and stormwater improvementsutilities, the director of ~~public utilities~~water resources.

Sec. 9-13-1-9. - Lot combinations and boundary line adjustments.

An existing lot line forming the boundary between two conforming platted lots located within the same subdivision or a lot line between lots or parcels that have merged to form one building lot may be removed or eliminated through a final plat revision process which conforms to the final plat requirements of chapter 9-13-14. Where separate lots of land are proposed to be combined, they shall be submitted to the director of planning and development as a final plat for review, approval and recording. In the case no final plat applies to the subject lots or parcels, a boundary survey and plat depicting all lots involved in the lot combination shall be required to be approved by the director of planning and development and recorded as a final plat. Such combination plat shall be titled with

the same name as that of the original subdivision, if applicable, and shall indicate thereon that the replat is for the purpose of removing the lot lines between specific lots.

One or more existing lot lines forming boundaries between conforming platted lots located within the same subdivision, or one or more lot lines between abutting lots or parcels may be adjusted through a final plat revision process that requires the approval of the director of planning and development and recording of a plat meeting the specifications of a final plat. In the case no final plat applies to the subject lots or parcels, a boundary survey and plat of the entire lots involved in the boundary line adjustment shall be required to be approved by the director of planning and development and recorded. Such plat showing said boundary line adjustment shall be titled with the same name as that of the original subdivision and shall include thereon that the replat is for the purpose of adjusting the lot lines between specific lots.



Boundary Line Adjustment and Lot Combination

Sec. 9-13-1-10. - Recordation and transfer of land.

The clerk of superior court of Hall County shall not file or record a plat that would result in the division of a property into two or more lots that does not have the approval of the city as required by this article. The clerk of the superior court of Hall County shall not file or record a plat of a subdivision, whether evidenced as a plat or as an attachment to a deed, unless such plat is a final plat approved for recording by the director of planning and development or designated representative and contains said officer's signature thereon.

Any deed or other instrument of conveyance, including a security deed, bond for title, or any other document purporting to convey, then or in the future, title to real estate, filed for record with the clerk of the superior court, wherein the property to be conveyed is described in some manner other than by reference to a recorded plat, shall be accompanied by a certificate signed by the party filing such deed or other instrument, which certificate shall be in the following form:

I, _____, do hereby certify that the instrument herewith filed for record in the Office of the Clerk of the Superior Court of Hall County, Georgia, does not involve the subdivision of property and does not subdivide a tract of land into two or more tracts or lots.

This _____ day of _____, 20____.

_____ (Signature)

Sec. 9-13-1-11. - Exemptions from plat approval.

The following types of land subdivisions, transfers, and sales are specifically exempted from the plat approval requirements of this article; provided, however, that such exemptions shall not apply to land development requirements and improvement requirements of this article or compliance with other applicable requirements of this Code:

- (a) The creation and sale of cemetery plots.
- (b) The sale of lots consistent with previously approved and recorded plats or deeds.
- (c) The creation of leaseholds for space within a multiple-occupancy building or the division of property into leaseholds (but not for sale) for commercial, industrial, or institutional use.
- (d) The creation of leaseholds (but not for sale) for the agricultural use of property where the use does not involve the construction of a building to be used as a residence or for other purposes not directly related to agricultural use of the land or crops or livestock raised thereon.
- (e) Any division of land to heirs through a judicial estate proceeding, or any division of land pursuant to a judicial partition, or any division of land occurring from the foreclosure of a deed of trust; provided, however, that such exemption shall not require the city to issue permits if the resulting lots or parcels fail to meet any applicable zoning provisions regarding lot size, lot width, or other dimensional requirements.

Sec. 9-13-1-12. - Development of land.

No person shall disturb or develop land except in accordance with this article and this Code. It shall be unlawful for any person, firm, corporation, owner, agent or subdivider to disturb or develop any land until land development plans have been approved by the city and a land development permit issued, if required, in accordance with this article and this Code. No person shall commence construction of any improvements on any lot, prior to the approval of a preliminary plat if required by this article, nor prior to approval of submission of civil drawings and construction plans and issuance of a land development permit for said improvements as required by this article and Code.

CHAPTER 9-13-2. - DEFINITIONS

Sec. 9-13-2-1. - Terms related to streets.

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

Arterial street: See "Street classifications."

Center line: That line connecting the succession of midpoints between the identifiable limits of any improvements on the ground or of any easement.

Collector street: See "Street classifications."

Cul-de-sac: A dead-end street of limited length having a primary function of serving adjoining land, and constructed with a turnaround at its end.

Cul-de-sac, temporary: A non-permanent vehicular turn around located at the termination of a street or alley, created for construction and not accepted as a public improvement.

Curb cut: ~~The providing of vehicular ingress and/or egress between property and an abutting street; the physical improvement designed to provide such ingress/egress~~ Any interruption or break in the line of a street curb for the purpose of connecting a driveway to a street, or otherwise to provide vehicular access to abutting property. May also refer to an opening in the curb that allows stormwater to flow into a landscaped area or best management practice.

Dead-end street: A street connected to another street at only one end.

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

Decentralized wastewater system: A closed-loop system designed or used to receive sewage from a building sewer and to affect separation and organic decomposition of sewerage solids, and discharging sewage effluent to an absorption field or other management system. Also referred to as an on-site wastewater disposal system or septic tank.

Deflection angle: The angle between a deviation in the direction of the center line of a street and the extension of the center line along a straight course from the point from which the center line changed direction.



Deflection Angle

Design variance: An alteration or relaxation of the terms of this article where such alteration will not be contrary to the public interest, convenience and welfare, and where, owing to conditions peculiar to the property over which the applicant for a variance has no control, a literal enforcement of these regulations would create unnecessary and undue hardship on the applicant in the use of the property.

Development:

- (1) A land development project involving the construction of streets, utilities, buildings, or other improvements required for the habitation or use of property, such as a residential neighborhood, an apartment complex, a store, or a shopping center;
- (2) Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials;
- (3) The act of constructing or carrying out a land development project, including the alteration of land or vegetation in preparation for construction activity.

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

Driveway: A constructed vehicular access serving one or more properties and connecting to a public or private street, as distinguished from a platted, public or private street.

Half street: A portion of the ultimate width of a road or street where the remaining portion of the road or street shall be provided at a future date.

Major street or major thoroughfare: An arterial or collector street (see "Street classifications").

Pedestrian way: A public right-of-way or private easement across a block or within a block to provide access for pedestrians and which, in addition to providing pedestrian access, may be used for the installation of utility lines.

Reserve strip: A strip or tract of land reserved for the purpose of controlling or limiting access from properties to abutting streets.

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

Roadbed: That portion of a street improved for vehicular travel, including the curbs and shoulders.

Roadway: The paved portion of a street improved for vehicular travel, measured from back of curb to back of curb.

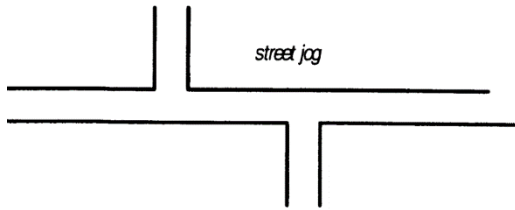
Sidewalk: A hard-surfaced pedestrian access area adjacent to or within the right-of-way of a street.

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

Street classifications: Streets are classified according to the function that they are to serve, the type, speed, and volume of traffic they will carry and the required standards of design. The classifications and locations of major thoroughfares are shown in the comprehensive plan. The classifications of streets and roads are generally as follows:

1. *Expressways:* Limited access Interstate highways.
2. *Arterial streets:* State and U.S. numbered highways.
3. *Marginal-access streets:* Streets that are placed parallel and adjacent to expressways or arterials to provide direct access to abutting properties.
4. *Collector streets:* Major streets that carry traffic between neighborhoods and arterial streets, serve nonresidential or multi-family areas or developments, and streets within a residential subdivision that collect traffic from one hundred (100) dwelling units or more.
5. *Local streets:* Streets in residential subdivisions and some nonresidential areas that primarily provide access to individual lots, do not carry through traffic, and serve fewer than one hundred (100) dwelling units.
6. *Alleys:* Public or private ways, whether unopened or opened for use, which afford only a secondary means of access to abutting property.

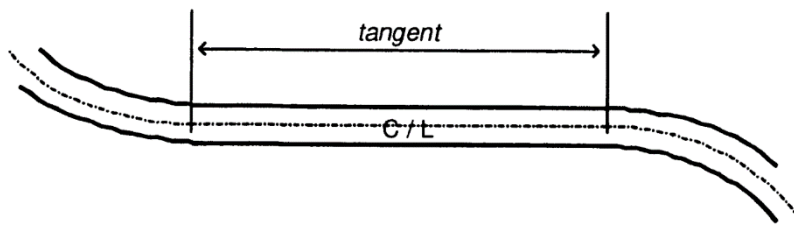
Street jog: The incidence where two (2) streets or two (2) portions of a single street are separated by a relatively short distance, usually at their intersection with another street.



Street jog

Street, private: A road or street that has not been accepted for maintenance by the governing body and that is not owned and maintained by a state, county, city, or another public entity.

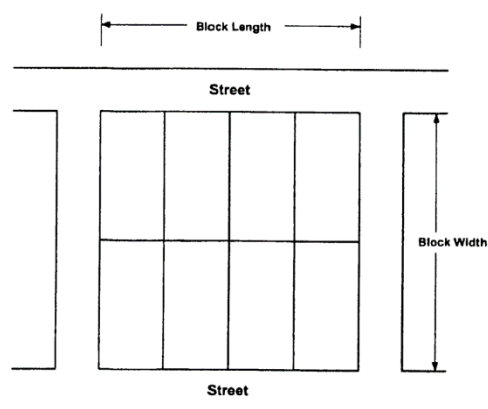
Tangent: The straight-line distance between the ending of one curve of a line (center line of a street) and the beginning of another curve of the same line (center line).



Tangent

Sec. 9-13-2.2. - Terms related to subdivisions.

Block: An area of land that is entirely surrounded by streets, public lands, railroad rights-of-way, watercourses, or other well defined and fixed boundaries.



Block, Block Length, and Block Width

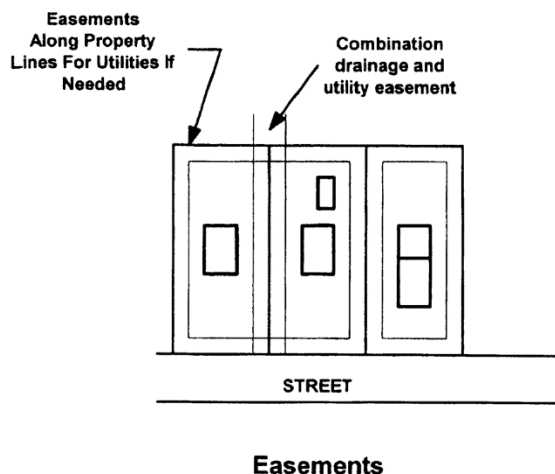
Block, Block Length, and Block Width

Conservation subdivision: A subdivision, where open space is the central organizing element of the subdivision design, that identifies and permanently protects all primary and all or some of the secondary conservation areas within the boundaries of the subdivision, and that clusters housing together on smaller lots than in conventional subdivisions.

Dedication: The deliberate appropriation of land by an owner for any general and public use or purpose, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

Dedication plat: A plat that indicates property to be dedicated for public right-of-way or land for public use, drawn to final plat specifications and following procedures for final plat approval.

Easement: A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.



Easements

Easement, perpetual: An easement held in perpetuity.

Escrow account: A type of subdivision improvement guarantee where the subdivider deposits either cash, a note, a bond, or some other instrument readily convertible to cash for specific face value specified by the director of public works or designated official of the city to cover the costs of required improvements.

Final plat: The final drawing of a subdivision and, as applicable, dedication, prepared for filing for record with the clerk of the Hall County Superior Court, and containing all elements and requirements set forth in this article.

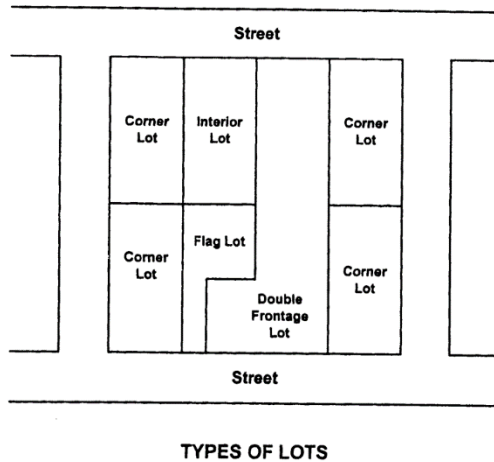
Homeowners association: An organization formed for the maintenance and operation of the common areas of a development, where membership in the association is automatic with the purchase of a dwelling unit or lot within the development, with the ability to legally assess each owner of a dwelling unit or lot and which has authority to place a lien against all dwelling units and lots within the development.

Letter of credit: A type of subdivision improvement guarantee whereby a subdivider secures an instrument from a bank or other institution or from a person with resources sufficient to cover the cost of improvements required by the governing body. The instrument pledges the creditor to pay the cost of improvements in case of default by the subdivider.

Lot of record: A lot which is part of a subdivision, a plat of which has been lawfully recorded in the records of the clerk of superior court of Hall County; or a lot described by metes and bounds, the description of which has been lawfully recorded in the same office prior to the adoption of zoning in the city (June 20, 1955).

Lot: A parcel of land held in single ownership.

- (1) **Corner lot:** A lot abutting upon two (2) or more streets at their intersection.
- (2) **Double frontage lot:** Any lot, other than a corner lot, which has frontage on two (2) streets.
- (3) **Flag lot:** A tract or lot of land of uneven dimensions in which the portion fronting on a street is less than the required minimum width required for construction of a building or structure on that lot. Also called a panhandle lot.
- (4) **Interior lot:** A lot having frontage on only one street.



Types of Lots

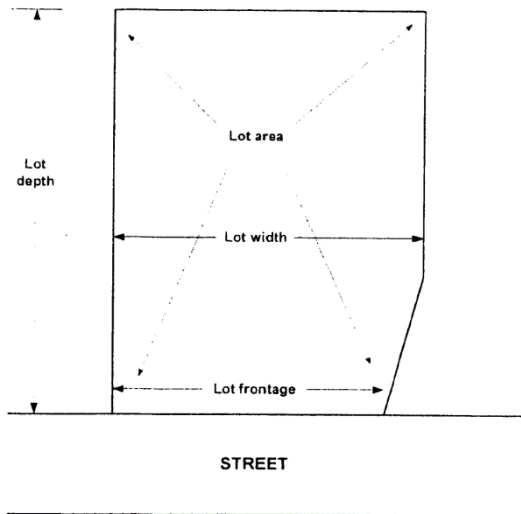
Lot area: The total horizontal area included within lot lines.

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

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

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

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



Lot Definitions

Metes and bounds: A system of describing and identifying land by a series of lines around the perimeter of an area; "metes" means bearings and distances and "bounds" refers to physical monuments.

Municipal utility: A utility owned and operated by a local government and providing drinking water, wastewater and stormwater management facilities and services.

- (1) *Public sewerage*~~Sewer~~ system: A sanitary sewerage system for the collection of water-borne wastes complete with a sewage treatment plant that is owned and operated by ~~a public agency or authority~~the city department of water resources.
- (2) *Public water*~~Water~~ system: A system for the intake, treatment and distribution of potable water that is owned and operated by ~~a public agency or authority~~the city department of water resources.
- (3) *Stormwater system:* A system of structural and nonstructural stormwater management facilities and practices that are used to capture, convey and control the quantity and quality of the stormwater runoff, that is owned and operated by the city department of water resources.

Performance bond: A type of improvement guarantee in the form of a bond, secured by the subdivider or land developer from a bonding company, in an amount specified by the director of public works or designated official of the city to cover the costs of required improvements, and payable to the governing body. The governing body may call in the performance bond in the event the subdivider or land developer defaults on required improvements.

Preliminary plat: A drawing which shows the proposed layout of a subdivision in sufficient detail to indicate its general design.

Private utility: A utility owned and operated by a private service company providing cable television and internet services.

Protective covenants: Contracts made between private parties as to the manner in which land may be used, with the view toward protecting and preserving the physical and economic integrity of any given area.

Public improvement: ~~The construction, enlargement, extension or other construction of a facility intended for dedication to the city, including but not limited to a street, curb and gutter, sidewalk, traffic control and street name sign, or other roadway appurtenance other than a driveway apron connection; domestic water supply system main, fire hydrant, valve or other appurtenance other than a supply line to a building; or sanitary sewerage main or outfall, lift station, force main, manhole or other appurtenance other than a drain line from a building.~~ The acquisition, construction, building, operation, and maintenance of public ways, transportation facilities, parks and playgrounds.

recreational facilities, cemeteries, mausoleums, markets and market houses, public buildings, libraries, public housing, airports, hospitals, terminals, docks, parking facilities, or charitable, cultural, educational, recreational, conservation, sport, curative, and corrective agencies and facilities

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

Public utility: A utility owned and operated by a public ~~service company providing telecommunications, electric or natural gas services under the regulations of the Georgia Public Service Commission.~~ agency or authority.

~~(1) *Public sewerage system:* A sanitary sewerage system for the collection of water-borne wastes complete with a sewage treatment plant that is owned and operated by a public agency or authority.~~

~~(2) *Public water system:* A system for the intake, treatment and distribution of potable water that is owned and operated by a public agency or authority.~~

Publicly dedicated: Land or improvements that has or have been transferred by plat or deeded to and accepted by the city for public use and maintenance.

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

Reservation: A method of holding land for future public use or dedication to the public by showing proposed public areas on a subdivision plat or a corridor map.

Septic tank: An approved watertight tank designed or used to receive sewage from a building sewer and to affect separation and organic decomposition of sewerage solids, and discharging sewage effluent to an absorption field or other management system. Also referred to as decentralized wastewater system, or on-site wastewater disposal system.

Subdivider: Any person, as defined by this Code, who undertakes the subdivision of land, and any person having such a proprietary interest in land to be subdivided as will authorize the maintenance of proceedings to subdivide such land under this Code, or the authorized agent of such person.

Subdivision: The division of a property or tract of land into two (2) or more tracts or lots; or a land development project in which two (2) or more lots are created, along with the streets and utilities needed to support construction of buildings on the lots. The word "subdivision" includes re-subdivision and, when appropriate to the context, relates either to the process of subdividing or to the actual land or area which is subdivided.

(1) *Subdivision with public improvements:* The division of land into two (2) or more lots that will require the construction or extension of public streets, water or sanitary sewerage (other than the direct connection of buildings to existing facilities).

(2) *Minor subdivision:* The division of land into two (2) or more lots, each of which will be adequately served by existing public streets, water and sanitary sewerage and that does not involve a public dedication.

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

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

CHAPTER 9-13-4. - PRELIMINARY PLATS

Sec. 9-13-4-1. - Preliminary plat approval required.

The purpose of this chapter is to ensure compliance with the basic design concepts and improvement requirements of subdivisions through the submittal of a preliminary plat. Any subdivision involving the dedication of a public street or public land, and any subdivision involving a new private street, shall require the submission of a preliminary plat.

Sec. 9-13-4-2. - Relationship of preliminary plat to land development permit.

The director of planning and development or designee must first approve a preliminary plat for subdivision activity prior to the issuance of a land development permit or initiation of any land disturbing or construction activities. An application for preliminary plat approval may be processed independently or in conjunction with an application for issuance of a land development permit. Applicants are cautioned, however, that the preliminary plat approval is discretionary with regard to consistency with the comprehensive plan and design requirements of this article, and therefore, proceeding simultaneously with preliminary plat and land development permit applications may result in the revision of civil engineering drawings and construction plans if the layout of the preliminary plat of the proposed subdivision must be significantly modified.

Sec. 9-13-4-3. - Preliminary plat specifications.

A preliminary plat shall be prepared by a professional engineer, a registered land surveyor, a landscape architect, a land planner, or any other person professionally familiar with land subdivision and land development activities. The preliminary plat shall meet the following specifications:

- (a) *Proposed name of subdivision.* The proposed name of the subdivision shall not duplicate or too closely approximate, phonetically, the name of any other subdivision in the city or county. If shown to the contrary, the community and economic development~~planning~~ department may refuse to accept such subdivision name.
- (b) *Plat scale and sheet size.* The preliminary subdivision plat shall be clearly and legibly drawn at a scale of one hundred (100) feet or less to one inch. The recommended maximum dimensions of the sheet size is thirty-six (36) inches by forty-eight (48) inches and the minimum dimensions of seventeen (17) inches by twenty-two (22) inches; however, the director of planning and development may approve other sheet sizes and scales as appropriate. For property of over one hundred (100) acres, a smaller scale may be used where, in the judgment of the director of planning and development, presentation of detailed data is not necessary to evaluate the entire project. It is the intent of this provision that in all cases sufficient information shall be provided for an adequate evaluation of the public and private improvements.
- (c) *Owner contact information.* Name, address and telephone number of the property owner.
- (d) *Applicant contact information.* Name, mailing address, telephone and fax numbers and E-mail address of the applicant.
- (e) *Miscellaneous.* Tax parcel number(s), date of survey, north point and graphic scale, source of datum, date of plan drawing, and revision dates, as appropriate.
- (f) *Use.* Proposed use of the property.
- (g) *Location and tract boundaries.* Location (land district and land lot) and size of the property in acres (or in square feet if less than an acre), and the approximate boundaries of the tract to be subdivided or developed by bearings and distances, The preliminary plat must reference and be based on a boundary survey of the exterior boundaries of the proposed subdivision, prepared by a registered land surveyor.

- (h) *Location map.* A location map of the property in relation to the surrounding area with regard to well-known landmarks such as arterial streets or railroads. Location maps must be drawn at a scale sufficient to show clearly the information required, but not less than one inch equal to two thousand (2,000) feet. U.S. Geological Survey maps may be used as a reference guide or as the required location map.
- (i) *Prior subdivision.* Name of former approved subdivision, if any, for all of the land in the preliminary subdivision plat that has been previously subdivided, showing boundaries of same.
- (j) *Zoning.* Zoning district designation of the subject property and all adjacent properties, and zoning district boundaries and overlay zone boundaries as appropriate.
- (k) *Conditions of approval.* A copy of zoning, special use and variance conditions, if applicable.
- (l) *Natural features and flood plains.* Natural features within the property, including drainage channels, bodies of water, wooded areas and other significant natural features such as rock outcroppings. On all water courses entering or leaving the property, the direction of flow shall be indicated. The 100-year flood plain, if any, shall be outlined.
- (m) *Streets, easements, political boundaries and built features.* Man-made features within and adjacent to the property, including street right-of-way and pavement widths, names of existing streets, all easements, city and county political boundary lines, and other significant information such as location and dimensions of bridges, utility lines, existing buildings to remain, and other features.
- (n) *Subdivision layout.* The proposed subdivision layout including lot lines and street right-of-way lines, with proposed street names or letter designations and right-of-way widths, along with the front building setback line and the approximate dimensions of the length and width of each lot.
- (o) *Phasing.* The proposed phasing of the development, if it is proposed to be platted in phases.
- (p) *Water supply and sewage disposal.* A statement as to the source of the domestic water supply and provisions for sanitary sewage disposal. For those properties that will not be served by a public sanitary sewerage system, but will instead install a decentralized wastewater system, location and results of percolation tests as required and approved by the Hall County Environmental Health Department.
- (q) *Stormwater management.* The approximate location of proposed stormwater ~~detention~~ facilities. Compliance with chapter 9-13-~~1312~~ shall not be required at the time of preliminary plat approval but will be required for the issuance of a land development permit or grading permit.
- (r) *Additional information.* Additional information as may be required to ensure compliance with this article and Code.
- (s) *Certificate of project approval.* A certificate of project approval, as follows or as may be modified from time to time, shall be shown on the preliminary plat:



City of Gainesville
Dept. of Planning & Dev

Name _____
 Date _____
 Tax Parcel _____
 Zoning _____
 Address _____
 Dev # _____

Approved for Land Disturbance

Sec. 9-13-4-4. - Preliminary plat application requirements.

Applications for preliminary plat approval shall include the following:

- (a) *Application form.* A properly completed application form, as furnished by the community and economic development~~planning~~ department, requesting review for project approval. The community and economic development~~The planning~~ department may choose to complete this form for the applicant.
- (b) *Copies of plats.* A set number, as fixed from time to time by the director of planning and development, of copies of the preliminary subdivision plat meeting preliminary plat specifications of this chapter and showing the entire ownership.
- (c) *Fees.* Payment of all applicable application and review fees, as established by the governing body from time to time.

Sec. 9-13-4-5. - Review and approval process.

The director of planning and development is responsible for administering the review and approval process for preliminary subdivision plats, which shall not be inconsistent with the provisions of this chapter. The procedures of this section may be supplemented by the director of planning and development where additional specification is required.

- (a) *Review for completeness and application acceptance.* The community and economic development~~The planning~~ department shall review the application for completeness at the time of submission. Incomplete applications will not be processed and will be returned to the applicant.
- (b) *Distribution and agency review of preliminary plat.* The community and economic development~~The planning~~ department shall forward a copy of the preliminary plat application to other city departments as may be appropriate, the state department of transportation if the proposed subdivision has frontage on or proposes access to a state or federal road, or others as appropriate, for their review and comment. Agency review shall specifically include the approval from the Hall County Environmental Health

Department if ~~septic tanks area decentralized wastewater system is proposed, and the~~ ~~The city-public utilities~~ department ~~of water resources will review preliminary plats~~ in cases where connection to city water ~~supply, and/or sanitary sewer and/or stormwater systems~~ is proposed or required.

- (c) *Time period for completion of review.* Within two (2) to three (3) weeks following receipt of the application, during which agency review shall be completed, the ~~community and economic development~~ ~~planning~~ department shall indicate on the preliminary plat or in writing all comments related to compliance with this article and Code. ~~The community and economic development~~ ~~The planning~~ department shall provide all comments to the applicant for resolution, who shall work with each Department as necessary to resolve all issues.
- (d) *Action.* When the ~~community and economic development~~ ~~planning~~ department has determined that the preliminary subdivision plat is in compliance with the requirements, purpose and intent of this article and Code, it shall be approved. The owner shall be responsible for compliance with all codes, regulations, and zoning requirements and for the satisfaction of all the noted and written comments.
- (e) *Variances.* The ~~community and economic development~~ ~~planning~~ department shall not approve any preliminary plat that would result in a lot or situation that would clearly require a variance, until or unless such variance is lawfully obtained.
- (f) *Certificate of project approval.* Upon approval of the preliminary plat, the director of planning and development or his or her designee shall sign and date the certificate of project approval stamped on a reproducible copy of the preliminary subdivision plat. One copy of the approved drawing shall be transmitted to the applicant and the ~~community and economic development~~ ~~planning~~ department shall retain the additional copies for distribution and record-keeping purposes.
- (g) *Duration of approval.* The certificate of project approval shall remain in effect for a period of one consecutive year after which time it shall become null and void and a new certificate may be required if no permit has been issued or no development activity has begun.

Sec. 9-13-4-6. - Amendments to preliminary plat approval.

The director of ~~community~~ ~~planning~~ and ~~economic~~ development, in consultation with the director of public works and/or the director of ~~public utilities~~ ~~water resources~~ when engineering or ~~water supply, sanitary sewer or stormwater systems utility considerations~~ are involved, is authorized to approve minor amendments to preliminary plats (i.e., those that do not affect the public or private street configuration or that reconfigure lots and which do not increase the number of lots), without the need to reapply for preliminary plat approval. The application requirements and procedures for amending preliminary plats, unless minor in nature, shall be the same as for preliminary plat applications.

CHAPTER 9-13-6. - MINOR LAND DEVELOPMENT PERMITS

Sec. 9-13-6-1. - Minor land development permit required.

A minor land development permit may be required for small projects that would otherwise not require a land development permit or preliminary plat as identified in this article. For multi-family and nonresidential properties, this may include but is not limited to items such as minor tree removal, clearing and grubbing, grading, landscaping, small driveway/parking installations and small building additions located on existing impervious surface areas as determined by the community and economic developmentplanning director. For single-family residential properties, this may include but is not limited to parking, patio, walkway and retaining wall additions as determined by the community and economic developmentplanning director. Regular maintenance of property including landscaping and gardening shall be exempt from these requirements. This chapter does not exempt the requirement of a separate building permit.

(Ord. No. 2009-47, § XXV, 12-15-09)

Sec. 9-13-6-2. - General application requirements.

The application for a minor land development permit shall be submitted to the community and economic developmentplanning department and may include the following items below as approved by the community and economic developmentplanning director:

- (a) *Application form.* Application on the form completed by the community and economic developmentplanning department. The community and economic developmentplanning department may choose to complete this form for the applicant.
- (b) *Fee.* Payment of any land development permit fee, as established from time to time by the governing body.
- (c) *Plat.* A copy of the approved recorded plat of the subject property.
- (d) *Site plan.* A site plan shall be prepared by a person familiar with land development activities. The site plan shall include at minimum the project location, total project area and all erosion and sedimentation control measures.
- (e) *Completeness.* The application shall be checked for completeness at the time of submission. Incomplete applications will not be processed and will be returned to the applicant.

(Ord. No. 2009-47, § XXV, 12-15-09)

Sec. 9-13-6-3. - Review of permit applications.

The community and economic developmentplanning department shall forward a copy of the permit application and all supporting documents to other city departments and government agencies or others as appropriate, for their approval. The applicant may be required by the community and economic developmentplanning department to secure development approval from other agencies if they are affected by (or have jurisdiction over) the development. Development approval may be required from but not limited to:

- (a) The Gainesville ~~Public Utilities~~ Department of Water Resources.
- (b) The Gainesville Public Works Department.
- (c) The Hall County Public Works Department.

(Ord. No. 2009-47, § XXV, 12-15-09)

Sec. 9-13-6-4. – Expiration of Permit Approval.

A minor land development permit shall expire within one (1) year from the date of issuance.

(Ord. No. 2009-47, § XXV, 12-15-09)

CHAPTER 9-13-7. - LAND DEVELOPMENT PERMITS

Sec. 9-13-7-1. - Land development permit required.

A land development permit shall be required to authorize all activities associated with development activity, including, but not limited to, clearing and grubbing, grading, [excavation](#), [demolition](#), and the construction of such improvements as streets, surface parking areas and drives, stormwater drainage facilities, sidewalks, or other structures permanently placed on or in the property except for buildings, signs, or other structures requiring the issuance of a building permit. Any person seeking development activity on land within the city shall first submit to the [community and economic developmentplanning](#) department an application for a land development permit, including all civil design and construction drawings required by [this](#) chapter ~~9-13-7~~.

A land development permit shall not be required for detached, fee-simple single-family dwellings and two-family dwellings (duplexes). All other forms of residential development including but not limited to detached, single-family dwellings and attached dwellings in condominium ownership, townhouses, and apartments shall require a land development permit.

Sec. 9-13-7-2. - Types of plans required.

Persons seeking to engage in development activity on land in the city shall not commence or proceed until civil design and construction drawings are approved and a land development permit is issued by the [community and economic developmentplanning](#) department.

The civil design and construction drawings for a project shall conform in all respects with the approved preliminary plat, if applicable, and all other requirements of this chapter. Applications for approval of civil design and construction drawings shall include each of the plans described in this chapter as appropriate to the project and summarized below (which shall not be considered limiting):

- (a) *Erosion and sediment control plan.* Plans must be prepared to meet the erosion and sedimentation control requirements using best management practices under article 9-14 and as required by this chapter. Conformance with the minimum requirements may be attained through the use of design criteria in the [latest editioncurrent-issue](#) of the *Manual for Erosion and Sediment Control in Georgia*, published by the state soil and water conservation commission as a guide; or through the use of alternate design criteria which conform to sound conservation and engineering practices. The erosion and sediment control plan shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances and state laws [and permits](#).
- (b) *Tree plan.* A proposal for development or improvement of any tract of land shall include a tree protection plan as required by chapter 9-16-5 and this chapter. Such plan shall be submitted to the city prior to any grading, bulldozing or other removal of existing vegetation that may effect the health of existing tree coverage.
- (c) *Stormwater management report.* The location and size of all proposed drainage improvements shall be designed in accordance with and meet all standards relating to stormwater management as specified in chapter 9-13-12 [andelsewhereand this chapter in this code, state laws and permits](#).
- (d) *Street improvement plan.* When new streets, public or private, are provided, or when an existing public or private street is modified, a street improvement plan shall be provided. Such plan must demonstrate compliance with chapter 9-13-9.
- (e) *Structural buffer plan.* When a structural buffer is required by this Code (see chapter 9-16-2) or provided by the applicant, a structural buffer plan shall be submitted as a part of the land development permit

application. Plans shall not be required for natural buffers, but natural buffers shall be shown on the grading plan and tree plan.

- (f) Stream protection buffer plan. When a stream protection buffer is required by this code, a stream protection site plan shall be submitted as a part of the land development permit application. The siteSite plan must demonstrate compliance with chapter 9-16-3 and meet all standards relating to stream and water supply protection.
- (fg) Flood plain permit. When a flood plain permit is required by article 9-15, a flood plain permit application shall be submitted as a part of the land development permit application and as provided in this chapter.
- (gh) Sewage disposal plan. Sanitary sewerage plans shall include profiles of all mains and outfalls, lift station and force main details, typical manhole construction details, and other information as may be required by the director of public utilitiesdepartment of water resources. For projects to be served by on-site sewage disposaldecentralized wastewater systems, such plans shall show the location of septic tankthe system, extent of drain field and attendant structures, location and results of percolation tests, and other information shall be shown as required by the Hall County Environmental Health Department.
- (hi) Domestic water supply plan. The domestic water supply plan shall depict all water system improvements, water mains, fire hydrants, valves and other appurtenances, and other information as may be required by the director of public utilitiesdepartment of water resources.
- (ij) Grading. A grading plan showing existing and proposed contours within and immediately adjacent to the proposed land development. When new streets are involved in the land development they shall comply as applicable with section 9-13-9-13 of this Code. Land development projects within the Limestone Parkway overlay zone shall meet the requirements of chapter 9-8-3 of this Code, as applicable.
- (jk) Site design review. Unless accomplished independently, the application for land development shall include information sufficient to meet the requirements for site design review and approval as specified in article 9-9 of this Code.

(Ord. No. 2016-09, § X, 6-21-16)

Sec. 9-13-7-3. - Preparation by professional.

All civil design and construction plans and supporting studies shall be prepared by or under the supervision of a registered professional engineer and stamped by said registered professional engineer. All other maps, drawings and supportive computations required to be submitted by this article shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying or erosion and sediment control, as applicable to the type of plan submitted.

Sec. 9-13-7-4. - Separate requirements for phased applications.

If the tract is to be developed in phases, then a separate land development permit or grading permit, or both if applicable, shall be required for each phase.

Sec. 9-13-7-5. - Relationship of permit to plat approval.

An application for preliminary plat approval may be processed independently or in conjunction with an application for issuance of a land development permit. Applicants are cautioned, however, that the preliminary plat approval is discretionary with regard to compliance with the comprehensive plan and design requirements of this article, and therefore, proceeding simultaneously with preliminary plat and land development permit applications may result in the revision of engineering plans if the layout of the preliminary plat of the proposed subdivision must be modified.

Sec. 9-13-7-6. - General application requirements for land development permits.

No person shall conduct any land-disturbing activity within the city without first applying for and obtaining a land development permit from the community and economic development department to perform such activity. The application for a land development permit shall be submitted to the community and economic development department and must include the following:

- (a) *Application form.* Application on the form completed by the community and economic development department. The community and economic development department may choose to complete this form for the applicant.
- (b) *Civil design drawings and construction plans.* A set number, as fixed from time to time by the director of planning and development, of copies of the applicable civil design and construction drawings, including the appropriate number of copies of an erosion and sediment control plan with supporting data, as appropriate to the proposed project, and any other plans specified by this article and applicable to the proposed development. Said plans shall include, as a minimum, the data and conform to the specifications and standards specified in this chapter.
- (c) *Statement of taxes paid.* A statement by the Hall County Tax Commissioner certifying that all ad valorem taxes levied against the property and due and owing have been paid. No land development permit shall be issued unless the applicant provides such a statement.
- (d) *Fee.* Payment of any land development permit fee, as established from time to time by the governing body.
- (e) *Plat or plan prior approvals or applications.* A copy of the approved preliminary plat, if subdivision is required and preliminary plat approval has been obtained, or an application for preliminary plat approval.

The application shall be checked for completeness at the time of submission. Incomplete applications will not be processed and will be returned to the applicant.

Sec. 9-13-7-7. - General specifications for drawings and plans.

Unless otherwise specifically provided, each certified civil design plan and construction drawing required to be submitted by this chapter shall at minimum conform to the following specifications:

- (a) Graphic scale and north point or arrow indicating magnetic north.
- (b) Vicinity map showing location of project and existing streets.
- (c) Boundary line survey.
- (d) Delineation of disturbed areas within project boundary.

Plans and drawings shall show existing and planned contours for the property and all land within fifty (50) feet of the proposed project boundaries, at a map scale of one inch = one hundred (100) feet or larger scale, with contour lines drawn with an interval in accordance with the following minimum contour intervals. The procedure or method used at arriving at the contour interval shall be indicated on the plans.

Ground Slope	Contour Interval in Feet
Flat 0—2%	0.5 or 1
Rolling 2—8%	1 or 2
Steep 8% +	2, 5, or 10

- (e) Adjacent areas and features such as streams, lakes, residential areas, etc. which might be affected should be indicated on the plan.
- (f) Proposed structures or additions to existing structures and paved areas.
- (g) Delineate the required stream protection buffer width adjacent to state waters.
- (h) Delineate the required horizontal greenway (buffer width) along designated trout streams, where applicable.
- (i) A site location drawing of the proposed project indicating its location in relation to roadways, jurisdictional boundaries, overlay zones, streams and rivers, as well as the delineation of the 100-year flood plain and administrative floodplain (see article 9-15), if existing, and the reference data used in making the 100-year or administrative flood plain determination.
- (j) Computations, timing schedule and other supportive data required for review of the applicant's plan.

Sec. 9-13-7-8. - Specifications for erosion and sediment control plans.

Erosion and sediment control plans shall meet the following minimum specifications, and also as provided in article 9-14.

- (a) Narrative or notes, and other information. Notes or narrative to be located on the site plan in general notes or in erosion and sediment control notes.
- (b) Description of existing land use at project site and description of proposed project.
- (c) Name, address, and phone number of the property owner.
- (d) Name and phone number of 24-hour local contact that is responsible for erosion and sedimentation controls.
- (e) Size of project, or phase under construction, in acres.
- (f) Activity schedule showing anticipated starting and completion dates for the project. Include the statement in bold letters, that "the installation of erosion and sediment control measures and practices shall occur prior to or concurrent with land-disturbing activities."
- (g) Stormwater and sedimentation management systems-storage capacity, hydrologic study, calculations including off-site drainage areas and other information as may be needed to satisfy the requirements of articles 9-13 and 9-14.
- (h) Location of erosion and sediment control measures and practices using coding symbols from the latest version of the Manual for Erosion and Sediment Control in Georgia, chapter 6, and meeting the requirements of article 9-14. Practices may include, but are not limited to:
 - (1) Construction exit.
 - (2) Sediment barrier.
 - (3) Sediment basin.
 - (4) Grassed waterway (open swale).
 - (5) Storm drain outlet protection.
 - (6) A plan for temporary and permanent vegetative and structural erosion and sediment control measures.
- (i) Vegetative plan for all temporary and permanent vegetative practices, including species, planting dates, and seeding, fertilizer, lime and mulching rates. The vegetative plan should show options for year-round seeding.

- (j) Detail drawings for all structural practices. Specifications may follow guidelines set forth in the *Manual for Erosion and Sediment Control in Georgia*.
- (k) Maintenance statement. "Erosion and sediment control measures will be maintained at all times. Additional erosion and sediment control measures and practices will be installed if deemed necessary by on-site inspection."
- (l) A description of the sediment control program and sediment control practices.
- (m) An adequate description of general topographic and soil conditions of the tract as available from the Hall County Soil and Water Conservation District.
- (n) A description of the maintenance program for sediment control facilities including inspection programs, vegetative establishment of exposed soils, method and frequency of removal and disposal of solid waste material removed from control facilities and disposition of temporary structural measures.

Sec. 9-13-7-9. - Specifications for tree plans.

Tree plans shall be required, which shall show the information specified in this section (for more detailed requirements please see article 9-16). Tree plans involving development of five (5) acres or more shall be prepared by a registered landscape architect or registered arborist.

- (a) The extent of the development site.
- (b) All significant trees and all other trees ten (10) inches DBH or larger which will remain on the development site and be protected during construction; and trees less than ten (10) inches DBH that are submitted for credit as part of the required minimum tree units per acre of development site (not including land area covered by buildings).
- (c) In heavily wooded areas that will not be disturbed, the plan may show only the boundaries of each stand of trees and a list of the number, size, and type (e.g., hardwood, softwood; deciduous, evergreen) of trees in each stand which are submitted for credit. An averaging method may be used for large tracts of tree save areas.
- (d) Areas subject to other provisions of this Code regarding retention of undisturbed natural vegetative buffers shall also be shown.
- (e) Locations of proposed and existing on-site utility lines and easements. Indicate areas where trees cannot be planted because of interference with:
 - (1) Existing or proposed utilities on public rights-of-way or on utility rights-of-way or easements, and
 - (2) Existing utilities on adjoining properties.
- (f) Limits of land disturbance, clearing, grading, and trenching.
- (g) Limits of tree conservation areas, showing trees to be maintained and planted, specifying type and size. Tree protective fencing shall be delineated and labeled on all sheets of plans/plats.
- (h) Grade changes or other work adjacent to a significant tree or any other tree ten (10) inches DBH or larger which would affect it adversely, with drawings or descriptions as to how the grade, drainage, and aeration will be maintained around the tree.
- (i) Tree protective fencing diagram or illustration.
- (j) Planting schedule, if applicable.
- (k) Requirements for landscaping, as specified in article 9-16.

(Ord. No. 2009-47, § XXVI, 12-15-09)

Sec. 9-13-7-10. - Specifications for stormwater management report and plans.

Stormwater management reports and plans shall be submitted and shall include all specifications of article 9-13-12.

Sec. 9-13-7-11. - Specifications for street improvement plans.

Street improvement plans shall demonstrate compliance with article 9-13-9, and where private streets are involved, compliance with article 9-13-10. Such plans shall include the following:

- (a) Center line profiles and typical street sections at 50-foot intervals of all proposed streets. Profiles shall be drawn on standard plan and profile sheet with plan section showing street layout, pavement and right-of-way width, curvature, and required drainage facilities. Typical street sections shall be provided for street widenings.
- (b) Where sanitary sewer or stormwater sewers are to be installed within a street, the grade, size, location and bedding class of pipe, and the location and invert elevation of manholes shall be indicated on the road profile.
- (c) Center line profiles covering streets that are extensions of existing streets shall include elevations at 50-foot intervals for such distance as may be adequate to provide continuity consistent with the standards required by this Code for street improvements, but no less than two hundred (200) feet.
- (d) All plan elevations shall be coordinated and sited into U.S. Coast and Geodetic Survey or state department of transportation benchmarks where feasible or into reference monuments established by the Federal Emergency Management Agency.
- (e) A street striping and signage plan, showing improvements in accordance with the *Manual on Uniform Traffic Control Devices*, latest edition as published by the Federal Highway Administration, shall be prepared for any street newly constructed or widened to four (4) or more lanes.

Sec. 9-13-7-12. - Specifications for structural buffer plans.

When required to be submitted (see chapter 9-16-2), structural buffer plans shall provide the following:

- (a) All grading and construction details for earthen berms, walls and fences that are proposed as part of the visual screen.
- (b) A planting plan showing the location and type of proposed plant materials.
- (c) Typical cross-sections of the buffer illustrating the improvements proposed and typical location of vegetation. At least one cross-section shall be provided for each structural buffer.

Requirements for landscaping, as specified in article 9-16, unless compliance is demonstrated on a separate landscape plan or through prior project site plan approval.

Sec. 9-13-7-13. - Stream protection buffer plans.

A stream protection buffer plan shall be submitted and shall include all specifications required by chapter 9-16-3.

Sec. 9-13-7-14. - Flood plain permit.

If development or construction is proposed within or affecting an area of special flood hazard (see article 9-15), a flood area permit application shall be included with and reviewed along with a land development permit application. If a flood plain permit is required, the application shall also include the following:

- (a) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings;
- (b) Elevation in relation to mean sea level to which any nonresidential building will be floodproofed;
- (c) Certificate from a registered professional engineer or architect that the nonresidential floodproofed building will meet the floodproofing criteria in article 9-15; and
- (d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

Sec. 9-13-7-~~15~~. - Administration.

The community and economic development~~planning~~ department is responsible for administering the review and approval process for issuance of land development permits.

Sec. 9-13-7-~~16~~. - Review of permit applications.

The community and economic development~~planning~~ department shall forward a copy of the permit application, including the civil design and constructions drawings for the project, to other city departments and government agencies or others as appropriate, for their review and comment. The applicant may be required by the community and economic development~~planning~~ department to secure development approval from other agencies if they are affected by (or have jurisdiction over) the development. Development approval may be required from but not limited to:

- (a) ~~The city public utilities~~ City department of water resources.
- (b) ~~The city~~ City public works department.
- (c) ~~The~~ Hall County public works department.
- (d) ~~The~~ Hall County soil and water conservation district.
- (e) City fire department.
- (f) Hall County environmental health department.
- (g) ~~State~~ Georgia department of transportation.
- (h) ~~State~~ Georgia department of natural resources.
- (i) U.S. Army Corps of Engineers.
- (j) U.S. Environmental Protection Agency.
- (k) Georgia Environmental Protection Division.
- (i) Federal Emergency Management Agency.

Upon receipt of comments from other city departments and external agencies as appropriate, the community and economic development~~planning~~ department shall provide all comments to the applicant for resolution and as appropriate shall indicate on a copy of the civil design and construction drawings or in writing all comments related to compliance with this article or Code, conditions of zoning approval, and other city regulations, as appropriate.

Sec. 9-13-7-~~17~~. - Review of soil erosion plans.

Upon receipt of a land development permit application, the community and economic development~~planning~~ department shall refer the soil erosion and sediment control plan to the Hall County Soil and Water Conservation District ~~and~~ city department of water resources ~~and the city public works department~~ for review and approval or disapproval concerning the adequacy of the erosion and sediment control plan. The results of the soil and water conservation district and ~~public works department~~ department of water resources reviews shall be forwarded to the

~~community and economic development~~planning department. No land development permit shall be issued unless the plan has been approved by the ~~soil and water conservation~~ district and the ~~public works department~~~~department of water resources~~, and any variances and bonding, if required, have been obtained.

Cross-reference - Erosion and sediment control, Article 9-14.

Sec. 9-13-7-~~18~~. - Action on permit applications.

The applicant shall be responsible for compliance with all codes, regulations, and zoning requirements and for the satisfaction of all of the comments of reviewing city departments, external agencies, and the ~~community and economic development~~planning department. Although review may have been achieved, if another city department or external agency requires approval or permit, the owner shall also be responsible for obtaining approval from all other agencies affected by the project prior to issuance of the land development permit by the ~~community and economic development~~planning department.

No land development ~~permit~~ shall be issued unless the erosion and sediment control plan has been approved by the soil and water conservation district and the ~~public works~~ department ~~of water resources~~, and that the ~~community and economic development~~planning department has affirmatively determined that the plans required are in compliance with all requirements of this article and Code.

If the land development permit is denied, the reason for denial shall be furnished to the applicant. Following satisfaction of all comments from the city and external agencies and receipt of approvals from all affected agencies, the ~~community and economic development~~planning department shall issue a land development when all requirements of this article and Code are met. Such approval authorizes land-disturbing activities to begin based on the approved civil design and construction drawings.

Sec. 9-13-7-~~19~~. - Permits for annexed lands.

If the tract, for which a land development permit is sought, is being annexed into the city, then a land development may not be issued until the date the annexation becomes effective pursuant to state law under O.C.G.A. 36-36-2. No application for a land development or building permit shall be filed on newly annexed property until the first of the month following the annexation approval date.

Cross-reference - Annexations, Ch. 9-22-3.

Sec. 9-13-7-~~20~~. - Responsibilities limited.

Approval of plans by the ~~community and economic development~~planning department shall not imply or transfer acceptance of responsibility for the application of the principles of engineering, architecture, landscape architecture, or any other profession, from the professional, corporation, or individual under whose hand or supervision the plans were prepared.

The completion of inspections by the city and authorization for work continuation shall not transfer responsibility for the quality of the work performed or materials used from the owner, nor imply or transfer acceptance of responsibility for project design or engineering from the professional, corporation, or individual under whose hand or supervision the plans were prepared.

The approval of an erosion and sediment control plan or other plans under the provisions of this article and Code, the issuance of a land development permit, or the compliance with the provisions of this article and Code shall not relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the city or the soil and water conservation commission district for damage to any person or property.

The fact that any activity for which a land development permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this article and Code or the terms of the permit.

Sec. 9-13-7-21. - Bond requirements for violators of soil erosion and sedimentation regulations.

If the applicant has had two (2) or more violations in the city of previous land development, this article, Article 9-14, and the Code as it pertains to soil erosion and sediment control, or the Georgia Erosion and Sedimentation Act, as amended, within three (3) years prior to the date of filing of the application under consideration, the director of community planning and economic development may deny the land development permit application, or may require the applicant to post a performance bond prior to issuing the land development. If the applicant does not comply with this article and Code, or with the conditions of the permit after issuance, the community and economic development department may call the performance bond or cause any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

Sec. 9-13-7-22. - Suspension, revocation, or modification.

The land development permit may be suspended, revoked, or modified by the city, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in title is not in compliance with the approved erosion and sediment control plan or that the holder or his successor in title is in violation of this Code. A holder of a land development permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the land development permit.

Sec. 9-13-7-23. - Expiration of permit approval.

A land development permit shall expire within one year from the date of issuance. The applicant may request a permit extension, subject to the requirements of chapter 9-1-2 and all other requirements contained in this code.

(Ord. No. 2009-47, § XXVII, 12-15-09)

Sec. 9-13-7-24. - Falsifying information.

Any person who knowingly makes any false statements, representations or certifications in any application, permit, record, report, plan, drawing, plat, or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or inspection method required under this chapter shall be in violation of this code and subject to the fines, penalties and punishment provided for in section 1-1-7 and other penalties as provided for in this chapter.

CHAPTER 9-13-8. - IMPROVEMENT REQUIREMENTS GENERALLY

Sec. 9-13-8-1. - Applicability.

The improvements specified in this chapter shall be provided by the subdivider or developer or at the subdivider's or developer's expense in every subdivision or land development in accordance with the standards contained in this article and Code.

Sec. 9-13-8-2. - Survey monumentation.

Survey monumentation of the public streets and lot lines in a subdivision shall be provided, where applicable. See also section 9-13-3-10 of this Code.

Sec. 9-13-8-3. - Streets.

Streets, whether public or private, shall provide access to a development and to all lots in a subdivision, including the extension of streets required to provide access to adjoining properties.

- (a) Streets contained wholly within a subdivision shall be improved to the full standards contained in chapter 9-13-9. Streets that adjoin a development shall be improved to the minimum standards of a local street from the center line of the street along the development's frontage.
- (b) Streets in nonresidential areas or serving a multi-family development shall be improved to "collector" street standards. In residential subdivisions, streets that serve one hundred (100) dwelling units or more shall be improved to "collector" street standards, while those serving fewer than one hundred (100) dwelling units shall be improved to "local" street standards.
- (c) The city may participate in sharing the costs of construction and installation to the extent that improvements are needed to bring an existing public street to a higher level of classification than required to exclusively serve the subdivision or development.
- (d) Curb and gutter shall be required along all streets and internal roadways, unless stormwater is directed to a stormwater best management practice via a curb cut or other means, and approval has been given by the department of water resources. See also section 9-13-9-23.

Sec. 9-13-8-4. - Stormwater facilities.

Stormwater drainage and detention facilities shall be provided as required by the public works director and in accordance with chapter 9-13-12 and other provisions contained in this code.

Sec. 9-13-8-5. - Sidewalks.

Minimum five-foot wide sidewalks shall be provided along each side of any street within or adjacent to the development, in accordance with section 9-13-9-26.

Sec. 9-13-8-6. - Traffic control devices.

Street name signs, stop bars and traffic control signs shall be installed by the city at the developer's expense. See also section 9-13-9-25.

Sec. 9-13-8-7. - ~~Public water~~Water service.

~~Public water~~Water service shall be provided to every lot in a subdivision and to every development for both domestic use and fire protection, as more specifically provided in chapter 9-13-11.

Water mains shall be connected to the existing city water system and extended past each lot. A contractor approved by the city shall install all elements of the water system, including mains, valves and hydrants at the developer's expense. The governing body may elect to participate in sharing the costs of construction and installation to the extent that pipe sizes are needed in excess of that size required to exclusively serve the subdivision or development.

Sec. 9-13-8-8. - Fire hydrants.

Fire hydrants shall be located along the streets in every subdivision and within every development project, as approved by the city fire department and the ~~director of public utilities~~department of water resources.

Sec. 9-13-8-9. - Sanitary sewerage.

Every lot in a subdivision and every development shall be connected to the city's public sanitary sewerage system unless on-site disposal is approved by the ~~public utilities~~department of water resources and the Hall County Environmental Health Department. Sewer lines shall be connected to the existing sanitary sewerage system and extended past each lot, as more specifically provided in chapter 9-13-11.

Every element of the sanitary sewer system, including mains, lift stations, outfalls, and laterals, shall be installed at the developer's expense by a contractor approved by the city. The governing body may elect to participate in sharing the costs of construction and installation to the extent that sewer mains or related improvements are needed in excess of the facilities required to exclusively serve the subdivision or development.

Sec. 9-13-8-10. - Design variance.

The ~~director of community and economic development,~~ director of public works, ~~director of water resources and other department directors as appropriate are~~ is authorized to, upon application, approve variances to the design requirements of this article, ~~for design elements under each department's purview, and~~ for good cause shown. Such application for variance shall be processed in conjunction with a preliminary plat application or land development permit application as appropriate. The applicant may be required to secure approval of variance from other agencies if they are affected by (or have jurisdiction over) the improvements. Possible agencies are listed in chapter 9-13-7-16.

CHAPTER 9-13-9. - DESIGN REQUIREMENTS FOR STREETS**Sec. 9-13-9-1. - Access.**

- (a) Every development and every lot within a subdivision shall be served by a public street meeting the requirements of this chapter or an approved private street meeting the requirements of this chapter and chapter 9-13-10.
- (b) Every development and every subdivision shall have access to the public street system via a paved roadway.
- (c) When land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged and designed so as to allow for the opening of future streets and to provide access to those areas not presently served by streets.
- (d) No subdivision or development shall be designed in a way that would completely eliminate street access to adjoining parcels of land.
- (e) Reserve strips, as defined in chapter 9-13-2, shall be prohibited.

Sec. 9-13-9-2. - Conformance to adopted major thoroughfare and other plans.

All streets and other features of the adopted comprehensive plan shall be platted by the subdivider or installed by the land developer in the location and if any, to the dimensions indicated on the major thoroughfare plan or transportation element of the comprehensive plan adopted by the governing body, as well as the transportation plan of the metropolitan planning organization (MPO).

Sec. 9-13-9-3. - Continuation of existing streets.

Streets existing at the property line of a subdivision or land development, or which terminate within the boundaries of a subdivision or land development, shall be continued at the same or greater width, but in no case less than the required width. The director of planning and development may waive this requirement in instances where in his or her opinion such continuation or extension would be undesirable or incompatible with surroundings.

Where, in the opinion of the director of planning and development, it is necessary to provide for street access to adjoining property, proposed streets shall be extended by dedication of right-of-way to the boundary of such property through the subdivision or land development.

Sec. 9-13-9-4. - Street plans for future phases of the tract.

Where land proposed to be subdivided or developed includes only part of the tract owned by the subdivider or land developer, a tentative plan of a future street system for the portion not slated for immediate subdivision or land development consideration shall be required by the director of planning and development. When such tentative plan is required, it shall be prepared and submitted by the subdivider or land developer at the time of submission of an application for preliminary plat, if required, or land development plan permit.

Sec. 9-13-9-5. - Development along arterial street or limited access highway.

Where a subdivision or land development abuts or contains an arterial street or a limited access highway, the director of planning and development may require a street to be constructed approximately parallel to and on each side of such right-of-way, from which the lots or land development shall be accessed instead of the arterial street or limited access highway. In such cases, the director of planning and development shall require a ten-foot wide no-access easement planted to prohibit travel across it.

Sec. 9-13-9-6. - Separation of new streets along arterial street.

Subdivision streets that intersect an arterial street shall do so at intervals of not less than eight hundred (800) feet, or as required by the state department of transportation, whichever is greater.

Sec. 9-13-9-7. - Street names.

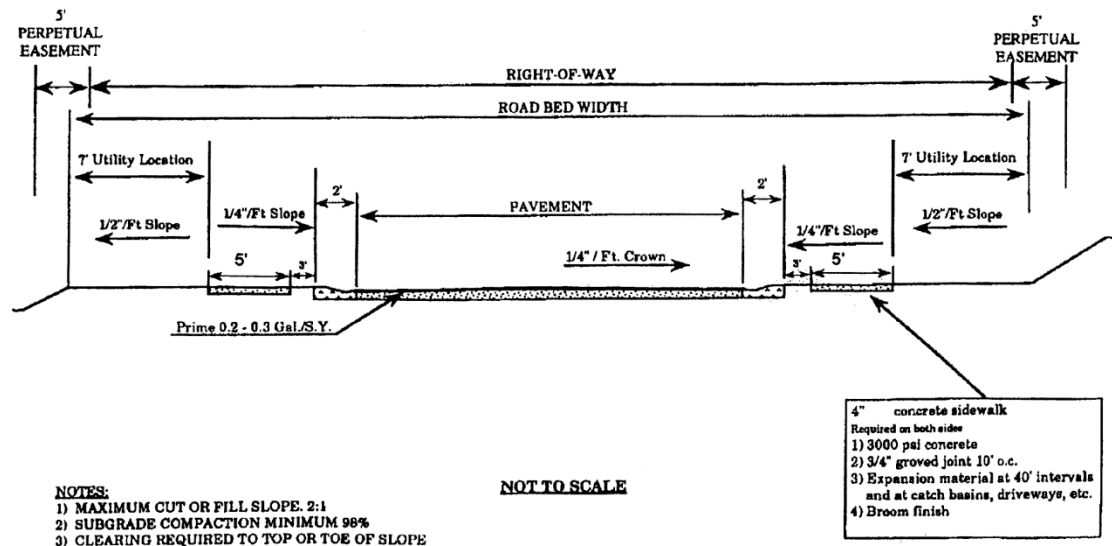
Street names shall be reviewed for correct usage and reasonable meanings consistent with the language used and are subject to the approval of the director of planning and development or designee. For instance, the term "parkway" shall not be appropriate for an undivided, two-lane road. Streets that are a continuation of or in alignment with existing named streets shall be given the name of the existing street. Names of new streets shall not duplicate or closely approximate those of existing streets in the city or county, regardless of the use of any suffix such as "street," "avenue," "boulevard," "drive," "place," "way," "court," or other designation.

Sec. 9-13-9-8. - Street alignment, intersections, and jogs.

Streets shall be aligned to join with planned or existing streets. Streets shall be laid out so as to intersect as nearly as possible at right angles (ninety (90) degrees), but in no case shall such a street intersection be less than eighty (80) degrees. Where street offsets or jogs cannot be avoided, offset "T" intersections shall be separated by a minimum centerline offset of two hundred (200) feet.

Sec. 9-13-9-9. - Right-of-way widths.

All state or U.S. numbered highways shall meet all design requirements of and be approved by the state department of transportation. The right-of-way width shall be the distance across a street from lot line to lot line. Minimum right-of-way widths shall be as required in table 9-13-9-1.



Typical Street Section A

TABLE 9-13-9-1
STREET IMPROVEMENT REQUIREMENTS

Requirement	Arterial Street	Collector Street	Local Street	Alley
Right-of-way, minimum (feet)	Per Georgia DOT	60'	50'	30'
Roadway width (feet)	Per Georgia DOT	32'	28'	20'
Pavement width, minimum (feet)	Per Georgia DOT	28'	24'	16' plus curbs if required or provided
Grade, maximum (percent)	6%	10%	12%	12%
Grade, minimum (percent)	1%	1%	1%	1%
Site distance, minimum (feet)	Per Georgia DOT	250'	200'	150'
Radius of curvature of the center line, minimum (feet)	Per Georgia DOT	500'	275'	200'
Tangent, minimum (feet)	Per Georgia DOT	200'	100'	100'
Design speed (miles per hour)	Per Georgia DOT	35 miles per hour	30 miles per hour	20 miles per hour
Cul-de-sac turnaround radius, back of curb (feet)	N/A	N/A	42'	40'
Street base, graded aggregate base, (GDOT Sec. 310) (inches)	Per Georgia DOT	8 inches	6 inches	Per Director of Public Works
Street base, soil cement Base "B" (GDOT Sec. 301) (inches)	Per Georgia DOT	8 inches	6 inches	Per Director of Public Works
Pavement topping, primer (gallons per square yard)	Per Georgia DOT	0.25 gallons per square yard	0.25 gallons per square yard	Per Director of Public Works
Pavement, binder (inches)	Per Georgia DOT	2½ inches B	2½ inches B	Per Director of Public Works
Pavement topping (inches)	Per Georgia DOT	1½ inches E or F	1½ inches E or F	Per Director of Public Works
Pavement, total (inches)	Per Georgia DOT	4 inches	4 inches	Per Director of Public Works
Curb and gutter (dimensions in inches)	Per Georgia DOT	6" × 24" combination	6" × 24" combination	Per Director of Public Works

Sec. 9-13-9-10. - Perpetual easement.

A five-foot wide perpetual easement shall be provided outside of the right-of-way line along both sides of all collector and local streets. See typical street section A.

Sec. 9-13-9-11. - Pavement widths.

Street pavement widths, as measured from back-of-curb to back-of-curb, shall be provided as required in table 9-13-9-1. All roadways shall be constructed according to methods as contained in the most recent version of the state department of transportation *Standard Specifications for Roadway Construction*, unless otherwise approved by the director of public works.

Sec. 9-13-9-12. - Street grades.

Maximum and minimum street grades shall be as specified in table 9-13-9-1. In addition, the grade across a cul-de-sac in all directions may not exceed five (5) percent. All changes in grade shall be connected by a vertical curve so constructed as to afford a minimum sight distance, said sight distance being measured from the driver's eyes, which are assumed to be forty-five (45) inches above the pavement surface, to an object six (6) inches high on the pavement.

Sec. 9-13-9-13. - Grading.

- (a) *Grading of full width.* All streets, roads and alleys shall be graded to their full width by the developer so that pavement extensions or sidewalks, where required or if installed in the future, can be constructed on the same level plane.
- (b) *Clearing.* Before grading is started the entire area to be paved shall be first cleared of all stumps, roots, brush and other objectionable materials. In all areas to be graded or filled, the developer shall stockpile the topsoil later to be spread in all disturbed areas not paved.
- (c) *Slopes and shoulder improvements.* The maximum slope for all fill or cut slopes shall be two (2) feet of run for each one foot of rise or fall. The minimum width for all shoulders on local or collector streets from back edge of the curb shall be eleven (11) feet. All shoulders shall slope one-fourth ($\frac{1}{4}$) inch to the foot toward the roadway. When all construction is completed, all slopes and shoulders shall be cleared of all rubbish and shall have a stand of grass to prevent undue erosion, either by sprigging or seeding. Abutting property shall be suitably sloped to the right-of-way line.
- (d) *Protection of ~~banks~~graded areas.* Immediately after grading and filling and re-spreading of topsoil, all areas of disturbed soil shall be fertilized and seeded (or in steep areas sodded or otherwise appropriately treated) with suitable vegetative cover to prevent erosion.
- (e) *Installation of utilities.* After grading is completed and approved, the curb lines shall be staked by the developer's registered land surveyor. Before any base is applied, all of the underground utilities that are to be located under the roadway are to be installed completely or otherwise provided in accordance with public works requirements. For proper location of utilities, see section 9-13-9-27.
- (f) *Authorization.* No private improvements, such as private lawn sprinkler systems, yard lighting, and the like, shall be installed within a public right-of-way except by authorization of the director of public works. Such authorization, if issued, shall require the owner to assume all repair costs of the owner's and the city's facilities should they become damaged.
- (g) *Preparation of subgrade.* Prior to placement of the street base, the subgrade shall be compacted to ninety-five (95) percent density.

- (h) *Street base, curbing and paving.* Street base, curbing and paving shall be installed by the developer in accordance with the requirements and standards of this article.

Sec. 9-13-9-14. - Sight distance.

The minimum sight distance shall be as specified in table 9-13-9-1.

Sec. 9-13-9-15. - Horizontal alignment.

Where a deflection angle of more than ten (10) degrees in the alignment of a street occurs, the radius of curvature of the center line of said street shall be not less than as specified in table 9-13-9-1. Tangents shall be as specified in table 9-13-9-1.

Sec. 9-13-9-16. - Curb line radii.

Curb lines at street intersections shall have a radius of curvature of not less than twenty-five (25) feet. Intersecting street right-of-way lines shall be rounded with a radius of no less than twenty-five (25) feet.

Sec. 9-13-9-17. - Design speed.

Horizontal curves and superelevation shall be designed in accordance with the requirements specified in table 9-13-9-1.

Sec. 9-13-9-18. - Alleys.

Where an alley has been specifically authorized by the director of public works, it shall comply with the standards specified in table 9-13-9-1. In addition, dead-end alleys shall be provided with a turn-around having a radius of at least forty (40) feet.

Sec. 9-13-9-19. - Dead end streets.

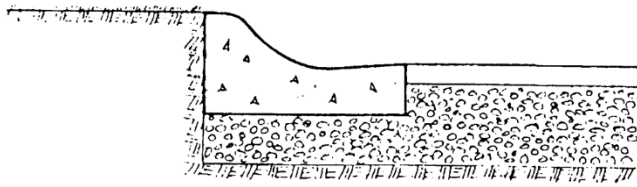
- (a) Only local streets and alleys may be dead-end streets.
- (b) A cul-de-sac shall be no more than six hundred (600) feet long unless necessitated by topographic or other conditions and approved by the director of planning and development. Such a street shall be provided at the closed end with a turnaround having a right-of-way radius of fifty-three (53) feet and pavement radius of forty (40) feet (forty-two (42) feet radius to back of curb).
- (c) A reverse curve joining a cul-de-sac turn-around to a street section shall have a right-of-way radius of twenty-nine (29) feet and a radius to the back of curb of forty (40) feet (forty-two (42) feet to edge of pavement).
- (d) A permanent dead-end street other than a cul-de-sac shall not be allowed, except as a temporary stage of construction of a street that is intended to be extended in a later stage of construction. Such a temporary dead-end street shall be provided with a temporary turn-around within the right-of-way if one or more lots front exclusively on the street; and, extension of the street is not under construction when the final plat is submitted for recording.
- (e) Temporary turnarounds shall consist of a tack coat and one inch of asphalt and have a radius of at least forty (40) feet.

Sec. 9-13-9-20. - Street base.

Street base material shall conform to the requirements of table 9-13-9-1.

Soil cement base shall contain a minimum ten (10) percent Portland cement by volume. Soil cement base may be allowed only under the following conditions:

- (a) None of the streets exceed eight (8) percent grade.
- (b) Tests taken every one thousand (1,000) feet of roadway shall show that the soil meets class "B" standards of the state department of transportation. The tests shall be conducted by a qualified geotechnical laboratory and the results filed with the city in order to obtain authorization to proceed.
- (c) The street base shall extend fully under combination curb and gutter (as illustrated below).

**Street Base****Sec. 9-13-9-21. - Pavement binder and topping.**

Streets shall be paved with a top course meeting the standards specified in table 9-13-9-1. If two-stage paving is approved by the director of public works, the developer shall place a binder course on the street and delay final paving until the end of the one-year maintenance period.

All pavement sections shall be designed by a qualified professional engineer with registration in the state based on 20-year projected traffic loads for that section and the existing subgrade conditions. The minimum acceptable pavement sections shall meet the specification contained within this chapter.

Sec. 9-13-9-22. - Testing requirements.

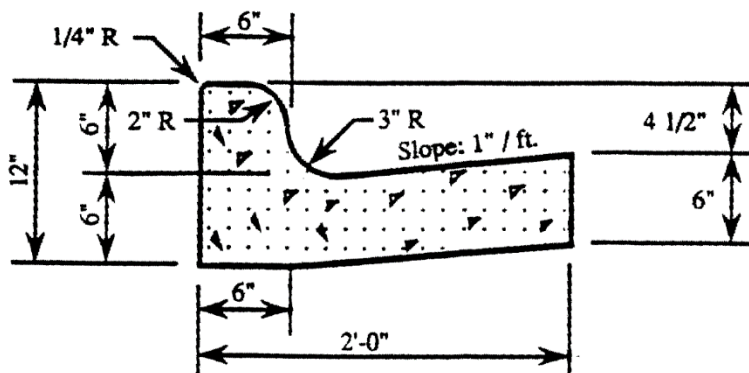
It is the responsibility of the developer to insure that all required tests are made and reported to the public works department. The cost of all testing and quality control shall be performed at the expense of the developer by qualified testing laboratories.

Testing Requirements		
Type of Test to be Performed	Minimum Number of Tests	Testing Standards
Sub-grade Compaction	Each 500 linear feet of roadway	95% Max Density ASTM-1557 Field Tests ASTM D-1556 F-2922 and D-2167
Base Compaction	Each 500 linear feet of roadway	100% Max Density ASTM-1557 Field Tests ASTM D-1556 F-2922 and D-2167

Testing Requirements		
Asphalt Density	Each 1,000 linear feet of roadway	92% Laboratory Density
Asphalt Thickness	Each 500 linear feet of roadway	Deficient in thickness not more than ¼"

Sec. 9-13-9-23. - Curb and gutter.

All streets shall be provided with a combination curb and gutter, unless stormwater is directed to a stormwater best management practice via a curb cut or other means, and approval has been given by the department of water resources. Curb and gutter shall be constructed of three thousand (3,000) psi Portland cement concrete, or with a header curb of the same material at median or cul-de-sac islands. Curbing along streets shall meet one of the following standards: Along the outer edge of all roadways, six (6) by 24-inch combination (full face) curb:

**Curb and Gutter**

For use along medians only, six-inch header curb.

- Adequate storm drainage structures shall be provided. The combination curb and gutter or header curb shall be constructed so as to present a smooth, even line both horizontally and vertically. Preshaped joints shall be placed every fifty (50) feet along the curb line.
- Valley gutters shall not be allowed across local streets at street intersections.
- If a development is proposed on a parcel where multiple driveways exist, the owner/developer shall be responsible for removing all existing driveway curb cuts and aprons and replacing them with standard curb and gutter. Only new driveways constructed to current standards shall be allowed.

Sec. 9-13-9-24. - Turning lanes.

Turning lanes may be required at all entrances to subdivisions and industrial and commercial developments that front on arterial and collector streets. Turning lanes shall be twelve (12) feet in width plus curb and gutter for a minimum distance of two hundred (200) feet measured from the intersection of the right-of-way lines.

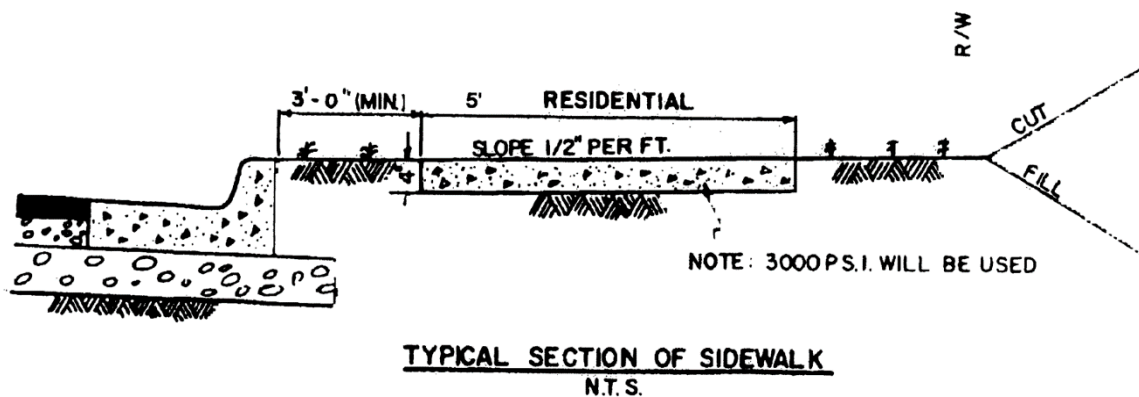
Sec. 9-13-9-25. - Street name signs and traffic control signs.

Street name signs of a type approved by the city shall appear at all intersections. Traffic control signs shall be placed by the city and conform to the U.S. *Manual on Uniform Traffic Control Devices*, latest edition.

Sec. 9-13-9-26. - Sidewalks.

Minimum five-foot-wide sidewalks shall be installed along all new streets. In addition, the director of public works shall require the subdivider or land developer to install, along the entire property frontage, minimum five-foot-wide sidewalks on streets leading to or going through commercial areas, school sites, places of public assembly, and other congested areas, and along existing streets abutting the subdivision or land development, or as may be otherwise specified in the city's comprehensive plan.

Where required or provided, sidewalks shall be located not less than one (1) foot from the property line to prevent interference or encroachment by fencing, walls, hedges or other plantings or structures placed on the property line at a later date. Sidewalks shall be constructed of concrete no less than four (4) inches in depth, and located no less than three (3) feet from the back of the curb. All sidewalks shall be constructed to conform to requirements of the Americans with Disabilities Act. The director of public works, in accordance with section 9-13-8-5, may administratively vary the width and location of the sidewalk based on existing and surrounding site conditions.

**Sidewalks**

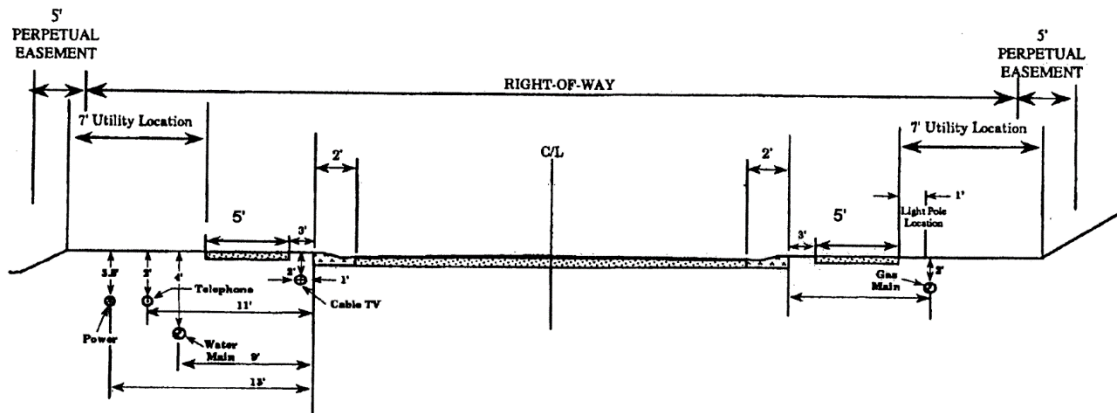
(Ord. No. 2007-17, § VI, 5-15-07)

Sec. 9-13-9-27. - Location of utilities in streets.

- (a) *Above-ground utilities.* Telephone poles, street light poles, telephone junction boxes and other public or private utility structures placed above ground within a street right-of-way must be at least eight (8) feet back from the back of the street curb and one foot back from the edge of the sidewalk, whichever is farthest from the roadway.
- (b) *Underground utilities.* Utilities placed underground shall be placed within the right-of-way as follows (see typical street section B).
- (c) *Sanitary sewer.* Sanitary sewer when placed within a street right-of-way, shall have a minimum of four (4) feet of cover and provide a minimum slope of laterals to abutting properties of one percent.
- (d) *Stormwater.* Stormwater conveyance pipes, when placed within a street right-of-way, shall have a minimum of 18 inches of cover and shall have a minimum slope of at least one percent.
- (e) *Location of utilities.* Other utilities, when placed underground along the roadway, shall be located in the shoulder of the road and shall be placed at the following distances measured from the back of curb or edge of pavement, and placed at or below the depths indicated as follows:

Location of Utilities		
Type of Utility by Side of Street	Back from curb or pavement	Minimum depth
TV Cable	1.0 feet	2.0 feet
Gas Main	9.0 feet	2.0 feet
Water Main	9.0 feet	4.0 feet
Telephone Cable	11.0 feet	2.0 feet
Power	13.0 feet	3.5 feet

Water and gas mains must be placed on opposite sides of the street. All utilities that will cross under pavement shall be installed completely throughout the subdivision prior to any roadway base being applied. Installation of approved utility sleeves shall be considered as an alternate.

**NOTES:**

- 1) Standard detail for utility location within right-of-way of residential subdivisions.
- 2) Before any utility is installed, the entire width of the R/W shall be final graded, and all concrete curbing set at final grades.
- 3) In general, the deepest utilities should be installed first to minimize any possible interference with laterals or service lines.

NOT TO SCALE**Typical Street Section B, Location of Utilities****Sec. 9-13-9-28. - Pavement cuts.**

Pavement cuts across local streets shall conform to the following:

- (a) Pavement cuts for the installation of utilities shall be avoided whenever possible. Utility crossings shall be bored across any arterial, subject to the approval of the state DOT, and across any collector unless a pavement cut is approved by the director of public works.
- (b) Pavement cuts across local streets shall be permitted, provided the road is repaired with at least six (6) inches of three thousand (3,000) psi Portland cement and topped with at least two and one-half (2½)

inches of E or F hot plant mix asphaltic cement. The top of the concrete pad shall not exceed the elevation of the aggregate base course of the original road construction.

Sec. 9-13-9-29. - Street lighting.

- (a) Roadway illumination standards. In order to insure adequate illumination of public rights-of-way and promote safety and security, the "American National Standard Practice for Roadway Lighting of the Illuminating Engineering Society" as approved by the American National Standards Institute (1993), as amended, is hereby adopted as the standard for the installation and operation of lighting in the City with the following exception:

Lighting fixtures installed within the public rights-of-way to be operated for the purpose of street illumination shall comply with these standards. The minimum average horizontal foot-candle illumination level by roadway classification shall be as provided in the table below:

Roadway Classification	Commercial Area	Intermediate Area	Residential Area
Major	1.2	0.9	0.6
Collector	0.8	0.6	0.4
Local or Residential	0.6	0.5	0.3

The uniformity of illumination shall be such that the point of lowest illumination shall have at least one-third ($1/3$) of the average horizontal foot-candle required illumination level, except that on local or residential streets it may not be less than one-sixth ($1/6$) of this average. Unless extenuating circumstances exist, fixtures for residential street lighting shall not be required to be closer than two hundred (200) feet, nor fixtures for all other roadways be closer than 100-foot spacing. If pole top fixtures are used, spacing should range between one hundred twenty-five (125) feet to one hundred fifty (150) feet.

- (b) Plans, approval, and appeal. Any party requesting permission to install or operate lighting fixtures within public and private rights-of-way shall furnish plans and specifications to the director of public works for approval showing how the proposed lighting meets the standards of this section. No lighting shall be installed or operated without the approval of the director of public works. Should the director of public works disapprove a request to install lighting fixtures within any public right-of-way, he shall communicate disapproval in writing to the party requesting approval. The written communication shall include specific reasons for disapproval. Any disapproval of a light or lighting system may be appealed to the planning and appeals board. If any party desires to appeal an adverse decision by the city engineer within ten (10) days from the date following the written notice of disapproval, it shall be the responsibility of the director of public works to transmit forthwith to the planning and appeals board all papers and allied documents constituting the record upon which the action appealed was taken, and to insure that the appeals promptly placed upon the agenda of the planning and appeals board for its determination. The planning and appeals board may reserve or affirm, wholly or partly, or may modify, the order, requirement, and decision of determination appealed.
- (c) Security and other lights. Roadway or street lighting luminaries or fixtures installed within the public or private rights-of-way as "security lights" or for the purpose of lighting areas other than the public streets shall be mounted on the side of the pole opposite from the street, and shall be oriented in such a manner to insure that the lateral light distribution pattern is parallel to the street and the vertical light distribution, at the initial source, is perpendicular to the street, so as to protect the users of the street from objectionable glare. The approval of the director of public works shall be obtained prior to installation of such lights. Other lighting fixtures to be installed within or outside of public or private rights-of-way for whatever purpose shall be installed and operated in such a manner so as to prevent glare from being a hazard to or interfering with the normal use of the public or private rights-of-way.
- (d) Procedures for approval in subdivisions. Street lights shall be required to be provided by the developers of all new subdivisions involving new streets, unless waived by the governing body on recommendation from the

planning and appeals board. Unless so waived, the developer, at the time of submission of the preliminary plat of the subdivision shall present a street light layout approved by the utility company which will provide the street light service in the subdivisions. At the time of and as a requirement of the submission of a final plat, unless waived by the governing body on recommendation of the planning and appeals board as herein provided, the developer shall:

- (1) Submit a final street light layout approved by the utility company which will provide the lighting service showing exact location of street lights within the subdivision. This drawing (lighting layout) must be approved by the director of public works prior to obtaining any building permit within that subdivision. Fixtures and standards/poles installed or used shall be approved by the utility company which will be responsible for the maintenance of the facilities in the city. The fixtures shall be mounted a minimum of thirteen (13) to sixteen (16) feet above the ground, and shall have appropriate design to place the majority of the light output over the street. One light shall be located in each cul-de-sac within the subdivision, as well as each intersection.
 - (2) Pay all costs for standards/poles, fixtures, and any other related items or materials necessary for the installation thereof.
 - (3) Submit proof of payment for complete installation to the director of public works.
- (e) The above requirements must be met prior to obtaining any building permits for that subdivision and must be shown as a general note on the final plans.

Sec. 9-13-9-30. - Street trees.

- (a) *Optional.* Street tree planting may be permitted within the rights-of-ways of new public streets and private streets within commercial, industrial, or residential subdivisions, subject to the approval of the director of public works. See chapter 9-8-7 for street tree planting requirements in the Midtown overlay zone.
- (b) *Plan submittal and approval.* When street trees are to be provided, the subdivider, owner of land to be dedicated as a public street, or the developer of a private street shall at the time of preliminary plat approval submit a plan for the provision of street trees along all said roads which shall be subject to the approval of the director of public works.
- (c) *Installation.* It is the intent of this section that where street trees are provided the subdivider or developer should carefully position street trees on the plan while taking into account sidewalk locations, utility locations, and, if not constructed simultaneously with the construction of the public or private street, future driveways. When street trees are provided, the subdivider or developer shall install said street trees, according to a plan approved by the director of public works as a part of preliminary plat approval or land development permit approval, and prior to dedication or opening of said street. The director of public works may accept an agreement by the subdivider where the responsibility for street tree planting is shifted to the owners or individual builders of the lots to be subdivided, upon their development. Any such responsibility shall be legally transferred in a form acceptable to the city attorney.
- (d) *Location.* Street trees must be planted within the public or private right-of-way or, if right-of-way width is insufficient to accommodate said street trees, then on private property within a street tree easement dedicated to the city.
- (e) *Guidelines.* The guidelines below are intended to avoid conflicts with improvements; they are recommendations only and are subject to the approval of the director of planning and development.

Mature Size	Minimum Width Of Tree Lawn	Spacing Between Trees	Overhead Utilities (If Permitted)	Distance From Signs, Utility Poles, Driveways, Fire Hydrants	Distance From Inter-Section	Distance From Under-Ground Utilities
Large 50-70 Feet	10 Feet	60 Feet	Do Not Plant	10 Feet	30 Feet	5 Feet
Medium 30-40 Feet	7.5 Feet	40 Feet	Do Not Plant	10 Feet	30 Feet	5 Feet
Small 15-20 Feet	5 Feet	20 Feet	Allowed with Planning Approval*	10 Feet	30 Feet	5 Feet
Evergreen 40-50 Feet	Yards Only	30 Feet	Do Not Plant	30 Feet	30 Feet	5 Feet
* Refer to Table 9-16-5-4.						

CHAPTER 9-13-10. - PRIVATE STREETS

Sec. 9-13-10-1. - Private streets permitted.

Private streets may, upon application, be permitted by the director of planning and development, subject to the requirements of this article. The director of planning and development may impose conditions on the approval of private streets to ensure various public purposes and to mitigate potential problems with private streets. No final plat involving a private street shall be approved unless said final plat conforms to the requirements of this article.

Sec. 9-13-10-2. - Engineering plans required.

It shall be unlawful for any person, firm, or corporation to construct a new private street or alter an existing private street or to cause the same to be done without first obtaining approval of civil design drawings and construction plans and securing a land development permit from the director of planning and development in accordance with the requirements of this article, the same as for a public street.

Sec. 9-13-10-3. - Standards for private streets.

All private streets shall be constructed to all standards for public streets as specified in chapter 9-13-9, unless otherwise specifically approved as part of a planned unit development by the governing body.

Sec. 9-13-10-4. - Street names and signs.

Private streets shall be named, subject to the approval of the director of planning and development. The subdivider or developer of land involving a private street shall install street signs with content containing the street name and the designation "private," or as approved by the director of public works. Alternatively, the director of public works may require the subdivider or developer to pay for such signs to be installed by or under the direction of the city. Signs signifying private streets may be required by the director of public works to be a different color than that of street signs provided for public streets, in order to distinguish maintenance responsibilities in the field.

Sec. 9-13-10-5. - Easements.

Easements for private streets shall be designated on final plats as general purpose public access and utility easements, along with the name of said private street which shall require approval by the director of planning and development. Said easement shall at minimum be of the same width as that required for the right-of-way of a public street for the type of public street (local, collector, etc.) most closely resembling the proposed private street. Easements for private streets shall not be included in any calculation of minimum lot size or density maximums established by zoning regulations of this Code. In the cases of private streets, the general purpose public access and utility easement shall be shown in a manner on the final plat such that the private street right-of-way is drawn as its own discrete parcel to be dedicated to a private homeowners association (i.e., not shown to be a part of any lot) or other approved entity.

Sec. 9-13-10-6. - Maintenance.

The city shall not maintain, repair, resurface, rebuild, or otherwise improve streets, signs, drainage improvements or any other appurtenances within general purpose public access and utility easements established for private streets. A private maintenance covenant recorded with the Hall County Clerk of the Superior Court shall be required for any private street and other improvements within general purpose public access and utility easements established for private streets. The covenant shall set out the distribution of expenses, remedies for non-compliance with the terms of the agreement, rights to the use of easements, and other pertinent considerations. The covenant shall specifically include the following terms:

- (a) The covenant shall establish minimum annual assessments in an amount adequate to defray costs of ordinary maintenance and procedures for approval of additional needed assessments. The covenant shall also specify that the funds from such assessments will be held by a homeowners or property owners association.
- (b) The covenant shall include a periodic maintenance schedule.
- (c) The covenant for maintenance shall be enforceable by any property owner served by the private street.
- (d) The covenant shall establish a formula for assessing maintenance and repair costs equitably to property owners served by the private street.
- (e) The covenant shall run with the land.
- (f) The city, as a condition of approving private streets, shall require that a performance bond and/or maintenance bond by the subdivider as described in sections 9-13-13-9 and 9-13-13-10 be submitted by the subdivider.

(Ord. No. 2009-38, § I, 10-20-09)

Sec. 9-13-10-7. - Specifications for final plats involving private streets.

No final plat involving a private street shall be approved by the director of planning and development for recording unless and until it shall contain the following on the face of the plat:

- (a) Covenants, or reference to the deed book and page of the recorded covenants.
- (b) "The City has no responsibility to build, improve, maintain, or otherwise service the private streets, drainage improvements, and other appurtenances contained within the general public purpose access and utility easement or easements for private streets shown on this plat."
- (c) "Grant of Easement. The general purpose access and utility easement(s) shown on this plat for private street(s) is (are) hereby granted and said grant of rights shall be liberally construed to provide all necessary authority to the City, and to public or private utility companies serving the subdivision, for the installation and maintenance of utilities, including, but not limited to, electric lines, gas lines, telephone lines, water lines, sewer lines, cable television lines, and fiber optic cables, together with the right to trim interfering trees and brush, together with a perpetual right of ingress and egress for installation, maintenance, and replacement of such lines.

Signature of Property Owner"

Sec. 9-13-10-8. - Purchaser's acknowledgement.

Prior to the sale or as a condition of the closing of a real estate transaction involving any lot served by a private street in the city, the subdivider or seller of said lot shall execute a notarized purchaser's acknowledgement of private street construction and drainage maintenance responsibilities as set forth below. A copy of the purchaser's acknowledgement shall be retained by the purchaser and shall be required to be submitted as a condition of a building permit for a principal building on said lot:

"Purchaser's Acknowledgement of Private Street and Drainage Maintenance Responsibility.

(I) (We) have read the Declaration of Covenant which pertains to the lot that is the subject of this real estate transaction _____ (insert address and attach legal description). (I) (We) understand that the Declaration of Covenant applies to the lot that (I am) (we are) purchasing and requires (me) (us) to provide a specified percentage or amount of the financing for the construction and maintenance of any private street and drainage facilities serving the lot which (I am) (we are) purchasing, and that owners of other lots in this plat may sue for

and recover those costs which this covenant requires (me) (us) to pay, plus their damages resulting from (my) (our) refusal to contribute, plus reasonable attorneys fees. (I) (we) further understand that the City has no obligation to assist with the maintenance and improvement of the private street, drainage facilities, and other appurtenances within the general purpose public access and utility easement for the private road serving the lot in question. I (we) understand that a copy of this purchaser's acknowledgement shall be required as a condition of the issuance of a building permit for a principal building on the lot (I am) (we are) purchasing.

Purchaser"

Sec. 9-13-10-9. - Gated communities.

Gates must be set back a minimum of fifty (50) feet from a public right-of-way. The minimum gate width must equal the required road width plus the width of any utility easements present, but in no case shall the width be less than thirty (30) feet. Gate width and placement must be reviewed by, and are subject to approval by, the fire department.

Arrangements for access through the gate for emergency service vehicles must be reviewed by, and are subject to the approval of, the police and fire departments. Such arrangements may include: keypad code entry; occupant telephone authorized entry; personal service attendant twenty-four (24) hours a day, seven (7) days a week; and/or automatic gate opening upon power disconnect.

CHAPTER 9-13-11. - UTILITIES**Sec. 9-13-11-1. - Sanitary sewerage.**

- (a) *Connection required.* Except as otherwise required in this section, each subdivider and land developer shall be required to pay for the installation of a sanitary sewerage collection system connected to the city's system serving his subdivision or land development. The layout and specifications of the system shall be in accordance with city specifications, as approved by the ~~public utilities~~ director of water resources, and shall be installed by a contractor approved by the city.
- (b) *Connection to ~~septic tank~~ decentralized wastewater system.* Where connection to the sanitary sewerage system is not feasible in the view of the ~~public utilities~~ director of water resources, the lot shall contain adequate area for the installation and safe operation of ~~a septic tank and disposal field~~ the decentralized wastewater system, as approved by the Hall County Environmental Health Department.

Sec. 9-13-11-2. - ~~Public water~~Water service.

- (a) *Connection required.* Each subdivision or development shall connect to the city's ~~public~~ water system and shall provide service to each lot or the development as a whole, as appropriate, at the expense of the subdivider or land developer.
- (b) *Specifications.* The layout and specifications of the system shall be in accordance with city specifications, as approved by the ~~public utilities~~ director of water resources, and shall be installed by a contractor approved by the city.
- (c) *Fire hydrants.* Fire hydrants shall be installed in subdivisions and developments and shall meet the requirements of the fire department.

CHAPTER 9-13-12. - STORMWATER MANAGEMENT

Sec. 9-13-12-1. - Purposes.

This chapter defines requirements for stormwater management and outlines the water quantity and quality performance criteria for managing stormwater runoff. The majority of technical stormwater criteria and standards are adopted by reference through the use of the [latest revision of the](#) Georgia Stormwater Management Manual (GSMM).

The purposes of this chapter are also to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment.

Sec. 9-13-12-2. - Objectives.

This chapter seeks to meet its purposes through the following objectives:

- (a) Require that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable in order to reduce flooding, stream bank erosion, nonpoint source pollution and increases in stream temperature, and maintain the integrity of stream channels and aquatic habitats;
- (b) Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
- (c) Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum post-development stormwater management standards;
- (d) Encourage the use of nonstructural stormwater management and stormwater better site design practices, such as the preservation of greenspace and other conservation areas, to the maximum extent practicable;
- (e) Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety; and
- (f) Establish administrative procedures for the submission, review, approval and disapproval of stormwater management plans, and for the inspection of approved active projects, and long-term follow up.

Sec. 9-13-12-3. - Definitions.

Administrative floodplain: Any land area susceptible to flooding, which would have at least a one percent probability of flooding occurrence in any calendar year based on the basin being fully developed as shown on the projected future land use map.

Administrator: The person appointed to administer and implement this chapter. The director of the department of water resources, or his/her designee, will serve as Administrator for the purposes of this chapter.

Applicant: A person submitting a post-land development stormwater management application and plan for approval.

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

BMP landscaping plan: A design for vegetation and landscaping that is critical to the performance and function of the BMP including how the BMP will be stabilized and established with vegetation. It shall include a layout of plants and plant names (local and scientific).

Channel: A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Conservation easement: An agreement between a land owner and the city or other government agency or land trust that permanently protects open space or greenspace on the owner's land by limiting the amount and type of development that can take place, but continues to leave the remainder of the fee interest in private ownership.

Construction sequencing plan: A document noting the sequence of construction and identification of infiltration zones for protection during staged installation of permanent post-construction BMPs to ensure suitable site conditions such as avoiding soil compaction by heavy equipment in areas designated for infiltration BMPs.

Decentralized wastewater system: A closed-loop system designed or used to receive sewage from a building sewer and to affect separation and organic decomposition of sewerage solids, and discharging sewage effluent to an absorption field or other management system. Also referred to as an on-site wastewater disposal system or septic tank.

Department of Water Resources: A public agency with authority over the water systems of the city.

Department of Water Resources director: The director of the department of water resources of the city, or his or her designee, whose duties include the review and approval of construction plans for water resources for the city.

Design professional: A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying, or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by EnviroCert, Inc. Design Professional shall practice in a manner that complies with applicable Georgia law governing professional licensure.

Detention: The temporary storage of stormwater runoff in a stormwater management facility for the purpose of controlling the peak discharge.

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

Development: new development or redevelopment.

Drainage easement: An easement appurtenant or attached to a tract or parcel of land allowing the owner of adjacent tracts or other persons to discharge stormwater runoff onto the tract or parcel of land subject to the drainage easement. Both streams and storm drainage channels are required to have easements for maintenance purposes as specified in this chapter.

Erosion and Sedimentation Control Plan means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during land disturbance activities.

Extended detention: The detention of stormwater runoff for an extended period, typically twenty-four (24) hours or greater.

Extreme flood protection: Measures taken to prevent adverse impacts from large low-frequency storm events with a return frequency of one hundred (100) years or more.

Flooding: A volume of surface water that is too great to be confined within the banks or walls of a conveyance or stream channel and that overflows onto adjacent lands.

Greenspace or open space: Permanently protected areas of the site that are preserved in a natural state.

GSMM: The latest edition of the Georgia Stormwater Management Manual, Volume 2: Technical Handbook, and its Appendices.

Hotspot: A land use or activity on a site that produces higher concentrations of trace metals, hydrocarbons, or other priority pollutants that are normally found in urban stormwater runoff. Examples of hotspots include but are

~~not limited to, gas stations, vehicle service and maintenance areas, industrial facilities such as salvage yards, material storage sites, garbage transfer facilities, and commercial parking lots with high-intensity use. 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.~~

Hydrologic soil group (HSG): A natural resource conservation service classification system in which soils are categorized into four runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce much more runoff.

Impervious ~~covers~~ surface: A surface composed of any material that significantly impedes or prevents the natural infiltration of water into soil. Impervious surfaces include, but are not limited to, rooftops, buildings, streets and roads, sidewalks, driveways, parking lots, and any other concrete or asphalt surface. Also called impervious cover.

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

Industrial stormwater ~~general~~ permit: The A-National Pollutant Discharge Elimination System (NPDES) permit issued by Georgia Environmental Protection Division to an industry or group of industries for stormwater discharges associated with industrial activity. The permit which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies based on the Standard Industrial Classification (SIC) Code.

Infiltration: The process of percolating stormwater runoff into the subsoil.

Inspection and maintenance agreement: A written agreement providing for the long-term inspection, operation, and maintenance of the stormwater management facilities and system and its components on a site. ~~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.~~

Jurisdictional wetland: An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

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

Land ~~development~~disturbing activities: ~~Those actions or activities which comprise, facilitate or result in land development.~~ Any activity which may result in soil erosion from water or wind and the movement of sediments into State waters or onto lands within the State, including but not limited to clearing, dredging, grading, excavating, and filling of land. Land disturbing activity does not include agricultural operations as described in O.C.G.A. § 12-7-17(5) or forestry land management practices as described in O.C.G.A. § 12-7-17(6) within areas zoned for such activities.

Land development application: The application for a land development permit on a form provided by the city along with the supporting documentation required by this chapter.

Land development permit: The authorization necessary to begin construction-related, land-disturbing activity. ~~Land development project: A discrete land development undertaking.~~

Linear feasibility program: A feasibility program developed by the department of water resources and submitted to the Georgia Environmental Protection Division, which sets reasonable criteria for determining when implementation of stormwater management standards for linear transportation projects being constructed by the city is infeasible.

Linear transportation projects: Construction projects on traveled ways including but not limited to roads, sidewalks, multi-use paths and trains, and airport runways and taxiways.

MS4 Permit: The NPDES permit issued by Georgia Environmental Protection Division for discharges from the city's municipal separate storm sewer system.

Municipal utility: A utility owned and operated by a local government and providing drinking water, wastewater and stormwater management facilities and services.

- (1) Sewer system:** A sanitary sewerage system for the collection of water-borne wastes complete with a sewage treatment plant that is owned and operated by the city department of water resources.
- (2) Water system:** A system for the intake, treatment and distribution of potable water that is owned and operated the city department of water resources.
- (3) Stormwater system:** A system of structural and nonstructural stormwater management facilities and practices that are used to capture, convey and control the quantity and quality of the stormwater runoff.

New development: A land development activity on a previously undeveloped site.

Nonpoint source pollution: A form of water pollution that does not originate from a discrete point such as a sewage treatment plant or industrial discharge, but involves the transport of pollutants such as sediment, fertilizers, pesticides, heavy metals, oil, grease, bacteria, organic materials and other contaminants from land to surface water ~~and~~ groundwater via mechanisms such as precipitation, stormwater runoff, and leaching. Nonpoint source pollution is a by-product of land use practices such as agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

Nonstructural stormwater management practice or nonstructural practice: Any natural or planted vegetation or other nonstructural component of the stormwater management plan that provides for or enhances stormwater quantity and/or quality control or other stormwater management benefits, and includes, but is not limited to, ~~riparian~~stream buffers, open and greenspace areas, overland flow filtration areas, natural depressions, and vegetated channels.

Off-site facility: A stormwater management facility located outside the boundaries of the site.

On-site facility: A stormwater management facility located within the boundaries of the site.

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

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

Permit: The permit issued by the city to the applicant which is required for undertaking any land development activity.

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

Post-construction stormwater management: Stormwater best management practices that are used on a permanent basis to control and treat runoff once construction has been completed in accordance with a stormwater management plan.

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

Practicability policy: The latest edition of the Metropolitan North Georgia Water Planning District's policy on practicability analysis for runoff reduction.

Pre-development: The time period, or the conditions that exist, on a site ~~immediately before prior to the implementation commencement of the proposed land development project and at the time that plans for the land development of a site are approved by the plan approving authority.~~ Where phased development or plan approval

occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted shall establish pre-development conditions.

Previously developed site: A site that has been altered by paving, construction, and/or land disturbing activity.

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

Project: A land development project.

Public utility: A utility owned and operated by a public agency or authority.

(1) — Public sewerage system: A sanitary sewerage system for the collection of water-borne wastes complete with a sewage treatment plant that is owned and operated by a public agency or authority.

(2) — Public water system: A system for the intake, treatment and distribution of potable water that is owned and operated by a public agency or authority.

Public utilities director: The director of the department of public utilities of the city, or his designee, whose duties include the review and approval of construction plans for public utilities for the city.

Public works department: References to action by the public works department shall mean action by that administrative official of the city public works department to whom responsibility for that action has been assigned by the director of public works.

Public works director: The director of the department of public works of the city, or his designee, whose duties include the review and approval of construction plans for public streets for the city.

~~*Qualified Person:* An individual knowledgeable in the principles and practices of erosion and sediment control and pollution prevention, who possesses the ability to assess conditions at the construction site that could impact stormwater quality, and the capacity to assess the effectiveness of any stormwater controls selected and installed to meet the requirements of a permit; and whom therefore can certify under penalty of law that a stormwater management system will function as designed.~~

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

Routine maintenance: Activities to keep an impervious surface as near as possible to its currently constructed condition. This includes ordinary maintenance activities, resurfacing paved areas, and exterior building changes or improvements which do not materially increase or concentrate stormwater runoff, or cause additional nonpoint source pollution.

Runoff: Stormwater runoff.

Site: An area of land where development is planned, which may include all or portions of one or more parcels of land. For subdivisions and other common plans of development, the site includes all areas of land covered under an applicable land development permit.

Stormwater better site design: Nonstructural site design approaches and techniques that can reduce a site's impact on the watershed and can provide for nonstructural stormwater management. Stormwater better site design

includes conserving and protecting natural areas and greenspace, reducing impervious cover, implementing lower impact site design techniques, and using natural features for stormwater management.

Stormwater concept plan: An initial plan for post-construction stormwater management at the site that provides the groundwork for the stormwater management plan, including the natural resources inventory, site layout concept, initial runoff characterization, and first round stormwater management system design.

Stormwater management: The collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner intended to prevent increased flood damage, streambank channel erosion, habitat degradation and water quality degradation, and to enhance and promote the public health, safety and general welfare.

Stormwater management facility: Any infrastructure that controls or conveys stormwater runoff.

Stormwater management measure: Any stormwater management facility or nonstructural stormwater practice.

Stormwater management plan: ~~A Means a~~ document describing how existing runoff characteristics will be affected by a land development project and containing measures for complying with the provisions of this Code.

Stormwater management system: The entire set of structural and nonstructural ~~stormwater management facilities and site design features and structural BMPs for collection, conveyance, storage, infiltration, treatment, and disposal of stormwater runoff in a manner designed to prevent increased flood damage, streambank channel erosion, habitat degradation and water quality degradation, and to enhance and promote the public health, safety and general welfare. practices that are used to capture, convey and control the quantity and quality of the stormwater runoff from a site.~~

Stormwater retrofit: A stormwater management practice designed for a currently developed site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

Stormwater runoff: ~~The flow of~~ Flow on the surface ~~of the ground, water~~ resulting from precipitation.

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

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

Other terms used but not defined in this chapter shall be interpreted based on how such terms are defined and used in the GSMM and the city's MS4 permit.

Sec. 9-13-12-4. - Stormwater management report required.

All persons proposing development or construction in the city that meets the applicability requirements of this chapter shall prepare a stormwater management report, unless specifically exempted from the requirements of this chapter. No final subdivision plat shall be approved and no development or building permit shall be issued until and unless the stormwater management report has been reviewed and approved by the ~~director of public works~~ administrator, except as ~~exempted~~ exempt below.

This report must be submitted with the stamp and signature of a professional engineer (PE) licensed in the state, who must verify that the design of all stormwater management facilities and practices meet submittal and permitting requirements. The engineer sealing the stormwater management report is responsible for ensuring that all permit requirements related to Section 404 of the Clean Water Act are met.

Stormwater management reports shall not be required for activities that are ~~exempted by~~~~exempt~~ Section 9-13-12-6 from the provisions of this chapter.

Sec. 9-13-12-5. - Applicability.

The provisions of this chapter apply to any new development or redevelopment site that meets one or more of the following criteria:

- (a) New development that ~~involves the creation of~~creates or adds five thousand (5,000) square feet or more of new impervious ~~surface cover~~, or that involves ~~other land development activities~~ disturbing activity of one acre of land or more;
- (b) Redevelopment ~~(excluding routine maintenance and exterior remodeling)~~ that ~~includes the creation, addition or replacement of~~creates, adds or replaces five thousand (5,000) square feet or more of new impervious ~~surface area cover~~, or that involves ~~other land~~ disturbing development activity of one acre of land or more;
- ~~(c) Any new development or redevelopment, regardless of size, that is defined by the director of public works to be a hotspot land use; or~~
- ~~(c)~~ New development and redevelopment if:
 - i. such new Land development or redevelopment is part of a subdivision or other common plan of development, and
 - ii. the sum of all associated impervious surface area or land disturbing activities that are being developed as part of such subdivision or other common plan of development meets or exceeds the threshold in (a) and (b) above; activities that are smaller than the minimum applicability criteria set forth in subsections (a) and (b) 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.
- ~~(d) Any commercial or industrial new development or redevelopment, regardless of size, that is a hotspot land use as defined in this chapter; and~~
- ~~(e) Linear transportation projects that exceed the threshold set forth in subsections (a) or (b) above.~~

Sec. 9-13-12-6. - Exemptions.

The following activities are exempt from the requirements this chapter:

- (a) Land disturbing activity conducted by local, state, authority, or federal agencies, solely to respond to an emergency need to protect life, limb, or property or to conduct emergency repairs;
- (b) Land disturbing activity that consists solely of cutting a trench for utility work and related pavement replacement;
- (c) Land disturbing activity conducted by local, state, authority, or federal agencies, whose sole purpose is to implement stormwater management or environmental restoration;
- (d) Repairs to any stormwater management system deemed necessary by the department of water resources or department of community and economic development;
- (e) Agricultural operations or forestry land management activities or practices as described in O.C.G.A. §§ 12-7-17(5) and 12-7-17(6) within areas zoned for such activities;
- ~~(a)(f)~~ Additions or modifications to existing single-family detached or duplex residential structures;

~~(b)(g)~~ Individual single-family residential lots that are not part of a subdivision or phased development project;

~~(c)~~ Agricultural or silvicultural land management activities within areas zoned for these activities; and

~~(h)~~ Installations or modifications to existing structures solely to implement Americans with Disabilities Act (ADA) requirements, including but not limited to elevator shafts, handicapped access ramps and parking, and enlarged entrances or exits; and

~~(i)~~ Linear transportation projects being constructed by the city to the extent the administrator determines that the stormwater management standards may be infeasible to apply, all or in part, for any portion of the linear transportation project. For this exemption to apply, any **infeasibility report** that is compliant with the city's **linear feasibility program** shall first be submitted to the administrator and shall contain adequate documentation to support the evaluation for the applicable portion(s) and any resulting **infeasibility** determination, if any, by the administrator.

Sec. 9-13-12-7. - Variances.

The director of ~~public works~~water resources may grant a variance from the requirements of this chapter if the proposed development activity will not:

- (a) Change the rate or volume of runoff significantly, as specified in the ~~stormwater design manual~~GSMM;
- (b) Have a significant, negative impact on any wetland, watercourse, or water body as specified in the ~~stormwater design manual~~GSMM; or
- (c) Contribute to degradation of water quality; and
- ~~(d)~~ The application of the stormwater design sizing criteria is determined to be infeasible to implement based on a **feasibility study**.

Cross-reference - Administrative variances, Ch 9-24-3.

Sec. 9-13-12-8. - Adoption and Implementation of the GSMM: Conflicts and Inconsistencies. ~~Reference to stormwater manual~~

The ~~current~~latest version of the Georgia Stormwater Management Manual (GSMM) including all related appendices, will provide the primary guidance for the design and evaluation of stormwater management facilities in the city. A copy of the GSMM ~~may~~can be viewed in the department of ~~public works~~water resources or ~~may~~can be accessed ~~at www.georgiastormwater.com~~online.

This chapter is not intended to modify or repeal any other chapter, ordinance, rule, regulation or other provision of law, including but not limited to any applicable stream buffers under state and local laws, and the Georgia Safe Dams Act and Rules for Dam Safety. In the event of any conflict or inconsistency between any provision in the city's MS4 permit and this chapter, the provision from the MS4 permit shall control. In the event of any conflict or inconsistency between any provision of this chapter and the GSMM, the provision from this chapter shall control. In the event of any other conflict or inconsistency between any provision of this chapter and any other ordinance, rule, regulation or other provision of law, the provision that is more restrictive or imposes higher protective standards for human health or the environment shall control.

If any provision of this chapter is invalidated by a court of competent jurisdiction, such judgement shall not affect or invalidate the remainder of this chapter.

Sec. 9-13-12-9. - Designation of Administrator

The director of the department of water resources may from time to time appoint a designee to administer and implement this chapter.

Sec. 9-13-12-10. - Stormwater Management Standards

Subject to the applicability criteria in Section 9-13-12-5, exemptions in Section 9-13-12-6, and variances in Section 9-13-12-7, the following stormwater management standards apply. Additional details for each standard can be found in the GSMM:

- (a) *Design of Storm Management System*: The design of the stormwater management system shall be in accordance with the applicable sections of the GSMM as directed by the administrator. Any design which proposes a dam shall comply with the Georgia Safe Dams Act and Rules for Dam Safety as applicable.
- (b) *Natural Resources Inventory*: Site reconnaissance and surveying techniques shall be used to complete a thorough assessment of existing natural resources, both terrestrial and aquatic, found on the site. Resources to be identified, mapped, and shown on the Stormwater Management Plan, shall include, at a minimum (as applicable):
 - i. Topography (minimum of 2-foot contours) and Steep Slopes (i.e., Areas with Slopes Greater Than 15%);
 - ii. Natural Drainage Divides and Patterns;
 - iii. Natural Drainage Features (e.g., swales, basins, depressional areas);
 - iv. Natural feature protection and conservation areas such as wetlands, lakes, ponds, floodplains, stream buffers, drinking water wellhead protection areas and river corridors;
 - v. Predominant soils (including erodible soils and karst areas); and
 - vi. Existing predominant vegetation including trees, high quality habitat and other existing vegetation.
- (c) *Better Site Design Practices for Stormwater Management*: Stormwater management plans shall preserve the natural drainage and natural treatment systems and reduce the generation of additional stormwater runoff and pollutants to the maximum extent practicable. Additional details can be found in the GSMM Section 2.3.
- (d) *Stormwater Runoff Quality/Reduction*: Stormwater Runoff Quality/Reduction shall be provided by using the following:
 - i. For development with a stormwater management plan submitted before December 6, 2020, the applicant may choose either (A) Runoff Reduction or (B) Water Quality.
 - ii. For development with a stormwater management plan on or after December 6, 2020, the applicant shall choose (A) Runoff Reduction and additional water quality shall not be required. To the extent (A) Runoff Reduction has been determined to be infeasible for all or a portion of the site using the Practicability Policy, then (B) Water Quality shall apply for the remaining runoff from a 1.2 inch rainfall event and must be treated to remove at least 80% of the calculated average annual post-development total suspended solids (TSS) load or equivalent as defined in the GSMM.
 - (A) *Runoff Reduction* - The stormwater management system shall be designed to retain the first 1.0 inch of rainfall on the site using runoff reduction methods, to the maximum extent practicable.

- (B) Water Quality – The stormwater management system shall be designed to remove at least 80% of the calculated average annual post-development total suspended solids (TSS) load or equivalent as defined in the GSMM for runoff from a 1.2 inch rainfall event.
- iii. If a site is determined to be a hotspot, the department of water resources may require the use of specific or additional components for the stormwater management system to address pollutants of concern generated by that site.
- (e) Stream Channel Protection: Protection of stream channels from bank and bed erosion and degradation shall be provided by using all of the following three (3) approaches:
- i. 24-hour extended detention storage of the one-year, 24-hour return frequency storm event;
- ii. Erosion prevention measures such as energy dissipation and velocity control; and
- iii. Preservation of any applicable stream buffer;
- (f) Overbank flooding protection: Downstream overbank flood protection shall be provided by controlling (attenuating) the post-development peak discharge rate to the pre-development rate for the 25-year, 24-hour storm event.
- (g) Extreme flooding protection: Extreme flood protection shall be provided by controlling the 100-year, 24-hour storm event such that flooding is not exacerbated.
- (h) Downstream Analysis: Due to peak flow timing and runoff volume effects, some structural components of the stormwater management system fail to reduce discharge peaks to pre-development levels downstream from the site. A downstream peak flow analysis shall be provided to the point in the watershed downstream of the site or the stormwater management system where the area of the site comprises 10% of the total drainage area in accordance with Section 3.1.9 of the GSMM. This is to help ensure that there are minimal downstream impacts from development on the site. The downstream analysis may result in the need to resize structural components of the stormwater management system.
- (i) Stormwater Management System Inspection and Maintenance: The components of the stormwater management system that will not be dedicated to and accepted by the city, including all drainage facilities, best management practices, credited conservation spaces, and conveyance systems, shall have an inspection and maintenance agreement to ensure that they continue to function as designed. All new development and redevelopment sites are to prepare a comprehensive inspection and maintenance agreement for the on-site stormwater management system. This plan shall be written in accordance with the requirements in Section 9-13-12-21.

Sec. 9-13-12-11. - Pre-Submittal Meeting, Stormwater Concept Plan, and Stormwater Management Plan Requirements.~~Stormwater management report contents~~

- (a) Before a land development permit application is submitted, an applicant may request a pre-submittal meeting with the department of water resources. The pre-submittal meeting should take place based on an early step in the development process such as before site analysis and inventory (GSMM Section 2.4.2.4) or the stormwater concept plan (GSMM Section 2.4.2.5). The purpose of the pre-submittal meeting is to discuss opportunities, constraints, and ideas for the stormwater management system before formal site design engineering. To the extent applicable, local and regional watershed plans, greenspace plans, trails and greenway plans, and other resource protection plans should be consulted in the pre-submittal meeting. Applicants must request a pre-submittal meeting with the department of water resources when applying for a **Determination of Infeasibility through the Practicability Policy** set forth by the department of water resources.
- (b) The stormwater concept plan shall be prepared using the minimum following steps:
- i. Develop the site layout using better site design techniques, as applicable (GSMM Section 2.3).

- ii. Calculate preliminary estimates of the unified stormwater sizing criteria requirements for stormwater runoff quality/reduction, channel protection, overbank flooding protection and extreme flood protection (GSMM Section 2.2).
- iii. Perform screening and preliminary selection of appropriate best management practices and identification of potential siting locations (GSMM Section 4.1).

(c) The stormwater concept plan shall contain:

- i. Common address and legal description of the site,
- ii. Vicinity map, and
- iii. Existing conditions and proposed site layout mapping and plans (recommended scale of 1" = 50'), which illustrate at a minimum:
 - A. Existing and proposed topography (minimum of 2-foot contours),
 - B. Perennial and intermittent streams,
 - C. Mapping of predominant soils from USDA soil surveys,
 - D. Boundaries of existing predominant vegetation and proposed limits of clearing and grading,
 - E. Location and boundaries of other natural feature protection and conservation areas such as wetlands, lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, decentralized wastewater system setbacks, etc.),
 - F. Location of existing and proposed roads, buildings, parking areas and other impervious surfaces,
 - G. Existing and proposed utilities (e.g., water, sewer, gas, electric) and easements,
 - H. Preliminary estimates of unified stormwater sizing criteria requirements,
 - I. Preliminary selection and location, size, and limits of disturbance of proposed BMPs,
 - J. Location of existing and proposed conveyance systems such as grass channels, swales, and storm drains,
 - K. Flow paths,
 - A-L. Location of the boundaries of the base flood floodplain, future-conditions floodplain, and the floodway (as applicable) and relationship of site to upstream and downstream properties and drainage, and
 - M. Preliminary location and dimensions of proposed channel modifications, such as bridge or culvert crossings.

(d) The stormwater management plan shall contain the items listed in this part and be prepared under the direct supervisory control of either a registered Professional Engineer or a registered Landscape Architect licensed in the state of Georgia. Items (iii), (iv), (v), and (vi) shall be sealed and signed by a registered Professional Engineer licensed in the state of Georgia. The overall site plan must be stamped by a design professional licensed in the State of Georgia for such purpose. (GSMM Section 2.4.2.7):

- i. Natural Resources Inventory
- ii. Stormwater Concept Plan
- iii. Existing Conditions Hydrologic Analysis
- iv. Post-Development Hydrologic Analysis
- v. Stormwater Management System

- vi. Downstream Analysis
- vii. Erosion and Sedimentation Control Plan
- viii. BMP Landscaping Plan
- ix. Inspection and Maintenance Agreement
- x. Evidence of Acquisition of Applicable Local and Non-Local Permits
- xi. **Determination of Infeasibility** (if applicable)
- xii. Construction Sequencing Plan

(e) For redevelopment and to the extent existing stormwater management structures are being used to meet stormwater management standards the following must also be included in the stormwater management plan for existing stormwater management structures:

- i. As-built Drawings
- ii. Hydrology Reports
- iii. Current inspection of existing stormwater management structures with deficiencies noted
- iv. BMP Landscaping Plans

Cross-reference - Concept plans, Ch. 9-22-1.

~~The stormwater management report shall detail how post-development stormwater runoff will be controlled or managed and how the proposed project will meet the requirements of this section, Georgia Stormwater Management Manual, and Section 404 of the Clean Water Act. The stormwater management report shall address the following issues and analyze compliance with the water quantity and water quality performance indicators specified in this chapter.~~

~~The stormwater management report shall have the following minimum contents:~~

- ~~(a) A brief narrative description of the project;~~
- ~~(b) Geotechnical investigations including soil maps, borings, site specific recommendations, and any additional information necessary for the proposed stormwater management design;~~
- ~~(c) Site plan that depicts all streams, lakes, wetlands and other bodies of water. Should verification of jurisdictional waters of the U.S. be needed, the developer must provide the department of public works with a formal delineation of the waters of the US performed by a qualified and experienced professional and have the delineation verified in writing by the United States Army Corp of Engineers (USACE). Additionally, the plan shall depict relevant boundaries of the 100-year floodplain for ultimate build-out conditions (the administrative floodplain). The administrative floodplain boundary must be calculated using Federal Emergency Management Agency (FEMA) methodologies for delineating floodplains using future hydrology conditions.~~
- ~~(d) Hydrologic computations, including drainage area maps depicting pre-development and post-development runoff flow paths and land use, including the locations and quantities of stormwater runoff entering and exiting the site for both pre-developed and post-developed conditions. Analysis of the off-site properties shall anticipate future development in addition to addressing existing conditions.~~
- ~~(e) Drainage area delineation maps and other exhibits at a satisfactory scale and sufficient in quantity and scope to define the boundaries of the site relative to any applicable water courses, drainage divides, drainage structures and other pertinent features.~~
- ~~(f) Estimates of the stormwater quality in terms of total suspended solids for both pre-developed and post-developed conditions using the stormwater quality site development review tool.~~
- ~~(g) Hydraulic computations;~~

- ~~(h) Structural computations;~~
- ~~(i) Unified sizing criteria volume computations according to the Georgia Stormwater Management Manual and this section.~~
- ~~(j) Analysis of downstream conditions at each and every point or area along the project sites boundaries at which runoff will exit the property.~~
- ~~(k) Analysis of the portion of the drainage way "immediately" downstream from the project. In determining downstream effects from stormwater discharge control structures and the development, hydrologic-hydraulic engineering studies, using the administrative floodplain, shall extend to a point where the proposed development represents less than ten (10) percent of the total watershed (the ten (10) percent rule). If the discharge calculations indicate that adjacent properties, between the exit of the proposed development and the "ten (10) percent downstream point" might be adversely impacted by the proposed development, then the engineer will provide a summary of recommendations.~~
- ~~(l) Stormwater management plan. Whenever adverse stormwater runoff related impacts are expected to result from the development of a property, the stormwater management report shall describe in detail the proposed stormwater management plan. Plans, specifications and computations must be complete in detail sufficient to enable another engineer to fully check and verify the results and computations. The plans used for construction must contain design data, a project narrative, schedule of construction, name and address or person responsible for construction and the engineer's seal, signature and address on the engineering drawings required for the project construction.~~

~~Sec. 9-13-12-10. Specifications for stormwater management plans.~~

~~The stormwater management plan shall include the following items:~~

- ~~(a) Description of the overall stormwater management strategy.~~
- ~~(b) Topographic maps showing all on-site and off-site contributing drainage areas.~~
- ~~(c) Basis for determining runoff coefficients and times of concentration.~~
- ~~(d) Inflow and outflow hydrographs with peak flows for the one-, 25- and 100-year storm frequencies.~~
- ~~(e) Hydraulic performance properties for all stormwater management facilities (e.g., stage/storage/discharge curves, infiltration capacities, overflow relationships).~~
- ~~(f) Details and calculations for all outlet control structures, including buoyancy calculations and emergency spillways.~~
- ~~(g) Configuration of the stormwater management system, including outflow and overflow control devices, shall be clearly described in report with cross-sections depicted on all construction drawings.~~
- ~~(h) Graded access easements, (maximum 3:1 slope) around all stormwater management ponds in areas inaccessible to vehicular traffic.~~
- ~~(i) Temporary sediment basins are required for all detention sites and major drainage exits. The detention facility shall be designed to provide temporary sediment control unless a live stream exists.~~
- ~~(j) Underground detention facilities with details that provide:~~
 - ~~(1) The location and type of access protection for the detention facility.~~
 - ~~(2) Safety requirements as specified by the city for the site.~~
 - ~~(3) Outline of the inspection and maintenance covenant to be filed with director of public works for all components of the stormwater management report, and~~
 - ~~(4) Summary of the proposed stormwater management approach and the expected performance.~~

~~(k) Construction drawings submitted for stormwater management plan approval shall include the following:~~

- ~~(1) A vicinity map;~~
- ~~(2) Topography survey showing existing and proposed terrain, including the area to be included in the downstream analyses;~~
- ~~(3) Any proposed improvements including location of buildings or other structures, impervious surfaces, storm drainage facilities, and all grading;~~
- ~~(4) The location of existing and proposed structures and utilities;~~
- ~~(5) Any easements and rights-of-way;~~
- ~~(6) The delineation, if applicable, of the administrative floodplain and any on-site wetlands;~~
- ~~(7) Structural and construction details for all components of the proposed drainage system or systems, and stormwater management facilities;~~
- ~~(8) All necessary construction specifications;~~
- ~~(9) A sequence of construction;~~
- ~~(10) Data for total site area, disturbed area, new impervious area, and total impervious area;~~
- ~~(11) A table showing the unified sizing criteria volumes required by the GSMM;~~
- ~~(12.) A table of materials to be used for stormwater management facility planting;~~
- ~~(13) All soil boring logs and locations;~~
- ~~(14) A maintenance schedule;~~
- ~~(15) Certification by the owner/developer that all stormwater management construction will be done according to this plan; and~~
- ~~(16) An as-built certification signature block to be executed after project completion.~~

Sec — Application Fee.

~~The fee for review of any land development application shall be based on the fee structure established by the city, and payment shall be made before the issuance of any disturbance permit or building permit for the development.~~

Sec. 9-13-12.12. - Application Procedures.

Land development applications are handled as part of the process to obtain the land disturbance permit. Before any person begins development on a site, the owner of the site shall first obtain approval in accordance with the following procedure:

- (a) File a land development application with the department of ~~community and economic development~~ with the following supporting materials:
 - i. the stormwater management plan prepared in accordance with Section 9-13-12.11,
 - ii. a certification that the development will be performed in accordance with the stormwater management plan once approved,
 - iii. a Preliminary **Determination of Infeasibility**, as applicable, prepared in accordance with the practicability policy set forth by the department of water resources, and

- iv. an acknowledgement that applicant has reviewed the department of water resources form of inspection and maintenance agreement and that applicant agrees to sign and record such inspection and maintenance agreement before the final inspection.
- (b) The administrator shall inform the applicant whether the application and supporting materials are approved or disapproved.
- (c) If the application or supporting materials are disapproved, the administrator shall notify the applicant of such fact in writing. The applicant may then revise any item not meeting the requirements hereof and resubmit the same for the administrator to again consider and either approve or disapprove.
- (d) If the application and supporting materials are approved, the department of water resources may issue the associated land disturbance permit or building permit, provided all other legal requirements for the issuance of such permits have been met. The stormwater management plan included in such applications becomes the approved stormwater management plan.

Sec. 9-13-12-13. - Compliance with the Approved Stormwater Management Plan.

All development shall be:

- (a) consistent with the approved stormwater management plan and all applicable land disturbance and building permits, and
- (b) conducted only within the area specified in the approved stormwater management plan.

No changes may be made to an approved stormwater management plan without review and advanced written approval by the administrator.

Sec. 9-13-12-14. - Use of stormwater quality site ~~development review~~ design tool required.

An automated spreadsheet tool was developed to facilitate the consistent review of development projects across the ~~1615~~-county Metropolitan North Georgia Water Planning District (the district ~~1~~) of which the city is a part. The tool was specifically designed to meet the unified sizing and water quality performance criteria outlined in the *Georgia Stormwater Management Manual*. The overall goal is to provide an effective tool for city review staff and the development community to quickly evaluate the water quality performance of stormwater management plans for development sites. It allows the developer to use a variety of BMPs and provides incentives for leaving key areas, particularly ~~riparian-stream~~ buffers, undisturbed.

The city requires every project, unless otherwise exempt, to use the latest stormwater quality site ~~development review~~ tool. A copy of the tool is available upon request from the department of ~~public-workswater~~ resources.

Sec. 9-13-12-15.12. ~~As built certification of stormwater management facilities.~~

~~After construction and before acceptance for occupation or otherwise, the designer shall submit a certified field-run topographic map of all areas including the stormwater management facilities, a revised stormwater management report (if needed), and a long-term inspection and maintenance covenant signed by the property owner or organization. The designer shall certify that the as-built conditions regarding storage and outflow meet the requirements of this chapter.~~

Sec. 9-13-12-15. - Inspections to Ensure Plan Compliance During Construction.

Periodic inspections of the stormwater management system during construction shall be conducted by the staff of the department of water resources or conducted and certified by a professional engineer who has been approved by the department of water resources. Inspections shall use the approved stormwater management plan

and the construction sequencing plan for establishing compliance. All inspections shall be documented with written reports that contain the following information:

- (a) The date and location of the inspection;
- (b) Whether the stormwater management system is in compliance with the approved stormwater management plan;
- (c) Variations from the approved stormwater management plan; and
- (d) Any other variations or violations of the conditions of the approved stormwater management plan.

Sec. 9-13-12-16. - Final Inspection; As-Built Drawings; Delivery of Inspection and Maintenance Agreement.

Upon completion of the development, the applicant is responsible for:

- (a) Certifying that the stormwater management system is functioning properly and was constructed in conformance with the approved stormwater management plan and associated hydrologic analysis,
- (b) Submitting as-built drawings showing the final design specifications for all components of the stormwater management system as certified by a professional engineer,
- (c) Certifying that the landscaping is established and installed in conformance with the BMP landscaping plan, and
- (d) Delivering to the department of water resources a signed inspection and maintenance agreement that has been recorded by the owner in the property record for all parcel(s) that make up the site.

The required certification under subsection (a) shall include a certification of volume, or other performance test applicable to the type of stormwater management system component, to ensure each component is functioning as designed and built according to the design specifications in the approved stormwater management plan. This certification and the required performance tests shall be performed by a ~~design professional qualified person~~ and submitted to the department of water resources with the request for a final inspection. The department of water resources shall perform a final inspection with applicant to confirm applicant has fulfilled these responsibilities.

Sec. 9-13-12-13. — Inspection and maintenance agreement.

Prior to the issuance of any permit of occupancy, the developer must execute an inspection and maintenance agreement, and/or a conservation easement, if applicable, that shall be binding on all subsequent owners of the site. Responsibility for the operation and maintenance of the stormwater management facility or practice shall remain with the property owner and shall pass to any successor owner. If portions of the land are sold or otherwise transferred, legally binding arrangements shall be made to pass the inspection and maintenance responsibility to the appropriate successors in title. A copy of this agreement is available from the department of public works. The inspection and maintenance agreement shall consist of the following:

- (a) — ~~Responsible person(s).~~ The inspection and maintenance agreement shall identify by name or official title the person(s) responsible for carrying out the inspection and maintenance. These arrangements shall

~~designate for each portion of the site, the person to be permanently responsible for its inspection and maintenance.~~

~~(b) *Schedule.* As part of the inspection and maintenance agreement, a schedule shall be developed for routine inspection and maintenance to ensure proper function of the stormwater management facility or practice.~~

~~(c) *Plans for annual inspections.* The agreement shall also include plans for annual inspections to ensure proper performance of the facility between scheduled maintenance events and shall also include remedies for the default thereof.~~

Sec. 9-13-17-xx. - Violations and Enforcement.

Any violation of the approved stormwater management plan during construction, failure to submit as-built drawings, failure to submit a final BMP landscaping plan, or failure of the final inspection shall constitute and be addressed as violations of, or failures to comply with, the underlying land disturbance permit or the underlying building permit. To address a violation of this chapter, the department of water resources shall have all the powers and remedies that are available to it for other violations of building and land disturbance permits, including without limitation the right to issue notices and orders to ensure compliance, stop work orders, and penalties as set forth in the applicable ordinances for such permits.

Sec. 9-13-12-18. - Maintenance by private parties.

On all commercial sites and on residential property where stormwater management facilities exist, the maintenance is the responsibility of the owner or operator of the property. It shall be the responsibility of the owner or operator to repair deficiencies in a timely manner.

Sec. 9-13-12-19. - Maintenance by property or homeowners associations.

When a subdivision or industrial/commercial park has a legally created property or homeowners association, the association will be responsible for maintenance of all drainage easements and all stormwater facilities within the entire development. The association may be required to apply larvicides, stock mosquito fish or take other measures, as required by the department of public works~~water resources~~, to protect the health, safety and welfare of the public. The association ~~shall will have to~~ be formed prior to final plat approval.

Sec. 9-13-12-20. - Maintenance by Owner of Stormwater Management Systems Predating Current GSMM.

For any stormwater management systems approved and built based on requirements predating the current GSMM and that are not otherwise subject to an inspection and maintenance agreement, such stormwater management systems shall be maintained by the owner so that the stormwater management systems perform as they were originally designed.

Sec. 9-13-12-21. - Inspection and Maintenance Agreements.

(a) The owner shall execute an inspection and maintenance agreement with the department of water resources obligating the owner to inspect, clean, maintain, and repair the stormwater management system; including vegetation in the final BMP landscaping plan. The form of the inspection and maintenance agreement shall be the form provided by the department of water resources. After the inspection and maintenance agreement has been signed by the owner and filed with the department of water resources, the ~~owner~~City shall promptly record such agreement ~~at the owner's cost~~ in the property record for all parcel(s) that make up the site.

- (b) The inspection and maintenance agreement shall identify by name or official title the person(s) serving as the point of contact for carrying out the owner's obligations under the inspection and maintenance agreement. The owner shall update the point of contact from time to time as needed and upon request by the department of water resources. Upon any sale or transfer of the site, the new owner shall notify the department of water resources in writing within 30 days of the name or official title of the new person(s) serving as the point of contact for the new owner. Any failure of an owner to keep the point of contact up to date shall, following 30 days' notice, constitute a failure to maintain the stormwater management system.
- (c) The inspection and maintenance agreement shall run with the land and bind all future successors-in-title of the site. If there is a future sale or transfer of only a portion of the site, then:
- i. The parties to such sale or transfer may enter into and record an assignment agreement designating the owner responsible for each portion of the site and associated obligations under the inspection and maintenance agreement. The parties shall record and provide written notice and a copy of such assignment agreement to the department of water resources.
 - ii. In the absence of a recorded assignment agreement, all owners of the site shall be jointly and severally liable for all obligations under the inspection and maintenance agreement, regardless of what portion of the site they own.

Sec. 9-13-12-22. - Right of Entry for Maintenance Inspections. Inspection and repair.

The terms of the inspection and maintenance agreement shall provide for the department of water resources or a designee right of entry for maintenance inspections and other specified purposes. If a site was developed before the requirement to have an inspection and maintenance agreement, or an inspection and maintenance agreement was for any reason not entered into, recorded, or has otherwise been invalidated or deemed insufficient, then the department of water resources shall have the right to enter and inspect property at reasonable times as often as may be necessary to determine compliance with this chapter, pursuant to the city's general provisions for property access and inspection in this code, including but not limited to chapter 4-7 of the City Code of Ordinances and chapters 9-14 and 9-20. The city department of public works personnel will perform periodic inspections of existing and new private stormwater management facilities to determine whether they are maintained properly. Should an owner fail to maintain the stormwater management facilities in a state of service intended by the of the City Unified Land Development Code, stormwater management plan, then the director of public works shall notify the owner or operator in writing of the deficiencies and specific minimum maintenance requirements to remedy such deficiencies. It shall be the responsibility of the private party or association that owns or operates the facility to repair deficiencies in a timely manner.

Where it is necessary to make an inspection to enforce the provisions of this code, or where the department of water resources has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this code which makes the structure or premises unsafe, dangerous or hazardous, the department of water resources is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises are occupied that credentials be presented to the occupant and entry requested. If such structure or premises are unoccupied, the department of water resources shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the department of water resources shall have recourse to the remedies provided by law to gain entry.

Sec. 9-13-2312-xx. - Owner's failure to maintain Failure to maintain the Stormwater Management System.

The terms of the inspection and maintenance agreement shall provide for what constitutes a failure to maintain a stormwater management system and the enforcement options available to the department of water resources. If a site was developed before the requirement to have an inspection and maintenance agreement, or an inspection

and maintenance agreement was for any reason not entered into, recorded, or has otherwise been invalidated or deemed insufficient, then:

- (a) An owner's failure to maintain the stormwater management system so that it performs as it was originally designed shall constitute and be addressed as a violation of, or failure to comply with, owner's property maintenance obligations in code chapters 3-5 or 4-7 of the City Code of Ordinances, chapter 9-20 of the City Unified Land Development Code, and this chapter.
- (b) To address such a failure to maintain the stormwater management system, the department of water resources shall have all the powers and remedies that are available to it for other violations of an owner's property maintenance obligations, including without limitation prosecution, penalties, abatement, and emergency measures.

If the owner or operator fails to perform the required maintenance work within a maximum of thirty (30) days, then the owner or operator shall be in violation of the provisions of this chapter. At that point, the department of public works may undertake the work itself or otherwise provide for the maintenance of the system, and may call such bonds or other surety as may be outstanding on the development, or may place liens or assessments on the responsible owner's properties, in satisfaction of the cost to the city.

Sec. 9-13-12-24. - Reference to unified stormwater sizing criteria.

The GSMM has developed a set of unified stormwater sizing criteria that serves as the basis of designing stormwater facilities in the city. These criteria provide an integrated approach for meeting the stormwater runoff quality and quantity management requirements for those applicable developments identified in this section.

The purpose of the unified stormwater sizing criteria is to design a stormwater management system to:

- (a) Remove stormwater runoff pollutants and improve water quality;
- (b) Prevent downstream stream bank and channel erosion;
- (c) Reduce downstream overbank flooding; and
- (d) Reduce the runoff from and safely pass extreme storm events.

Sec. 9-13-12-25. - Stormwater design sizing criteria.

Stormwater management typically relies on a system of natural and constructed facilities (practices) for the storage, treatment, and conveyance of runoff. This section provides an overview of the design criteria required for stormwater detention and conveyance facilities in the city.

- (a) *Stormwater facilities generally.* Stormwater facilities in the city must be designed to meet the criteria in the following table using the appropriate runoff calculation methods described in this section. Additional discussion of these criteria can be found in the following subsections and in Volume II, Section [3-12.2.3](#) of the Georgia Stormwater Management Manual.

Summary of the Statewide Stormwater Sizing Criteria for Stormwater Control and Mitigation

Sizing Criteria		Description
Water Quality	<u>Runoff Reduction, RR_v (Standard #3)</u>	<u>Retain or reduce the runoff for the first 1.0 inch of rainfall, or to the maximum extent practicable. Since runoff reduction practices eliminate stormwater runoff, and the pollutants associated with it, rather than treating or detaining, they can contribute to other stormwater management standards. If the entire 1.0 inch runoff reduction cannot be achieved, the remaining runoff from the 1.2 inch rainfall must be treated, as described in Standard #4.</u>
	<u>Treatment, WQ_v (Standard #4)</u>	<u>Retain or treat the runoff from 85% of the storms that occur in an average year. For Georgia, this equates to providing water quality treatment for the runoff resulting from a rainfall depth of 1.2 inches. The water quality treatment goal is to reduce average annual post-development total suspended solids loadings by 80%.</u>
Stream Channel Protection		Provide extended detention so that of the 1-year, 24-hour storm event is released over a period of 24 hours to reduce bankfull flows and protect downstream channels from erosive velocities and unstable conditions.
Overbank Flood Protection		Provide peak discharge control of the 25-year, <u>24-hour</u> storm event such that the post-development peak rate does not exceed the predevelopment rate to reduce overbank flooding.
Extreme Flood Protection		<u>Control and safely convey the flood produced by the 100-year, 24-hour storm event. Conduct a downstream hydrologic analysis to determine whether there are any additional impacts in terms of peak flow increase or downstream flooding. This analysis shall be conducted at the outlets of the site, and at each downstream tributary junction until the area of the portion of the site draining into the system is less than or equal to 10% of the total drainage area above that point. The comparison shall be conducted for the 100-year flood resulting from full build-out conditions in the watershed. Evaluate the effects of the 100-year, 24-hour storm on the stormwater management system, adjacent property, and downstream facilities and property. Manage the impacts of the extreme storm event through detention controls and/or floodplain management.</u>

Notes: Source: Georgia Stormwater Management Manual, Volume II, ~~p. 1-3-1~~ Table 2.2.3-1.

- (b) *Water quality.* All stormwater runoff generated from a site shall be adequately treated before discharge. It will be presumed that a stormwater management system complies with this requirement if:
- (1) It is sized to treat the prescribed water quality treatment volume from the site, as defined in the Georgia Stormwater Management Manual;
 - (2) Appropriate structural stormwater controls or nonstructural practices are selected, designed, constructed or preserved, and maintained according to the specific criteria in the Georgia Stormwater Management Manual; and

- (3) Runoff from hotspot land uses and activities identified by the department of ~~public works~~[water resources](#) are adequately treated and addressed through the use of appropriate structural stormwater controls, nonstructural practices and pollution prevention practices.

- (4) ~~Any site developed before December 6, 2020 may choose either Standard #3 or #4, as set forth above, to meet the water quality criteria. Any site developed on or after December 6, 2020 must use Standard #3 – Runoff Reduction to meet the water quality criteria.~~

~~(c)(c) Stream channel protection.~~

- ~~(1) Protection of stream channels from bank and bed erosion and degradation shall be provided by using all of the following three (3) approaches:~~

- ~~(2) Preservation, restoration and/or reforestation (with native vegetation) of the applicable stream buffer;~~

- ~~(3) 24-hour extended detention storage of the one-year, 24-hour return frequency storm event;~~

- ~~(4) Erosion prevention measures such as energy dissipation and velocity control.~~

- ~~(d) 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.~~

- ~~(e) 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.~~

- (f) *Structural stormwater controls.* All structural stormwater management facilities shall be selected and designed using the appropriate criteria from the Georgia Stormwater Management Manual. All structural stormwater controls must be designed appropriately to meet their intended function. For other structural stormwater controls not included in the Georgia Stormwater Management Manual, or for which pollutant removal rates have not been provided, the effectiveness and pollutant removal of the structural control must be documented through prior studies, literature reviews, or other means and receive approval from the ~~Department of Public Works~~[department of water resources](#) before being included in the design of a stormwater management system. Proprietary devices may be authorized on a case-by-case basis only. In addition, if hydrologic or topographic conditions, or land use activities warrant greater control than that provided by the minimum control requirements, ~~Public Works~~[department of water resources](#) may impose additional requirements deemed necessary to protect upstream and downstream properties and aquatic resources from damage due to increased volume, frequency, and rate of stormwater runoff or increased nonpoint source pollution loads created on the site in question. Applicants shall consult the Georgia Stormwater Management Manual for guidance on the factors that determine site design **feasibility** when selecting and locating a structural stormwater control.

- (g) *Stormwater credits for nonstructural measures.* The use of one or more site design measures by the applicant may allow for a reduction in the water quality treatment volume required. The applicant may, if approved by the ~~department of water resources~~[director of public works](#), take credit for the use of stormwater better site design practices and reduce the water quality volume requirement. For each potential credit, there is a minimum set of criteria and requirements which identify the conditions or circumstances under which the credit may be applied. The site design practices that qualify for this credit and the criteria and procedures for applying and calculating the credits are included in the Georgia Stormwater Management Manual.

Sec. 9-13-12-26. - Stormwater runoff computation.

Computations for rate of runoff shall be based on the [average rainfall intensity and duration for Roswell, Georgia for the available period of record as tabulated in the Georgia Stormwater Management Manual \(GSMM\), Volume II, Appendix A](#), rainfall intensities for any location across Georgia. [Information related to rainfall intensities can be obtained through the National Oceanic and Atmospheric Administration \(NOAA\) Atlas 14 publication, or online using the Precipitation Frequency Data Server database \(<http://hdsc.nws.noaa.gov/hdsc/pfds>\).](#) NOAA precipitation data should be used for all hydrologic analysis at the given locations. [Additional information regarding how the values in this database were derived can be accessed using the link above.](#) Computing runoff and generating hydrographs must be done by one of the methods outlined in the GSMM, [Volume II, Section 5](#). The table below summarizes the hydrologic calculation methods that will be accepted by the [department of water resources](#) ~~director of public works~~ and the section reference from the GSMM that explains each. The table also provides guidelines for using the appropriate method based on the size of the drainage area. Additional information relating to the design of conveyance structures can be found in [Section 4.1](#) of the GSMM. As noted, the rational formula can only be used to design conveyance systems, one of the other methods listed must be used for designing the stormwater detention facilities.

Methods for Stormwater Runoff Computation

Computation Task	GSMM Chapter	Rational Formula	SCS	USGS Equations	Water Quality Volume
Size Limitations for Each Method		25 acres	25 to 2,000 acres	2,000 acres to 25 square miles	Based on Structural Control BMP
Water Quality Volume (WQ _v)	2.21.3				X
Channel Protection Volume (CP _v)	2.21.3		X		
Overbank Flood Protection (QP ₂₅)	2.21.3		X	X	
Extreme Flood Protection (Q _f)	2.21.3		X	X	
Storage Facilities	3.32.2		X	X	
Outlet Structures	3.42.3		X	X	
Gutter Flow and Inlets	5.24.2	X			
Storm Drain Pipes	5.24.2	X	X	X	
Culverts	5.34.3	X	X	X	
Small Ditches	5.44.4	X	X	X	
Open Channels	5.44.4		X	X	
Energy Dissipation	5.54.5		X	X	

Source: Georgia Stormwater Management Manual, Volume II, [Table 3.1.1-1](#) ~~p. 3.1-2~~.

Sec. 9-13-12-27. - Water quality performance criteria.

Total suspended solids (TSS) are a key pollutant associated with sediment runoff. It also serves as a "carrier" of other pollutants such as organics, nutrients, and metals. Thus, TSS, a measure of suspended matter-including soils and sediments, will serve as the watershed improvement guideline for managing pollutants.

- (a) If using water quality standard #4 from Table 2.2.3-1 of the GSMM, ~~stormwater~~ ~~stormwater~~ management systems (which can include both structural stormwater controls and better site design practices) must be designed to remove eighty (80) percent of the average annual post-development TSS load and be able to meet any other additional watershed- or site-specific water quality requirements. All stormwater detention facilities shall be designed to control the peak flow rates associated with storms having one-, 25- and 100-year storm frequencies as specified in the table above.
- (b) If using water quality standard #3 from Table 2.2.3-1 of the GSMM, stormwater management systems (which can include both structural stormwater controls and better site design practices) must retain or reduce the runoff for the first 1.0 inch of rainfall, or to the maximum extent practicable. If the entire 1.0 inch runoff reduction cannot be achieved, the remaining runoff from the 1.2 inch rainfall must be treated as described for standard #4.
- (c) A combination of subsections (a) and (b) can be utilized to meet the water quality standard. Any site developed on or after December 6, 2020 must use (b) standard #3 set forth in subsection (b) to meet the water quality criteria
- (d) Use of the stormwater quality site development review tool, described in this chapter, provides the developer and reviewer with a summary of the TSS reduction from each of the drainage areas and also presents the overall TSS reduction efficiency of the planned site. Please note that if this overall efficiency is less than eighty (80) percent, then the site will fail to meet the recommendations of the Georgia Stormwater Management Manual and will not be approved.

Sec. 9-13-12-28. - Storm drain pipe design.

Piped drainage structures shall be designed to meet the following criteria:

- (a) Street catch basins, inlets, ~~cross-drains-culverts~~ serving basins of twenty (20) acres or less and longitudinal piping shall be designed for the 25-year storm, shall have a minimum slope of one percent, and shall have a minimum size of eighteen (18) inches in diameter.
- (b) Inlet and outlet headwalls are required for all pipes.
- (c) The 100-year storm frequency shall be used on ~~live-natural~~ streams, ~~cross-drains-culverts~~ serving basins of twenty (20) acres or larger and any other drainage system receiving and/or transferring offsite drainage flow.
- (d) Velocities for all pipes should be kept to a minimum of ~~two (2)~~ 2.5 feet per second and outlet velocities, if practical, shall not exceed four (4) feet per second when flowing full. However, if outlet velocities exceed (5) feet per second then energy dissipation devices and/or channel protection must be provided.
- (e) The downstream end of all storm drain pipe shall be located at a minimum of fifty (50) feet past the building line for pipe sizes up to and including thirty-six (36) inches in diameter, unless the storm drainage ~~is on a live-conveys~~ stream flow.
- (f) For all pipe design, the designer shall check the ~~100~~25-year hydraulic grade line to determine that no inlet structures are flooded and that the collection capacity of any structure has not been compromised by the ~~100~~25-year ultimate hydraulic grade line, and that any street crossing has not been compromised by the 100-year ultimate hydraulic grade line.
- (g) Storm drain pipes shall be constructed of class III reinforced concrete ~~or~~, thermoplastic corrugated-smooth lined (HDPE), ~~or aluminized~~ Aluminized type II corrugated culvert is discouraged but may be

~~accepted on a case-by-case basis~~, as determined by the ~~department of water resources director~~~~public works director~~. Pipe materials, related connections, and fittings shall meet the following requirements and specifications noted below.

Sec. 9-13-12-29. - Pipe references and requirements.

Pipe references and requirements are as follows:

- (a) *Reinforced concrete*: AASHTO M170, ASTM C-969, minimum eight-foot joint lengths, bell and spigot with rubber O-ring gasket conforming to ASTM C-361, class of pipe and wall thickness shall be in accordance with 1030D, Georgia GDOT specifications, Table 1.
- (b) *Aluminized type II corrugated culvert*: AASHTO M36, AASHTO M274, AASHTO M196, ASTM C-969, ASTM B74512 gauge minimum.
- (c) *High density polyethylene*: AASHTO M294 Type "S", AASHTO MP7 and type "S", ASTM D-3212, ASTM F-1417, ASTM F-477, ASTM C-969, and shall be certified through the Plastic Pipe Institute Third Party Certification.
- (d) *Polyvinyl chloride (PVC)*: AASHTO M304, ASTM D-3212, ASTM F-1417, ASTM F-477, ASTM C-969, ASTM F949, ASTM F794 and F949, and shall be certified through the Plastic Pipe Institute Third Party Certification.
- (e) *Thermoplastic pipes*: All thermoplastic pipes shall have a full circular cross section with an outer corrugated pipe wall and smooth inner wall. Deflection under loads that contributes to local buckling shall not be decreased by more than five (5) percent (AASHTO M294 and MP7 Sec. 7.4) when tested in accordance with ASTM D-2412. The structural design of thermoplastic pipes shall be in accordance with AASHTO Section 12 titled "Buried Structures and Tunnel Liners."

Sec. 9-13-12-30. - Pipe installation specifications.

Pipe installation specifications are as follows:

- (a) *Foundation and bedding*. Unsuitable or unstable foundations shall be undercut and replaced with suitable material. A four-inch to six-inch bedding of class I or II shall be placed and compacted to a minimum of ninety (90) percent standard proctor density and as per AASHTO T99, AASHTO M145. Haunching materials shall be class I, II, or III and shall be worked under the haunches by hand compaction in eight-inch maximum lifts to ninety (90) percent standard proctor density. All materials and installation (compaction and bedding) shall meet AASHTO Section 30, AASHTO Section 12, ASTM 2321 and manufacturer's latest specifications. Pipes shall be installed in a dry trench.
- (b) *Initial backfill*. Shall meet the requirements of AASHTO M145, AASHTO Section 12 and shall be one and twenty-four one-hundredths (1.24) inches maximum granular size and minimum compaction of ninety (90) percent standard proctor density as per AASHTO T99.
- (c) *Water tight*. All joints and connections to drainage structures shall be watertight per ASTM F-1417, inspected and approved by ~~the department of water resources director of public works~~ before backfilling.
- (d) *Street crossings*. Thermoplastic corrugated-smooth lined pipe may only be installed in street ~~cross drains~~~~culverts~~ where the street is classified as a local road, serves twenty-five (25) or fewer lots, and shall be approved by the ~~director of public works~~~~department of water resources~~.
- (e) *Streams.Live streams*. Stormwater pipes carrying ~~stream~~~~live streams~~ ~~flow~~ shall be reinforced concrete or thermoplastic pipe and shall be approved by the ~~department of water resources~~ ~~director of public works~~.
- (f) *Construction*. Any storm drainage pipe dedicated to the city shall be constructed using reinforced concrete pipe or thermoplastic pipe.

- (g) *Easement.* Any storm drainage pipe dedicated to the city that extends outside of the street right-of-way shall be located within a 30-foot wide easement.
- (h) *Depth.* All storm drainage pipes shall be at least eighteen (18) inches below the surface and shall have a slope of at least one percent.
- (i) *Connection to public system.* Development storm drain outlet systems shall connect to a public stormwater conveyance system or to a free-flowing stream, assuming that the post-development stormwater requirements in this ~~section~~chapter are met. The developer shall be required to provide evidence of acceptable capacity to receive additional flow.
- (j) *Structures.* Under no circumstances shall structures be constructed over an existing or proposed storm drain, whether public or private.
- (k) *Location.* All pipes shall be laid in a straight line between structures and longitudinal outside street pavement within the right-of-way or outside right-of-way in dedicated easements. No pipes shall be laid within four (4) feet on each side of the center line of any water main or sanitary sewer, unless with the permission of the city engineer. Pipes and fittings will be installed in strict accordance with AASHTO Section 30 and AASHTO Section 12.
- (l) *Junction boxes.* Junction boxes shall be installed where the storm drain changes direction and where one pipe or more intersect. Minimum cover will be eighteen (18) inches from finished street elevation to top of pipe.

Sec. 9-13-12-~~31~~ - Headwalls.

- (a) Headwalls or flared end sections with concrete collars are required at the inlet and outlet on all street ~~cross-drains~~culverts and storm drain pipes.
- (b) Headwalls are to be precast concrete, stone masonry with reinforced concrete footings, or poured-in-place, reinforced concrete with reinforced concrete footings.
- (c) Flared end sections shall be constructed of the same material as the drainage pipe to which they are being connected.
- (d) High water elevation contour is to be based on a 25-year storm at the entrance of each head wall.
- (e) Energy dissipation devices, such as splash pads, riprap, stilling basins, etc., shall be provided at the outlet of every street ~~cross-drain~~culvert and storm drain pipe.

Sec. 9-13-12-~~32~~ - Open channels.

- (a) All storm water channels shall be designed to carry at least the 25-year frequency storm with one foot of freeboard.
- (b) Velocity at design flow shall be not less than six (6) inches per second but not greater than four (4) feet per second. A higher velocity may be allowed if actions are taken that would avoid erosion or scouring of the channel.
- (c) All storm water channels must be designed to convey flows that prevent dwelling flooding, property damage, or public access and/or utility interruption.
- (d) The ~~department of water resources~~ director of public works may determine that the expected long-term maintenance of a surface drainage system could prove impractical, and a storm water pipe collection system may be required.
- (e) Any storm drainage channel that extends outside of the street right-of-way shall be located within a 30-foot wide easement.

- (f) In cases in which a subdivision or development is traversed by a stream, there shall be provided an easement extending fifteen (15) feet from the top of each side of the stream bank. A stream protection buffer may be required according to chapter 9-16-3.
- (g) All drainage easements, ~~natural~~ ditches, and drainage areas shall be grassed and/or rip-rapped as necessary to control erosion.
- (h) ~~Cross drains~~Culverts under driveways shall meet the standards for street ~~cross drains~~culverts.

Sec. 9-13-12-~~33~~. - General stormwater design criteria.

- (a) The ~~director of public works~~department of water resources may permit several developers to construct joint facilities. The ~~department of water resources~~ public works department shall approve or disapprove the waiver of on-site drainage or detention facilities on the basis of the engineering feasibility of a combined facility.
- (b) The ~~department of water resources~~ director of public works shall be authorized to approve of alternative methods of stormwater detention based on appropriate engineering studies that do demonstrate equal or better performance in accordance with city storm water management practices. Approved alternatives may include well maintained and landscaped lakes that may be provided to act jointly as detention reservoirs and recreation facilities or aesthetic focal points within forest preserve areas, city or private parks, housing developments, shopping centers, and industrial parks. Other control methods to regulate the rate of stormwater discharge which may be acceptable include, but not [to] be limited to, detention on flat roofs, parking lots, streets, lawns, underground ~~storage~~detention, and oversized storm drains with restricted outlets.
- (c) Detention facilities and drainage structures shall, where possible, use natural topography and natural vegetation. In lieu thereof these shall have planted ~~trees and~~ vegetation such as shrubs and permanent ground cover on their borders. All on-site facilities shall be properly maintained by the owner in such a way that they do not become nuisances. Nuisance conditions shall include: improper storage resulting in uncontrolled runoff and overflow; stagnant water with algae growth, insect breeding, and odors; discarded debris; and safety hazards created by the facility's operation. Private facilities are the perpetual responsibility of the landowner.
- (d) No portion of any detention facility shall be located in any required buffer, street right-of-way or within a flood hazard area.
- (e) The 100-year ponding limits of a detention facility shall not encroach upon a public street.
- (f) An easement at least twenty-five (25) feet in width shall be required to provide access to the detention facility or other stormwater facility from a street.
- (g) Every detention facility or surface impoundment shall be completely enclosed within a drainage easement. The drainage easement shall extend at least ten (10) feet beyond the ponding limits of the 100-year storm for surface impoundments.
- (h) Aboveground detention~~Detention~~ facilities and surface impoundments shall be enclosed with a minimum four-foot high chain link fence and shall be equipped with a minimum four (4) foot wide access as necessary for maintenance.
- (i) All graded slopes on aboveground detention facilities or surface impoundments must contain a five (5) foot wide bench for every 20' in height.

Sec. 9-13-12-~~34~~. - Timing of installation.

Construction of the ~~storm water~~stormwater system shall be initiated as part of the grading of the site. Storm water detention facilities shall be constructed prior to the installation of any other site improvements, and may be utilized under proper design as sedimentation basins during development. Installation of all other storm drainage

pipes, culverts, headwalls, and ditches, shall be coordinated with the construction of streets and other site improvements, as appropriate.

CHAPTER 9-13-13. - LAND DEVELOPMENT INSPECTION

Sec. 9-13-13-1. - Applicability.

This chapter shall apply to inspections processes during the land development permitting process as specified in chapter 9-13-7. It shall be unlawful for any person, owner, or contractor to proceed with land development activities except as inspected for compliance in accordance with this chapter.

Sec. 9-13-13-2. - Owner's responsibilities.

The owner shall be responsible for correcting any deficiencies identified by land development inspections prior to approval of a final subdivision plat or issuance of a certificate of occupancy.

Sec. 9-13-13-3. - Request for inspection.

Requests for land development inspections shall be made by the owner or contractor to the applicable department at least twenty-four (24) hours prior to when the inspection is needed. Inspections shall be made and passed prior to continuation of further activity or proceeding into new phases.

Sec. 9-13-13-4. - Inspections required.

Inspections are **required** of each of the following phases of the land development process, as applicable to the actual work to be performed under the development permit:

- (a) *Land disturbance/soil erosion inspection.* Prior to clearing, grubbing and/or land disturbance of the property or any activity undertaken pursuant to an approved land development permit, erosion and sedimentation control measures and devices for protection of trees and undisturbed areas shall be inspected and approved.
- (b) *Street grade and sub-grade preparation.* After completing street grading but prior to trenching or continuation with sub-grade preparation, inspection and approval shall be required.
- (c) *Storm drainage.* Installation of storm drainage pipe, detention, or other stormwater facilities shall be inspected and approved.
- (d) *Sub-grade of streets.* After compaction and receipt of test reports, the sub-grade may be roll-tested with an 18-ton tandem dump truck and shall pass to the satisfaction of the director of public works.
- (e) *Street curbing and gutter.* Inspection shall be requested after the forms or string lines have been set. Street width and vertical and horizontal alignment may be spot checked.
- (f) *Street base.* After receipt of test reports, the base may be string-lined for depth and crown. The street base may be roll-tested with an 18-ton tandem dump truck and shall pass to the satisfaction of the director of public works.
- (g) *Paving.* A public works inspector shall be on site during the paving process to check consistency, depth, and workmanship, as applicable. For asphalt paving, the temperature of the material will be monitored and the street will be cored after completion to check thickness and density. Satisfactory test results of the cores shall be delivered to public works department prior to approval of a final subdivision plat or certificate of occupancy.
- (h) *Final.* A final inspection of land development activity and improvements installed shall be required and approved by the ~~public works~~applicable department, following submission and review of the as-built surveys required by this chapter.

Sec. 9-13-13-5. - As-built surveys required.

Upon completion of land development activity or the installation of improvements as authorized by the land development permit and prior to final development inspection of public and private improvements, the owner shall submit record survey drawings showing "as-built" conditions of all public infrastructure improvements. The as-built survey drawings shall be certified and sealed by a registered land surveyor, subject to the tolerances of accuracy indicated in the survey certification.

Sec. 9-13-13-6. - Specifications for as-built surveys.

The as-built survey drawings shall show the location, vertical and horizontal alignment, and finished elevations of the following: ~~(a) —Drainage system pipes and channels.~~

(~~ba~~) Stormwater ~~detention facilities~~system.

(~~eb~~) Sanitary sewer system.

(~~dc~~) ~~Public water~~Water system.

(~~ed~~) Public streets, including street centerlines showing angles of deflection and standard curve data of intersection, radii, length of tangents and arcs, and degree of curvature with basis of curve data.

Sec. 9-13-13-7. - Process for approving as-built surveys.

As-built survey drawings required by this chapter shall be submitted to the public works department in a number of sets as the department may require. The public works department will coordinate review and approval with the ~~public utilities~~ department of water resources.

Sec. 9-13-13-8. - Final land development inspection.

Following submission and review of the as-built surveys, the public works department shall conduct a final land development inspection of the project. The owner shall be responsible for correcting any deficiencies identified in the final development inspection prior to approval of a final subdivision plat or issuance of a certificate of occupancy.

Sec. 9-13-13-9. - Maintenance bond required.

Prior to approval of a final subdivision plat or issuance of a certificate of occupancy, a maintenance bond in a form acceptable to the public works department shall be required for all public improvements shown on the as-built surveys required by this chapter. The bond will include maintenance of streets and stormwater facilities. The owner and subdivider shall be responsible for maintenance of all such public improvements for twenty-four (24) months from the date of issuance of the certificate of occupancy or final subdivision plat approval, as applicable.

(Ord. No. 2009-38, § II, 10-20-09)

Sec. 9-13-13-10. - Amount of maintenance bond.

The value of the maintenance bond shall be equal to thirty (30) percent of the actual cost of construction of the public improvements shown on the as-built surveys or final plat if they are one hundred (100) percent complete. For those subdividers who choose to delay the wearing course of pavement and/or the sidewalk improvements, the value of the maintenance bond shall be equal to thirty (30) percent of the completed work and, in addition, the subdivider shall provide a performance bond as described in section 9-13-13-11. The cost of construction shall be evidenced by copies of contractor agreements or actual invoices paid, or as otherwise determined by the director of public works.

(Ord. No. 2009-38, § III, 10-20-09)

Sec. 9-13-13-11. - Amount of performance bond.

For those subdividers who choose to delay the wearing course of pavement and/or the sidewalk improvements, the value of the performance bond shall be equal to one hundred (100) percent of the value of the wearing course and/or the sidewalks, and any other incomplete work as allowed by the director of public works. The cost of construction shall be evidenced by copies of contractor agreements or actual invoices paid, or as otherwise determined by the director of public works.

(Ord. No. 2009-38, § IV, 10-20-09)

CHAPTER 9-13-14. - FINAL PLATS

Sec. 9-13-14-1. - Final plat approval required.

The purpose of this chapter is to ensure compliance with the legal recording requirements of subdivisions and the proper installation of all required public or private improvements through the submittal of a final plat.

Sec. 9-13-14-2. - Conformance with preliminary plat.

The final subdivision plat shall conform substantially to the preliminary subdivision plat and may constitute only that portion of the approved preliminary subdivision plat that the owner proposes to record at any one time, provided that such portion conforms to the requirements of this article and Code.

Sec. 9-13-14-3. - Responsibilities.

The property owner is responsible for compliance with all requirements of this article and Code. Approval of a final subdivision plat and acceptance of the public improvements and dedications therein shall not relieve the owner of that responsibility.

Sec. 9-13-14-4. - Installation of improvements.

Prior to submission of an application for final subdivision plat approval, all public and private improvements shall have been properly installed and completed in accordance with all requirements and standards of this article and Code (except traffic signs, street name signs, street striping, and signalization, the responsibility for which is with the city).

Sec. 9-13-14-5. - Final plat specifications.

A final plat shall be prepared by a registered land surveyor. In addition, if the subdivision involves public dedications of improvements, the final plat shall be approved and stamped by a professional engineer.

The final subdivision plat shall be drawn on an appropriate material and sheet size, and using minimum line weights and letter heights as required by state law for the recordation of maps and plats (O.C.G.A. 15-6-67, as amended), and as acceptable to the clerk of the superior court.

The final plat shall meet the following specifications:

- (a) All data required by state law pertaining to the recordation of maps and plats (O.C.G.A. 15-6-67, as amended).
- (b) Name of the subdivision and street names.
- (c) Name of the former subdivision if any or all of the property has been previously subdivided.
- (d) Location map.
- (e) Reference to north point (magnetic, true north, or grid north).
- (f) Graphic scale.
- (g) Total acreage of the property being subdivided.
- (h) Names of owners of record of all abutting land and deed/plat book references.
- (i) Lot lines with dimensions to the 1/10 -foot, necessary internal angles, arcs, and chords and tangent or radii of rounded corner.

- (j) Building setback lines (front, side, rear, and build-to lines) with dimensions as to length across each lot and distance from the street right-of-way.
- (k) Lots or sites numbered in numerical order and blocks lettered alphabetically.
- (l) Location, dimensions and purpose of all easements, including slope easements, if required, and any areas to be reserved, donated, or dedicated to public use.
 - (1) *Utility easements.* Whenever it is necessary or desirable to locate a ~~public~~-utility line outside of the street right-of-way, the line shall be located in an easement dedicated to the city for such purpose. The easement shall be no less than twenty (20) feet wide for water and thirty (30) feet wide for sewer, or as otherwise acceptable to the ~~public utilities~~ department of water resources.
 - (2) *Water course and drainage easements.* A publicly dedicated stormwater easement or drainage easement is to be provided along any drainage channel, stream, stormwater conveyance, detention facility or surface water impoundment within a development. The easement is to be substantially centered on the stream, stormwater course or channel or conveyance, or below-ground stormwater facility. The drainage easement should surround the high water line of the detention facility or surface water impoundment. All easements shall be as described in this article ~~no less than twenty (20) feet wide~~ or as otherwise acceptable to the city.
- (m) The location and size of all utility lines.
- (n) Designated tree save areas.
- (o) A listing of the private covenants recorded with each lot or a statement of the location of such covenants, if applicable.
- (p) The extent of any area of special flood hazard, as defined in this ~~code~~Unified Land Development Code, and any wetlands protection overlay zones/buffers and required stream buffers shall be delineated and labeled.
- (q) Conditions of zoning, special use, or other approval by the city.
- (r) Acreage to be dedicated to the public, or as privately maintained (common area, roads, etc.).
- (s) A surveyor's certificate and owner's certificate, as provided in this paragraph. In addition, the original final subdivision plat drawing shall bear the original signature, in black ink, of the registered land surveyor placed across the surveyor's seal in order to be valid and recordable.

SURVEYOR'S CERTIFICATE

It is hereby certified that this plat is true and correct and was prepared from an actual survey of the property by me or under my supervision; that all monuments shown thereon actually exist.

The field data upon which this plat is based has a closure precision of one foot in _____ feet, and an angular error of _____ per angle point, and was adjusted using _____ rule.

This plat has been calculated for closure and is found to be accurate within one foot in _____ feet.

By (name): _____

Registered Georgia Land Surveyor No. _____

Address: _____

Telephone Number: _____

Date: _____

OWNER'S CERTIFICATE

State of Georgia

County of Hall

The undersigned certifies that he or she is the owner and subdivider of the land shown on this plat and that the plat and the public and private improvements contained therein or associated therewith meet all applicable requirements and standards of the Gainesville Unified Land Development Code. The owner further acknowledges this plat and allotment to be his free act and deed, and dedicates to the Public forever all areas shown or indicated on this plat as public streets, easements or other public use areas, and all water system, sewerage and other public improvements (hereinafter "facilities"). However, the City of Gainesville will not take ownership and maintenance of these facilities until such time as the undersigned petitions for and the Governing Body of the City of Gainesville accepts the dedication and acceptance of the facilities as provided in section 9-13-14-12 of the Gainesville Unified Land Development Code and provided a maintenance bond as required in sections 9-13-13-9 and 10.

Owner's name: _____

Owner's address: _____

(Owner's signature)

Date _____

(t) Plat recording and signature block for the Clerk of Superior Court.

(Ord. No. 2009-38, § V, 10-20-09)

Sec. 9-13-14-6. - Final plat application requirements.

Applications for final plat approval shall include the following:

- (a) *Application form.* A properly completed application form, as completed by the community and economic development~~planning~~ department, requesting review for project approval. The community and economic development~~The planning~~ department may complete the application form for the applicant.
- (b) *Copies of plats.* A set number, as fixed from time to time by the director of planning and development, of copies of the final subdivision plat meeting final plat specifications of this chapter.
- (c) *Fees.* Payment of all applicable application and review fees, as established by the governing body from time to time.
- (d) *Payment for materials and installations.* Payment to the city for materials and installation of traffic signs and street name signs. Payment of the cost of street striping or signalization, if required and not completed by the owner, shall also be included in the application.
- (e) *Financial guarantee of improvements.* A maintenance bond, providing for the maintenance of all facilities required by this article and Code in the subdivision, shall be submitted which shall be valid for a period of twenty-four (24) months following the date of approval of the final plat. If approved by the director of public works, an alternative financial guarantee of improvements may be accepted, such as one of the following:
 - (1) An escrow of funds with the city.
 - (2) An escrow upon which the city can draw with a bank or financial institution in good standing authorized to do business in the state.

- (3) An irrevocable letter of commitment or credit, from a bank in good standing authorized to do business in the state, upon which the city can draw.
- (4) A performance bond for the benefit of the city upon which the city can collect.
- (5) A certificate of deposit with assignment letter from the subdivider and a bank in good standing authorized to do business in the state.

(Ord. No. 2009-38, § VI, 10-20-09)

Sec. 9-13-14-7. - Review and approval process.

The director of planning and development is responsible for administering the review and approval process for final subdivision plats, which shall not be inconsistent with the provisions of this chapter. The procedures of this section may be supplemented by the director of planning and development where additional specification is required.

- (a) *Review for completeness and application acceptance.* ~~The community and economic development~~The planning department shall review the application for completeness at the time of submission. Incomplete applications will be returned to the applicant.
- (b) *Distribution and agency review of final plat.* ~~The community and economic development~~The planning department shall forward a copy of the final plat application to other city departments as may be appropriate, the state department of transportation if the proposed subdivision has frontage on or access to a state or federal road, or others as appropriate, for their review and comment. Agency review shall specifically include the approval from the Hall County Environmental Health Department if ~~septic tanks~~area decentralized wastewater system is proposed and the city ~~public utilities~~department of water resources in cases where connection to city water supply, sanitary sewer or stormwater systems~~systems~~utilities is proposed or required.
- (c) *Time period for completion of review.* Within two (2) to three (3) weeks following receipt of the application, during which agency review shall be completed, the ~~community and economic development~~planning department shall collect all written comments or comments marked on plats related to compliance with this article and Code, and shall submit them to the applicant (not necessarily in consolidated form). The director of planning and development shall have sole authority to determine the applicability of any provisions of this Code to the final plat.
- (d) *Action.* When the ~~community and economic development~~planning department has determined that the final subdivision plat is in compliance with the requirements, purpose and intent of this article and Code, it shall be approved. The owner shall be responsible for compliance with all codes, regulations, and zoning requirements and for the satisfaction of all the noted and written comments. If revisions to a final plat are required, the applicant shall resubmit all revised drawings to the director of planning development or designee.

Sec. 9-13-14-8. - Certificate of final plat approval.

When all of the requirements of this article Code, and any conditions of zoning or historic preservation approval, have been met, the director of planning and development or designee shall sign and date the certificate of final plat approval stamped or printed on a reproducible copy of the final subdivision plat. The executed original of the approved drawing shall be transmitted to the applicant and the ~~community and economic development~~planning department shall retain the reproducible copy.

Sec. 9-13-14-9. - Recording of final plat.

Once the final subdivision plat has received approval as evidenced by the certificate of final plat approval, it shall be recorded by the applicant with the clerk of the superior court. The applicant shall provide the community and economic development department with one reproducible of said recorded final subdivision plat. Recordation of a final plat constitutes approval to begin the sale or transfer of subdivision lots. After recording, the reproducible copy may omit the stamp and seal of the registered land surveyor or the professional engineer, or both, upon request.

Sec. 9-13-14-10. - Distribution of recorded final plat.

The final plat is a source of essential information to tax officials, public safety officials, and utility officials, among others. The director of planning and development or designee shall be responsible for ensuring that each applicable agency listed in this section receives a copy of the final recorded plat with addresses assigned by the addressing department, unless that function is done by another city department:

- (1) The Hall County tax commissioner.
- (2) The Hall County tax assessor.
- (3) The Hall County environmental health department.
- (4) The city police department.
- (5) The city fire department.
- (6) The city building inspector.
- (7) The city public works director.
- (8) The city public utilities director.
- (9) The United States Postal Service (local postmaster).

At the discretion of the director of planning and development, additional agencies or persons may be added to the above list.

Sec. 9-13-14-11. - Amendments to final plat approval.

The application requirements and procedures for amending final plats shall be the same as for preliminary plat applications.

Sec. 9-13-14-12. - Dedication of public streets and acceptance of public improvements.

- (a) *Petition for public acceptance.* At any date after twelve (12) months has passed since the date of final plat approval, the subdivider may petition in writing to the director of public works for the governing body to accept public streets and other dedications, in whole or in part, within the subdivision. Said improvements shall not be accepted for maintenance until approved by the governing body.
- (b) *Completion of improvements.* If construction of any required public improvements was authorized by the director of public works to be deferred at the time of final plat approval, said work shall have been completed during the one-year maintenance period for the subdivision.
- (c) *Final inspection.* The public works department shall conduct a final acceptance inspection of the public improvements and facilities within thirty (30) days of receipt of the letter requesting acceptance.
- (d) *Correction of deficiencies.* The owner shall correct all defects or deficiencies in materials or workmanship and make such repairs as necessary to approximate the as-built condition of the improvements.

- (e) *Public acceptance.* Upon certification by the public works director that the public improvements and facilities depicted on the as-built surveys are in conformance with the specifications of this article and the Code and are in good repair, the governing body shall determine whether to accept the public improvements and facilities into perpetual maintenance by the city.
- (f) *Warranty deed.* Subdivision streets and rights-of-way and other lands and facilities to be dedicated to the public shall be accepted by the city only upon the delivery to the governing body of a general warranty deed conveying fee simple title of such rights-of-way and lands. The warranty deed shall be accompanied by a certificate of title and a tax transfer form addressed to the governing body, certifying that the grantor in such deed is vested with marketable fee simple title to the property conveyed thereby, free and clear of all liens and encumbrances, and further that the individual executing such deed has full authority to do so.
- (g) *Release of bond.* Upon certification by the public works director that the public improvements and facilities depicted on the final plat are in conformance with the specifications of this article and the Code and are in good repair, and at any date after twenty-four (24) months has passed since the date of final plat approval, the governing body may release the maintenance bond.

(Ord. No. 2009-38, § VII, 10-20-09)

CHAPTER 9-13-15. - CONSERVATION SUBDIVISIONS

Sec. 9-13-15-1. - Purpose.

The purpose of conservation subdivisions is to provide flexibility of design in order to promote sustainable development of land in portions of the city already zoned for residential use. It permits the clustering of houses and structures on less environmentally sensitive lands which will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development. Appropriate use of conservation subdivisions can also:

- (a) Provide for the preservation of greenspace as a nonstructural stormwater runoff and watershed protection measure;
- (b) Preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat; and
- (c) Reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development.

Sec. 9-13-15-2. - Applicability.

This conservation subdivision option is available in the residential zoning districts as a use by right. The applicant shall comply with all other provisions of this Code and all other applicable laws, except those that are incompatible with the provisions contained herein.

Sec. 9-13-15-3. - Housing density determination.

The maximum number of lots in the conservation subdivision shall be determined by either of the following two (2) methods, at the discretion of the director of planning and development:

- (a) *Calculation.* The maximum number of lots is determined by dividing the area of the tract of land by the minimum lot size specified in the underlying zoning. In making this calculation, the following shall not be included in the total area of the parcel:
 - (1) Slopes over twenty-five (25) percent of at least five thousand (5,000) square feet contiguous area;
 - (2) The 100-year administrative floodplain;
 - (3) Bodies of open water over five thousand (5,000) square feet contiguous area;
 - (4) Wetlands that meet the definition of the Army Corps of Engineers pursuant to the Clean Water Act; or
 - (5) Anticipated right-of-way needs for roads and utilities.
- (b) *Yield plan.* The maximum number of lots is based on a conventional subdivision design plan, prepared by the applicant, in which the tract of land is subdivided in a manner intended to yield the highest number of lots possible. The plan does not have to meet formal requirements for a site design plan, but the design must be capable of being constructed given site features and all applicable regulations.

Sec. 9-13-15-4. - Standards to determine open space.

- (a) The minimum restricted open space shall comprise at least forty (40) percent of the gross tract area.
- (b) The following are considered primary conservation areas and are required to be included within the open space, unless the applicant demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of this chapter:

- (1) The administrative 100-year floodplain;
 - (2) A total **stream** buffer protection zone of at least seventy-five (75) feet in width along all streams which includes a 50-foot stream protection buffer and a 25-foot stream buffer setback;
 - (3) Slopes above twenty-five (25) percent of at least five thousand (5,000) square feet contiguous area; Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act;
 - (4) Populations of endangered or threatened species, or habitat for such species; and
 - (5) Archaeological sites, cemeteries and burial grounds.
- (c) The following are considered secondary conservation areas and should be included within the open space to the maximum extent feasible.
- (1) Important historic sites;
 - (2) Existing healthy, native forests of at least one acre contiguous area;
 - (3) Individual existing healthy trees greater than eight (8) inches caliper, as measured from their outermost drip line;
 - (4) Other significant natural features and scenic viewsheds such as ridge lines, peaks and rock outcroppings, particularly those that can be seen from public roads;
 - (5) Prime agricultural lands of at least five (5) acres contiguous area; and
 - (6) Existing trails that connect the tract to neighboring areas.
- (d) Above-ground utility rights-of-way and small areas of impervious surface may be included within the protected open space but cannot be counted towards the forty (40) percent minimum area requirement (exception: historic structures and existing trails may be counted). Large areas of impervious surface shall be excluded from the open space.
- (e) At least seventy-five (75) percent of the open space shall be in a contiguous tract. The open space should adjoin any neighboring areas of open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected open space.
- (f) The open space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjointing lots shall be provided with safe, convenient access to the open space.

Sec. 9-13-15-5. - Permitted uses of open space.

Uses of open space may include the following:

- (a) Conservation of natural, archeological or historical resources;
- (b) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
- (c) Walking or bicycle trails, provided they are constructed of porous paving materials;
- (d) Passive recreation areas;
- (e) Active recreation areas, provided that they are limited to no more than ten (10) percent of the total open space and are not located within primary conservation areas. Active recreation areas may include impervious surfaces. Active recreation areas in excess of this limit must be located outside of the protected open space;
- (f) Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts, and such activities are not conducted within primary conservation areas;

- (g) Nonstructural stormwater management practices;
- (h) Easements for drainage, access, and underground utility lines; or
- (i) Other conservation-oriented uses compatible with the purposes of this Code.

Sec. 9-13-15-6. - Prohibited uses of open space.

Uses of open space shall not include the following:

- (a) Golf courses;
- (b) Roads, parking lots and impervious surfaces, except as specifically authorized in the previous sections;
- (c) Agricultural and forestry activities not conducted according to accepted best management practices; and
- (d) Other activities as determined by the applicant and recorded on the legal instrument providing for permanent protection.

Sec. 9-13-15-7. - Ownership and management of open space.

- (a) *Ownership of open space.* The applicant must identify the owner of the open space who is responsible for maintaining the open space and facilities located thereon. If a homeowners association is the owner, membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. If a homeowners association is the owner, the homeowners' association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the open space and any facilities located thereon shall be borne by the owner.
- (b) *Maintenance of open space.* In the event the party responsible for maintenance of the open space fails to maintain all or any portion in reasonable order and condition, city may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the owner, homeowner's association, or to the individual property owners that make up the homeowner's association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties. Should the homeowner's association go defunct responsibility falls to the actual homeowners.

Sec. 9-13-15-8. - Legal instrument for permanent protection.

The open space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:

- (a) A permanent conservation easement in favor of either a land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions; or a governmental entity with an interest in pursuing goals compatible with the purposes of this chapter. If the entity accepting the easement is not the city, then a third right of enforcement favoring the city shall be included in the easement;
- (b) A permanent restrictive covenant for conservation purposes in favor of a governmental entity; or
- (c) An equivalent legal tool that provides permanent protection, if approved by the city.

The instrument for permanent protection shall include clear restrictions on the use of the open space. These restrictions shall include all restrictions contained in this chapter, as well as any further restrictions the applicant chooses to place on the use of the open space.

Sec. 9-13-15-9. - Conservation subdivision application requirements.

- (a) *Site analysis map required.* Concurrent with the submission of a site concept plan, applicant shall prepare and submit a site analysis map. The purpose of the site analysis map is to ensure that the important site features have been adequately identified prior to the creation of the site design, and that the proposed open space will meet the requirements of this article. The preliminary site plan shall included the following features:
- (1) Property boundaries;
 - (2) All streams, rivers, lakes, wetlands and other hydrologic features;
 - (3) Topographic contours of no less than ten-foot intervals;
 - (4) All primary and secondary conservation areas labeled by type, as described in this chapter;
 - (5) General vegetation characteristics;
 - (6) General soil types;
 - (7) The planned location of protected open space;
 - (8) Existing roads and structures; and
 - (9) Potential connections with existing greenspace and trails.
- (b) *Open space management plan required.* An open space management plan, as described in this chapter, shall be prepared and submitted prior to the issuance of a land development permit.
- (1) Allocate responsibility and guidelines for the maintenance and operation of the open space and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;
 - (2) Estimate the costs and staffing requirements needed for maintenance and operation of, and insurance for, the open space and outline the means by which such funding will be obtained or provided;
 - (3) Provide that any changes to the plan be approved by the city council; and
 - (4) Provide for enforcement of the plan.
- (c) *Instrument of permanent protection required.* An instrument of permanent protection, as described by this chapter, shall be placed on the open space concurrent with the issuance of a land disturbance permit.
- (d) *Other requirements.* The applicant shall adhere to all other applicable requirements of the underlying zoning.

(Ord. No. 2006-39, § I, 8-15-06)

CHAPTER 9-13-16. - CORRIDOR MAP

Sec. 9-13-16-1. - Purpose and intent.

The purposes of a corridor map are to implement the city's comprehensive plan, especially transportation and thoroughfare plans, by reserving land needed for future transportation facilities designated by a plan. The corridor map is intended to provide a basis for coordinating the provision of transportation facilities with new development by designating corridors where the construction and improvement of transportation facilities is expected, to restrict the construction or expansion of permanent structures in the intended right-of-way of planned transportation facilities as indicated on a corridor map, and to protect the rights of landowners whose land is reserved on a corridor map.

Sec. 9-13-16-2. - Definitions.

Corridor map: A map adopted by a governing body which designates land to be reserved for the construction of future or improvement of existing transportation or linear park and recreation facilities (e.g., greenways). The corridor map establishes the width and termini of corridors as necessary to allow flexibility in planning the design of a transportation facility or linear park and recreation facility.

Reserved land: Land shown on the corridor map as reserved for future public use.

Transportation facilities: Streets, highways, bikeways, sidewalks, and trails.

Sec. 9-13-16-3. - Findings and corridor map adoption.

The governing body reserves the right to adopt, after public hearing, a corridor map that is consistent in all respects with the comprehensive plan or plans of participating municipalities. Prior to adoption of a corridor map, the following actions shall be taken to ensure procedural due process:

- (a) Prior to public hearing, if the proposed corridor map includes land intended for transportation facilities to be constructed or improved by the city, a copy of the proposed corridor map shall be submitted to the chief executive officer of the city who shall be allowed thirty (30) days to indicate in writing any reserved land for transportation facilities for which they are responsible that they want removed from the corridor map, in which case such reserved land shall be removed from the corridor map.
- (b) At least fifteen (15) days before the public hearing, the director of planning and development shall notify the public of the date, time, place, and nature of the public hearing by publication in a newspaper of general circulation in the territory of the city.
- (c) The director of planning and development shall notify all owners of parcels of land that include proposed reserved land of the date, time, place, and nature of the public hearing by mail at least fifteen (15) days before the public hearing.
- (d) The governing body shall hold a public hearing(s) at the date, time, and place advertised, and afford all interested individuals the opportunity to be heard concerning the proposed corridor map.

Sec. 9-13-16-4. - General provisions.

The director of planning and development shall not issue any permit pertaining to zoning or land development on land regulated by this chapter except pursuant to the procedures and in compliance with this chapter. This chapter does not forbid or restrict the use of any reserved land that does not constitute the development of that land, nor does this chapter forbid or restrict development on the unreserved portion of any reserved land.

Sec. 9-13-16-5. - Land development permit required to develop reserved land.

An owner of reserved land who proposes to develop reserved land shall apply to community and economic development department for a land development permit. It shall be unlawful to carry out development upon land shown as reserved on the corridor map without securing a development permit as required by this Code.

Sec. 9-13-16-6. - Public hearing and notice on development permit.

Upon receiving an application for a land development permit involving reserved land as shown on an adopted corridor map, the director of planning and development shall arrange for the application to be scheduled for public hearing before the governing body. The applicant (and the governmental unit, if land is reserved for a public use by a governmental unit other than the local government) shall be notified in writing of the date, time, and place of the hearing, by written mail, personal service, or facsimile, at least fifteen (15) days prior to the public hearing. The public shall be given notice of the date, time, place, and nature of the hearing by publication in a newspaper of general circulation in the city at least fifteen (15) days prior to the public hearing. The applicant shall, at the hearing, have an opportunity, personally or through counsel, to present evidence and argument in support of his or her application, as shall any governmental unit or interested individual that has an interest in the application.

Sec. 9-13-16-7. - Action.

Following the public hearing, the governing body may take one of the following actions:

- (a) Approve the land development permit as proposed, with or without conditions, modify the mapped corridor to remove all or part of the reserved land from the mapped corridor, and issue with or without conditions the land development permit authorizing development on the land removed from the mapped corridor.
- (b) Modify the proposed land development permit application and issue it for development as modified, with or without conditions, if the development can reasonably be accomplished on the subject parcel without encroaching on the reserved land.
- (c) Delay action on the development permit for a defined period of time not to exceed three (3) months for the purpose of any of the following: negotiating with the property owner for the purchase of all or a part of the reserved land by the governmental agency responsible for the transportation facilities; acquiring the reserved land voluntarily; acquiring an easement over the reserved land that prevents the property owner from building on the reserved land; taking the reserved land through eminent domain and the payment of just compensation.

Sec. 9-13-16-8. - Authority to acquire reserved land for public use.

After consideration of the development permit by the governing body, the governing body or other governmental unit responsible for the transportation facilities may, but shall not be obligated to, negotiate for the voluntary dedication of the land, enter into option to purchase, or it may initiate condemnation proceedings subject to applicable state laws and use its powers of eminent domain.

Sec. 9-13-16-9. - Final action on the land development permit.

If the governing body delays action on the development permit as provided by this chapter and the governmental agency responsible for transportation facilities on the reserved land fails to arrange for the legal acquisition of all or a part of the reserved land within the specified time period which shall not exceed three (3) months, then the governing body shall approve the land development permit, with or without conditions, or in the absence of such approval, the land development permit shall be deemed approved as submitted.

Article 9-14 - SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL^[1]

Chapter 9-14-1	Definitions
Chapter 9-14-2	Exemptions
Chapter 9-14-3	Minimum Requirements for Erosion and Sedimentation Control
Chapter 9-14-4	Additional Provisions

Footnotes:

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Editor's note— Ord. No. 2018-24, § I, adopted Oct. 16, 2018, amended article 9-14 in its entirety to read as herein set out. Former article 9-14, chapters 9-14-1—9-14-4, pertained to similar subject matter, and derived from Ord. No. 2010-17, §§ II—XXIV, adopted June 22, 2010; and Ord. No. 2013-25, § I, adopted Dec. 17, 2013.

CHAPTER 9-14-1. - DEFINITIONS

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

Available head: The depth of water that is present at the entrance to a pipe during a 100-year storm.

Best management practices (BMPs): These include sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with and no less stringent than, those practices contained in the Manual for Erosion and Sediment Control in Georgia published by the Commission as of January 1 of the year in which the land-disturbing activity was permitted, a copy of which is on file in the clerk of the city.

Board: Board of Natural Resources.

Bond: A bond, letter of credit or approved surety method approved by the city manager.

Buffer: The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.

Certified personnel: A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.

City: The City of Gainesville, Georgia.

Commission: The Georgia Soil and Water Conservation Commission (GSWCC).

Construction: Any building or erection of a structure or preparation of a property for same.

CPESC: Certified Professional in Erosion and Sediment Control with current certification by EnviroCert, Inc., which is also referred to as CPESC or CPESC, Inc.

Cut: A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface. Also known as "excavation."

Cutting: The removal of any soil or other solid material from a natural ground surface.

Department: The Georgia Department of Natural Resources (DNR).

Design head: The depth of water at the entrance to a pipe that was used in design to force a rate of flow through the pipe needed in the design.

Design professional: A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying, or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by EnviroCert, Inc. Design Professional shall practice in a manner that complies with applicable Georgia law governing professional licensure.

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

Development:

- (1) A land development project involving the construction of streets, utilities, buildings, or other improvements required for the habitation or use of property, such as a residential neighborhood, an apartment complex, a store, or a shopping center;
- (2) Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials;
- (3) The act of constructing or carrying out a land development project, including the alteration of land or vegetation in preparation for construction activity.

District: The Hall County Soil and Water Conservation District.

Division: The environmental protection division (EPD) of the department of natural resources.

Drainage: A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping; most commonly applied to surface water.

Drainage structure: A device composed of 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: The surface and subsurface system for the removal of water from the land, including both the natural elements of streams, marshes, swales and ponds, whether of an intermittent or continuous nature, and the man-made element which includes culverts, ditches, channels, detention facilities and the storm sewer system.

Elevation: The vertical height or heights above a datum plane which for purposes of this chapter shall be the mean sea level datum of the United States Coast and Geodetic Survey of 1929 or other customarily accepted source.

EPD: The environmental protection division of the state department of natural resources.

EPD director: The director of the environmental protection division or an authorized representative.

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

Erosion, Sedimentation and Pollution control plan: A plan required by the Erosion and Sedimentation Act, O.C.G.A. Chapter 12-7, as amended, that includes minimum protections at least as stringent as the state general permit, best management practices, and requirements in section 9-14-3-3 of this article.

Excavation: The mechanical removal of earth material. Also known as "cut."

Extended detention: The detention of stormwater runoff for an extended period, typically twenty-four (24) hours or greater.

Facility/site outfall: The location where storm water in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.

Fill: A portion of land surface to which soil or other solid material has been added; the depth above the original ground or an excavation.

Filling: The placement of any soil or other solid material, either organic or inorganic, on a natural ground surface or excavation.

Final stabilization: All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, one hundred (100) percent of the soil surface is uniformly covered in permanent vegetation with a density of seventy (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: The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

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

Grading permit: Authorization necessary but limited to the initiation and conduct of a land-disturbing activity on a property. For purposes of this Code, a land development permit issued pursuant to chapter 9-13-7 shall constitute approval of the grading permit required by this article.

Greenway: An area along the course of any state waters to be maintained in an undisturbed and natural condition.

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

Hydrologic soil group (HSG): A natural resource conservation service classification system in which soils are categorized into four (4) runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce much more runoff.

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

Land development-or disturbance activity: Those actions or activities which comprise, facilitate or result in land development.

Land disturbance: Any land or vegetation change, including, but not limited to, clearing, digging, 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 development permit: The authorization necessary to begin construction-related, land-disturbing activity, carry out the planned development of land and structures, which may include authorization to initiate and conduct a land-disturbing activity. The land development permit is issued pursuant to chapter 9-13-7.

Land-disturbing activity: Any activity that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting and filling of land but not including agricultural operations practices as described in this chapter as described in O.C.G.A. § 12-7-17(5) or forestry land management practices as described in O.C.G.A. § 12-7-17(6) within areas zoned for such activities.

Larger common plan of development or sale: A contiguous area where multiple separate and distinct construction activities are occurring under one (1) plan of development or sale. For the purposes of this paragraph, "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.

Live detention: The quantity of water capable of being effectively contained by a stormwater detention facility for a specified period of time.

Local issuing authority: The governing authority of any county or municipality which is certified pursuant to O.C.G.A. § 12-7-8(a).

Metropolitan River Protection Act (MRPA): A state law referenced as O.C.G.A. § 12-5-440 et. seq. which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.

Manual for Erosion and Sediment Control in Georgia: A publication of the same name published by the state soil and water conservation commission, and as amended or supplemented from time to time, a copy of which is on file in the office of the clerk of the city.

Natural drainage: Channels formed by the existing surface topography of the earth prior to changes made by unnatural causes.

Natural ground surface: The ground surface in its original state before any grading, excavation or filling.

Nephelometric turbidity units (NTU): Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed particles are present.

NOI: A notice of intent form provided by EPD for coverage under the state general permit.

NOT: A notice of termination form provided by EPD to terminate coverage under the state general permit.

One-hundred-year flood: A 100-year frequency flood that has the probability of occurring once every one hundred (100) years and thus has a one (1) percent chance of occurring each year.

One-hundred-year flood plain: A land area adjoining a river, stream, watercourse or lake that has a probability of being flooded up to and including the 100-year flood.

Operator: The party or parties that have: (A) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (B) day-to-day operational control of those activities that are necessary to ensure compliance with an erosion, sedimentation and pollution control plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the erosion, sedimentation and pollution control plan or to comply with other permit conditions.

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

Permit: The authorization necessary to conduct a land-disturbing activity under the provisions of this article.

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

Phase or phased: Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

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

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

Qualified personnel: Any person who meets or exceeds the education and training requirements of O.C.G.A. § 12-7-19, as amended.

Reach: A longitudinal segment of a stream or river measured along specified points on the stream or river.

Riparian: Belonging or related to the bank of a river, stream, lake, pond or impoundment.

Roadway drainage structure: A device such as a bridge, culvert or ditch, composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water under a roadway by intercepting

the flow on one (1) side of a traveled way consisting of one (1) or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

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

Runoff rate coefficient: The numerical factor which, when multiplied with the average slope for a particular site, will give the release rate of water from that site.

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

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

Slope: The degree of deviation of a surface from the horizontal, usually expressed in percent or degree.

Soil and water conservation district approved plan: An erosion and sediment control plan approved in writing by the Hall County Soil and Water Conservation District.

Soils: The upper layer of earth that can be dug or plowed; the loose surface material of the earth in which vegetation normally grows.

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

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

State waters: Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the state which are not entirely confined and retained completely upon the property of a single individual, partnership or corporation.

Static head: The depth of water at the entrance to a culvert when the depth is greater than the diameter of the pipe.

Stream: A stream is defined as beginning at:

- (a) The location of a spring, seep, or groundwater outflow that sustains streamflow; or
- (b) A point in the stream channel with a drainage area of twenty-five (25) acres or more; or
- (c) Where evidence indicates the presence of a stream in a drainage area of other than twenty-five (25) acres, the director of community planning and economic development may require field studies to verify the existence of a stream.

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

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

Stream channel: The portion of a watercourse that contains the base flow of the stream.

Stream protection buffer: The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, as measured horizontally, which facilitates the protection of water quality and aquatic habitat.

Stream protection area or protection area: The combined areas of all required stream protection buffers and setbacks applicable to such stream.

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

Ten-year, 25-year and 100-year storms: Rainfall events having a probability of occurrence once every ten (10), twenty-five (25) or one hundred (100) years, respectively, or a ten (10) percent, four (4) percent or one (1) percent chance of occurring each year, respectively.

Trout streams: All streams or portions of streams within the watershed as designated by the wildlife resources division of the state department of natural resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20, as amended, in the Rules and Regulations for Water Quality Control Chapter 391-3-6 at www.epd.georgia.gov, as amended. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

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

Vegetation: All plant growth, such as trees, shrubs, mosses and grasses.

Vegetative erosion and sedimentation control measures: Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

- (a) Permanent seeding, sprigging or planting, producing long-term vegetative cover;
- (b) Temporary seeding, producing short-term vegetative cover; or
- (c) Sodding, covering areas with a turf of perennial sod-forming grass.

Such measures can be found in the Manual for Erosion and Sediment Control in Georgia.

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

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

(Ord. No. 2018-24, § I, 10-16-18)

CHAPTER 9-14-2. - EXEMPTIONS**Sec. 9-14-2-1. - Generally.**

This article shall apply to any land-disturbing activity undertaken by any person on any land except for those uses specifically identified in this chapter.

Where this chapter requires compliance with chapter 9-14-3, the city shall enforce compliance with the minimum requirements as if a land development permit had been issued and any violations of said minimum requirements shall be subject to the same penalties as violations by land development permit holders.

(Ord. No. 2018-24, § I, 10-16-18)

Sec. 9-14-2-2. - Mining and quarrying.

Surface mining, as same is defined in O.C.G.A. § 12-4-72, as amended, entitled "The Georgia Surface Mining Act of 1968," and granite quarrying and land clearing for such quarrying are exempt from compliance with this article.

(Ord. No. 2018-24, § I, 10-16-18)

Sec. 9-14-2-3. - Minor activities.

Minor land-disturbing activities, such as home gardens and individual home landscaping, repairs, maintenance work fences, and other related activities, which result in minor soil erosion are exempt from compliance with this article.

(Ord. No. 2018-24, § I, 10-16-18)

Sec. 9-14-2-4. - Single-family detached dwellings.

The construction of single-family residences, when such construction disturbs less than one (1) 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 (1) acre and not otherwise exempted under this paragraph; provided, however that construction of any such residence shall conform to the minimum requirements as set forth in O.C.G.A. § 12-7-6, as amended, and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a stream protection buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act, as amended. In any such stream protection buffer zone, no land disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the stream protection buffer zone shall be at least fifty (50) horizontal feet, and no variance to a smaller stream protection buffer shall be granted. For secondary trout waters, the stream protection buffer zone shall be at least fifty (50) horizontal feet, but the EPD director may grant variances to no less than twenty-five (25) feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the stream protection buffer shall be at least twenty-five (25) horizontal feet, and no variance to a smaller stream protection buffer shall be granted. The minimum requirements of subsection (b) of O.C.G.A. § 12-7-6, as amended, and the stream protection buffer zones provided by this paragraph shall be enforced by the city.

(Ord. No. 2018-24, § I, 10-16-18)

Sec. 9-14-2-5. - Agriculture.

Exempt from the requirements of this article are those agricultural operations defined in O.C.G.A. § 1-3-3, as amended, "definitions", to include raising, harvesting, or storing of products of the field or orchard; feeding, breeding, or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep and rabbits or for use in the production of poultry, including but not limited to chicken, hens, and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs, and apiarian products and farm buildings and farm ponds.

(Ord. No. 2018-24, § I, 10-16-18)

Sec. 9-14-2-6. - Forestry land management practices.

Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a stream protection buffer, as established in section 9-14-3-3, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three (3) years after completion of such forestry practices.

(Ord. No. 2018-24, § I, 10-16-18)

Sec. 9-14-2-7. - NRCS projects.

Any project carried out under the technical supervision of the natural resources conservation service of the United States Department of Agriculture shall be exempt from compliance with this article.

(Ord. No. 2018-24, § I, 10-16-18)

Sec. 9-14-2-8. - Small projects.

Any project involving less than one (1) 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 (1) acre or within two hundred (200) feet of the bank of any state waters, and for purposes of this paragraph, "state waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one (1) acre, which involves land-disturbing activity, and which is within two hundred (200) feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further that nothing contained herein shall prevent the city from regulating any such project which is not specifically exempted by this article.

(Ord. No. 2018-24, § I, 10-16-18)

Sec. 9-14-2-9. - State projects and state/local road projects.

Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the state department of transportation, the state highway authority, or the state road and tollway authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of the state department of transportation or the state road and tollway authority which disturb one (1) or more contiguous acres of land shall be subject to provisions of O.C.G.A. § 12-7-7.1, as amended; except where the state department of transportation, the state highway authority, or the state road and tollway authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the city, the city shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6, as amended, as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders.

(Ord. No. 2018-24, § I, 10-16-18)

Sec. 9-14-2-10. - Electric and public utilities.

Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, as amended, or any agency or instrumentality of the United States engaged in the generation,

transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A § 36-18-1, as amended, or any agency or instrumentality of the United States engaged in the generation transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the city shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6, as amended, as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and any public water system reservoir.

(Ord. No. 2018-24, § I, 10-16-18)

CHAPTER 9-14-3. - MINIMUM REQUIREMENTS FOR EROSION AND SEDIMENTATION CONTROL

Sec. 9-14-3-1. - General provisions.

Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the ordinance and the NPDES general permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by chapter 9-14-2 shall contain provisions for application of soil erosion and sedimentation and pollution control measures and practices. The provisions shall be incorporated into the erosion and sediment control plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of this chapter.

The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this article and the NPDES general permit.

(Ord. No. 2018-24, § I, 10-16-18)

Sec. 9-14-3-2. - Minimum requirements/best management practices.

- (a) *Required.* Best management practices as set forth in this section and sec. 9-14-3-3 shall be required for all land-disturbing activities unless specifically exempted by chapter 9-14-2.
- (b) *Defense to enforcement action.* Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the EPD director or to any other allegation of noncompliance with this section or any substantially similar terms contained in a land development permit for the discharge of stormwater. Issued pursuant to subsection (f) of O.C.G.A. § 12-5-30, as amended, the "Georgia Water Quality Control Act."
- (c) *Definitions.* As used in this section, the terms "proper design" and "properly designed" mean in accordance with the hydraulic design specifications contained in the Manual for Erosion and Sediment Control in Georgia specified in O.C.G.A. § 12-7-6 subsection (b), as amended.
- (d) *Violations.* A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed and maintained shall constitute a separate violation of any land disturbing permit issued by the city or of any state general permit issued by the division pursuant to subsection (f) of O.C.G.A. § 12-5-30, as amended, the "Georgia Water Quality Control Act," for each day on which such discharge results in the turbidity of receiving waters being increased by more than twenty-five (25) nephelometric turbidity units for waters supporting warm water fisheries or by more than ten (10) nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the EPD director. This paragraph shall not apply to any land disturbance associated with the construction of single-family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five (5) acres.
- (e) *Inadequate best management practices.* Failure to properly design, install or maintain best management practices shall constitute a violation of any land disturbing permit issued by the city or of any state general permit issued by the Division pursuant to subsection (f) of Code section 12-5-30, as amended, the "Georgia Water Quality Control Act," for each day on which such failure occurs.
- (f) *Requirements by EPD director.* The EPD director may require, in accordance with regulations adopted by the board of natural resources, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.

(Ord. No. 2018-24, § I, 10-16-18)

Sec. 9-14-3-3. - Additional minimum requirements.

The rules and regulations, ordinances, or resolutions adopted pursuant to O.C.G.A. § 12-7-1 et seq., as amended, for the purpose of governing land-disturbing activities shall require, as minimum protections at least as stringent as the state general permit, and best management practices, including soil conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the Manual for Erosion and Sediment Control in Georgia published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:

- (a) Stripping of vegetation, re-grading and other development activities shall be conducted in a manner so as to minimize erosion.
- (b) Cut-fill operations must be kept to a minimum.
- (c) Development plans must conform to topography and soil type so as to create the lowest practicable erosion potential.
- (d) Whenever feasible, natural vegetation shall be retained, protected and supplemented.
- (e) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum.
- (f) Disturbed soil shall be stabilized as quickly as practicable.
- (g) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development.
- (h) Permanent vegetation and structural erosion control measures shall be installed as soon as practicable.
- (i) To the extent necessary, sediment in run-off 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 paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements O.C.G.A. § 12-7-1 et seq., as amended.
- (j) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills.
- (k) Cuts and fills may not endanger adjoining property.
- (l) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners.
- (m) Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum.
- (n) No public streets, drainage systems or private property shall be restricted from normal use or operation by the scattering of earth, rock, vegetation and other debris resulting from the land disturbing activity. The permittee shall be responsible for clearing, unclogging and cleaning any such facility or lands on a daily basis.
- (o) Land-disturbing activity plans for erosion sedimentation and pollution control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in this section.
- (p) Land-disturbing activities shall not be conducted within the 100-year flood plain except in compliance with article 9-15.
- (q) Construction site operators are required to control waste at the construction site, such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste.

(Ord. No. 2018-24, § I, 10-16-18)

Sec. 9-14-3-4. - Stream protection buffers.

Except as provided in section 9-14-3-5, there is established a 25-foot stream protection buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal streams flow or wave action, except where the EPD director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the EPD director pursuant to O.C.G.A. § 12-2-8 as amended, where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specification, and are implemented; or along any ephemeral stream. As used in the provision, the term "ephemeral stream" means a stream: that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the ground-water table year round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow, unless exempted as along an ephemeral stream, the stream protection buffers of at least twenty-five (25) feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act," as amended, shall remain in force unless a variance is granted by the EPD director as provided in this paragraph. The following requirements shall apply to any such stream protection buffer:

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

(Ord. No. 2018-24, § I, 10-16-18)

Cross reference— Buffers, Landscaping, and Tree Protection, Art. 9-16.

Sec. 9-14-3-5. - Stream protection buffers along trout streams.

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

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

(Ord. No. 2018-24, § I, 10-16-18)

Sec. 9-14-3-6. - Provisions regarding land disturbance activity and the disturbance of stream protection buffers.

This section shall not be construed as preventing the application of other requirements of this Code which require larger buffers along property lines than specified in this article (see Table 9-5-2 and Table 9-6-2, which may apply). Furthermore, nothing contained in O.C.G.A. § 12-7-1 et seq., as amended, shall prevent the city from adopting rules and regulations, ordinances, or resolutions which contain stream protection buffer requirements that exceed the minimum requirements in this article.

See chapter 9-16-3 for provisions regarding disturbance within stream protection buffers.

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 article or the terms of the permit.

(Ord. No. 2018-24, § I, 10-16-18)

Sec. 9-14-3-7. - Maintenance of control measures.

Owner's responsibility. Maintenance of all soil erosion and sediment control measures, whether temporary or permanent, shall be at all times the responsibility of the owner.

(Ord. No. 2018-24, § I, 10-16-18)

Sec. 9-14-3-8. - Manual adopted by reference.

Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the Manual for Erosion and Sediment Control in Georgia or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The Manual for Erosion and Sediment Control in Georgia is hereby incorporated by reference into this article.

(Ord. No. 2018-24, § I, 10-16-18)

CHAPTER 9-14-4. - ADDITIONAL PROVISIONS**Sec. 9-14-4-1. - Application/permit process.**

- (a) *General.* The property owner, developer and designated planners and engineers shall design and review before submittal, the general development plans. The city shall review the tract to be developed and the area surrounding it. The staff of the city shall consult the zoning ordinance, storm water management ordinance, subdivision ordinance, flood management ordinance, this article, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the city. However, the owner and/or operator are the only parties who may obtain a permit.
- (b) *Application requirements.*
- (1) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the city without first obtaining a permit from the city to perform such activity and providing a copy of NOI submitted to EPD if applicable.
 - (2) The application for a permit shall be submitted to the city and must include the applicant's erosion, sedimentation and pollution control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in this article. Erosion, sedimentation and pollution control plans, together with supporting data, must demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of this article will be met. Applications for a permit will not be accepted unless accompanied by seven (7) copies of the applicant's erosion, sedimentation and pollution control plans. All applications shall contain a certification stating that the plan preparer or the designee there of visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-.10, as amended.
 - (3) In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (5) subsection (a) of O.C.G.A. § 12-5-23, as amended, provided that such fees shall not exceed eighty dollars (\$80.00) per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. Half of such fees levied shall be submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. § 12-7-17, as amended, shall be submitted in full to the division.
 - (4) Immediately upon receipt of an application and plan for a permit, the city shall refer the application and plan to the district for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan. The district shall approve or disapprove a plan within thirty-five (35) days of receipt. Failure of the district to act within thirty-five (35) days shall be considered an approval of the pending plan. The results of the district review shall be forwarded to the city. No permit will be issued unless the plan has been approved by the district, and any variances required by this article have been obtained, all fees have been paid, and bonding, if required, has been obtained. Such review will not be required if the city and the district have entered into an agreement which allows the city to conduct such review and approval of the plan without referring the application and plan to the district. The city with plan review authority shall approve or disapprove a revised plan submittal within thirty-five (35) days of receipt. Failure of the city with plan review authority to act within thirty-five (35) days shall be considered an approval of the revised plan submittal.
 - (5) If a permit applicant has had two (2) or more violations of previous permits, this article section, or the Erosion and Sedimentation Act, as amended within three (3) years prior to the date of filing the application under consideration, the city may deny the permit application.
 - (6) The city may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, three thousand dollars (\$3,000.00) per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this section or with the conditions of the permit after issuance, the city may call the bond or any part thereof to be forfeited and may use the proceeds to hire

a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the city with respect to alleged permit violations.

(c) *Plan requirements.*

- (1) Plans must be prepared to meet the minimum requirements as contained in this article, or through the use of more stringent alternate design criteria which conform to sound conservation and engineering practices. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and storm water management facilities, local ordinances and state laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the commission and in consultation with the division and stakeholder advisory board created pursuant to O.C.G.A. § 12-7-20, as amended.
- (2) Data required for site plan shall include all the information required from the appropriate erosion, sedimentation and pollution control plan review checklist established by the commission as of January 1 of the year in which the land-disturbing activity was permitted. Erosion, sedimentation and pollution control plans shall include:
 - a. Narrative or notes, and other information. Notes or narrative to be located on the site plan in general notes or in erosion and sediment control notes.
 - b. Description of existing land use at project site and description of proposed project.
 - c. Name, address, and phone number of the property owner.
 - d. Name and phone number of 24-hour local contact that is responsible for erosion and sedimentation controls.
 - e. Size of project, or phase under construction, in acres.
 - f. Activity schedule showing anticipated starting and completion dates for the project. Include the statement in bold letters, that "the installation of erosion and sediment control measures and practices shall occur prior to or concurrent with land-disturbing activities."
 - g. Stormwater and sedimentation management systems-storage capacity, hydrologic study, calculations including off-site drainage areas and other information as may be needed to satisfy the requirements of articles 9-13 and 9-14.
 - h. Location of erosion and sediment control measures and practices using coding symbols from the Manual for Erosion and Sediment Control in Georgia, chapter 6, and meeting the requirements of article 9-14. Practices may include, but are not limited to:
 1. Construction exit.
 2. Sediment barrier.
 3. Sediment basin.
 4. Grassed waterway (open swale).
 5. Storm drain outlet protection.
 6. A plan for temporary and permanent vegetative and structural erosion and sediment control measures.

- i. Vegetative plan for all temporary and permanent vegetative practices, including species, planting dates, and seeding, fertilizer, lime and mulching rates. The vegetative plan should show options for year-round seeding.
 - j. Detail drawings for all structural practices. Specifications may follow guidelines set forth in the Manual for Erosion and Sediment Control in Georgia.
 - k. Maintenance statement. "Erosion and sediment control measures will be maintained at all times. Additional erosion and sediment control measures and practices will be installed if deemed necessary by on-site inspection."
 - l. A description of the sediment control program and sediment control practices.
 - m. An adequate description of general topographic and soil conditions of the tract as available from the Hall County Soil and Water Conservation District.
 - n. A description of the maintenance program for sediment control facilities including inspection programs, vegetative establishment of exposed soils, method and frequency of removal and disposal of solid waste material removed from control facilities and disposition of temporary structural measures.
 - o. Any additional requirement established by the commission.
- (d) *Permits.*
- (1) Permits shall be issued or denied as soon as practicable but in any event not later than forty-five (45) days after receipt by the city of a completed application as well as all required approved plans and reports, providing variances and bonding are obtained, where necessary and all applicable fees have been paid prior to permit issuance. The permit shall include conditions under which the activity may be undertaken.
 - (2) No permit shall be issued by the city unless the erosion, sedimentation and pollution control plan has been approved by the district and the city has affirmatively determined that the plan is in compliance with this article, any variances required by this article are obtained, bonding requirements, if necessary, are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the city are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
 - (3) Any land-disturbing activities by the city shall be subject to the same requirements of this article, and any other ordinances relating to land development, as are applied to private persons and the division shall enforce such requirements upon the city.
 - (4) If the tract is to be developed in phases, then a separate permit shall be required for each phase.
 - (5) The permit may be suspended, revoked, or modified by the city, as to all or any portion of the land affected by the plan, upon finding that the holder or that person's successor in the title is not in compliance with the approved erosion, sedimentation and pollution control plan or that the holder or his successor in title is in violation of this article. A holder of a permit shall notify any successor in title to that person as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.
 - (6) The city may reject a permit application if the applicant has had two (2) or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three (3) years prior to the date of the application, in light of O.C.G.A. § 12-7-7(f)(1), as amended.

(Ord. No. 2018-24, § I, 10-16-18)

Sec. 9-14-4-2. - Inspection and enforcement.

- (a) The city will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the city shall regulate primary, secondary,

and tertiary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. Tertiary permittees shall be responsible for installation and maintenance where the tertiary permittee is conducting land-disturbing activities. If through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this article, a written notice to comply shall be served upon that person. The notice shall set forth the necessary measures to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, that person shall be deemed in violation of this article.

- (b) The city shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
- (c) No person shall refuse entry or access to any authorized representative or agent of the city, the commission, the district, or division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

(Ord. No. 2018-24, § I, 10-16-18)

Sec. 9-14-4-3. - 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 article without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the city.
- (b) *Stop-work orders.*
 - (1) For the first and second violations of the provisions of this article, the EPD director or the city shall issue a written warning to the violator. The violator shall have five (5) days to correct the violation. If the violation is not corrected within five (5) days, the EPD director or the city shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the EPD director or the city shall issue an immediate stop-work order in lieu of a warning;
 - (2) For a third and each subsequent violation, the EPD director or the city shall issue an immediate stop-work order; and
 - (3) All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
 - (4) When a violation in the form of taking action without a permit, failure to maintain a stream protection buffer, or significant amounts of sediment, as determined by city or by the EPD director, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the city or by the EPD director. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.
- (c) *Bond forfeiture.* If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The

notice shall set forth necessary measures to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article and, in addition to other penalties, may be deemed to have forfeited his performance bond for erosion, sedimentation and pollution control, if required to post one. The city may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

- (d) *[Violations.]* Any person who violates any provision of this article, or any permit condition or limitation established pursuant to this article, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the city or the EPD director issued as provided in this article shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) per day. For the purpose of enforcing the provisions of this article, notwithstanding any provisions in any City Charter or ordinance to the contrary, the municipal court of the city shall be authorized to impose a penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations, each day during which violation or failure or refusal to comply continues shall be a separate violation.

(Ord. No. 2018-24, § I, 10-16-18)

Sec. 9-14-4.4. - Education and certification.

- (a) Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. § 12-7-20, as amended.
- (b) For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one (1) person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.
- (c) Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this article.
- (d) If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of O.C.G.A. § 12-7-19, as amended, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in paragraph (4) of subsection (b) of O.C.G.A. § 12-7-19, as amended, and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

(Ord. No. 2018-24, § I, 10-16-18)

Sec. 9-14-4-5. - Administrative appeal judicial review.

- (a) *Administrative remedies.* The suspension, revocation, modification or grant with condition of a permit by the city upon finding that the holder is not in compliance with the approved erosion, sediment and pollution control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the administrative hearing officer within thirty (30) days after receipt by the city of written notice of appeal.
- (b) *Judicial review.* Any person, aggrieved by a decision or order of the city, after exhausting his administrative remedies, shall have the right to appeal by writ of certiorari to the Superior Court of Hall County.

(Ord. No. 2018-24, § I, 10-16-18)

Sec. 9-14-4-6. - Validity and liability.

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

(Ord. No. 2018-24, § I, 10-16-18)

Article 9-15 - FLOODPLAIN MANAGEMENT^[1]

Chapter 9-15-1 Chapter 9-15-2 Chapter 9-15-3 Chapter 9-15-4	General Provisions Administration and Permitting Standards for Development Flood Hazard Reduction
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Footnotes:

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Editor's note— Ord. No. 2007-53, § I, adopted November 20, 2007, amended article 9-15 in its entirety to read as herein set out. Formerly, article 9-15 pertained to similar subject matter, and derived from Ord. No. 2006-40, § I, adopted September 19, 2006.

CHAPTER 9-15-1. - GENERAL PROVISIONS

Sec. 9-15-1-1. - Findings of fact.

The flood hazard areas of the city are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

Flood hazard areas can serve important stormwater management, water quality, stream bank protection, stream corridor protection, wetland preservation and ecological purposes when permanently protected as undisturbed ~~green space~~ or minimally disturbed areas.

Effective floodplain management and flood hazard protection activities can:

- (1) Protect human life and health;
- (2) Minimize damage to private property;
- (3) 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
- (4) Minimize expenditure of public money for costly flood control projects associated with flooding and generally undertaken at the expense of the general public.

These flood losses are increased by the cumulative effect of obstructions in ~~floodplains~~ flood plains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood proofed, or otherwise unprotected from flood damage.

Article IX, Section II of the Constitution of the State of Georgia and O.C.G.A. §Section 36-1-20(a) of the Official Code of Georgia Annotated have delegated the responsibility to local governmental units to adopt regulations designed

to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Gainesville, Georgia, does enact this ordinance and establishes this set of floodplain management and flood hazard reduction provisions for the purpose of regulating the use of flood hazard areas. It is determined that the regulation of flood hazard areas and the prevention of flood damage are in the public interest and will minimize threats to public health and safety, as well as to private and public property.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-1.2. - Statement of purpose.

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

- (a) Restrict or prohibit uses which are dangerous to health, safety and property due to ~~water-flooding~~ or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (b) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (c) ~~Control-Limit~~ the alteration of natural ~~floodplains~~~~flood-plains~~, stream channels, and natural protective barriers which are involved in the accommodation of flood_waters;
- (d) Control filling, grading, dredging and other development which may increase erosion or flood damage;
- (e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood-waters or which may increase flood hazards to other lands; and
- (f) Protect the stormwater management, water quality, stream bank protection, stream corridor protection, wetland preservation and ecological functions of natural floodplain areas.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-1.3. - Objectives.

The objectives of this section are to:

- (a) Protect human life and health;
- (b) Minimize expenditure of public money for costly flood control projects;
- (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) Minimize prolonged business interruption;
- (e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in ~~floodplains~~~~flood-plains~~;
- (f) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and
- (g) Insure that potential home buyers are notified that property is in a flood area.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-1-4. - Definitions.

Accessory Structure or Facility: Any structure which is on the same parcel of property as the principal structure and under the same ownership as the principal structure and the use of which is incidental to the use of the primary structure.

Addition ~~(to an existing building):~~ 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 independent perimeter, load-bearing walls is new construction or height of a building.

Adjacent: Areas located within the defined horizontal distance from the future-conditions floodplain boundary that are at or lower in elevation than either three (3) feet above the base flood elevation or one (1) foot above the future-conditions flood elevation, whichever is 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).

Appeal: A request for a review of the ~~director of public work's~~ floodplain administrator's interpretation of any provision of this article by the planning and appeals board.

Area of shallow flooding: A designated AO or AH zone on the city's flood insurance rate map (FIRM) with ~~afrom one percent or greater chance of flooding to an average depth of base flood depths from~~ one to three (3) feet and/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. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard: The land ~~in the flood plain within a community~~ subject to a one percent or greater chance of flooding in any given year. This includes all ~~flood plain~~ floodplain and flood prone areas at or below the base flood elevation ~~designated as~~ ~~(including A, A1-30, A-99, AE, AO, AH, and AR on the FIRM or the community's flood insurance rate map (FIRM),~~ all flood plain floodplain and flood prone areas at or below the future conditions flood elevation, and all other flood prone areas as referenced in section 9-15-1-6. All streams with a drainage area of one hundred (100) acres or greater shall have the area of special flood hazard delineated.

Base flood: The flood having a one percent chance of being equaled or exceeded in any given year, also known as the 100-year flood.

Base flood elevation: The highest water surface elevation anticipated at any given ~~point~~ location during the base flood.

Basement: ~~Any~~ That portion area of a building having its floor subgrade (below ground level) on all sides.

Breakaway or shear wall: A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

Building: ~~Any structure built for support, shelter, or enclosed for any occupancy or storage~~ Same meaning as Structure.

Conditional Letter of Mapping Revision (CLOMR): FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations (BFEs), or the special flood hazard area (SFHA). The letter does not revise an effective NFIP map, it indicates whether the project, if built as proposed, would be recognized by FEMA.

Development: 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.

Elevated building: ~~A non-basement building which has its lowest elevated floor raised above the ground level by foundation walls, shear walls, posts, piers, pilings, or columns. A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear or breakaway walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.~~

Existing construction: Any structure for which the start of construction commenced before December 17, 1974.

Existing manufactured home park or subdivision: 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 December 17, 1974.

Expansion to an existing manufactured home park or subdivision: 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: The Federal Emergency Management Agency.

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

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

Flood hazard boundary map (FHBM): An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as zone A.

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

Flood insurance study (FIS): The official report provided by ~~the Federal Insurance Administration~~ FEMA providing an examination, evaluation and determination of flood hazards and corresponding flood profiles and water surface elevations of the base flood evaluating flood hazards and containing flood profiles water surface elevations of the base flood.

Floodplain: Any land area susceptible to flooding. Also called Flood-prone area.

Floodproofing: Any combination of structural and non-structural 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 the Regulatory Floodway: The channel of a stream, river, or other watercourse and the adjacent ~~land~~ areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than ~~one foot~~ designated height.

Floor: The top surface of an enclosed area in a building, including basement, i.e., 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.

Functionally dependent ~~facility~~ use: A ~~facility~~ use which cannot ~~be used for~~ perform its intended purpose unless it is located or carried out in close proximity to water. The term only includes, such as a docking facilities, or port facilities that are necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term "functionally dependent ~~facility~~ use" does not include long-term storage or related, manufacture, sales, or service facilities.

Future conditions flood: 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: The highest water surface elevation anticipated at any given ~~point~~location during the future conditions flood.

Future conditions floodplain: Any land area susceptible to flooding by the future conditions flood.

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

Highest adjacent grade: The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a buildingstructure.

Historic structure: Any structure that is:

- (a) Listed individually in the national register of historic places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register;
- (b) 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;
- (c) Individually listed on a state inventory of historic places ~~and determined as eligible~~ by states with historic preservation programs which have been approved by the secretary of the interior; or
- (d) Individually listed on a local inventory of historic places ~~and determined as eligible~~ by 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.

Letter of Mapping Revision (LOMR): FEMA's official modification to an effective flood insurance rate map (FIRM), or flood boundary and floodway map (FBFM), or both. letter of map revisions are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and this result in the modification of the existing regulatory floodway, the effective base flood elevations (BFE's), or the special flood hazard area (SFHA). The LOMR officially revises the flood insurance rate map (FIRM) or flood boundary and floodway map (FBFM), and sometimes the flood insurance study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

Lowest floor: The lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, ~~useable~~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 Code.

Manufactured home: A buildingstructure, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when ~~connected~~attached 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 one hundred eighty (180) consecutive days or longer and intended to be improved property. The term does not include a "recreational vehicle."

Mean sea level: ~~The datum to which base flood elevations shown on a community's flood insurance rate map (FIRM) are referenced. For purposes of this ordinance the term is synonymous with national geodetic vertical datum (NGVD) of 1929 or the north american vertical datum (NAVD) of 1988. The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the flood plain or for airport zone elevations. For purposes of this section, the term "mean sea level" is synonymous with National Geodetic Vertical Datum (NGVD) and/or the North American Vertical Datum (NAVD) of 1988.~~

National geodetic vertical datum (NGVD): As corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the ~~flood plain~~floodplain.

New construction: Any structure for which the start of construction commenced on or after December 17, 1974.

New manufactured home park or subdivision: 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 on or after December 17, 1974.

North American vertical datum (NAVD) of 1988: A vertical control used as a reference for establishing varying elevations within the ~~flood plain~~floodplain.

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

Permit: The permit issued by the director of community planning and economic development to the applicant which is required prior to~~for~~ undertaking any ~~land~~ development activity.

Recreational vehicle: A vehicle which is:

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

Repetitive loss: Flood-related damages sustained by a structure on two (2) separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals, or exceeds twenty-five (25) percent of the market value of the structure before the damage occurred.

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

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

Start of construction: The initiation of new construction or a substantial improvement, as follows:

- (a) *For new construction:* The date the development permit was issued, provided the actual start of construction, repair, reconstruction, addition placement, or improvement was within one hundred eighty (180) days of the permit date. The actual start of construction either means the first placement of permanent construction of a building, including a manufactured home, on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured 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 and/or walkways; the 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 building.
- (b) *For a substantial improvement:* The date the building permit was issued, provided the actual start of construction was within one hundred eighty (180) days of the permit date. The actual start of construction means the first alteration of any wall, ceiling, floor or other structural parts of a building, whether or not that alteration affects the external dimensions of the building.

Structure: A walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other manmade facilities or infrastructures.

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

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. This term also includes Repetitive loss.

Substantial improvement: Any ~~combination of~~ repairs, reconstruction, alteration, or other improvements to a building, taking place during the life of a building, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the building prior to improvement. ~~This term includes structures, which have incurred "repetitive loss" or "substantial damage" regardless of the actual amount of repair work performed.~~ The market value of the building ~~should be means:~~

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

This term includes structures, which have incurred "repetitive loss" or "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 structure. The term does not include any project for improvement of a building required to comply with existing state or local health sanitary or safety code specifications which are ~~solely the minimum~~ necessary to assure safe living conditions, which have been ~~pre-~~identified by the code enforcement official, and not solely triggered by an improvement or repair project. The term does also not include any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Substantially Improved Existing Manufactured Home Park or Subdivision: the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance: A grant of relief from the requirements of this article which permits construction in a manner otherwise prohibited by this ~~article~~ordinance.

Violation: The failure of a structure or other development to be fully compliant with the ~~community's requirements of this ordinance~~flood plain management regulations. A structure or other development without the elevation certificate, other certificates, or other evidence of compliance required in this ordinance ~~article~~ is presumed to be in violation until such time as that documentation is provided.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-1-5. - Applicability.

This article shall apply to all areas of special flood hazard within the city, i.e. floodplain and flood prone areas as defined herein at or below the base flood elevation or the future conditions flood elevation, whichever is more restrictive (including A and AE on the FIRM), and all new or substantial improvement residential units, all subdivisions, non-residential structures, manufactured home, recreational vehicles, and utilities located within these areas. In addition, all streams with a drainage area of one hundred (100) acres or more have an area of special flood hazard.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-1-6. - Adoption by reference.

The following are adopted by reference:

- (a) The current effective flood insurance study (FIS), ~~dated September 29, 2006~~ April 4, 2018, with accompanying maps and other supporting data and any revision thereto. For those land areas acquired through annexation, the current effective FIS and data for Hall County, Georgia, ~~dated September 29, 2006~~, with accompanying maps and other supporting data and any revision thereto are hereby adopted by reference.
- (b) Other studies which may be relied upon for the establishment of the base flood elevation or delineation of the one-percent (100-year) ~~100-year~~ floodplain and flood prone areas include:
 1. Any flood or flood-related study conducted by the United States Army Corps of Engineers, ~~or the United States Geological Survey, or any other local, state or federal agency~~ applicable to the city; ~~or~~ and
 2. 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 ~~public works~~ department of water resources.
- (c) Other studies which may be relied upon for the establishment of the future conditions flood elevation or delineation of the future conditions floodplain and flood prone areas include:
 1. ~~Any flood or flood-related study conducted by the United States Corps of Engineers, the United States Geological Survey, or any other local, State or Federal agency applicable to the city~~ Any flood or flood-related study conducted by the United States Corps of Engineers or the United States Geological Survey applicable to the city; or
 2. Any future conditions flood study authored by a registered professional engineer in the state which has been prepared by FEMA approved methodology and approved by the ~~public works~~ department of water resources.
- (d) The repository for public inspection of the FIS, accompanying maps and other supporting data is located at the ~~public works~~ department of water resources.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-1-7. - Interpretation.

In the interpretation and application of this section, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the city council; and
- (c) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-1-8. - Warning and disclaimer of liability.

The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This 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 the county or by any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-1-9. - 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. 2007-53, § I, 11-20-07)

Sec. 9-15-1-10. – Severability.

If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.

(Ord. No. 2007-53, § I, 11-20-07)

CHAPTER 9-15-2. - ADMINISTRATION AND PERMITTING

Sec. 9-15-2-1. - Director of ~~public works~~ department of water resources administrative duties.

~~The director of public works is hereby appointed floodplain administrator. The duties of the director of public works regarding any land within an area of special flood hazard shall include, but not be limited to:~~
The director of water resources or designee is hereby appointed floodplain administrator to administer and implement the provisions of this ordinance. The duties of the floodplain administrator regarding any land within an area of special flood hazard shall include, but not be limited to::

- ~~(a) Review all development applications and permits to assure that the requirements of this ordinance have been satisfied and to determine whether proposed building sites will be reasonably safe from flooding~~
Review all land development applications and permits to assure that the requirements of this article have been satisfied;
- ~~(b) Require that copies of all necessary permits from governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, be provided and maintained on file;~~
- (b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including but not limited to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334;
- (c) When base flood elevation data or floodway data have not been provided, then the ~~director of public works~~floodplain administrator shall require the applicant to obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other sources in order to meet the provisions of this article;

- (d) 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;
- (e) Review and record the actual elevation, in relation to mean sea level to which any substantially improved structures have been flood-proofed;
- (f) When flood-proofing is utilized for a structure, the ~~director of public works~~floodplain administrator shall obtain certification of design criteria from a registered professional engineer or architect;
- (g) 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);
- (h) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions) the ~~director of public works~~floodplain administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article. 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~~
- (i) All records pertaining to the provisions of this article shall be maintained in the office of the ~~director of public works~~floodplain administrator and shall be open for public inspection; ~~and~~
- (j) Coordinate all FIRM revisions with the GA DNR and FEMA; and
- (k) Review variance applications and make recommendations to and the department of community and economic development.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-2-2. - ~~Flood area permit required~~Permit Application Requirements.

No owner or developer shall perform any development activities on a site where an ~~area of special flood hazard or area of future-conditions flood hazard~~ is located without first meeting the requirements of this ordinance prior to commencing the proposed activity.

Unless specifically excluded by this ordinance, any landowner or developer desiring a permit for a development activity shall submit to the city a ~~land disturbance~~ permit application on a form provided by the city for that purpose.

No permit will be approved for any development activities that do not meet the requirements, restrictions and criteria of this ordinance.

~~A flood area permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within an area of special flood hazard. Application for a flood area permit shall be made to the director of public works on forms furnished by the department prior to any development activities occurring.~~

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-2-3. - Floodplain management/flood damage prevention plan.

No application for a land development project within any area of special flood hazard will be approved unless it includes a floodplain management/flood damage prevention plan (floodplain management plan). This plan shall be in accordance with the following criteria:

- (a) This plan must be submitted with the stamp and signature of a professional engineer (PE) licensed in the state, who will verify that all designs are consistent with the requirements of this article.
- (b) The approved floodplain management plan shall contain certification by the applicant that all land development activities will be done according to the plan or previously approved revisions. ~~Any and all land development permits and/or use and occupancy certificates or permits~~ Any and all development permits and/or use and occupancy certificates or permits may be revoked at any time if the construction and building activities are not in strict accordance with approved plans.

The floodplain management plan shall include, but not be limited to, the following: plans drawn to scale of the site in question, existing and proposed elevations of the area in question and the nature, location, and dimensions of existing or proposed structures, proposed grading plan, earthen fill placement, amount and location of excavation, storage of materials or equipment, and drainage/stormwater management facilities.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-2-4. - Specific requirements for plans.

The following information is required as a part of ~~flood plain~~ floodplain management/flood damage prevention plans:

- (a) Site plan drawn to scale, including but not limited to:
 - 1. Existing and proposed elevations of the area in question and the nature, location and dimensions of existing and/or proposed structures, earthen fill placement, amount and location of excavation material, and storage of materials or equipment;
 - 2. 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;
 - 3. Proposed locations of water supply, sanitary sewer, and utilities;
 - 4. The base flood elevation and future conditions flood elevation;
 - 5. Boundaries of the base flood floodplain and future conditions floodplain;
 - 6. If applicable, the location of the floodway;
 - 7. Proposed locations of drainage and stormwater management facilities;
 - 8. Proposed grading plan; and
 - 9. Certification of the above by a registered professional engineer or surveyor.
- (b) Building and foundation design detail, including but not limited to:
 - 1. Proposed elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all structures;
 - 2. For enclosures below the base flood elevation or future conditions flood elevations, location and total net area of foundation openings as required in this article.
 - 3. Proposed elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;

4. Certification that any proposed non-residential flood proofed structure meets the criteria of this article;
- (c) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed land development project; and
- (d) 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;
- (e) Copies of all necessary permits from governmental agencies from which approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, be provided and maintained on file; and
- (f) All appropriate certifications required under this ordinance.

The approved floodplain management/flood damage prevention plan shall contain certification by the applicant that all development activities will be done according to the plan or previously approved revisions. Any and all development permits and/or use and occupancy certificates or permits may be revoked at any time if the construction and development activities are not in strict accordance with approved plans.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-2-5. - Construction stage submittal requirements.

- (a) For all new construction and substantial improvements on sites with a floodplain management/flood damage prevention plan, the permit holder shall provide to the ~~floodplain administrator~~ director of public works ~~a certified as-built elevation certificate or floodproofing certificate for non-residential construction including the lowest floor elevation or floodproofing level immediately after the lowest floor or floodproofing is completed. A final elevation certificate shall be provided after completion of construction including final grading of the site. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When floodproofing is utilized for non-residential structures, said certification shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same using the FEMA floodproofing certificate. This certification shall also include the design and operation/maintenance plan to assure continued viability of the floodproofing measures.~~ a certified as-built plan showing of the regulatory flood elevation or flood proofing level immediately after the lowest floor or flood proofing is completed. 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 flood proofing is utilized for non residential structures, said 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~~ The ~~director of public works floodplain administrator shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit certification or failure to make the corrections required hereby shall be cause to issue a stop work order for the project.~~ shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit certification or failure to make the corrections required hereby shall be cause to issue a stop work order for the project

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-2-6. - Variances.

A request for variance may be submitted by an applicant who has been denied a permit for development activity or by an owner or developer who has not applied for a permit because it is clear that the proposed development activity would be inconsistent with the provisions of this chapter. A request for variance shall be submitted through the director of community planning and economic development. All such requests shall be heard and decided in accordance with the procedures set forth in chapters 9-22-6 and/or 9-24-3. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.

- (a) Any person adversely affected by any decision of the director of community planning and economic development or the ~~director of public works~~ floodplain administrator shall have the right to appeal such decision to the planning and appeals board as established by the city council with procedures to be published in writing by the planning and appeals board. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.
- (b) Any person aggrieved by the decision of the planning and appeals board may appeal such decision to a court of competent jurisdiction, as provided in O.C.G.A. § 5-4-1.
- (c) 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.
- (d) 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.
- (e) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (f) In reviewing such requests, the city and the planning and appeals board shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this article.
- (g) Conditions for variances:
 1. A variance shall be issued only when the requirements of the applicable chapter(s) have been met and there is:
 - i. A finding of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship; and
 - iii. 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.
 2. The provisions of this chapter are minimum standards for flood loss reduction; therefore, any deviation from the standards must be weighed carefully. Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of an historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
 3. Any person to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance resulting from the lowest floor elevation being placed below the base flood elevation will be commensurate with the increased risk to life and property, and that such costs may be as high or higher than \$25 for each \$100 of insurance coverage provided.

~~will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.~~

4. The ~~director of public works~~floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
- (h) Any person requesting a variance shall, from the time of the request until the time the request is acted upon, submit such information and documentation as the city and the planning and appeals board shall deem necessary to the consideration of the request.
- (i) Upon consideration of the factors listed above and the purposes of this article, the city and the planning and appeals board may attach such conditions to the granting of variances as they deem necessary or appropriate, consistent with the purposes of this article.
- (j) Variances shall not be issued "after the fact."

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-2-7. - Enforcement.

Enforcement of this chapter shall be as outlined in chapter 9-24-2 and may include:

Notice of Violation. If the department of water resources determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management plan or the provisions of this ordinance, such department shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this ordinance without having first secured a permit therefor, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

The notice of violation shall contain:

- (1) The name and address of the owner or the applicant 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 ordinance 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 department of water resources by filing a written notice of appeal within thirty (30) days after the notice of violation.

Penalties. In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the department of water resources or community and economic development department 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 (10) 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 department of water resources may take any one or more of the following actions or impose any one or more of the following penalties:

(a) Administrative penalties

~~(i)1-~~ *Stop work order.* The department of water resources or community and economic development department may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.

~~(ii)2-~~ *Withhold certificate of occupancy.* The community and economic development department 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.

~~(iii)3-~~ *Suspension, revocation or modification of permit.* The community and economic development department may suspend, revoke or modify the permit authorizing the development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the department of water resources may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

- (b) *Civil penalties.* In the event the applicant or otherwise responsible person fails to take the remedial measures set for in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days (except, that in the event the violation constitutes an immediate danger to public health or public safety, ~~twenty-four (24)~~ hours notice shall be sufficient) after the city has taken one or more of the administrative actions described above, the city may impose a penalty not to exceed one thousand dollars (\$1,000.00) (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.
- (c) *Criminal penalties.* For intentional and flagrant violations of this article, the city may issue a citation to the applicant or other responsible person, requiring such person to appear in ~~the city municipal court of competent jurisdiction~~ to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for sixty (60) days or both. Each act of violation and each day upon which a violation shall occur shall constitute a separate offense.

(Ord. No. 2007-53, § I, 11-20-07)

CHAPTER 9-15-3. - ~~FLOOD HAZARD REDUCTION~~STANDARDS FOR DEVELOPMENT**Sec. 9-15-3-1. - 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 special flood hazards areas and flood prone areas, the future conditions flood elevations shall be determined by a registered professional engineer using FEMA approved methodology approved by ~~the director of public works~~ the floodplain administrator.
- (c) The boundaries or limits of the floodplain shall be within one-half (0.5) feet vertical accuracy on the site plan containing existing topographic information.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-3-2. - Definition of floodway boundaries.

- (a) The width of a floodway shall be determined from the FIS or FEMA approved flood study. For all streams with a drainage of one hundred (100) acres or greater the floodway shall be provided by the city. If unavailable then it shall be determined by a registered professional engineer using FEMA approved methodology approved by the ~~director of public works~~floodplain administrator.
- (b) The boundaries or limits of the floodway shall be shown on the (development or stormwater) site plan containing existing topographic information.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-3-3. - General standards.

- (a) No development shall be allowed within ~~the base flood floodplain or the future conditions floodplain~~any area of special flood hazard or area of future conditions flood hazard that could result in any of the following:
 - 1. Raising the base flood elevation or future conditions flood elevation equal to or more than one one-hundredth (0.01) foot;
 - 2. Reducing the base flood or future conditions flood storage capacity. ~~All compensation for storage capacity shall occur either within the boundaries of ownership of the property being developed, or within a permanent recorded flood control easement, and shall be within a reasonable proximity to 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; or raising of the administrative flood elevation within the boundaries of ownership of the property being developed. All cut areas are to be graded to a slope of no less than two (2.0) percent. 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. A step-backwater analysis will be required to determine the volume of flood storage created by raising the administrative flood elevation;~~
 - 3. Changing the flow characteristics of the waters of the ~~administrative flood~~base flood or future conditions flood as they pass both the upstream and the downstream boundaries of the property. ~~Verification shall be provided via a step-backwater analysis;~~ or
 - 4. Creating hazardous or erosion-producing velocities, or resulting in excessive sedimentation. ~~In all cases effective transitions must be provided such that flow velocities occurring on both upstream and downstream properties are not increased or decreased.~~

- ~~5. 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 9-15-3-4.~~
- (b) Any development within any area of special flood hazard or area of future-conditions flood hazard allowed under Section 9-15-3-3 (a) 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 natural (pre-development) stream channel unless such excavation results from the widening or relocation of the stream channel.
 2. All cut areas are to be graded to a slope of no less than two (2.0) percent.
 3. In all cases effective transitions must 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 9-15-3-4.
- ~~5.~~ All proposed development shall have public utilities and facilities, such as sewer, gas, electrical and water system, located and constructed to minimize flood damage.
- ~~6.(e)~~ Any significant changes or revisions to the flood data adopted herein and shown on the FIRM shall be submitted as a conditional letter of map revision (CLOMR) or conditional letter of map amendment (LOMA), whichever is applicable. The CLOMR submittal shall be subject to approval by the ~~director of public works~~floodplain administrator using the community consent forms before forwarding the submittal package to FEMA for final approval. The responsibility for forwarding the CLOMR to FEMA and for obtaining the CLOMR approval shall be the responsibility of the applicant. Within six (6) months of the completion of construction, the applicant shall submit as built surveys which demonstrate general conformance to the approved designs as submitted in the CLOMR application. A letter of map revision (LOMR) or letter of map amendment (LOMA) must be issued before the final plat can be approved or a certificate of occupancy can be issued. Significant changes or revisions shall be defined as any change to the FIRM easily observed when plotted at a scale of 1" = 1000'. The changes or revisions may be due to, but are not limited to, more current and/or superior topographic information or compensatory cut and fill grading done as a part of the development.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-3-4. - Engineering study requirements for floodplain encroachments.

An engineering study is required, as appropriate to the proposed development activities on the site, whenever a development proposes to disturb the future conditions floodplain, except for a residential single-lot development on streams without established base flood elevations and floodways. This study shall be prepared by a currently registered professional engineer in the state and made a part of the application for a permit. This information shall be submitted to and approved by the floodplain administrator~~director of public works~~ prior to the approval of any permit which would authorize the disturbance of land located within the floodplain. Such study shall include:

- (a) Description of the extent to which any watercourse or floodplain will be altered or relocated as a result of the proposed development;

- (b) Step-backwater analysis, using a FEMA approved methodology approved by the [department of water resources](#)~~public works department~~. Cross-sections (which may be supplemented by the applicant) and flow information will be obtained whenever available. Computations will be shown duplicating FIS results and will then be rerun with the proposed modifications to determine the new base flood and future conditions flood profiles;
- (c) Floodplain storage calculations based on cross-sections (at least one every one hundred (100) feet) showing existing and proposed floodplain conditions to show that the base flood floodplain and future conditions floodplain storage capacity would not be diminished by the development;
- (d) If changes to the base flood elevation or future conditions flood elevation are proposed, profiles of the channel showing the existing and proposed base and future conditions flood elevations must be provided; and
- (e) 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. 2007-53, § I, 11-20-07)

Sec. 9-15-3-5. - Floodway encroachments.

Located within areas of special flood hazard are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity flood waters, debris or erosion potential. In addition, floodways must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore the following provisions shall apply:

- (a) Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the base floodway, except when required for the construction of bridges, culverts, roadways and utilities, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase to the pre-project base flood elevations, floodway elevations, or floodway widths during the base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof; and
- (b) 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 ~~public works director~~[floodplain administrator](#) until an affirmative conditional letter of map revision (CLOMR) or conditional letter of map amendment (CLOMA), whichever is applicable, is issued by FEMA, [or a no-rise certification is approved by department of water resources](#).

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-3-6. - 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 of public works~~[floodplain administrator](#) may direct the property owner (at no cost to the city) to restore the flood-carrying or flood storage capacity of the floodplain if the owner has not performed maintenance as required by the approved floodplain management plan on file with the ~~public works department~~[of water resources](#).

(Ord. No. 2007-53, § I, 11-20-07)

CHAPTER 9-15-4. - FLOOD HAZARD REDUCTION

Sec. 9-15-~~3-7~~-4-1 - General standards for flood hazard reduction.

In all areas of special flood hazard the following provisions apply:

- (a) New construction of principal buildings (residential or non-residential), including manufactured homes, shall not be allowed within the limits of the floodplain unless all requirements of this article have been met;
- (b) New construction or substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (c) New construction or substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage; and
- (d) New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-~~3-8~~-4-2 - Elevated buildings.

- (a) 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.
- (b) 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 net 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.
- (c) So as not to violate the "lowest floor" criteria of this article, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area; and, the interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-~~3-9~~-4-3. - Service facilities.

All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located three (3) 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.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-~~3-10-4-4~~. - 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 9-15-3-3, 9-15-3-4, and 9-15-3-5 have been met. If all of the requirements of Sections 9-15-3-3, 9-15-3-4, and 9-15-3-5 have been met, all new construction and substantial improvement shall have the lowest floor, including basement, elevated no lower than three (3) feet above the base flood elevation or one (1) foot above the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls shall be provided in accordance with standards of Section 9-15-4-2 (b).
- (b) Manufactured homes placed and/or substantially improved in an existing manufactured home park or subdivision shall be elevated so that either:
- (i) The lowest floor of the manufactured home is elevated no lower than three (3) feet above the level of the base flood elevation, or one (1) foot above the future-conditions flood elevation, whichever is higher;
or
 - (ii) The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches in height above grade.
- (c) 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.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-~~3-11-4-5~~. - Water and sewer facilities and other utilities.

- (a) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (c) ~~On-site waste disposal systems~~Decentralized wastewater system shall be located outside the floodplain and constructed to avoid impairment to them or contamination from them during flooding.
- (d) Other public utilities such as gas and electric systems shall be located and constructed to avoid impairment to them, or public safety hazards from them, during flooding;

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-~~3-12-4-6~~ - Nonconformities.

(a) Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of this article, shall be undertaken only if the non-conformity is not furthered, extended or replaced.

~~(a)~~(b) If the proposed development is located in multiple flood zones, or multiple base flood elevations cross the proposed site, the higher or more restrictive base flood elevation or future condition elevation and development standards shall take precedence.

~~(b)~~(c) When only a portion of a proposed structure is located within a flood zone or the future conditions floodplain, the entire structure shall meet the requirements of this ordinance; and

~~(c)~~(d) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall be reasonably safe from flooding:

(1) All such proposals shall be consistent with the need to minimize flood damage within the flood-prone area;

(2) All public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage shall be provided to reduce exposure to flood hazards

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-~~3-13-4-7~~ - Residential buildings within future conditions floodplains.

(a) *New construction.* New construction of principal buildings, including manufactured homes shall not be allowed within the limits of the future conditions floodplain unless all requirements of this article have been met. New construction shall have the lowest floor, including basement, elevated no lower than three (3) feet above the base flood elevation adjacent to the building or one foot above the future conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of this article for elevated buildings.

(b) *Substantial improvements.* Substantial improvement of any structure or manufactured home shall have the lowest floor, including basement, elevated no lower than three (3) feet above the base flood elevation adjacent to the building or one foot above the future conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of this article for elevated buildings.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-~~3-14-4-8~~ - Non-residential buildings within the future conditions floodplain.

(a) *New construction.* New construction of principal buildings, including manufactured homes shall not be allowed within the limits of the future conditions floodplain unless all requirements of this article have been met. If all the requirements of this article have been met, all new construction shall have the lowest floor, including basement, elevated no lower than one (1) foot above the base flood elevation or at least as high as the future conditions flood elevation. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls shall be provided in accordance with standards of Section 9-15-4-2 (b). Non-residential new construction may be authorized by the director of public works-floodplain administrator to be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one foot above the

base flood elevation, or at least as high as the future conditions flood elevation, whichever is higher, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the [director of public works floodplain administrator using the FEMA floodproofing certificate along with the design and operation/maintenance plan.](#)

- (b) *Substantial improvements.* Substantial improvement of any structure located in A1-30, AE, or AH zones, may be authorized by the [director of public works floodplain administrator](#) to be [elevated or flood-proofed](#). [Substantial improvements shall have the lowest floor, including basement elevated no lower than one \(1\) foot above the base flood elevation or at least as high as the future conditions flood elevation, whichever is higher. Should solid perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls shall be provided in accordance with standards of Section 9-15-4-2 \(b\). Substantial improvements may be flood-proofed](#) in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to 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 [director of public works floodplain administrator using the FEMA floodproofing certificate along with the design and operation/maintenance plan.](#)

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-~~3-15-4-9~~ - Accessory structures and facilities in [the future conditions](#) floodplains.

Accessory structures and facilities (i.e., barns, sheds, gazebos, detached garages, parking lots, recreational facilities and other similar structures and facilities) which are permitted to be located within the limits of the [future conditions](#) floodplain shall be designed and constructed to pass all floodwater in a manner consistent with this article and be anchored to prevent flotation, collapse or lateral movement of the structure.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-~~3-16-4-10~~ - Standards for recreational vehicles in ~~flood plain~~[floodplains](#).

All recreational vehicles placed on sites must either:

- (a) Be on the site for fewer than one hundred eighty (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) The recreational vehicle must meet all the requirements for "Residential Buildings—Substantial Improvements", including the anchoring and elevation requirements above.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-~~3-17~~-4-11. - Buildings and structures 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 (3) feet above the level of the base flood (100-year) elevation or one foot higher than the future conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls shall be provided in accordance with standards of Section 9-15-4-2 (b).
- (b) *Non-residential buildings.* For new construction or substantial improvement of any principal non-residential building, the elevation of the lowest floor, including basement and access to the building, shall be at least one foot above the level of the base flood (100-year) elevation or at least as high as the future conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls shall be provided in accordance with standards of Section 9-15-4-2 (b)- Non-residential buildings may be floodproofed in lieu of elevation.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-~~3-18~~-4-12. - Building standards for residential single lot development for streams without established base flood elevations and/or floodway (A-zones).

Located within the areas of special flood hazard, where streams exist but no base flood data have been provided (A-zones) or where base flood data have been provided but a floodway has not been delineated, the director of public works floodplain administrator shall review and reasonably utilize any available scientific or historic base flood elevation or regulatory flood elevation and floodway data, or future conditions flood elevation data available from a federal, state, or other source, in order to administer the provisions and standards of this section.

If sufficient data are not available from these sources, the following provisions shall apply:

- (a) No encroachments, including structures or fill material, shall be located within an area equal to twice the width of the stream or fifty (50) feet from the top of the bank of the stream, whichever is greater.
- (b) 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 (3) feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the provisions of this article.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-~~3-19~~-4-13. - 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 (3) feet above ground, with no clearly defined channel.

In these areas the following provisions apply:

- (a) All new construction and substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to no lower than one (foot above the flood depth number in feet specified on the flood insurance rate map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of

flood waters shall be provided in accordance with standards for "elevated buildings." The applicant's or owner's engineer shall certify to the ~~director of public works~~ floodplain administrator that the lowest floor elevation level and the record shall become a permanent part of the permit file;

- (b) ~~New construction and substantial~~ Substantial improvement of a non-residential structure may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level plus one foot above the highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice; and shall provide such certification to the department of water resources using the FEMA floodproofing certificate along with the design and operation/maintenance plan; and
- (c) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-15-~~3-20-4-14~~. - Standards for subdivisions.

- (a) All subdivision proposals shall identify the special flood hazard area and areas of future conditions flood hazard therein and provide base flood and future conditions flood elevation data future conditions flood elevation data;
- (b) All residential lots in a subdivision proposal shall have sufficient buildable area outside of the future conditions ~~flood plain~~ floodplain such that encroachments into the future conditions ~~flood plain~~ floodplain for residential structures will not be required;
- (c) All subdivision plans will provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood or future conditions flood elevation, the lowest flood and pad elevations shall be certified by a registered professional engineer or surveyor and provided to the ~~floodplain administrator~~ director of public works;
- (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 sewer, gas, electrical and water systems located and constructed to minimize flood damage; and,
- (f) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

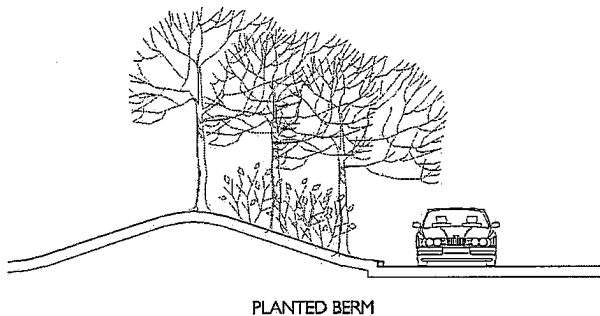
(Ord. No. 2007-53, § I, 11-20-07)

Article 9-16 - BUFFERS, LANDSCAPING AND TREE PROTECTION

Chapter 9-16-1	Definitions
Chapter 9-16-2	Buffers and Screening
Chapter 9-16-3	Stream Protection Buffers
Chapter 9-16-4	Landscaping
Chapter 9-16-5	Tree Protection

CHAPTER 9-16-1. - DEFINITIONS

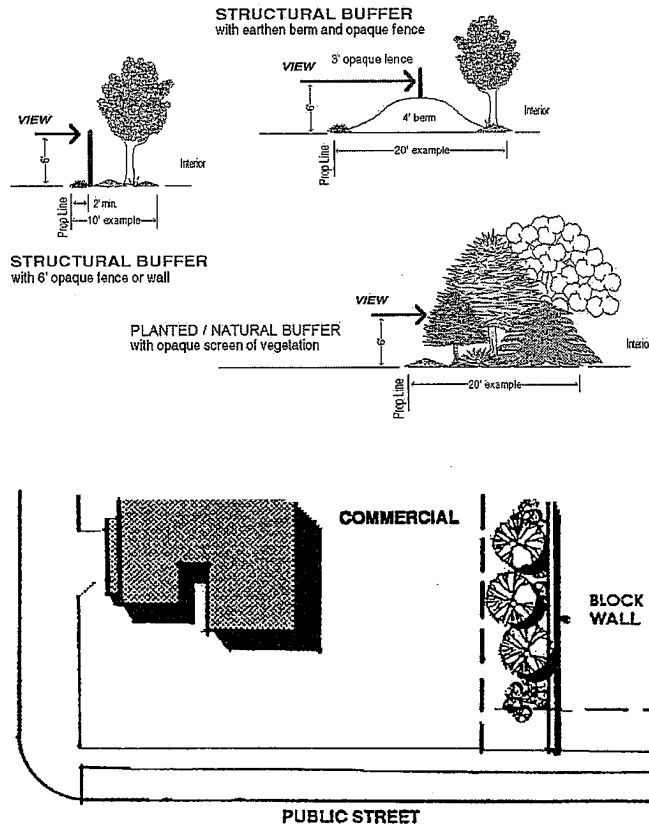
Berm: An earthen mound or embankment, usually less than three (3) feet if designed to provide visual interest only, and usually six (6) feet or more in height if intended to screen views or reduce noise.



Bioretention Area: [A shallow stormwater basin or landscaped area that utilizes engineered soils or native, well-draining soil and vegetation to capture and treat stormwater runoff.](#)

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

- (1) **Buffer, natural undisturbed:** A buffer that contains a natural area consisting of trees and/or other vegetation, undisturbed except for approved access and utility crossings, and replanted where sparsely vegetated.
- (2) **Buffer, planted:** A buffer consisting of newly planted evergreen and deciduous trees and shrubs native to the region. Deciduous trees shall be a minimum of two-inch caliper and evergreen trees a minimum of six (6) feet in height at time of planting. Required deciduous and evergreen shrubs shall be a minimum of three (3) feet at time of planting.
- (3) **Buffer, structural:** A visual screen created through construction of a solid wooden fence, decorative masonry wall, earthen berm, or combination of fence or wall with an earthen berm, which may be supplemented with vegetation, so as to present an opaque visual separation when viewed from one side to the other throughout the year.
- (4) **Buffer, stream:** A natural undisturbed or enhanced vegetated area lying adjacent to a stream. as measured horizontally from the top of the stream bank, on both banks (as applicable) of the stream.

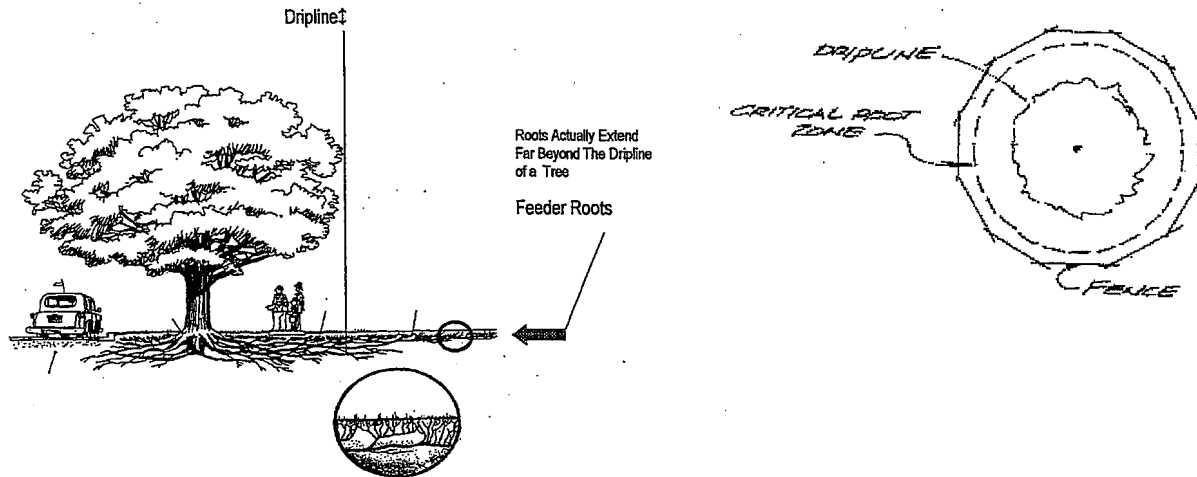


Caliper: The diameter of a tree (usually nursery stock) measured at a point six (6) inches above the ground or top of root ball for up to and including four-inch caliper trees, and at a point twelve (12) inches above the ground or top of root ball for larger sizes.

Canopy tree: A species of tree that normally reaches a height at maturity in excess of fifty (50) feet and is used primarily for shade, such as red oak, shumark oak, Chinese elm, white oak, pin oak, and American beech. See "Parking Lot Trees" in table 9-16-5-4 for additional examples of generally appropriate canopy trees.

Construction area: Any and all areas within which "development" takes place.

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



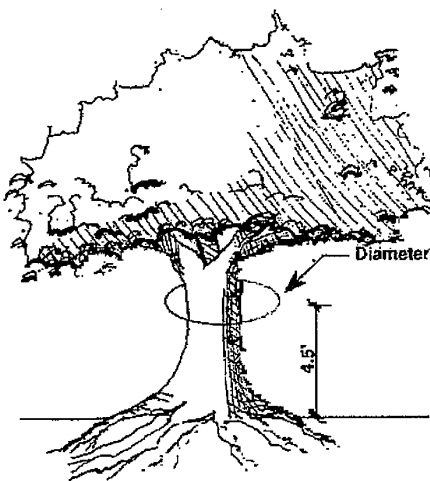
Deciduous: A plant with foliage that is shed annually (e.g., weeping willow; maple).

Development:

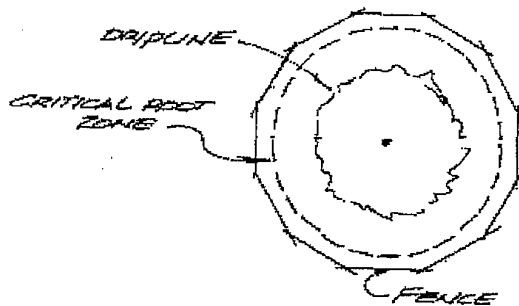
- (1) A land development project involving the construction of streets, utilities, buildings, or other improvements required for the habitation or use of property, such as a residential neighborhood, an apartment complex, a store, or a shopping center;
- (2) Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials;
- (3) The act of constructing or carrying out a land development project, including the alteration of land or vegetation in preparation for construction activity.

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

Diameter breast height (DBH): The diameter of a tree trunk (usually a mature tree) measured at a height of four and one-half (4½) feet above the ground. If a tree splits into multiple trunks below four and one-half (4½) feet, the trunk is measured at its most narrow point beneath the split.



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



Evergreen: A plant or tree with foliage that persists and remains green year-round (e.g., pine; magnolia).

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

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

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

Impervious cover: A surface composed of any material that significantly impedes or prevents the natural infiltration of water into soil. ~~Any manmade paved, hardened or structural surface regardless of material.~~ Impervious cover includes, but is not limited to, rooftops, buildings, streets and, roads, ~~decks, swimming pools~~ and any concrete or asphalt surface.

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

Land development or disturbance activity: Those actions or activities which comprise, facilitate or result in land development or disturbance.

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

Land disturbing ~~disturbance~~ activity: Any activity that may result in soil erosion from water or wind and the movement of sediments into State waters or onto lands within the State, including, but not limited to, clearing, dredging, grading, excavating, and filling of land but not including agricultural operations as described in O.C.G.A. § 12-7-17(5) or forestry land management activities as described in O.C.G.A. 12-7-17(6) within areas zoned for such activities. ~~Those actions or activities which comprise, facilitate or result in land disturbance.~~

Landscape strip: An area of landscaping of specified width.

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

Landscaping: The modification of the landscape for an aesthetic or functional purpose. The area within the boundaries of an individual lot that includes the preservation of existing vegetation and the continued maintenance

thereof, as well as, the installation of trees, shrubs, ground covers, grass, and flowers. Landscaping areas may also include decorative rock, bark, mulch and other similar materials in addition to vegetation and live plant material.

Opaque: Impenetrable to view, or so obscuring to view that features, buildings, structures, and uses become visually indistinguishable.

Overstory tree: Those trees that compose the top layer or canopy of vegetation and will generally reach a mature height of forty (40) feet or more.

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

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

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

~~*Setback, stream buffer:* An additional setback, measured horizontally, beyond the undisturbed stream buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.~~

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

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

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

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

- (1) Its life expectancy is greater than fifteen (15) years;
- (2) It has a relatively sound and solid trunk with no extensive decay or hollow with less than twenty-nine (29) percent radial tip die-back; and
- (3) It has no major insect or pathological problems.

Hardwood trees such as oaks and hickories and soft-wood trees such as pines and cedars whose diameters are eighteen (18) inches DBH or more and small hardwoods such as dogwoods, redbuds or sourwoods whose diameters are eight (8) inches DBH or more shall be considered significant trees due to size. A tree of lesser size than the preceding shall be significant if it is a rare or unusual species or is of historical significance.

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

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

Stream: A stream is defined as beginning at:

- (1) The location of a spring, seep, or groundwater outflow that sustains streamflow; or
- (2) A point in the stream channel with a drainage area of twenty-five (25) acres or more; or
- (3) Where evidence indicates the presence of a stream in a drainage area of other than twenty-five (25) acres, the director of water planning and development water resources may require field studies to verify the existence of a stream.

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

~~*Stream buffer:* An undisturbed natural vegetative buffer, measured horizontally from the top of the stream bank, on both banks (as applicable) of the stream.~~

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

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

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

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

Tree protection area: Any portion of a site wherein are located existing trees that are proposed to be retained in order to comply with the requirements of this article or any other existing trees proposed to be retained due to zoning conditions or requirements from other ordinances.

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

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

Understory tree: Those trees that grow beneath the overstory, and will generally reach a mature height of under forty (40) feet.

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

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

(Ord. No. 2009-05, § II, 1-20-09)

CHAPTER 9-16-2. - BUFFERS AND SCREENING^[1]

Footnotes:

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Editor's note— Ord. No. 2009-05, § III, adopted January 20, 2009, amended chapter 9-16-2 in its entirety to read as herein set out. Formerly, chapter 9-16-2 pertained to similar subject matter, and derived from original codification.

Sec. 9-16-2-1. - Buffer required.

Buffers, as defined and illustrated in chapter 9-16-1, shall be required as specified in table 9-6-2. Buffers shall also be required for particular uses when specified in article 9-10. Trees retained or replanted within buffers required by this chapter shall not be included in calculations of compliance with minimum tree unit requirements established in chapter 9-16-5.

(Ord. No. 2009-05, § III, 1-20-09)

Sec. 9-16-2-2. - Screening.

All buffers shall provide screening as defined by this article. Where another provision of this Code requires screening, such screening shall require compliance with this section, unless more restrictive provisions are required by regulations of an overlay zone or other provision of this Code.

Minimum required screening shall consist of a natural buffer utilizing existing vegetation or a structural buffer, whichever provides an opaque visual screen to a height of six (6) feet, or any combination of existing and replanted vegetation which can reasonably be expected by the director of [community planning](#) and [economic](#) development to create an opaque visual screen six (6) feet high within two (2) growing seasons. Where another provision of this Code has different specifications for screening, the more restrictive requirements shall apply.

(Ord. No. 2009-05, § III, 1-20-09)

Sec. 9-16-2-3. - Buffer materials.

It is the intent of this Code that, when a buffer is required, the buffer shall consist of natural, undisturbed vegetation. However, replanting of a buffer shall be required where sparsely vegetated or where screening as required by this article cannot be provided with existing natural vegetation. This is the intent whether or not the term "natural" buffer or "natural, undisturbed" buffer is used.

Where disturbance of a required buffer is permitted by this chapter, it must be replanted to a standard acceptable to provide screening as defined by this article and as determined appropriate by the director of [community planning](#) and [economic](#) development. Natural buffers may contain deciduous or perennial vegetation, but they shall contain evergreen shrubs and trees suitable to local growing conditions that will provide a six-foot high opaque visual screen during all seasons of the year.

(Ord. No. 2009-05, § III, 1-20-09)

Sec. 9-16-2-4. - Planted buffer specifications.

Re-planted buffers, when installed, shall meet the following criteria, which shall be shown and compliance demonstrated on plans submitted for a land disturbance permit as required by chapter 9-13-7:

- (a) Plantings shall consist of a combination of evergreen and deciduous trees and shrubs native to the region. Required deciduous trees shall be a minimum of two-inch caliper and evergreen trees shall be at least six (6) feet in height at time of planting and achieve a height of twenty (20) feet at maturity. All shrubs planted shall be a minimum of three (3) feet in height at time of planting and achieve an overall height of ten (10) feet at maturity.
- (b) Plantings in buffers shall be limited to thirty-three (33) percent of one tree species. Calculations are required on the tree protection plan.

(Ord. No. 2009-05, § III, 1-20-09)

Sec. 9-16-2-5. - Buffer encroachments.

Buffers shall contain no driveways, parking areas, patios, stormwater detention facilities, or any other structures or accessory uses except in the case of structural buffers, within which a fence, wall or earthen berm is constructed to provide the visual screening required to meet the standards of this article.

Underground utilities may be permitted to cross a buffer if the screening standards of this article will be subsequently achieved to the satisfaction of the director of community planning and economic development and as permitted by the director of public utilities water resources.

Required vehicular access may be allowed through a buffer as a condition of a zoning, special use or planned unit development approval by the governing body; or through an administrative variance if provided for in chapter 9-24-3.

(Ord. No. 2009-05, § III, 1-20-09)

Sec. 9-16-2-6. - Waiver of required buffer.

The planning and appeals board may, at the time of application for rezoning or special use, waive a buffer requirement of this Code if the comprehensive plan anticipates future development on the adjoining property in a land use category (shown on the future land use map) such that a buffer would not be required by this Code. When such a request is not accomplished simultaneously with a rezoning or special use application, it shall be processed and considered as a zoning variance.

(Ord. No. 2009-05, § III, 1-20-09)

Sec. 9-16-2-7. - Reduction of natural buffer by installing structural buffer.

If a structural buffer is provided that creates an opaque screen to a height of no less than eight (8) feet, the minimum required buffer width may be reduced by up to fifty (50) percent.

(Ord. No. 2009-05, § III, 1-20-09)

Sec. 9-16-2-8. - Specifications for structural buffers.

Structural buffers, when installed as an alternative to a natural buffer, shall meet the following criteria, which shall be shown and compliance demonstrated on plans submitted for a land development permit as required by chapter 9-13-7:

- (a) Structural buffers shall be vegetated throughout the minimum area required for the buffer on both sides of any fences or walls and upon any earthen berms, which may include grass, ground covers, shrubs, and trees.
- (b) All earthen berms shall have a maximum side slope of two (2) horizontal to one vertical. Earthen berms shall not be constructed within the drip line of any existing trees that will remain on the property.
- (c) Trees shall be located or planted within any structural buffer at a density of no less than one tree for each twenty (20) feet of buffer length or portion thereof. New trees shall have a caliper of no less than two (2) inches upon planting and may be clustered for decorative effect following professional landscaping standards for spacing, location, and design (see illustration under definition of structural buffer).
- (d) Fences and freestanding walls shall present a finished and decorative appearance to the abutting property, and shall be located no closer to the property line than three (3) feet. Shrubs, ground covers, or other vegetation shall be provided between the fence or wall and the property line so as to provide a decorative effect, as proposed by a registered landscaped architect or as approved by the planning development.
- (e) Fences used in buffers must be made of rot-resistant material or protected from deterioration with waterproofing material.

(Ord. No. 2009-05, § III, 1-20-09)

Sec. 9-16-2-9. - Maintenance of buffers and structural buffers.

Every buffer required by this Code shall be maintained by the owner of the property where the buffer is located, so as to provide an opaque visual screen to a height of six (6) feet on a continuous, year-round basis, or eight (8) feet in height in the case of a structural buffer.

Dying, diseased or dead vegetation shall be removed, provided minimal disturbance occurs. Subsequently, vegetation removed must be replaced where necessary to fulfill buffer requirements.

(Ord. No. 2009-05, § III, 1-20-09)

Sec. 9-16-2-10. - Stream protection buffers.

In addition to the buffers specified in tables 9-5-2 and 9-6-2 of this Code and this chapter, properties shall comply as applicable with the stream protection buffer requirements specified in chapter 9-16-3.

(Ord. No. 2009-05, § III, 1-20-09)

CHAPTER 9-16-3. - STREAM PROTECTION BUFFERS**Sec. 9-16-3-1. - Findings.**

Whereas, the city finds that buffers 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 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
- (11) Providing opportunities for the protection and restoration of greenspace

Sec. 9-16-3-~~21~~. - Purposes.

This chapter sets standards for stream buffers to:

- (a) Protect the public health, safety, environment and general welfare;
- (b) Minimize public and private losses due to erosion, siltation and water pollution;
- (c) Maintain stream water quality by creating and maintaining buffer zones along the streams of the city for the protection of water resources; and
- (d) Minimize land development within such buffers by establishing buffer zone requirements and by requiring authorization for any such activities.

Sec. 9-16-3-~~32~~. - Applicability.

This chapter shall apply to all land development activity on property containing a stream protection area as defined in this article. After the effective date of these provisions as originally adopted, it shall apply to new subdividing and platting activities. Any land development activity within a stream protection buffer established hereunder or any impervious cover within a stream buffer setback established hereunder is prohibited unless a variance is granted. These requirements are in addition to, and do not replace or supersede, any other applicable buffer requirements established under state law and approval or exemption from these requirements do not constitute approval or exemption from buffer requirements established under state law or from other applicable local, state or federal regulations.

Sec. 9-16-3-4. - Compatibility with other buffer regulations and requirements.

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

Cross reference— North Oconee Water Supply Watershed Protection Overlay Zone, Chapter 9-8-4.

Sec. 9-16-3-~~5~~. - Grandfather provisions.

This ~~section~~ chapter shall not apply to the following activities:

- (a) 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 this chapter **as originally adopted**.
- (b) Existing development and on-going land disturbance activities including but not limited to existing agriculture, silviculture, landscaping, gardening and lawn maintenance, except that new development or land disturbance activities on such properties will be subject to all applicable buffer requirements.
- (c) 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 this chapter **as originally adopted**.
- (d) 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 within two (2) years of the effective date of this chapter **as originally adopted**.

Sec. 9-16-3-6. - Exemptions.

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

- (a) Activities for the purpose of building one of the following:
 - (1) A stream crossing by a driveway, transportation route or utility line;
 - (2) Public water supply intake or public wastewater outfall structures;
 - (3) Intrusions necessary to provide access to a property;
 - (4) Public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the river, fishing platforms and overlooks;
 - (5) Unpaved foot trails and paths;
 - (6) Activities to restore and enhance stream bank stability, vegetation, water quality and/or aquatic habitat, so long as native vegetation and bioengineering techniques are used.
- (b) Public sewer line easements paralleling the creek, except that all easements (permanent and construction) and land disturbance should be at least twenty-five (25) feet from the top of the bank. This includes such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures. This exemption shall not be construed as allowing the construction of roads, bike paths or other transportation routes in such easements, regardless of paving material, except for access for the uses specifically cited above.
- (c) Land development activities within a right-of-way existing at the time this Code takes effect or approved under the terms of this chapter.
- (d) Within an easement of any utility existing at the time this chapter as originally adopted takes effect or approved under the terms of this Code, land disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures.
- (e) Emergency work necessary to preserve life or property. However, when emergency work is performed under this chapter, the person performing it shall report such work to the director of ~~planning and development~~ water resources on the next business day after commencement of the work. Within ten (10) days thereafter, the person shall apply for a permit and perform such work within such time period as may be determined by the director of ~~planning and development~~ water resources to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area.
- (f) Forestry and silviculture activities on land 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 property for three (3) years after the end of the activities that intruded on the buffer.

Sec. 9-16-3-7. - Stream protection buffer and stream buffer setback requirements.

All land development activity subject to this chapter shall meet the following requirements:

- (a) An undisturbed natural vegetative stream protection buffer shall be maintained for fifty (50) feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank. The land forming the bank is also considered part of the buffer for purposes of this chapter.
- (b) An additional stream buffer setback shall be maintained for twenty-five (25) feet, measured horizontally, beyond the undisturbed natural vegetative stream protection buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within this setback.
- (c) No septic tanks or septic tank drain fields shall be permitted within the buffer or the setback.

Sec. 9-16-3-8. - Stream protection buffer variances.

Variances from the above buffer and setback requirements may be granted in accordance with the following provisions:

- (a) Where a parcel was platted prior to the effective date of this chapter as originally adopted, and its shape, topography or other existing physical condition prevents land development consistent with this chapter, and the director of ~~planning and development water resources~~ finds and determines that the requirements of this Code prohibit the otherwise lawful use of the property by the owner, the board of planning and appeals of the city may grant a variance from ~~the these~~ buffer and setback requirements hereunder, provided such variance require mitigation measures to offset the effects of any proposed land development on the parcel.
- (b) Except as provided in subsection (a), the board of planning and appeals of the city shall grant no variance from any provision of this chapter without first conducting a public hearing on the application for variance and authorizing the granting of the variance by an affirmative vote of the board of planning and appeals. The city shall give public notice of each such public hearing in ~~the~~ the local newspaper of ~~record general circulation~~ and shall require that the applicant post a sign giving notice of the proposed variance and the public hearing. The sign shall be of a size and posted in such a location on the property as to be clearly visible from the primary adjacent road right-of-way.

Sec. 9-16-3-9. - Stream protection variance buffer criteria.

Variances will be considered only in the following cases; ~~and the following factors will be considered in determining whether to issue a stream protection buffer variance:~~

- ~~(a) The locations of all streams on the property, including along property boundaries;~~
- ~~(b)~~ (a) When a property's shape, ~~size,~~ topography, ~~slope, soils, vegetation~~ or other physical conditions existing at the time of the adoption of this chapter prevents land development unless a stream buffer protection variance is granted; or
- ~~(c) The location and extent of the proposed buffer or setback intrusion;~~
- ~~(d)~~ (b) Unusual circumstances when strict adherence to the minimal buffer requirements in ~~the ordinance~~ this chapter would create an extreme hardship.
- ~~(e) Variances will not be considered when, following original adoption of this chapter, actions of any property owner of a given property have created conditions of a hardship on that property.~~
- ~~(f) Whether alternative designs are possible which require less intrusion or no intrusion;~~
- ~~(g) The long term and construction water quality impacts of the proposed variance;~~
- ~~(h) Whether issuance of the variance is at least as protective of natural resources and the environment.~~

Variances will not be considered when, following original adoption of this chapter, actions of any property owner of a given property have created conditions of a hardship on that property.

The following factors will be considered in determining whether to issue a stream protection buffer variance:

- (i) The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
- (ii) The locations of all streams on the property, including along property boundaries;
- (iii) The location and extent of the proposed buffer or setback intrusion; and
- (iv) Whether alternative designs are possible which require less intrusion or no intrusion;
- (v) The long-term and construction water-quality impacts of the proposed variance; and
- (vi) Whether issuance of the variance is at least as protective of natural resources and the environment.

Sec. 9-16-3-10. - Variance application requirements.

In addition to the requirements for variance applications specified generally by this Code, a request to vary the provisions of this chapter shall at minimum include the following information:

- (a) A site map that includes locations of all streams, wetlands, floodplain boundaries and other natural features, as determined by field survey;
- (b) A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
- (c) A detailed site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land disturbance, both inside and outside the buffer and setback. The exact area of the buffer to be affected shall be accurately and clearly indicated;
- (d) Documentation of unusual hardship should the buffer be maintained;
- (e) At least one alternative plan, which does not include a buffer or setback intrusion, or an explanation of why such a site plan is not possible;
- (f) A calculation of the total area and length of the proposed intrusion;
- (g) A stormwater management site plan, if applicable; and
- (h) Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed.

Sec. 9-16-3-11. - Stream protection buffer zone development review requirements.

Any permit applications for property requiring stream protection ~~zones~~ buffers and setbacks must include the following:

- (a) A site plan showing:
 - (1) The location of all streams on the property;
 - (2) Limits of required stream buffers and setbacks on the property;
 - (3) Buffer zone topography~~Topography~~ with contour lines at no greater than five-foot contour intervals;
 - (4) Delineation of forested and open areas in the buffer zone; and
 - (5) Detailed plans of all proposed land development in the buffer and of all proposed impervious cover within the setback;
- (b) A description of all proposed land development within the buffer and setback; and
- (c) Any other documentation that the director of ~~planning and development~~ water resources may reasonably deem necessary for review of the application and to ~~ensure~~ insure that the stream protection buffer zone is addressed in the approval process.

All buffer and setback areas must be recorded on the final plat of the property following plan approval.

Sec. 9-16-3-12. - Responsibility.

Neither the issuance of a development permit nor compliance with the conditions thereof, nor compliance 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 officers or employees, for injury or damage to persons or property.

Sec. 9-16-3-13. - Inspection of stream protection buffer zone.

The director of ~~planning and development~~ water resources, or his/her designee, may cause inspections of the work in the stream protection buffer or setback to be made periodically during the course thereof and shall make a final inspection following completion of the work. The permittee shall assist the director, or his/her representative, in making such inspections. The city shall have the authority to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this section, and for this purpose to enter at reasonable time upon any property, public or private, for the purpose of investigating and inspecting the sites of any land development activities within the stream protection buffer zone.

No person shall refuse entry or access to any authorized representative or agent who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out official duties.

Sec. 9-16-3-14. - Violations, enforcement and penalties.

Any action or inaction which violates the provisions of this chapter or the requirements of an approved site plan or permit may be subject to the enforcement actions outlined in this article or in chapter 9-24-2. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties shall not prevent such equitable relief.

Sec. 9-16-3-15. - Notice of Violation

If the director of water resources determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved site plan or the provisions of this article, the director shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this 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 site. The notice of violation shall contain:

- (a) The name and address of the owner or the applicant or the responsible person;
- (b) The address or other description of the site upon which the violation is occurring;
- (c) A statement specifying the nature of the violation;
- (d) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the approved site plan or this 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 director of water resources by filing a written notice of appeal within thirty (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).

Sec. 9-16-3-16. - Penalties.

In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the director of water resources shall first notify the

applicant or other responsible person in writing of the director's intended action, and shall provide a reasonable opportunity, of not less than 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 of water resources may take any one or more of the following actions or impose any one or more of the following penalties:

- (a) Stop Work Order - The director of water resources may issue a stop work order, which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take necessary remedial measures to cure such violation or violations.
- (b) Withhold Certificate of Occupancy - The director of water resources may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
- (c) Suspension, Revocation or Modification of Permit - The director of water resources may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the director of water resources may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
- (d) Civil Penalties - In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days (or such greater period as the director of water resources shall deem appropriate) (except that in the event the violation constitutes an immediate danger to public health or public safety, 24- hours notice shall be sufficient) after the director of water resources has taken one or more of the actions described above, the director may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.
- (e) Criminal Penalties - For intentional and flagrant violations of this ordinance, the director of water resources may issue a citation to the applicant or other responsible person, requiring such person to appear in the municipal court of the city to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

Sec. 9-16-3-17. - Administrative Appeal and Judicial Review.

- (a) Administrative Appeal - Any person aggrieved by a decision or order of the director of water resources, may appeal in writing within 30 days after the issuance of such decision or order to the city clerk's office and shall be entitled to a hearing before the designated administrative hearing officer of the city within 30 days of receipt of the written appeal.
- (b) Judicial Review - Any person aggrieved by a decision or order of the director of water resources, after exhausting all administrative remedies, shall have the right to appeal de novo to the Superior Court of Hall County.

Sec. 9-16-3-18. - Severability.

If any section, subsection, paragraph, clause, phrase or provision of this article shall be adjudged invalid or held unconstitutional, such decision shall not affect or invalidate the remaining portions of this article.

CHAPTER 9-16-4. - LANDSCAPING**Sec. 9-16-4-1. - Landscape strips required.**

Landscape strips, as defined in chapter 9-16-1, shall be required along right-of-ways for non-single-family uses according to the zoning district in which it is located as specified in tables 9-5-2 and 9-6-2. Landscape strips shall be required along side lot lines for non-single-family uses as specified in tables 9-5-2 and 9-6-2. Landscape strips shall also be provided if required for particular uses specified in article 9-10.

Sec. 9-16-4-2. - Minimum landscaped open space required.

Non-single-family uses shall provide minimum landscaped open space on the lot according to the zoning district in which it is located, as specified in tables 9-5-2 and 9-6-2.

Sec. 9-16-4-3. - Landscaping encroachments.

Landscape strips and areas devoted to meeting minimum landscaped open space requirements shall contain no structures, parking areas, patios, stormwater detention facilities, or any other accessory uses except for retaining walls or earthen berms constructed as part of an overall landscape design, pedestrian-oriented facilities such as sidewalks and bus stops, underground utilities, driveways required to access the property, and signs otherwise permitted by article 9-18.

Sec. 9-16-4-4. - Landscape strip planting specifications.

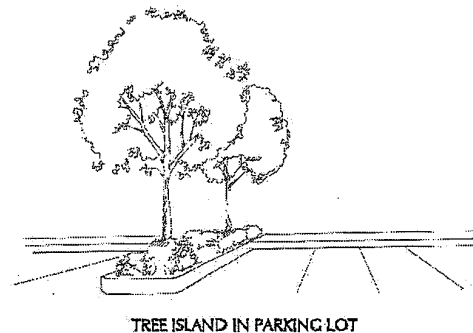
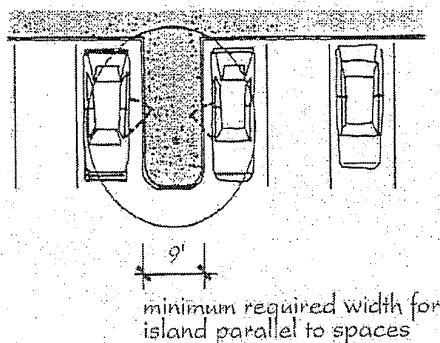
- (a) One tree shall be provided within the landscape strip for every thirty (30) feet of length of street frontage, or portion thereof. Such trees may be deciduous or evergreen, but must be of a type that is suitable to local growing conditions. Deciduous trees shall be a minimum of two-inch caliper at time of planting and achieve a diameter breast (DBH) of at least twelve (12) inches at maturity. Trees required by this section within landscape strips may be included in calculations of compliance with minimum tree unit requirements established in chapter 9-16-5.
- (b) One shrub shall be provided within the landscape strip for every thirty (30) linear feet of street frontage, or portion thereof. Shrubs shall be of a type that is suitable to local growing conditions.
- (c) All portions of required landscape strips shall be planted in trees, shrubs, grass or ground cover, except for those ground areas that are mulched.
- (d) Upon planting, new trees and shrubs may be planted at regular intervals or clustered for decorative effect following professional landscaping standards for spacing, location, and design and as approved by the department of [community planning](#) and [economic development](#).
- (e) Plant materials in the landscape strip shall not extend into the street right-of-way unless specifically allowed by the public works department.
- (f) Tree planting recommendations. The following recommendations are provided regarding tree selection, planting, and maintenance:
 - (1) Tree selection should be suited to locations, climate and other factors of the site (e.g. utility lines).
 - (2) Tree species selected should be relatively maintenance free.
 - (3) The ideal urban tree is attractive and should: have a deep-growing, well-behaved root system; have a fast reaction time to environmental changes; be insect and disease resistant; have sturdy limbs and long life expectancy; have the ability to be self-pruning; be resistant to drought or other extreme weather conditions; and have features that reduce clean-up problems because of shedding of limbs, fruit, leaves, etc.
 - (4) Have a "training" program for new trees in which branches are properly pruned and the tree is trained to minimize storm damage and decay problems.
 - (5) Select trees that have an expected mature height and/or spread which will meet criteria of the Code and site.
 - (6) Try to avoid co-dominant branches (forks), and do not use trees with flat tops.

(Ord. No. 2009-05, § IV, 1-20-09)

Sec. 9-16-4-5. - Parking lot landscaping.

Deciduous shade trees shall be provided within any parking lot designed or intended to accommodate five (5) cars or more, in accordance with the requirements of this section.

- (a) One landscaping island with a deciduous shade tree shall be provided within the parking lot for every twenty (20) parking spaces, or portion thereof. Additionally, every parking space shall be located within seventy (70) feet of the landscape island. Trees required within parking lots by this section may be included in determinations of compliance with minimum tree unit requirements established in chapter 9-16-5.
- (b) A landscaping island shall be located at the end of every parking aisle between the last parking space and an adjacent travel aisle or driveway. The landscaping island shall be no less than nine (9) feet wide for the length of the adjacent parking space. In addition to providing a deciduous shade tree, the landscaping island shall be planted in ground cover or low-lying shrubs, except for mulch within the drip line or critical root zone of the shade tree. Landscaping materials must not encroach on site visibility at the end of parking aisles.



- (c) Tree planting areas for shade trees and understory trees shall be no less than nine (9) feet in width and shall provide at least one hundred fifty (150) square feet of planting space. If shared with other trees an additional fifty (50) square feet of planting space shall be provided. No tree shall be located less than two and one-half (2½) feet from the back of curb.
- (d) All parking lot landscape islands shall be curbed with minimum six-inch high header curbs, except where possible a curb cut may be used to direct runoff to swales or bioretention areas.
- (e) Landscaping islands and tree planting areas shall be well drained and contain suitable soil and natural irrigation characteristics for the planting materials they contain.

Grassy swales and bioretention areas are acceptable and encouraged alternatives to curbing, piping, and detention of water in parking lots. Rain gardens and constructed wetlands are also encouraged to handle surface drainage of parking lots providing ten (10) or more parking spaces. These and other parking lot stormwater facilities shall be designed in accordance with article 9-9, chapter 9-13-12, chapter 9-17-1, and the latest revision of the Georgia Stormwater Management Manual (GSMM).

(Ord. No. 2009-05, § V, 1-20-09)

Sec. 9-16-4-6. - Landscaping plans incorporated into tree plans.

The landscaping requirements of this article and this Code shall be incorporated into tree plans as required by section 9-13-7-9 (submitted as part of a land development permit) and as specified in chapter 9-16-5.

If no tree plan is required to be submitted, or if no land development permit is required, the planning department may require a separate landscaping plan to demonstrate compliance with the requirements of this chapter, which may include any of the following as appropriate to determine compliance:

- (a) Location and general type of existing trees;
- (b) Existing trees to be saved;
- (c) Methods and details for protecting existing trees during construction;
- (d) Locations and labels for all proposed plants and a plant list or schedule showing the existing and proposed quantities in relation to any required quantities;
- (e) Location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, signs and light fixtures.

(Ord. No. 2009-05, § V, 1-20-09)

Sec. 9-16-4-7. - Additional landscaping specifications.

Approval of all landscaping and other materials by the planning department shall be required. The following specifications are required:

- (a) Invasive or potentially invasive plants are not permitted. However, well-mannered non-native plants are acceptable if they are not considered invasive.
- (b) Existing tree cover and natural vegetation shall be preserved, whenever possible, or replaced with suitable vegetation.
- (c) Ground cover(s) should be used to supplement landscaping in appropriate areas to reduce the need for extensive grass lawns, which would require regular watering in drought conditions.
- (d) No artificial plants, trees, or other vegetation shall be installed.
- (e) Where existing utilities are present within a landscape strip, appropriate plant material should be used that does not grow to a height or have a root system that will interfere with above-ground or underground utilities.
- (f) Do not plant materials in parking lot landscaping islands that will grow to a maturity of more than two and one-half (2½) feet, except for the required shade tree, unless regular pruning is provided, so as to avoid site visibility problems.
- (g) All plant material shall conform to the current version of the American Standard For Nursery Stock published by the American Nursery and Landscape Association. A copy of this manual can be downloaded at www.anla.org.

(Ord. No. 2009-05, § VI, 1-20-09)

Article 9-17 - ACCESS, PARKING AND LOADING REQUIREMENTS^[1]

Chapter 9-17-1	General Provisions
Chapter 9-17-2	Access
Chapter 9-17-3	Driveways
Chapter 9-17-4	Sight Visibility Triangle Easements
Chapter 9-17-5	Parking Requirements

Footnotes:

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Editor's note— Ord. No. 2016-09, § XI(Exh. B), adopted June 21, 2016, repealed Art. 9-17 and enacted a new article as set out herein. The former Art. 9-17, Chs. 9-17-1—9-17-6, pertained to access, parking and loading requirements and derived from Ord. No. 2009-47, §§ XXVIII and XXX—XXXIII, adopted Dec. 15, 2009.

CHAPTER 9-17-1. - GENERAL PROVISIONS

Sec. 9-17-1-1. - Findings.

- (a) *Need for parking.* Space for the parking of motor vehicles is needed to serve every property that contains a principal use, for the safety and convenience of the people who live or work on the property, shop or do business on the property, or otherwise visit the property in the normal course of activity of the principal use.
- (b) *Need for loading and unloading spaces.* Space for the loading and unloading of equipment, supplies, and products is needed to serve properties engaging in such loading and unloading operations. If not required, adequate and proper loading spaces in acceptable locations tend not to be provided.
- (c) *Environment.* Poor design of parking lots can lead to damage to the environment and may require the community to subsidize the interests of a private property owner at the expense of the community's environment. It is reasonable to ensure the good design of parking lots. Possible negative effects of parking and loading areas include changes to microclimate, isolation of pedestrians, and lack of visual appeal. increased stormwater runoff, and reduced stormwater infiltration into the ground. Large parking lots can create heat islands where pavement absorbs solar radiation during the day and remains warm well into the night. When heat islands exist, cooling costs are higher than normal.
- (d) *Stormwater management.* Parking lot lots impervious surfaces such as asphalt contribute to increased stormwater runoff, and reduced stormwater infiltration into the ground, as well as the degradation of local water quality from contaminated runoff. Parking lots can be more compatible environmentally if protection measures are incorporated into design standards and regulations. Porous pavement and grass pavers reduce runoff by allowing it to pass through the paved surface and infiltrate back into the soil and groundwater. Porous pavement designs and grass pavers are appropriate in some instances. Other types of stormwater management facilities are environmentally compatible, such as vegetative swales and bioretention areas, can be designed and integrated into the parking lot layout and landscaping.
- (e) *Pedestrian mobility.* Areas of paving are necessary to accommodate automobiles, but they can be unfriendly to pedestrians without specific regulations requiring that designers accommodate pedestrians. Large, open parking areas are conducive to high speeds and random maneuvers which can endanger pedestrians. Wide driveway aisles and access roads also increase speeds and discourage pedestrian travel. Street and parking lot design can balance the needs to accommodate automobile-centered standards with approaches that take into account the needs of pedestrians.
- (f) *Overbuilding of parking lots.* Off-street parking requirements, as conventionally implemented, have resulted in excess, unnecessary parking around shopping centers and malls because it remains unused for most of the

year. Parking lot construction is a considerable factor in the cost of development. Reducing parking areas reduces development costs. Therefore, reductions in the size of paved parking and flexibility in the types of pavement and parking designs are beneficial to all concerned.

- (g) *Connectivity.* Abutting properties which do not provide interconnecting access to one another make it difficult, dangerous, and inefficient if not impossible, for motorists to travel between those properties. Between compatible uses, provisions requiring inter-parcel access meet substantial public purposes of convenience and safety.

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

Sec. 9-17-1-2. - Purposes.

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

- (a) Establish requirements for multi-modal access to development sites, including vehicular, truck service, and pedestrian, as appropriate;
- (b) Establish on-site circulation patterns conducive to safe pedestrian as well as vehicular and truck access;
- (c) Reduce congestion in the streets and ensure that uses and functions of street rights-of-way are not interrupted;
- (d) Establish certain maximum as well as minimum requirements for parking spaces to reduce development costs and ensure that excess impervious surfaces are not constructed, while providing for exceeding maximums when a demonstrated need exists. Parking requirements should be based on actual average parking demands, rather than to accommodate the highest hourly parking at a site as in conventional parking requirements;
- (e) Provide in certain conditions for the use of alternative pavement materials in parking lots, such as porous and pervious materials which have higher degrees of water quality effectiveness than conventional asphalt; ~~and pervious concrete;~~
- (f) Promote flexible approaches to the provision of off-street parking, including in some cases, as appropriate, use of on-street parking and shared parking arrangements; and
- (g) Establish design and improvement specifications for the development of parking lots, loading areas, access aisles, and connections of parking lots to streets.

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

Sec. 9-17-1-3. - Definitions.

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

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

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

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

Driveway: A constructed vehicular access serving one (1) or more properties and connecting to a public or private street.

Floor area: The sum of all square footages (areas) of each floor of a building, measured from the interior faces of the exterior walls or from the centerline of walls separating two (2) buildings. The following areas are excluded

from the measurement of floor area: unfinished attics, attached garages or spaces used for off-street parking and loading, breezeways, and enclosed or unenclosed decks and porches.

Frontage or street frontage: The width in linear feet of a lot where its front lot line abuts the right-of-way of any street from which access may be directly gained.

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

Impervious surface: A ~~man-made structure or surface~~ composed of any material that, ~~which significantly impedes or prevents the natural infiltration of water into soil, the ground below the structure or surface.~~ Impervious surfaces include, but are not limited to, ~~Examples are rooftops, buildings, structures, streets and roads, sidewalks, driveways, parking lots, and any other concrete or asphalt surface.~~ decks, swimming pools, or patios. Also called impervious cover.

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

Land development activities: Those actions or activities which comprise, facilitate or result in land development or disturbance .

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

Land-disturbing activity: Any activity that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, and filling of land but not including agricultural operations as described in O.C.G.A. § 12-7-17(5) or forestry land management or forestry land management activities as described in O.C.G.A. 12-7-17(6) within areas zoned for such activities.

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

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

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

Parking bay: Three (3) or more parking spaces adjacent to one another and aligned side-by-side.

Parking lot: Any public or private area at grade used for the express purpose of temporarily parking automobiles and other vehicles otherwise in operation for personal or business use.

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

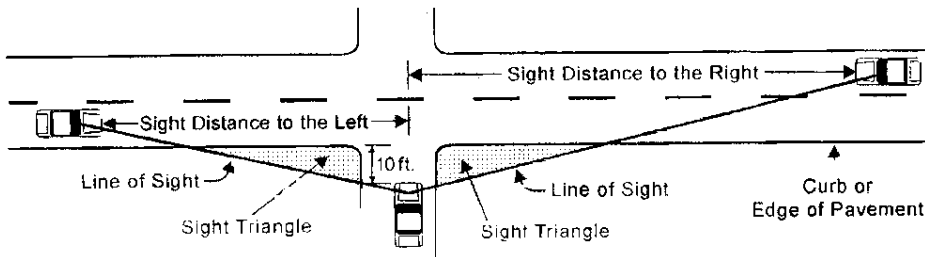
Porous materials: Porous asphalt, porous concrete, permeable pavers, or turf block or other porous materials approved by the department of water resources director or designee. Turf block consists of interlocking concrete or plastic cells filled with soil and planted with turf grass or a low-maintenance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

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

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

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

Sight visibility triangle easement: The areas at the corners of an intersection, or at the intersection of a street and driveway, which may vary based on type of street, that are to be kept free of shrubs, ground covers, berms, fences, structures, or other materials or items over two and one-half (2½) and twelve (12) feet in height as measured from the ground.



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

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

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

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

Sec. 9-17-1-4. - Applicability.

- (a) This article shall apply to all new development and redevelopment; provided however, that within this article certain exceptions are made to specific sections or paragraphs.
- (b) Before any development permit or building permit is issued for a given development or building, the parking lot layout and area must be found by the community and economic development director to be in compliance with all applicable requirements of this article and site design review as required by article 9-9 of this Code is accomplished. The community and economic development director may exempt from the permit and site design review requirements of this Code any improvement project resulting in four (4) or less parking spaces, or the addition of four (4) or less parking spaces to an existing parking lot. Such exemption shall not relieve the developer of compliance with other applicable provisions of this Code.
- (c) The building official shall not authorize occupancy or use of a building until advised by the community and economic development director or designee that parking facilities meet the applicable requirements of this article.
- (d) Prior to the city's issuance of a business registration, compliance with the requirements of this article shall be demonstrated.
- (e) This article shall not be construed as requiring compliance of parking lots which lawfully existed on the effective date of this article; provided, however, that the community and economic development director shall ensure parking lots that do not comply with this article meet the requirements of this article or substantially comply when there is a change in use, and when a new development permit is required an existing developed site is planned for redevelopment, or a building permit is required to add additional building space on the site. If substantial redesign of the parking lot is required to comply with this article in such cases of new development redevelopment or building additions, the community and economic development director may accept

substantial rather than complete compliance when the strict application of a requirement of this article would pose substantial practical difficulty.

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

CHAPTER 9-17-3. - DRIVEWAYS**Sec. 9-17-3-1. - Permit required.**

- (a) A permit shall be required for construction, including driveways and utilities, in any public right-of-way. Permits will not be issued until such time that plans have been submitted and approved by the public works director or designee and, if a surfacing other than asphalt or concrete is used, the department of water resources director or designee.
- (b) No curbs or medians on public streets or rights-of-way shall be cut or altered for access, and no driveway connection to a public or private street shall be made or altered, without a permit issued by the public works department and/or other applicable jurisdictions (e.g., GDOT, Hall County).
- (c) Deceleration lanes may be required at all entrances to subdivisions and industrial and commercial developments that front on arterial and collector streets. Deceleration lanes shall be twelve (12) feet in width plus curb and gutter for a minimum distance of two hundred (200) feet measured from the intersection of the right-of-way lines, or as may be otherwise required by the Georgia Department of Transportation (on state routes) or the public works director for a local street.

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

Sec. 9-17-3-2. - Driveway width requirements.

- (a) Vehicular access from properties to streets shall comply with the following minimum dimensional requirements, measured at the right-of-way line.

TABLE 9-17-3-1
DRIVEWAY WIDTH REQUIREMENTS

Use	Minimum Driveway Width, Divided Entrance with Center Island	Minimum Driveway Width	
		Two-Way	One-Way
Single-Family Residence	25 feet	8 feet	8 feet
Multi-Family Residential	36 feet	26 feet	12 feet
Commercial & Industrial	36 feet	30 feet	16 feet

- (b) When a property containing a single-family residence is converted to a use that requires a wider driveway, the public works director may reduce the driveway width required by this section if access via a narrower driveway will not be impeded.

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

Sec. 9-17-3-3. - Number of driveways limited.

- (a) Along state or U.S. highways, no more than one (1) driveway access from a property shall be permitted for each three hundred (300) feet of lot frontage, or fraction thereof.
- (b) Along all streets other than state or U.S. highways, one (1) driveway that meets the driveway width requirements described within table 9-17-3-1 of this chapter shall be permitted for every two hundred (200) feet of road frontage not to exceed a total of three (3) driveways within residential zoned districts and not to exceed a total of five (5) driveways within commercial or industrial zoned districts as described in table 9-17-3-2 of this chapter. The public works director shall have the ability to administratively vary this requirement for good cause. Written application must be made to the public works director stating the reason for the administrative variance, and identifying the reason(s) for such request.

TABLE 9-17-3-2
NUMBER OF DRIVEWAYS PERMITTED

Number of Driveways		Road Frontage
Residential	Commercial/Industrial	
1	1	0' to 199'
2	2	200' to 299'
3	3	300' to 399'
n/a	4	400' to 499'
n/a	5	500' and above

- (c) The public works director shall determine whether the driveways may be unrestricted or will have to be designed for right-in, right-out traffic flow.

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

Sec. 9-17-3-4. - Location limitations.

- (a) No driveway shall be allowed within thirty-five (35) feet of the right-of-way line of any street intersections for single-family and two-family residential lots and within fifty (50) feet for multi-family and nonresidential properties. The public works director shall have the ability to administratively vary this requirement for good cause. Written application must be made to the public works director stating the reason for the administrative variance, and identifying the reason(s) for such request.
- (b) Corner lot access shall be located at the points farthest from the intersection to eliminate turning movement accidents and to promote proper storage of through traffic.

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

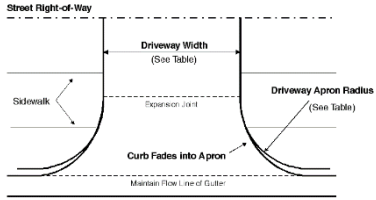
Sec. 9-17-3-5. - Minimum driveway construction specifications.

Driveway connections shall be provided between the edge of pavement or back of curb to the right-of-way line. No property may be afforded access from a public street except as follows:

- (a) Curb and gutter streets shall be provided with a driveway apron constructed of 3000 psi concrete at least six (6) inches thick. Sidewalks, where provided, shall be warped to the driveway apron and are to be identified across the driveway apron by construction joints or control joints.

- (b) Swale ditch section streets shall be provided with a driveway apron constructed of 3000 psi concrete at least six (6) inches thick, or asphaltic concrete of the same thickness and type as the paving course(s) for the street.
- (c) For streets that have been overlaid, driveway aprons shall tie into the existing curb and gutter. Asphalt may be added to the apron for smoother access.
- (d) All driveway aprons shall have a radius connecting the driveway to the curb line or pavement edge as follows:

**TABLE 9-17-3-3
DRIVEWAY APRON RADII**

Use	Minimum Driveway Radius	
Single-Family Residential	5 feet	
Commercial or Multi-Family Residential	15 feet	
Industrial	25 feet	

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

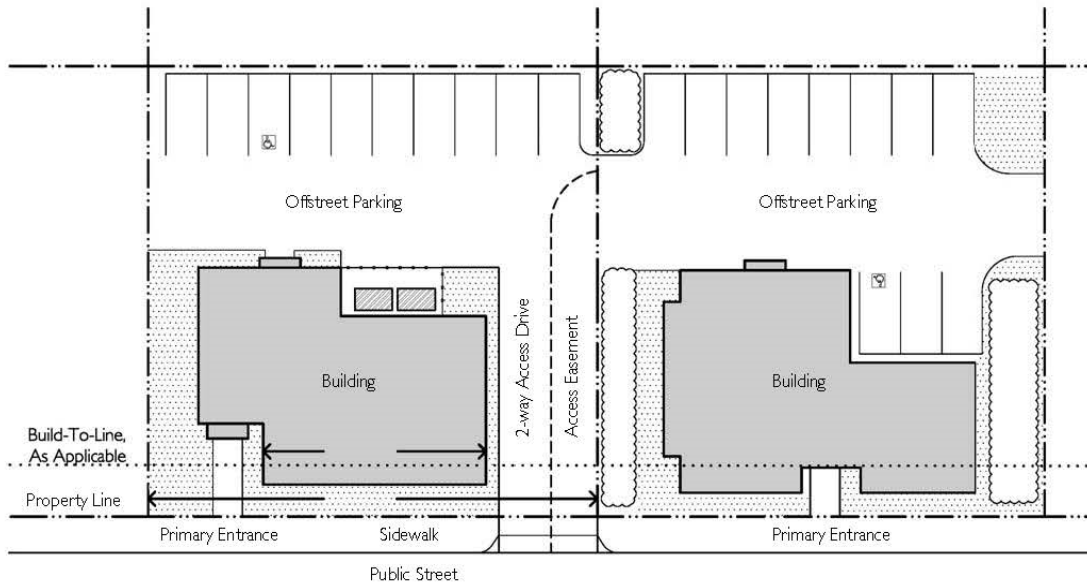
Sec. 9-17-3-6. - Driveway surfacing.

- (a) Driveways shall be paved with asphalt or concrete unless the department of water resources director or designee permits porous materials due to environmental impacts or to meet the stormwater management and water quality objectives of this Code. Porous materials shall not be installed at commercial/industrial sites where, in the opinion of the water resources director or designee, the potential for spills and groundwater contamination exists.
- (b) In the case of land development within the Historic Preservation overlay zone, the community [and economic](#) development director or designee may recommend and the historic preservation commission shall be authorized to review and approve the use of alternative pavement surfaces or permit driveways to be unpaved if appropriate to the character of the historic district or landmark.

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

Sec. 9-17-3-7. - Common access easements for shared driveways.

Shared driveways between two (2) parcels along the common property line may be required by the public works director. In such cases, each property owner shall grant an access easement to facilitate the movement of motor vehicles across the site.

**Illustrative Shared Driveway and Access Easement**

Source: Oregon Transportation and Growth Management Program, 2012
Model Development Code & User's Guide for Small Cities, 3rd Ed.

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

CHAPTER 9-17-5. - PARKING REQUIREMENTS**Sec. 9-17-5-1. - Off-street parking required.**

- (a) Unless specifically provided otherwise in this chapter, at the time of the establishment of any use, or erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area, there shall be provided permanent off-street parking spaces in a number and in accordance with the design specifications required by this chapter.
- (b) No existing or future off-street parking area shall be reduced in capacity to less than the minimum required number of spaces, or increased to more than the maximum permitted number of spaces, or altered in design or function to less than the minimum standards, unless specifically provided for in this article.

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

Sec. 9-17-5-2. - Parking requirements in the C-B, central business zoning district.

Notwithstanding other provisions of this chapter, off-street parking shall not be required for any use within the C-B, central business zoning district.

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

Sec. 9-17-5-3. - Surfacing and curbing of parking lots.

Parking lots shall be improved with an asphalt or concrete surface and curb and gutter as approved by the public works director; provided, however, that:

- (a) Parking lots shall be paved with asphalt or concrete, unless the department of water resources director or designee permits porous materials due to environmental impacts or to meet the stormwater management and water quality objectives of this Code. Porous materials shall not be installed at commercial/industrial sites where, in the opinion of the water resources director or designee, the potential for spills and groundwater contamination exists.
- (b) Curbing shall be installed as required by the department of water resources director when considered necessary for drainage, although water quality effectiveness and character of the zoning district shall be considerations in determining curbing requirements. To ~~ward the end of maximizing~~maximize infiltration and ~~the promoting~~promote the water quality effectiveness of low impact development techniques, the department of water resources director is authorized to vary curb requirements for parking lots.
- (c) In the case of land development within the Historic Preservation overlay zone, the community development department may recommend and the historic preservation commission shall be authorized to review and approve the use of alternative pavement surfaces or permit parking lots to be unpaved if appropriate to the character of the historic district or landmark.
- (d) See also section 9-17-5-15 for by-right permissions to use alternative paving surfaces for large parking lots.

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

Sec. 9-17-5-4. - Parking area use limitations.

- (a) Areas provided to meet the minimum requirements of this article as to handicapped and other parking spaces, along with the aisles and driveways necessary to provide access to those spaces, shall not be used for any purpose other than the temporary parking of vehicles for the present on-site use or uses. Specifically, no such parking area may be used for the sale, repair, dismantling or servicing of any vehicles, equipment, materials or supplies.
- (b) Upon application, the community [and economic](#) development director may approve temporary structures and uses such as tent sales within required parking spaces that are not used on a continuous basis, provided that such uses are moveable from the site upon order by the community development department, subject to the requirements of section 9-10-8-2 of this Code.
- (c) This section shall not preclude the uses of parking lots as authorized in section 9-10-1-4 of this Code.

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

Sec. 9-17-5-5. - Parking for company-owned vehicles.

Every business that stores vehicles owned by the business on site overnight (such as a company fleet), or maintains a stock of vehicles as part of its business activities (such as a car sales lot, a salvage and wrecking yard, auto repair, car rental agency, etc.), shall provide for adequate parking or storage for the vehicles such that:

- (a) No parking occurs in a public right-of-way;
- (b) Parking does not encroach on off-street parking spaces required by this chapter and may not be parked within the front yard or otherwise positioned for advertising purposes;
- (c) Any other area that has not been improved as a parking lot or storage yard. Such parking spaces shall be in addition to those required by this chapter.

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

Sec. 9-17-5-6. - Interpretations.

- (a) *Fractions.* Where a fractional space results during the calculation of required parking, the required number of parking spaces shall be rounded downward to the next whole number.
- (b) *Parking space requirement not specified.* Where the parking requirement for a particular use is not described in this chapter, and where no similar use is listed, the community [and economic](#) development director shall determine the number of spaces to be provided based on requirements for similar uses, location of the proposed use, the number of employees on the largest shift, total square footage, potential customer use, and other expected demand and traffic generated by the proposed use. At the discretion of a development applicant, a parking generation study prepared by a qualified professional may be submitted to aid the community [and economic](#) development director in making such a determination; if submitted, it shall be considered by the community [and economic](#) development director prior to making a determination.
- (c) *Computations for multiple floor uses within a building.* In cases where a building contains some combination of office space, retail or wholesale sales area, and/or bulk storage area, the community [and economic](#) development director may authorize that combinations of the parking requirements established in this chapter be used which are proportional to the use of floor areas (e.g., warehousing, retail, and/or office) in determining the minimum required off-street parking space requirements of this chapter.
- (d) *Related facility parking.* The community [and economic](#) development director may through the administrative variance process specified in chapter 9-24-3 of this Code, authorize a reduction of the number of required parking spaces when it can be demonstrated to his or her satisfaction that the use provides other areas on the site that are not marked as parking spaces but which serve some of the demand for on-site parking. Such areas may include but are not limited to drive-through stacking lanes, drive-through bays, and gas pump canopy areas, and excess loading zones.

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

Sec. 9-17-5-7. - Off-street parking spaces on same site as use they serve.

All parking spaces required by this chapter for all uses shall be located on the same lot as the use for which such parking is intended, except as specifically provided otherwise by this chapter.

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

Sec. 9-17-5-8. - Off-site parking spaces permitted.

In lieu of parking on the same lot as the use for which such parking is intended, parking spaces required by this chapter for all uses may be provided off-site, provided the following requirements are met:

- (a) The spaces are within a walking distance of four hundred (400) feet of the main entrance to the building or use they are intended to serve, provided, however, that no required parking spaces may be located across any state or U.S. highway from the use they are intended to serve. In townhouse subdivision developments, each parking space shall be within one hundred (100) feet of the entrance to the dwelling unit that it serves, as measured along the most direct pedestrian route.
- (b) The property containing the parking spaces not serving a use onsite must be either under the same ownership as the property containing the use to which the parking will serve, or a valid lease agreement must exist between the two (2) property owners for use of the parking area. Lease agreements, as applicable, must be of sufficient duration to serve the use or uses proposed to be partially served by the off-site leased parking, as approved by the public works director.
- (c) Off-site parking shall not exceed thirty (30) percent of the required parking for a building or buildings, except in the C-B zoning district, where one hundred (100) percent is permitted.
- (d) Safe and convenient pedestrian access, such as a sidewalk or path, must exist or be provided at the expense of the property owner from the structure or use to the off-site parking lot.
- (e) The community [and economic](#) development director may in individual cases administratively authorize a reduction, not to exceed twenty (20) percent of the minimum required number of parking spaces for projects that are directly served by on-street parking approved by the public works director.
- (f) The number of parking spaces required by this chapter for any number of separate uses may be combined and provided in one (1) lot (i.e., off the site of one (1) or more uses), provided that the spaces are within a walking distance of four hundred (400) feet of the main entrance to the building or use they are intended to serve; provided further that the required spaces assigned to each use may not be assigned to another use, except as follows:
 - (1) One-half ($\frac{1}{2}$) of the parking spaces required for a church, theater or assembly hall whose peak attendance will be on weekends and nights that services or activities are held may be assigned to a use that will be closed during those time periods.
 - (2) Parking spaces may be shared by more than one (1) use if the community [and economic](#) development director finds that the total number of spaces will be adequate at the peak hours of the uses they serve.

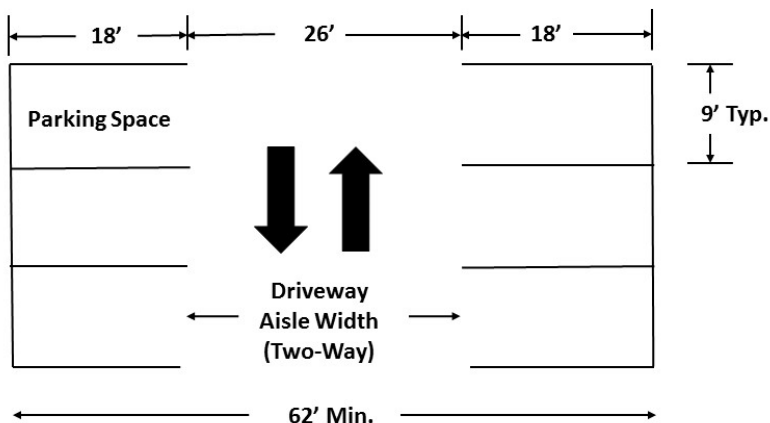
(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

Sec. 9-17-5-9. - Requirements for design of parking lots.

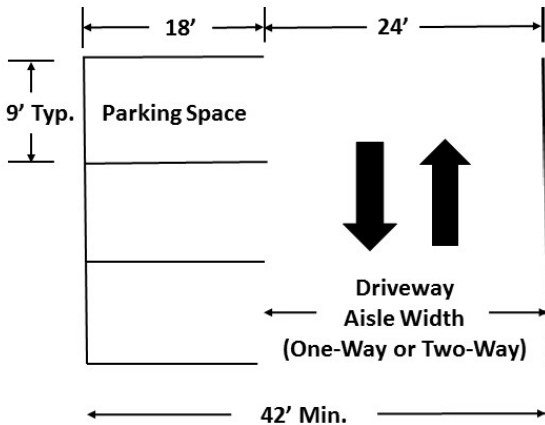
- (a) *Site design review.* The design of parking lots is of critical importance with regard to functionality, pedestrian access, [stormwater management](#), and aesthetics. Therefore, all parking lots or additions to parking lots consisting of more than four (4) spaces require site design review in accordance with article 9-9 of this Code.

Locations of parking spaces and their design may vary based on character area and use, after considering the stormwater management objectives of this Code.

- (b) *Drainage.* For any use that will require a parking area of five (5) spaces or more, or a loading area, to be newly constructed, added to, or altered in such a way as to affect drainage either on or off the site, storm water drainage plans, including grading and paving plans, shall be submitted to and approved by the community and economic development director and the department of water resources director, prior to the issuance of a land development permit.
- (c) *Location of spaces in relation to rights-of-way.* No parking space shall be provided along an access driveway within the first twenty-five (25) feet of the driveway from any local street. The public works director may require that the parking spaces be located at least fifty (50) feet from the right-of-way of a collector street and one hundred (100) feet from the right-of-way of an arterial street.
- (d) *Minimum dimensions of spaces.* Every parking space shall provide a useable rectangular area at least nine (9) feet wide by eighteen (18) feet long, excluding any access aisles; provided, however, that the minimum width of parking spaces may be reduced in accordance sections 9-17-5-14 and 9-17-5-15 of this chapter.
- (e) *Minimum dimensions of access aisles.* Access aisles in parking lots with parking at ninety (90) degree angles must be at least twenty-six (26) feet wide for double-loaded parking space designs with two-way traffic, and twenty-four (24) feet wide for single-loaded parking space designs with one-way or two-way traffic (see figures). One-way traffic aisles must be clearly marked with directional arrows on the pavement at each intersection with another aisle. The public works director may authorize a minor reduction in the required minimum width of access aisles for redeveloped areas if sufficient access is provided and the fire marshal agrees that access for fire apparatus is maintained.

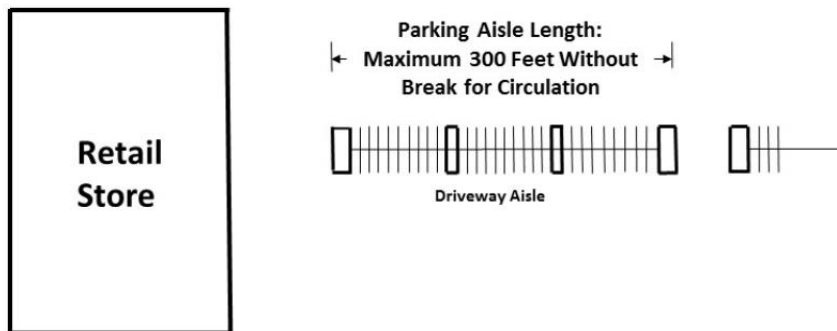


**Minimum Required
Parking Space and Aisle Dimensions
(Double-Loaded, Two-Way Traffic)**

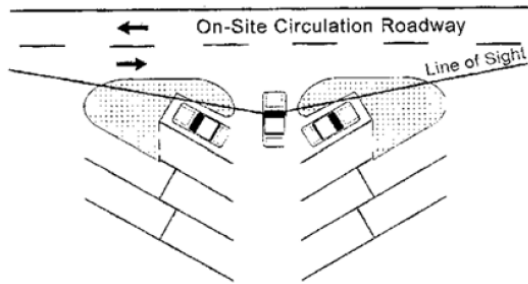


**Minimum Required
Parking Space and Aisle Dimensions
(Single-Loaded, One-Way
or Two-Way Traffic)**

- (f) *Demarcation*. Every parking space shall be clearly demarcated by lines painted on or otherwise applied to the parking lot surface. One-way traffic aisles must be clearly marked with directional arrows on the pavement at each intersection with another aisle, driveway, or street entrance. The public works director may grant exceptions to the requirement of this paragraph to mark common boundaries between parking spaces in the case of gravel parking lots, if and where permitted, or to authorize traffic directional signs in lieu of one-way pavement markings.
- (g) *Maximum aisle length*. Parking aisle lengths shall not exceed three hundred (300) feet without a break for circulation (see figure).



- (h) *Angled parking*. Parking spaces with ninety (90) degree designs shall be required, unless sixty (60) degree, or forty-five (45) degree angles to the access aisle are authorized by the community [and economic](#) development director, in which case required aisle widths for ninety (90) degree parking may be reduced per standards approved by the director. Parking lots with parking space angles less than forty-five (45) degrees to the access aisle shall not be allowed, except for parking spaces that are parallel to the access aisle.



End Islands Preserve Sight Distance

Source: Stover, Vergil G., and Frank J. Koepke. 2002.

Transportation and Land Development (2nd Ed.). Washington, DC: Institute of Transportation Engineers. Figure 8-15, p. 8-25.

- (i) *Sight distance at end aisles.* The intersection of parking aisles with a ring road or other on-site roadways or driveways shall provide adequate intersection sight distance. Parking aisle end islands shall be curbed unless that requirement is waived for water quality purposes or in a rural/exurban area; painted end islands are ineffective and are generally not permitted.
- (j) *Light pole locations and specifications.* Light poles should be located in landscaped planter strips. Where this cannot be accomplished, light poles must be placed on a reinforced concrete pedestal to protect them from damage or being knocked over.

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

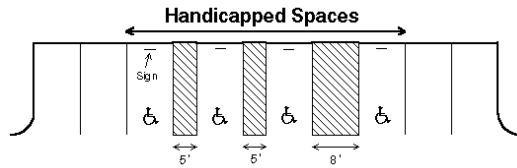
Sec. 9-17-5-10. - Minimum number of handicapped parking spaces.

Handicapped spaces shall be provided in each parking lot according to the requirements of table 9-17-5-1. Such spaces shall be counted in meeting the off-street parking requirements of this chapter, as specified in table 9-17-5-2 of this chapter.

TABLE 9-17-5-1
MINIMUM NUMBER OF HANDICAPPED SPACES REQUIRED

Total Required Parking Spaces	Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20 plus 1 for each 100 over 1000

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

Sec. 9-17-5-11. - Specifications for handicapped parking spaces.

- (a) Handicapped parking spaces shall have an adjacent aisle five (5) feet wide, and one (1) in every eight (8) handicapped spaces (but not less than one (1)) shall be adjacent to an aisle eight (8) feet wide and the space shall be signed "van accessible." Handicapped parking space aisles shall be clearly demarcated.
- (b) All handicapped parking shall comply with the requirements of the federal Americans with Disabilities Act. Accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility, per applicable state law requirements. Such signs shall be located so that they cannot be obscured by a vehicle parked in that space.

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

Sec. 9-17-5-12. - Off-street parking requirements by use.

Unless specifically provided otherwise in this chapter, on each lot where a building, structure, or use exists, each site shall be designed to provide and shall provide for off-street parking in the minimum amounts and not to exceed the maximum amounts specified in table 9-17-5-2 (including handicapped parking spaces). Requirements refer to one (1) space per unit of measurement unless otherwise specifically provided. Square footages are measured on the basis of gross square footage unless otherwise specifically provided.

**TABLE 9-17-5-2
MINIMUM AND MAXIMUM NUMBER OF
OFF-STREET PARKING SPACES REQUIRED**

USE	MINIMUM PARKING REQUIRED	MAXIMUM PARKING PERMITTED
COMMERCIAL USES		
Animal hospital; kennel	One per 400 square feet	One per 250 square feet
Appliance sales and repair	One per 500 square feet	One per 300 square feet
Art gallery	One per 400 square feet	One per 300 square feet
Automated teller machine, no drive-through	Two per machine	Three per machine
Auto parts store	One per 500 square feet	One per 300 square feet
Automobile sales	One per 200 square feet of repair space plus one per 400 square feet of showroom/office	One per 150 square feet of repair space plus one per 300 square feet of showroom/office
Automobile service and repair	One per 250 square feet plus two per service bay	One per 200 square feet plus three per service bay
Bank, credit union, savings and loan	One per 300 square feet (also see stacking requirements for drive-through facilities)	One per 200 square feet (also see stacking requirements for drive-through facilities)
Barber shop or beauty parlor	One per 300 square feet	One per 200 square feet
Bed and breakfast inn	Two for the owner-operator plus one per guest bedroom	Two for the owner-operator plus one per guest bedroom
Carpet or floor covering store	One per 300 square feet of retail sales and office area, plus if applicable, warehouse requirements for designated storage, receiving, and shipping area	One per 250 square feet of retail sales and office area, plus if applicable, warehouse requirements for designated storage, receiving, and shipping area
Car wash, staffed or automated	Two stacking spaces for each car wash lane plus two drying spaces per lane	Three stacking spaces for each car wash lane plus two drying spaces per lane
Contractor's establishment	One per 300 square feet of office space and one per 2,000 square feet of outdoor storage	One per 250 square feet of office space and one per 1,500 square feet of lot outdoor storage
Convenience store	One per 200 square feet	One per 100 square feet
Dance hall	One per 125 square feet	One per 75 square feet
Day care center	One per 500 square feet	One per 375 square feet
Funeral home or mortuary	One per four seats in largest chapel	One per three seats in largest chapel
Furniture and home furnishing store	One per 600 square feet	One per 300 square feet
Grocery store	One per 300 square feet	One per 250 square feet

Hardware store	One per 400 square feet	One per 300 square feet
Health or fitness club	One per 200 square feet	One per 150 square feet
Hotel, extended stay	1.5 per unit lodging unit	Two per lodging unit
Hotel or motel	One per lodging unit, plus one per each 150 square feet of banquet, assembly, meeting, or restaurant seating area	1.2 per lodging unit, plus one per each 100 square feet of banquet, assembly, meeting, or restaurant seating area
Laboratory	One per 250 square feet	One per 200 square feet
Laundromat	One for each three washer/dryer combinations	One for each two washer/dryer combinations
Nursery or garden center	One per 300 square feet plus one per 1,500 square feet outdoor sales or display area	One per 250 square feet plus one per 1,000 square feet outdoor sales or display area
Office	One per 300 square feet	One per 250 square feet
Office/Clinic (Medical)	One per 250 square feet	One per 150 square feet
Open air sales	One per 250 square feet of indoor floor space plus one per 600 square feet of outdoor sales	One per 200 square feet of indoor floor space plus one per 500 square feet of outdoor sales
Personal service establishment	One per 250 square feet	One per 200 square feet
Photographic studio	One per 300 square feet	One per 250 square feet
Restaurant, bar, or tavern	One per 125 square feet	One per 75 square feet
Retail store	One per 275 square feet	One per 250 square feet
Self-storage facility (mini-warehouse)	One per 40 storage units	One per 25 storage units
Shopping center	One per 275 square feet	One per 225 square feet
INDUSTRIAL USES		
Manufacturing, processing, assembling	One per 1,500 square feet	One per 1,000 square feet
Warehouse	One per 3,000 square feet	One per 1,500 square feet
Wholesale	One per 1,000 square feet	One per 500 square feet
INSTITUTIONAL—GOVERNMENT USES		
Assembly hall; auditorium; nonprofit club or lodge	One per four seats in room with greatest seating capacity or one per 40 square feet in largest assembly area without fixed seats	One per three seats in room with greatest seating capacity or one per 30 square feet in largest assembly area without fixed seats
Club or lodge	One per 400 square feet	One per 200 square feet
Church, temple, synagogue and place of worship	One per four seats in room with greatest seating capacity or one per 40 square feet in largest assembly area without fixed seats	One per three seats in room with greatest seating capacity or one per 30 square feet in largest assembly area without fixed seats

Group home, rooming house	One per 4 living units	One per each living unit
Government office	One per 300 square feet	One per 250 square feet
Hospital	1.5 per bed	Two per bed
Library	One per 400 square feet	One per 300 square feet
Museum	One per 500 square feet	One per 300 square feet
Nursing home, assisted living facility	One per four beds	One per three beds
Post office	One per 200 square feet	One per 150 square feet
Retirement community	One per unit	Two per unit
School, Elementary, Middle, High	Two per classroom	5 per classroom
School, Post-Secondary	One per 500 square feet	One per 375 square feet
School, Professional	20 per classroom	30 spaces per classroom
School, Special	One per 500 square feet	One per 375 square feet
RESIDENTIAL USES		
Apartment, one bedroom	1.5 per unit plus 0.1 per unit for guest space	Two per unit plus 0.2 per unit for guest space
Apartment, two bedroom	1.5 per unit plus 0.1 per unit for guest space	Two per unit plus 0.2 per unit for guest space
Apartment, three bedroom	2 per unit plus 0.2 per unit for guest space	Three per unit plus 0.2 per unit for guest space
Home occupation	See chapter 9-10-4	
Residence within building containing a nonresidential use	One per unit	1.5 per unit
Single family detached or attached	Two per unit	Four per unit
Two family dwelling	Two per unit	Three per unit
RECREATIONAL FACILITIES		
Athletic field	20 spaces per field	25 spaces per field
Billiard hall/amusement arcade	One per 200 square feet	One per 150 square feet
Bowling alley	Two per each bowling lane (add parking for billiard hall/amusement arcade, if provided)	Three per each bowling lane (add parking for billiard hall/amusement arcade, if provided)
Community center	One per 300 square feet	One per 250 square feet
Golf course	2.5 per hole	Three per hole

Golf driving range	0.75 per tee	1 per tee
Ice or roller skating rink	One per 200 square feet	One per 150 square feet
Miniature golf	Two per hole	Three per hole
Outdoor event facility	One per four seats or one per 200 square feet of event area whichever is less	One per three seats or one per 150 square feet of event area whichever is less
Stadium or sport arena	One per twelve feet of bench seating	One per ten feet of bench seating
Swimming pool—subdivision amenity	One per 150 square feet of surface water area	One per 100 square feet of surface water area
Swimming pool—public	One per 125 square feet of surface water area	One per 75 square feet of surface water area
Tennis or racquet ball court	Two per court	Three per court
Theater, cinema	One per four fixed seats	One per three fixed seats

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

Sec. 9-17-5-13. - Administrative variances.

- (a) The community [and economic](#) development director may via administrative variance allow parking at a rate of up to twenty (20) percent above the maximum or twenty (20) percent below the minimum required as specified in table 9-17-5-2, on a case-by-case basis based upon the scale and impacts of the request, for good cause shown, in accordance with chapter 9-24-3 of this Code.
- (b) The applicant shall make said request in writing which shall include documentation from an acceptable industry publication (e.g., Institute of Transportation Engineers, Urban Land Institute, American Planning Association, etc.) or by a study prepared by a qualified professional that documents parking requirements.
- (c) In approving administrative variances that reduce the minimum parking requirements established in this chapter, the community [and economic](#) development director may as a condition of approval, if applicable, require an area to be reserved or set-aside for additional parking area for future use if needed.

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

Sec. 9-17-5-14. - Compact parking spaces.

Compact parking spaces may be used in parking areas when more than twenty (20) parking spaces are required, provided that the areas for compact parking are clearly marked and not more than twenty (20) percent of the number of parking spaces provided in the entire parking area is designated compact auto parking.

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

Sec. 9-17-5-15. - Reduction of parking stall width and use of porous materials.

When a parking lot of seventy-five (75) spaces or an area of one (1) acre or more of parking is proposed, the applicant may divide the parking lot into distinct use areas as provided in table 9-17-5-3 and reduce impervious surfaces via reduction of parking stall width and the use of porous materials for improved water quality infiltration techniques.

TABLE 9-17-5-3
DIVISION OF LARGE PARKING LOTS FOR MINIMUM PARKING SPACE WIDTH REDUCTION AND AUTHORIZATION
OF POROUS MATERIALS

Division of Parking Lot	Description	Minimum Parking Space Width Permitted	Alternative Pavement Surfaces Authorized
Prime customer parking	Within 200 to 300 feet of buildings and near building entrances, because these spaces are used more frequently (i.e., high turnover).	9.0	No
Overflow customer parking	Used to meet peak parking demands. Spaces are used less frequently than prime customer parking.	8.5	Yes
Employee parking areas	At the fringe of the site and areas not readily associated with major building entrances, with low turnover.	8.0	Yes

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

Sec. 9-17-5-16. - Cross-referenced provisions.

- (a) *Accessory uses.* Accessory uses of parking lots and loading areas shall be limited as specified in section 9-10-1-4 of this Code.
- (b) *Street frontage.* Parking lots shall meet minimum street frontage requirements as specified in section 9-3-2-5 of this Code.
- (c) *Landscaping.* Parking lots shall be landscaped according to the requirements of chapter 9-16-4 of this Code. Also see chapter 9-16-5 for tree plan requirements.
- (d) *Residential zoning districts.* Vehicle parking in residential zoning district shall meet the requirements of section 9-10-3-7 of this Code.
- (e) *Home occupations.* Home occupations shall meet the parking requirements of section 9-10-4-4 of this Code.
- (f) *Special temporary outdoor events.* Parking for special temporary outdoor events shall meet the requirements of section 9-10-8-2 of this Code.

(g) *Site Design.* Site design and design review shall be in accordance with Article 9-9.

(h) *Stormwater Management.* Parking lot stormwater facilities shall be designed in accordance with Chapter 9-13-12.

(Ord. No. 2016-09, § XI(Exh. B), 6-21-16)

UNIFIED LAND DEVELOPMENT CODE

CITY OF GAINESVILLE, GEORGIA

Article 9-20 - BUILDING AND PROPERTY MAINTENANCE REGULATIONS^[1]

Chapter 9-20-1	Codes Adopted
Chapter 9-20-2	Fire Prevention
Chapter 9-20-3	Excavation and Grading
Chapter 9-20-4	Structures Dangerous to Public Health
Chapter 9-20-5	Building Official
Chapter 9-20-6	Permits and Exemptions
Chapter 9-20-7	Construction Documents
Chapter 9-20-8	Temporary Structures and Uses
Chapter 9-20-9	Fees
Chapter 9-20-10	Inspections
Chapter 9-20-11	Certificate of Occupancy
Chapter 9-20-12	Building Board of Appeals
Chapter 9-20-13	Violations and Penalties
Chapter 9-20-14	Additional Provisions for Building Permits and Certificates of Occupancy
Chapter 9-20-15	Additional Property Maintenance Requirements

Footnotes:

--- (1) ---

Editor's note— Ord. No. 2018-16, § 1, adopted Aug. 7, 2018, changed the title of article 9-20 from "Building regulations" to "Building and property maintenance regulations."

CHAPTER 9-20-1. - CODES ADOPTED

Sec. 9-20-1-1. - International Property Maintenance Code adopted.

The edition that is currently adopted and in force of the International Property Maintenance Code, published by the International Code Council, as hereinafter modified, is hereby adopted as the housing code of the city and is hereby made a part of this Code. A copy of such edition of the International Property Maintenance Code is filed with the city clerk.

Sec. 9-20-1-2. - International Building Code adopted.

That certain document, one copy of which is on file in the office of the city clerk, being marked and designated as the International Building Code, as published by the International Code Council and is hereby adopted as the [building] code of the city for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of buildings and structures in the city, and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such International Building Code, current edition adopted by the board of community affairs of the state, with state amendments, published by the International Code Council on file in the office of the city clerk, are hereby referred to, adopted and made a part hereof as if fully set out in this Code.

Sec. 9-20-1-3. - National Electrical Code adopted.

That certain document, one copy of which is on file in the office of the city clerk, being marked and designated as the National Electrical Code, current edition, as adopted by the board of community affairs of the state, as published by the National Fire Prevention Association is hereby adopted as the [electrical] code of the city for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of the building envelope, mechanical, lighting and power systems in the city, and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such National Electrical Code, current edition, with state amendments, published by the National Fire Prevention Association, on file in the Office of the city clerk, are hereby referred to, adopted and made a part hereof as if fully set out in this Code.

Sec. 9-20-1-4. - International Fire Code adopted.

That certain document, one copy of which is on file in the office of the city clerk, being marked and designated as the International Fire Code, current edition adopted by the board of community affairs of the state, with state amendments, as published by the International Code Council, is hereby adopted as the [fire] code of the city for regulating and governing the safeguarding of life and property from fire and explosion, hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the city and providing for the issuance of permits or hazardous uses or operations; and each and all of the regulations, provisions, conditions and terms of such fire code on file in the Office of the city clerk are hereby referred to, adopted and made a part hereof as if fully set out in this Code.

Sec. 9-20-1-5. - International Fuel Gas Code adopted.

That certain document, one copy of which is on file in the office of the city clerk, being marked and designated as the International Fuel Gas Code, current edition, adopted by the board of community affairs of the state with state amendments, as published by the International Code Council, Inc., is hereby adopted and [as] the fuel gas code of the city; for the control of building and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said fuel gas code are hereby referred to, adopted and made a part hereof, as if fully set out in this Code.

Sec. 9-20-1-6. - International Mechanical Code adopted.

That certain document, one copy of which is on file in the office of the city clerk, being marked and designated as the International Mechanical Code, with state amendments, current edition adopted by the board of community affairs of the state, as published by the International Code Council, is hereby adopted as the [mechanical] code of the city, for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems in the city and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such International Mechanical Code current edition, with state amendments, published by the International Code Council on file of the Office of the city clerk, are hereby referred to, adopted and made a part hereof as if fully set out in this Code.

Sec. 9-20-1-7. - International Plumbing Code adopted.

That certain document, one copy of which is on file in the office of the city clerk, being marked and designated as the International Plumbing Code current edition, with state amendments, adopted by the board of community affairs of the state, as published by the International Code Council is hereby adopted as the [plumbing] code of the city for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems in the city and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such International Plumbing Code, current edition, with state amendments, published by the International Code Council on file in the office of the city clerk are hereby referred to, adopted and made a part hereof as if fully set out in this Code.

Sec. 9-20-1-8. - International Residential Code adopted.

That certain document, one copy of which is on file in the office of the city clerk, being marked and designated as the International Residential Code, current edition, with state amendments, adopted by the board of community affairs of the state, as published by the International Code Council, is hereby adopted as the [residential] code of the city for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one and two-family dwellings and townhouses not more than three (3) stories in height in the city, and providing for the issuance of permits and collection of fees therefore; and each and all regulations, provisions, conditions and terms of such International Residential Code, current edition, with state amendments, published by the International Code Council on file in the office of the city clerk are hereby referred to, adopted and made a part hereof as if fully set out in this Code.

Sec. 9-20-1-9. - International Energy Conservation Code adopted.

That certain document, one copy of which is on file in the office of the city clerk, being marked and designated as the International Energy Conservation Code, current edition, with state amendments, adopted by the board of community affairs of the state, as published by the International Code Council, with state amendments, is hereby adopted as the [energy conservation] code of the city, regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of the building envelope, mechanical, lighting and power systems in the city, and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such International Energy Conservation Code, current edition, with state amendments, published by the International Code Council on file in the office of the city clerk, are hereby referred to, adopted and made a part hereof as if fully set out in this Code.

Sec. 9-20-1-10. - Swimming Pool Code adopted.

That certain document, one copy of which is on file in the office of the city clerk, being marked and designated as the "Standard Swimming Code," with state amendments, current edition adopted by the board of community affairs of the state as published by the Southern Building Code Congress International, Inc., Birmingham, Alabama, is hereby adopted as the [swimming pool] code of the city for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of the swimming pools in the city, and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions, and terms of such Standard Swimming Pool Code, current edition adopted by the board of community affairs of the state of state with state amendments, published by the

Southern Building Code Congress International, Inc., Birmingham, Alabama, on file in the office of the city clerk, is hereby referred to, adopted and made a part hereof as if fully set out in this Code.

- (a) *Previously existing pools.* Nothing contained herein shall apply to any pool in existence or under construction as of the effective date of this article, provided, however, that all swimming pools in the city shall comply with Section 315 (Required Enclosure) on or before September 31, 1992.
- (b) *Abrogation and greater restrictions.* Should any requirement or design standard of the Standard Swimming Pool Code conflict in any manner with any other law, rule or regulation of any local, state or federal regulation, applicable to the city then the stricter law, rule or regulation shall be applied. It is not intended by this article to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where these articles imposes a greater restriction upon the use of property or premises than is imposed or required by other resolutions, rules and regulations, or by easements, covenants, or agreements, the provisions of this article shall govern.

Sec. 9-20-1-11. - Life Safety Code adopted.

The edition of the NFPA 101 Life Safety Code that is currently adopted and in force is adopted, save and except such portions as hereinafter deleted, modified or amended of which a copy has been and is now filed in the office of the clerk of the city council, and same is hereby adopted and incorporated as fully as if set out at length herein. The Life Safety Code shall only apply to and govern those buildings and structures listed in the O.C.G.A, Sections 25-2-13 (a) and (b), as amended. The provisions of this article shall govern all other buildings and structures.

Sec. 9-20-1-12. - Continuation of existing structures.

The legal occupancy of any structure existing on the date of adoption of this article or its predecessor article shall be permitted to continue without change, except as is specifically covered in this article, the international Property Maintenance Code or the International Fire Code, or as is deemed necessary by the building official for the general safety and welfare of the occupants and the public.

Sec. 9-20-1-13. - Georgia Stormwater Management Manual Adopted.

The latest revision of the Georgia Stormwater Management Manual (GSMM), is hereby adopted and incorporated for regulating the design, construction, quality of materials, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of stormwater facilities in the city and providing for the issuance of permits and collection of fees therefore, in addition to Sections in this Ordinance. Each and all of the regulations, provisions, conditions and terms of such Georgia Stormwater Management Manual, latest edition, published by Atlanta Regional Commission are hereby referred to, adopted and made a part hereof as if fully set out in this Code.

CHAPTER 9-20-3. - EXCAVATION AND GRADING

Sec. 9-20-3-1. - Purposes.

Soil erosion and sediment deposition onto lands and into waters in the city are occurring as a result of land clearing, excavation, filling, grading, and construction activities. Such erosion and sediment deposition results in pollution of county waters and damage to domestic agricultural, recreational, fish and wildlife, and other resource uses. This chapter establishes uniform rules and regulations for excavation, filling, and grading activities for all sites with the city and provides for administration and enforcement of such rules and regulations.

Sec. 9-20-3-2. - Reference to regulations.

The rules and regulations for excavation, filling, and grading activities shall in addition to this chapter include articles 9-9, 9-13 and 9-14. Excavation, filling and grading activities are regulated under the Georgia NPDES Construction Stormwater Permit and Municipal Stormwater Permit programs. Design guidelines are found in the Georgia Stormwater Management Manual, latest edition. Construction requirements for controlling erosion and sedimentation impacts to stormwater are found in the latest edition of the Manual for Erosion and Sediment Control in Georgia, published by the Georgia Soil and Water Conservation Commission.

Sec. 9-20-3-3. - Debris from construction sites.

A permit issued by the city for excavation, grading, or land development, as required by chapter 9-13-7, shall require the owner of the property or his representative to prevent the scattering of earth, rock, vegetation and other debris upon public streets, drainage systems, or private property is restricted or disrupted from normal use or operation or in any way damaged, made unsightly or unsafe by the collection or deposit of mud earth, rock, vegetation or other debris originating at or dislodged by clearing, grading, or construction activities at the construction site.

Sec. 9-20-3-4. - Daily clearing of debris; performance bond.

Land development permits shall further require the property owner or his representative to completely clear, unclog and clean any public street or drainage system so affected by clearing, grading or construction activities at the end of each work day and at such other times as so required by the public works department. The property owner or his representative shall be held responsible for violations of this section for a period of not less than two (2) years after the permit is issued; or, after two (2) years, until such time as the property is returned to a stable condition as determined by the public works department. A certificate of completion shall be issued to the applicant after the official makes the determination. Each applicant will provide a performance bond, letter of escrow, irrevocable letter of credit, or other satisfactory security on a form approved by the city manager to ensure that authorized work is accomplished in accordance with the approved permits. The amount is to be determined by the public works department.

Sec. 9-20-3-5. - Geologic report.

Unique sites including extreme cuts/fills, rock blasting, faulting, unstable soils, or other similar geotechnical problems may be required to submit a geologic report certified by a professional engineer registered in the state. Such report shall address monitoring during construction phase, if required, and shall comply with the latest edition of the "Manual for Erosion and Sediment Control in Georgia," published by the Georgia Soil and Water Conservation Commission, as amended.

Sec. 9-20-3-6. - License required.

Contractors or builders conducting excavation, grading, and filling projects in the city that are not exempted under the provisions of this Code shall comply with chapter 6-2 of the City Code.

CHAPTER 9-20-4. - STRUCTURES DANGEROUS TO PUBLIC HEALTH^[2]

Footnotes:

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Editor's note— Ord. No. 2008-02, § I, adopted February 19, 2008, amended chapter 9-20-4 in its entirety to read as herein set out. Formerly, chapter 9-20-4 pertained to similar subject matter, and derived from original codification and Ord. No. 2006-18, §§ I—VIII, adopted June 20, 2006.

Sec. 9-20-4-1. - Findings of the existence of nuisances.

- (a) The governing authority of the city finds and declares that within the city limits there is the existence or occupancy of dwellings or other buildings or structures which are unfit for human habitation or for commercial, industrial, or business occupancy or use and not in compliance with applicable state minimum standard codes as adopted by ordinance or operation of law or any optional building, fire, life safety, or other codes relative to the safe use of real property and real property improvements adopted by ordinance in the city; or general nuisance law and which constitute a hazard to the health, safety, and welfare of the people of the city and the state; and that a public necessity exists for the repair, closing, or demolition of such dwellings, buildings, or structures.
- (b) It is further found and declared that in the city where there is in existence a condition or use of real estate which renders adjacent real estate unsafe or inimical to safe human habitation, such use is dangerous and injurious to the health, safety, and welfare of the people of the city and a public necessity exists for the repair of such condition or the cessation of such use which renders the adjacent real estate unsafe or inimical to safe human habitation. The governing authority of the city finds that there exist in the city dwellings, buildings, or structures which are unfit for human habitation or for commercial, industrial, or business uses due to dilapidation and which are not in compliance with applicable codes; which have defects increasing the hazards of fire, accidents, or other calamities; which lack adequate ventilation, light, or sanitary facilities; or other conditions exist rendering such dwellings, buildings or structure unsafe or unsanitary, or dangerous or detrimental to the health, safety, or welfare, or otherwise inimical to the welfare of the residents of the city, or vacant, dilapidated dwellings, buildings, or structures in which drug crimes are being committed, and private property exists constituting an endangerment to the public health or safety as a result of unsanitary or unsafe conditions to those persons residing or working in the vicinity of the property.
- (c) It is the intention of the governing authority that this section shall comply with and does comply with O.C.G.A. § 41-2-9(a) as a finding that conditions as set out in O.C.G.A. § 41-2-7 exist within the city.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-20-4-2. - Definitions.*Applicable codes:*

- (a) Any optional housing or abatement standard provided in Chapter 2 of Title 8 of the O.C.G.A. as adopted by ordinance or operation of law, or other property maintenance standards as adopted by ordinance or operation of law or general nuisance law, relative to the safe use of real property;
- (b) Any fire or life safety code as provided for in Chapter 2 of Title 25 of the O.C.G.A.; and
- (c) Any building codes adopted by the city prior to October 1, 1991, or the minimum standard codes provided in O.C.G.A. Chapter 2 of Title 8 after October 1, 1991, provided that such building or minimum standard codes for real property improvements shall be deemed to mean those building or minimum standard codes in existence at the time such real property improvements were constructed unless otherwise provided by law.

City means the City of Gainesville, Georgia.

Closing means causing a dwelling, building, or structure to be vacated and secured against unauthorized entry.

Decentralized wastewater system: A closed-loop system designed or used to receive sewage from a building sewer and to affect separation and organic decomposition of sewerage solids, and discharging sewage effluent to an absorption field or other management system. Also referred to as an on-site wastewater disposal system or septic tank.

Drug crime means an act, which is a violation of O.C.G.A. Article 2 of Chapter 13 of Title 16, known as the Georgia Controlled Substances Act.

Dwellings, buildings, or structures means any building or structure or part thereof used and occupied for human habitation or commercial, industrial, or business uses, or intended to be so used, and includes any outhouses, improvements, and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. As used in this chapter, the term "dwellings, buildings, or structures" shall not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.

Governing authority means the city council of the City of Gainesville.

Interested parties means:

- (a) Owner;
- (b) Those parties having an interest in the property as revealed by a certification of title to the property conducted in accordance with the title standards of the state bar;
- (c) Those parties having filed a notice in accordance with O.C.G.A. § 48-3-9;
- (d) Any other party having an interest in the property whose identity and address are reasonably ascertainable from the records of the petitioner or records maintained in the county courthouse or by the clerk of court. Interested parties shall not include the holder of the benefit or burden of any easement or right of way whose interest is properly recorded which interest shall remain unaffected; and
- (e) Persons in possession of said property and premises.

Owner means the holder of the title in fee simple and every mortgagee of record.

Public authority means any member of a governing authority, any housing authority officer, or any officer who is in charge of any department or branch of the government of the city, county, or state relating to health, fire, or building regulations or to other activities concerning dwellings, buildings, or structures in the county or municipality.

Public officer means the officer or officers who are authorized by this chapter to exercise the powers prescribed by this chapter or any agent or designee of such officer or officers.

Repair means altering or improving a dwelling, building, or structure so as to bring the structure into compliance with the applicable codes of the city and the cleaning or removal of debris, trash, and other materials present and accumulated which create a health or safety hazard in or about any dwelling, building, or structure.

Resident means any person residing in the city on or after the date on which the alleged nuisance arose.

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

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-20-4-3. - Maintenance duties.

It is the duty of the owner of every dwelling, building, structure, or property within the city to construct and maintain such dwelling, building, structure, or property in conformance with applicable codes in force within the city, or such ordinances which regulate and prohibit activities on property and which declare it to be a public

nuisance to construct or maintain any dwelling, building, structure or property in violation of such codes or ordinances.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-20-4-4. - Appointment of public officer.

The city council appoints and designates the chief building inspector, the city fire marshal, the city fire chief, the city police chief, the city marshal, and his or her designees as public officer(s) to exercise the powers prescribed by this chapter;

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-20-4-5. - Procedures for determining premises to be unsafe or unhealthful.

- (a) Whenever a request is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any dwelling, building, or structure is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer shall make an investigation or inspection of the specific dwelling, building, structure, or property.
- (b) If the officer's investigation or inspection identifies that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer may issue a complaint in rem against the lot, tract, or parcel of real property on which such dwelling, building, or structure is situated or where such public health hazard or general nuisance exists and shall cause a summons and a copy of the complaint to be served on the owner and interested parties in such dwelling, building, or structure.
- (c) The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the interested parties; state with particularity the factual basis for the action; and contain a statement of the action sought by the public officer to abate the alleged nuisance. The summons shall notify the interested parties that a hearing will be held before a court of competent jurisdiction as determined by O.C.G.A. § 41-2-5, at a date and time certain and at a place within the city. Such hearing shall be held not less than fifteen (15) days or more than forty-five (45) days after the filing of said complaint in the proper court. The interested parties shall have the right to file an answer to the complaint and to appear in person or by attorney and offer testimony at the time and place fixed for hearing.
- (d) If after such notice and hearing, the court determines that the dwelling, building, or structure in question is unfit for human habitation or is unfit for its current commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the court shall state in writing findings of fact in support such determination and shall issue and cause to be served upon the interested parties that have answered the complaint or appeared at the hearing an order:

- (1) If the repair, alteration, or improvement of the said dwelling, building, or structure can be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to repair, alter, or improve such dwelling, building, or structure so as to bring it into full compliance with the applicable codes relevant to the cited violation and, if applicable, to secure the structure so that it cannot be used in connection with the commission of drug crimes; or
 - (2) If the repair, alteration, or improvement of the said dwelling, building, or structure in order to bring it into full compliance with applicable codes relevant to the cited violations cannot be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to demolish and remove such dwelling, building, or structure and all debris from the property.
 - (3) For purposes of this section, the court shall make its determination of reasonable cost in relation the present value of the dwelling, building, or structure without consideration of the value of the land on which the structure is situated; provided, however, that costs of the preparation necessary to repair, alter, or improve a structure may be considered. The income and financial status of the owner shall not be factor in the court's determination. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a state appraiser classification as provided in Chapter 39A of Title 43, of the O.C.G.A., qualified building contractors, or qualified building inspectors without actual testimony presented. Costs of repair, alteration, or improvement of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes relevant to the cited violations in force in the city.
- (e) If the owner fails to comply with an order to repair or demolish the dwelling, building, or structure, the public officer may cause such dwelling, building, or structure, to be repaired, altered, improved, to be vacated and closed, or demolished. Such abatement action shall commence within two hundred seventy (270) days after the expiration of time specified in the order for abatement by the owner. Any time during which such action is prohibited by a court order issued pursuant to O.C.G.A. § 41-2-13 or any other equitable relief granted by a court of competent jurisdiction shall not be counted toward the two hundred seventy (270) days in which such abatement action must commence. The public officer shall cause to be posted on the main entrance of the building, dwelling, or structure a placard with the following words:
- "This building is unfit for human habitation or commercial, industrial, or business use and does not comply with the applicable codes or has been ordered secured to prevent its use in connection with drug crimes or constitutes and endangerment to the public health or safety as a result of unsanitary or unsafe conditions. The use or occupation of this building is prohibited and unlawful."
- (f) If the public officer has the structure demolished, reasonable effort shall be made to salvage reusable materials for credit against the cost of demolition. The proceeds of any moneys received from the sale of salvaged materials shall be used or applied against the cost of the demolition and removal of the structure, and proper records shall be kept showing application of sales proceeds. Any such sale of salvaged materials may be made without the necessity of public advertisement and bid. The public officer and the city are relieved of any and all liability resulting from or occasioned by the sale of any such salvaged materials, including, without limitation, defects in such salvaged materials, including, without limitation, defects in such salvaged materials.
- (g) The amount of the cost of demolition, including all court costs, appraisal fees, administrative costs incurred by the city tax collector and all other costs necessarily associated with the abatement action, including restoration to grade of the real property after demolition, shall be a lien against the real property upon which such cost was incurred.
- (h) (1) The city tax collector, shall have the power to attach a lien provided for in this section to the real property upon the filing of a certified copy of the order requiring repair, closure or demolition in the office of the clerk of superior court of Hall County and shall relate back to the date of the filing of the lis pendens notice required under subsection (c) of O.C.G.A. § 41-2-12(c). The clerk of superior court shall record and index such certified copy of the order in the deed records of Hall County and enter the lien on the general

execution docket. The lien shall be superior to all other liens on the property, except liens for taxes to which the lien shall be inferior, and shall continue in force until paid.

- (2) Upon final determination of costs, fees, and expenses incurred in accordance with this chapter, the public officer responsible for enforcement actions in accordance with this chapter shall transmit to the city tax collector a statement of the total amount due and secured by said lien, together with copies of all notices provided to interested parties. The statement of the public officer shall be transmitted within ninety (90) days of completion of the repairs, demolition, or closure. The city tax collector shall collect the amount of the lien using all methods available for collecting real property ad valorem taxes, including specifically O.C.G.A. Chapter 4 of Title 48; provided, however, that the limitation of O.C.G.A. § 48-4-78 which requires twelve (12) months of delinquency before commencing tax foreclosure shall not apply. The city tax collector shall remit the amount collected to the finance department of the city.
- (3) Enforcement of liens pursuant to the chapter may be initiated at any time following receipt by the city tax collector of the final determination of costs in accordance with this chapter. The unpaid lien amount shall bear interest and penalties from and after the date of final determination of costs in the same amount as applicable to interest and penalties on unpaid real property ad valorem taxes. An enforcement proceeding pursuant to O.C.G.A. § 8-4-78 for delinquent ad valorem taxes may include all amounts due under this chapter.
- (4) The redemption amount in any enforcement proceeding pursuant to this code section shall be the full amount of the costs as finally determined in accordance with this section together with interest, penalties, and costs incurred by the city tax collector in the enforcement of such lien. Redemption of property from the lien may be made in accordance with the provisions of O.C.G.A. §§ 48-4-80 and 48-4-81.
- (i) The city may waive and release any such lien imposed on property upon the owner of such property entering into a contract with the city agreeing to a timetable for rehabilitation of the real property of the dwelling, building, or structure on the property and demonstrating the financial means to accomplish such rehabilitation.
- (j) Where the abatement action does not commence in the superior court, review of a court order of the municipal court of the city requiring the repair, alteration, improvement, or demolition of a dwelling, building, or structure shall be by direct appeal to the superior court under O.C.G.A. § 5-3-29.
- (k) The public officers designated herein may issue citations for violations of state minimum standard codes, optional building, fire, life safety, and other codes adopted by ordinance, and conditions creating a public health hazard or general nuisance, and may seek to enforce such citation in court of competent jurisdiction prior to issuing a complaint in rem as provided in this section.
- (l) Nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-20-4-6. - Officer determination of nuisance.

- (a) The public officer may determine, under existing ordinances, that a dwelling, building, or structure is unfit for human habitation or is unfit for its current commercial, industrial, or business use if he/she finds that conditions exist in such building, dwelling, or structure which are dangerous or injurious to the health, safety, or morals of the occupants of such dwelling, building, or structure; of the occupants of neighborhood dwellings, buildings, or structures; or of other residents of the city. Such conditions may include the following (without limiting the generality of the foregoing):
 - (1) Defects therein increasing the hazards of fire, accidents or other calamities;

- (2) Lack of adequate ventilation, light, or sanitary facilities;
 - (3) Dilapidation;
 - (4) Disrepair;
 - (5) Structural defects;
 - (6) Uncleanliness; and
 - (7) Other additional standards, which may from time to time be adopted and referenced herein by ordinance amendment.
- (b) The public officer may determine, under existing ordinances, that a dwelling, building, or structure is vacant, dilapidated, and being used in connection with the commission of drug crimes based upon personal observation or report of a law enforcement agency and evidence of drug crimes being committed.

(Ord. No. 2007-53, § I, 11-20-07)

Cross Reference - Offenses against public health generally, §3-5-12 of the City Code of Ordinances

Sec. 9-20-4-7. - Powers of public officers.

The public officer(s) designated in this chapter are authorized to exercise such power as may be necessary or convenient to carry out and effectuate the purposes and provisions of sections 9-20-4-1—9-20-4-6, this section, and sections 9-20-4-8—9-20-4-10, including the following powers in addition to others granted in sections 9-20-4-1—9-20-4-6 and sections 9-20-4-8—9-20-4-10:

- (1) To investigate the dwelling conditions in the city in order to determine which dwellings, buildings, or structures therein are unfit for human habitation or are unfit for current commercial, industrial, or business use or are vacant, dilapidated, and being used in connection with the commission of drug crimes;
- (2) To administer oaths and affirmations, to examine witnesses, and to receive evidence;
- (3) To enter upon premises for the purpose of making examinations; provided, however, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (4) To appoint and fix the duties of such officers, agents, and employees as he or she deems necessary to carry out the purposes of this section; and 1`
- (5) To delegate any of his or her functions and powers under this chapter to such officers and agents as he or she may designate.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-20-4-8. - Service of complaints.

- (a) Complaints issued by a public officer pursuant to this chapter shall be served in the following manner.
- (1) At least fourteen (14) days prior to the date of the hearing, the public officer shall mail copies of the complaint by certified mail or statutory overnight delivery, return receipt requested, to all interested parties whose identities and addresses are reasonably ascertainable.
 - (2) Copies of the complaint shall also be mailed by first class mail to the property address to the attention of the occupants of the property, if any, and shall be posted on the property within three (3) business days of filing the complaint and at least fourteen (14) days prior to the date of the hearing.
- (b) For interested parties whose mailing address is unknown, a notice stating the date, time, and place of the hearing shall be published in the newspaper in which the sheriff's advertisements appears in such county once a week for two (2) consecutive weeks prior to the hearing.

- (c) A notice of lis pendens shall be filed in the office of the clerk of superior court of Hall County at the time of filing the complaint in the appropriate court. Such notice shall have the same force and effect as other lis pendens notices provided by law.
- (d) Orders and other filings made subsequent to service of the initial complaint shall be served in the manner provided in this code section on any interested party who answers the complaint or appears at the hearing. Any interested party who fails to answer or appear at the hearing shall be deemed to have waived all further notice in the proceedings.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-20-4-9. - Use of other ordinances as nuisance abatement procedures.

Nothing in this chapter shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of any charter provision or ordinance or regulation, nor to prevent or punish violations thereof; and the powers conferred by this chapter shall be in addition to and supplemental to the powers conferred by any other law or ordinance.

(Ord. No. 2007-53, § I, 11-20-07)

Sec. 9-20-4-10. - Injunctions.

Any person affected by an order issued by the public officer may petition to the superior court for an injunction restraining the public officer from carrying out the provision of the order and the court may, upon such petition, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that such person shall present such petition to the court within fifteen (15) days of the posting and service of the order of the public officer. De novo hearings shall be had by the court on petitions within twenty (20) days. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require; provided, however, that it shall not be necessary to file bond in any amount before obtaining a temporary injunction under this Code section.

(Ord. No. 2007-53, § I, 11-20-07; Ord. No. 2013-02, § I, 3-5-13)

Sec. 9-20-4-11. - Taking of unfit buildings or structures by eminent domain; police power.

Nothing in this chapter shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of such property by the power of eminent domain under the laws of this state nor as permitting any property to be condemned or destroyed except in accordance with the police power of this state.

(Ord. No. 2013-02, § II, 3-5-13)

Sec. 9-20-4-12. - Authority to use revenues, grants, and donations to repair, close, or demolish unfit buildings or structures.

The city is authorized to make such appropriations from its revenues as it may deem necessary and may accept and apply grants or donations to assist it in carrying out the provisions of ordinances adopted in connection with the exercise of the powers granted under this chapter.

(Ord. No. 2013-02, § III, 3-5-13)

CHAPTER 9-20-5. - THE BUILDING OFFICIAL**Sec. 9-20-5-1. - Enforcement and interpretation.**

The building official is hereby authorized and directed to enforce the provisions of this article and all of the codes adopted in this article. The building official shall have the authority to render interpretations of this article and the codes adopted in this article and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this article. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this Code.

Sec. 9-20-5-2. - Applications and permits.

The building official shall receive applications, review construction documents and issue permits for the erection and alteration, demolition and moving of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this article and the codes adopted in this article.

Sec. 9-20-5-3. - Notices and orders.

The building official shall issue all necessary notices or orders to ensure compliance with this article and the codes adopted in this article.

Sec. 9-20-5-4. - Inspections.

Inspections required under the provisions of the building code shall be made by the building official or his duly appointed assistant. The building official may accept reports of inspectors and recognized inspection services after investigation of their qualifications and reliability. Any such reports of inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The building official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority. No certificate called for by any provision of the building code shall be issued on such reports unless the same are in writing and certified to by a responsible inspector or such service.

Sec. 9-20-5-5. - Identification.

The building official shall carry proper identification when inspecting structures or premises in the performance of duties under this Code.

Sec. 9-20-5-6. - Right of entry.

Where it is necessary to make an inspection to enforce the provisions of this code, or where the building official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this code which makes the structure or premises unsafe, dangerous or hazardous, the building official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises were unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

Sec. 9-20-5-7. - Department records.

The building official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for retention of public records.

Sec. 9-20-5-8. - Duties.

The building official shall devote his whole time to the duties of this office. He shall receive applications required by this code, issue permits, and furnish the prescribed certificates. He shall examine premises for which permits have been issued and shall make necessary inspections to see that the provisions of law are complied with and that construction is prosecuted safely. He shall enforce all provisions of the building code and other codes adopted in this article. He shall, when required by the proper authority, or when the public interest so requires, make investigations in connection with matters referred to in the building code and render written reports on the same. To enforce compliance with law, to remove illegal or unsafe conditions, to secure the necessary safeguards during construction, or to require adequate exit facilities in buildings and structures, he shall issue such notices or orders as may be necessary.

Sec. 9-20-5-9. - Other state law authorization.

The city building official is authorized to do any act or take any action, which is authorized by the State Construction Industry Licensing Board Act.

Sec. 9-20-5-10. - Cooperation of other officials.

The building official may request and shall receive so far as may be necessary, in the discharge of his duties, the assistance and cooperation of other officials of the city.

Sec. 9-20-5-11. - Appointment.

The building official shall be appointed by the city manager.

Sec. 9-20-5-12. - Creation of enforcement agency.

The department of building safety is hereby created and the official in charge thereof shall be known as the building official.

Sec. 9-20-5-13. - Deputies.

In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the city manager, the building official shall have the authority to appoint a deputy building official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the building official. For the maintenance of existing properties, see the International Property Maintenance Code.

Sec. 9-20-5-14. - Approved materials and equipment.

Materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval. The use of used materials, which meet the requirements of this Code for new materials, is permitted. Used equipment and devices shall not be reused unless approved by the building official.

Sec. 9-20-5-15. - Modifications.

Wherever there are practical difficulties involved in carrying out the provisions of this Code, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the building official shall first find that special individual reason makes the strict letter of this Code impractical and the modification is in compliance with the intent and purpose of this Code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

Sec. 9-20-5-16. - Alternative materials and construction methods.

The provisions of this article and the codes adopted in this article are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this article or a code adopted here under, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this article and the intent of the applicable code adopted by this

article, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

Sec. 9-20-5-17. - Tests.

Whenever there is insufficient evidence of compliance with the provisions of this article, or evidence that a material or method does not conform to the requirements of this article or the codes adopted here under, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this article or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. The building official shall retain reports of such tests for the period required for retention of public records.

CHAPTER 9-20-6. - PERMITS AND EXEMPTIONS

Sec. 9-20-6-1. - Permits required.

Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by a code adopted in this article, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

Sec. 9-20-6-2. - Permit exemptions generally.

Exemptions from permit requirements of this article and codes adopted in this article shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this article, codes adopted hereunder, or any other laws or ordinances of the city.

Sec. 9-20-6-3. - Exemptions from building permit.

Building permits shall not be required for the following:

- (a) One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed one hundred twenty (120) square feet.
- (b) Fences not over six (6) feet (one thousand eight hundred twenty-nine (1,829) mm) high.
- (c) Oil derricks.
- (d) Retaining walls which are not over four (4) feet (one thousand two hundred nineteen (1,219) mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding class I, II or III-A liquids.
- (e) Water tanks supported directly upon grade if the capacity does not exceed five thousand (5,000) gallons (eighteen thousand nine hundred twenty-seven (18,927) L) and the ratio of height to diameter or width does not exceed two (2) to one.
- (f) Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
- (g) Temporary motion picture, television and theater stage sets and scenery.
- (h) Prefabricated swimming pools accessory to a group R-3 occupancy, as applicable in Section 101.2 which are less than twenty-four (24) inches (six hundred ten (610) mm) deep, do not exceed five thousand (5,000) gallons (nineteen thousand (19,000) L) and are installed entirely above ground.
- (i) Shade cloth structures constructed for nursery or agricultural purposes and not including service systems.
- (j) Swings and other playground equipment accessory to one-and two-family dwellings.
- (k) Window awnings supported by an exterior wall of group R-3 as applicable in Section 101.2, and Group U occupancies.
- (l) Movable cases, counters and partitions not over five (5) feet nine (9) inches (one thousand seven hundred fifty-three (1,753) mm) in height.

Sec. 9-20-6-4. - Exemptions from electrical permit.

Electrical permits shall not be required for the following:

- (a) *Repairs and maintenance.* Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.
- (b) *Radio and television transmitting stations.* The provisions of this Code shall not apply to electrical equipment used for radio and television transmissions, but does apply to equipment and wiring for power supply, the installations of towers and antennas.

- (c) *Temporary testing systems.* A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

Sec. 9-20-6-5. - Exemption from gas code.

Replacement of any minor part of a portable heating appliance that does not alter approval of equipment or make such equipment unsafe is exempt from a gas code permit.

Sec. 9-20-6-6. - Exemptions from mechanical permit.

Where equipment and appliance replacements or repairs must be performed in an emergency situation, the permit application shall be submitted with the next working business day of the department of mechanical inspection.

Mechanical permits shall not be required for the following:

- (a) Portable heating appliances;
- (b) Portable ventilation appliances and equipment;
- (c) Portable cooling units;
- (d) Steam, hot water or chilled water piping within any heating or cooling equipment or appliance regulated by this Code;
- (e) The replacement of any minor part that does not alter the approval of equipment or an appliance or make such equipment or appliance unsafe;
- (f) Portable evaporative coolers; and
- (g) Self-contained refrigeration systems that contain ten (10) pounds (4.5kg) or less of refrigerant, or that are actuated by motors of one horsepower (0.75kW) or less.

Exemption from the permit requirements of this Code shall not be deemed to grant authorization for work to be done in violation of the provisions of this Code or other laws or ordinances of this jurisdiction.

Sec. 9-20-6-7. - Exemptions from plumbing permit.

Plumbing permits shall not be required for the following:

- (a) The stopping of leaks in drains, water, soil, waste or vent pipe; provided, however, that if any concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this Code.
- (b) The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

Sec. 9-20-6-8. - Permit application requirements.

To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished by the department of building safety for that purpose. Such application shall:

- (a) Identify and describe the work to be covered by the permit for which application is made.
- (b) Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
- (c) Indicate the use and occupancy for which the proposed work is intended.
- (d) Be accompanied by construction documents and other information as required by the building official.
- (e) State the valuation of the proposed work.
- (f) Be signed by the applicant, or the applicant's authorized agent.
- (g) Give such other data and information as required by the building official.

- (h) Include payment of a development impact fee is required by article 9-19. No building permit shall be issued until unless the Impact Fee Administrator, as established in article 9-19, has found the building permit application to be in compliance with said article 9-19 and has authorized the issuance of said building permit.

(Ord. No. 2006-34, § IV, 8-1-06)

Sec. 9-20-6-9. - Action on permit application.

The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the building official shall reject such application in writing, stating the reasons therefore. If the building official is satisfied that the proposed work conforms to the requirements of this Code and laws and ordinances applicable thereto, the building official shall issue a permit therefore as soon as practicable.

Sec. 9-20-6-10. - Time limitation of application.

An application for a permit for any proposed work shall be deemed to have been abandoned one hundred eighty (180) days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding ninety (90) days each. The extension shall be required in writing and justifiable cause demonstrated.

Sec. 9-20-6-11. - Validity of permit.

The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data. The building official is also authorized to prevent occupancy or use of a structure where in violation of this Code or of any other ordinances of this jurisdiction.

Sec. 9-20-6-12. - Expiration.

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within one hundred eighty (180) days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of one hundred eighty (180) days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than one hundred eighty (180) days each. The extension shall be requested in writing and justifiable cause demonstrated.

Sec. 9-20-6-13. - Suspension or revocation.

The building official is authorized to suspend or revoke a permit issued under the provisions of this Code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this Code.

Sec. 9-20-6-14. - Placement of permit.

The building permit or copy shall be kept on the site of the work until the completion of the project.

CHAPTER 9-20-7. - CONSTRUCTION DOCUMENTS

Sec. 9-20-7-1. - Submittal documents.

Construction documents, special inspection and structural observation programs, and other data shall be submitted in one or more sets with each application for a permit. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.

Sec. 9-20-7-2. - Exception.

The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that reviewing of construction documents is not necessary to obtain compliance with this Code.

Sec. 9-20-7-3. - Information on construction documents.

Construction documents shall be dimensioned and drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the building official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this Code and relevant laws, ordinances, rules and regulations, as determined by the building official.

- (a) *Fire protection system shop drawings.* Shop drawings for the fire protection system(s) shall be submitted to indicate conformance with this Code and the construction documents and shall be approved prior to the start of system installation. Shop drawings shall contain all information as required by the referenced installation standards in this Chapter.
- (b) *Means of egress.* The construction documents shall show in sufficient detail the location, construction, size and character of all portions of the means of egress in compliance with the provisions of this Code. In other than occupancies in groups R-2 and R-3 as applicable in Section 101.2 of the International Building Code, the construction documents shall designate the number of occupants to be accommodated on every floor, and in all rooms and spaces.
- (c) *Exterior wall envelope.* Construction documents for all buildings shall describe the exterior wall envelope in sufficient detail to determine compliance with this Code. The construction documents shall provide details of the exterior wall envelope as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves, or parapets, means of drainage, water-resistive membrane, and details around openings.

The construction documents shall include manufacturing installation instructions that provide supporting documentation that the proposed penetration and opening details described in the construction documents maintain the weather resistance of the exterior wall envelope. The supporting documentation shall fully describe the exterior wall system, which was tested, where applicable, as well as the test procedure used.

Sec. 9-20-7-4. - Site plan.

The construction documents submitted with the application for permit shall be accompanied by a site plan showing to scale the size and location of new construction and existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The building official is authorized to waive or modify the requirement for a site plan when the application for permit is for alteration or repair or when otherwise warranted.

Sec. 9-20-7-5. - Examination of documents.

The building official shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this article and other pertinent laws or ordinances.

Sec. 9-20-7-6. - Approval of construction documents.

When the building official issues a permit, the construction documents shall be approved, in writing or by stamp, as "Reviewed for Code Compliance." The building official shall retain one set of construction documents so reviewed. The other set shall be returned to the applicant, shall be kept at the site of work, and shall be open to inspection by the building official or his authorized representative.

Sec. 9-20-7-7. - Previous approvals.

This article shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within one hundred eighty (180) days after the effective date of this Code and has not been abandoned.

Sec. 9-20-7-8. - Phased approved.

The building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this Code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted.

Sec. 9-20-7-9. - Design professional in responsible charge.

- (a) When it is required that documents be prepared by a registered design professional, the building official shall be authorized to require the owner to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge. The building official shall be notified in writing by the owner if the registered design professional in responsible charge is changed or is unable to continue to perform the duties.
- (b) The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building.
- (c) Where structural observation is required by Section 1709 of the International Building Code, as amended, the inspection program shall name the individual or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur. See also duties specified in Section 1704 of the International Building Code, as amended.

Sec. 9-20-7-10. - Deferred submittals.

For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted at the time of the application and that are to be submitted to the building official within a specified period.

Deferral of any submittal items shall have the prior approval of the building official. The registered design professional in responsible charge shall list the deferred submittals on the construction documents for review by the building official.

Submittal documents for deferred submittal items shall be submitted to the registered design professional in responsible charge that shall review them and forward them to the building official with a notation indicating that the deferred submittal documents have been reviewed and that they have been found to be in general conformance with the design of the building. The deferred submittal items shall not be installed until their design and submittal documents have been approved by the building official.

Sec. 9-20-7-11. - Amended construction documents.

Work shall be installed in accordance with the reviewed construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

Sec. 9-20-7-12. - Retention of construction documents.

The building official shall retain one set of approved construction documents for a period of not less than one hundred eighty (180) days from date of completion of the permitted work, or as required by state or local laws.

CHAPTER 9-20-9. - FEES

Sec. 9-20-9-1. - Payment of fees.

A permit shall not be valid until the fees prescribed by law have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

Sec. 9-20-9-2. - Schedule of permit fees.

On buildings, structures, electrical, gas, mechanical and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established by the city council. In addition, if required by article 9-19, applicants for building permits shall pay a development impact fee as specified in said article.

(Ord. No. 2006-34, § V, 8-1-06)

Sec. 9-20-9-3. - Building permit valuations.

The applicant for a permit shall provide an estimated permit value at time of application. Permit valuations shall include total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems. If, in the opinion of the building official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the building official. Final building permit valuation shall be set by the building official.

Work commencing before permit issuance. Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to an additional fee established by the building official that shall be in addition to the required permit fees.

Sec. 9-20-9-4. - Related fees.

The payment of the fee for the construction, alteration, removal or demolition for work done in connection with or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

Sec. 9-20-9-5. - Refunds.

The building official is authorized to establish a refund policy; provided, however, that this shall not authorize the building official to establish refund policies for development impact fees collected pursuant to article 9-19. Refunds of development impact fees shall be authorized only by the impact fee administrator in accordance with applicable provisions of article 9-19.

(Ord. No. 2006-34, § III, 8-1-06)

CHAPTER 9-20-10. - INSPECTIONS

Sec. 9-20-10-1. - Generally.

Construction or work for which a permit is required shall be subject to inspection by the building official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this Code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

Sec. 9-20-10-2. - Preliminary inspection.

Before issuing a permit, the building official is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

Sec. 9-20-10-3. - Required inspections.

The building official, upon notification, shall make the inspections set forth in Sections 109.3.1 through 109.3.10 of the Building Code.

- (a) *Footing or foundation inspection.* Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94; the concrete need not be on the job.
- (b) *Concrete slab or under-floor inspection.* Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the sub floor.
- (c) *Lower floor elevation.* The elevation certification required in Section 1612.5 of the International Building Code, as amended shall be submitted to the building official.
- (d) *Frame inspection.* Framing inspections shall be made after the roof deck or sheathing, all framing, fire blocking and bracing are in place and pipes, chimneys and vents to be concealed are complete and the rough electrical, plumbing, heating wires, pipes and ducts are approved.
- (e) *Lath or gypsum board inspection.* Lath and gypsum board inspections shall be made after lathing and gypsum board, interior and exterior, is in place, but before any plastering is applied or before gypsum board joints and fasteners are taped and finished. Exception: Gypsum board that is not part of a fire-resistive assembly or a shear assembly.
- (f) *Fire-resistant penetrations.* Protection of joints and penetrations in fire-resistance-rated assemblies shall not be concealed from view until inspected and approved.
- (g) *Other inspections.* In addition to the inspections specified above, the building official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this Code and other laws that are enforced by the department of building safety.
- (h) *Special inspections.* For special inspections, see Chapter 17 of the International Building Code.
- (i) *Final inspection.* The final inspection shall be made after all work required by the building permit is completed.

Sec. 9-20-10-4. - Inspection agencies.

The building official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

Sec. 9-20-10-5. - Inspection requests.

It shall be the duty of the holder of the building permit or their duly authorized agent to notify the building official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspection of such work for any inspections that are required by this Code.

Sec. 9-20-10-6. - Approval required.

Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or shall notify the permit holder or an agent of the permit holder wherein the same fails to comply with this article. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.

CHAPTER 9-20-11. - CERTIFICATE OF OCCUPANCY

Sec. 9-20-11-1. - Use and occupancy.

No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefore as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this Code or of other ordinances of the jurisdiction.

Sec. 9-20-11-2. - Change in use.

Changes in the character or use of an existing structure shall not be made except as specified in Chapter 34 of the International Building Code, as amended.

Sec. 9-20-11-~~xx~~3. - Submittals required for certificate.

Upon completion of the final inspection, the owner or authorized agent shall submit the following required documents to the building official:

- (a) Stormwater Inspection and Maintenance Agreement, signed
- (b) Maintenance bond
- (c) As-built drawings certified by professional engineer
- (d) Drainage easement shown on final as-built and plat
- (e) Certification of stormwater management system installation and final landscaping establishment

The building official is not authorized to issue a certificate of occupancy unless these documents have been submitted and completed to the city's satisfaction.

Cross-reference - Stormwater management, Ch. 9-13-12; land development inspection, as-builts, and maintenance bond, Ch. 9-13-13; recording of final plat, Ch. 9-13-14.

Sec. 9-20-11-~~xx~~4. - Certificate issued.

After the building official inspects the building or structure and finds no violations of the provisions of this Code or other laws that are enforced by the department of building safety; and upon receipt of the required documents set forth in section 9-20-11-3, the building official shall issue a certificate of occupancy that shall contain the following:

- (a) The building permit number.
- (b) The address of the structure.
- (c) The name and address of the owner.
- (d) A description of that portion of the structure for which the certificate is issued.
- (e) A statement that the described portion of the structure has been inspected for compliance with the requirements of this Code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
- (f) The name of the building official.
- (g) The edition of the code under which the permit was issued.
- (h) The use and occupancy, in accordance with the provisions of Chapter 3 of the International Building Code, as amended.
- (i) The type of construction as defined in Chapter 6 of the International Building Code, as amended.
- (j) The design occupant load.
- (k) If an automatic sprinkler system is provided, whether the sprinkler system is required.

- (l) Any special stipulations and conditions of the building permit.

Sec. 9-20-11-5. - Temporary occupancy.

The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid.

Sec. 9-20-11-6. - Revocation.

The building official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this Code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this Code.

Sec. 9-20-11-7. - Service utilities.

- (a) *Connection of service utilities.* No person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this Code for which a permit is required, until released by the building official.
- (b) *Temporary connection.* The building official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel or power.
- (c) *Authority to disconnect service utilities.* The building official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this Code and the codes referenced in case of emergency where necessary to eliminate an immediate hazard to life or property. The building official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

CHAPTER 9-20-13. - VIOLATIONS AND PENALTIES**Sec. 9-20-13-1. - Violations.**

Any person who shall violate any of the provision of this article or fail to comply therewith, or who shall violate or fail to comply with any order made there under, or who shall build in violation of any detailed statement of specifications or plans submitted and approved there under, or any certificate or permit issued there under, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, and shall be punished as provided in section 1-1-7 of the City Code. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

Sec. 9-20-13-2. - Notices.

Whenever the building inspection department is satisfied that systems, appliances or equipment, or any work in connection therewith that is covered by this chapter, is being erected, installed, altered or repaired, in violation of the provisions or requirements of this chapter, or in violation of plans or specifications submitted and approved there under, or a permit issued there under, it shall serve a written notice or order upon the person responsible therefore directing discontinuance of such illegal action and the remedying of the condition that is in violation of the provisions or requirements of this article.

In case such notice or order is not promptly complied with, the building inspection department shall notify the city manager that shall take appropriate action to correct or remove such violation.

Sec. 9-20-13-3. - Stopping work.

Whenever work is in progress which is, in the opinion of the building official, by reason of defective or illegal work in violation of a provision or requirement of this chapter, the building official shall order, in writing, all further work to be stopped and may require suspension of all work until the condition in violation has been corrected.

Sec. 9-20-13-4. - Abatement.

The imposition of the penalties prescribed in this Chapter shall not preclude the city from instituting an appropriate action or proceeding to prevent the unlawful erection, installation, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate a violation, or to prevent the use of any systems, appliances or equipment covered by this chapter, or to prevent any illegal act, conduct, business or use in or about any premises.

CHAPTER 9-20-14. - ADDITIONAL PROVISIONS FOR BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

Sec. 9-20-14-1. - Building permit required.

A building permit issued by the building official is required in advance of the initiation of construction, erection, moving or alteration of any building or structure where the cost of such construction, erection, moving, or alteration, as estimated by the building official will be in excess of three hundred dollars (\$300.00). All buildings and structures shall comply with the requirements of this Code, whether or not a building permit is required.

Building permits for all buildings, structures and interior finishes shall be required and shall be issued after application and demonstration through building plans that the building, structure, or interior finish will meet all applicable requirements of the Life Safety Code and the various health and building codes of the city and as may be applicable.

Sec. 9-20-14-2. - Lot of record.

Building permits shall only be issued on lots of record, as defined in this Code. If an application for building permit is received on a tract or parcel that is not a lot of record, the building permit applicant shall be required to subdivide the land in accordance with article 9-13.

Sec. 9-20-14-3. - Land development permit.

Prior to issuance of a building permit, the owner shall have received a land development permit if required by chapter 9-13-7 or chapter 9-14-4.

Sec. 9-20-14-4. - Environmental health approval.

For any building, structure, or land development activity served by an decentralized wastewater system, a permit shall be required and must be applied for and approved and issued by the Hall County Environmental Health Department prior to issuance of a building permit. Said permit may require a plan showing the location of the sewage disposal system and other on-site improvements, in accordance with said department's regulations.

Sec. 9-20-14-5. - Water supply approval.

A building permit shall not be issued prior to issuance of a well permit by the Hall County Environmental Health Department or water meter approved by the city ~~public utilities~~ department of water resources.

Sec. 9-20-14-6. - Application requirements for building permits.

Application for a building permit shall be made to the building official. Building permit applications shall include all information necessary as determined by the building official for thorough review and approval, and shall specifically include the following:

- (a) *Application form.* Application on the form furnished by the building official, requesting issuance of a building permit.
- (b) *Fee.* Payment of the building permit application and review fee, and payment of development impact fee(s) if required by article 9-19.
- (c) *Plat or plan.* For a single-family detached or two-family dwelling, a plat and one set of plans. For a multi-family or nonresidential building, a site plan upon which has been approved by the community and economic development~~planning~~ department.

- (d) *Building plans.* Four (4) sets of the building architectural plans and three (3) sets of approved civil drawings from the department of community planning and economic development for principal multi-family or non-residential buildings prepared in conformance with this Code and the applicable building codes. Plans shall be prepared by or under the supervision of, or reviewed and approved by, an architect registered in the state, who shall sign and seal each sheet in the original set of drawings.
- (e) *Zoning compliance.* Prior to issuing a building permit, the building official shall require that the applicant for a building permit obtain zoning verification from and review for compliance with this Code by the community and economic development, planning department. A copy of conditions of zoning, special use approval, or variance approval, and verification of zoning compliance shall be submitted, if applicable.
- (f) *Address.* A street address number as assigned by the city.
- (g) *Septic tank approval by the Hall County Environmental Health Department.* Evidence of approval by the Hall County Environmental Health Department if an on-site sewage disposal system has been allowed.
- (h) *Water meter receipt.* Water meter receipt issued by the public utilities department of water resources, if connection to city water is involved.

(Ord. No. 2006-34, § VI, 8-1-06)

Sec. 9-20-14-7. - Review of building permit application for completeness.

The application for building permit shall be checked by the building official for completeness at the time of submission. Incomplete applications will be returned to the applicant.

Sec. 9-20-14-8. - Review of building permit application.

Within two (2) weeks following receipt of a complete application, the building plans review officer shall indicate on one copy of the building plans or in writing all comments related to compliance of the building plans with this applicable building codes, and any conditions of zoning, special use, or variance approval, and any other applicable requirements of this Code. The building plans review officer shall seek the review by and approval of the state fire marshal prior to issuing a building permit. If changes are required to building plans, the owner shall be responsible for compliance with this article and all building code requirements, regulations, and for the satisfaction of all of the comments of the building official and other administrative officers responsible for the review of building permits.

The time frames established by this chapter for the issuance of building permits shall not apply to the extent that compliance with article 9-19 relative to payment of development impact fees has not been accomplished within the time frames established by this chapter.

(Ord. No. 2006-34, § VII, 8-1-06)

Sec. 9-20-14-9. - Building permit approval.

A building permit shall be issued for the building or structure when the owner has addressed the comments to the satisfaction of building official, state fire marshal, and other administrative officers responsible for the review of building permits, and upon demonstrating that the building or structure conforms with the technical codes adopted and amended by the city under chapter 5-2 of the City Code.

Sec. 9-20-14-10. - Related permits.

Plumbing, electrical and mechanical permits shall be issued separately by the building official or separately identified on the building permit. Such permits must be issued prior to commencement of work by each affected trade.

Sec. 9-20-14-11. - Building inspection.

Building inspections shall be conducted in accordance with the requirements and procedures of the city.

Sec. 9-20-14-12. - Certificate of occupancy required.

A certificate of occupancy shall be required and must be issued by the building official prior to the occupancy or use of any new or newly renovated building or structure, in accordance with the procedures established in this chapter. Specifically, a certificate of occupancy shall be required for the following activities (not exhaustive):

- (a) Prior to occupancy and use of a building or structure, whether newly constructed or enlarged.
- (b) Change in use of existing buildings to uses of a different classification.
- (c) Any change in use of a nonconforming use.

Sec. 9-20-14-13. - Occupancy without certificate is unlawful.

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises or parts thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure, until a certificate of occupancy shall have been issued therefore by the building official stating that the proposed use of the building or land conforms to the requirements of this Code and other applicable codes and ordinances adopted by the city.

Sec. 9-20-14-14. - Connection to electric power.

Permanent electric power shall not be supplied to any building or structure until a certificate of occupancy shall have been issued and the power company provided with evidence of approval by the building official.

Sec. 9-20-14-15. - Suspension of permits and certificates.

The building official may withhold, revoke, or suspend a building permit or certificate of occupancy when violations occur.

The term "violations" as used in the preceding sentence shall include violations of local, state, and/or federal law, including but not limited to criminal law.

If the certificate of occupancy is revoked for criminal violations, no new certificate of occupancy shall be issued at that location for the same use for 12 months immediately following revocation. Revocation of a certificate of occupancy shall automatically revoke the business/occupation tax (business license).

CHAPTER 9-20-15. - ADDITIONAL PROPERTY MAINTENANCE REQUIREMENTS

Sec. 9-20-15-1. - Definitions.

Unless otherwise specifically provided, terms not defined in this chapter shall have their meaning as defined in other chapters and articles of this Unified Land Development Code, or in the absence of such definition, words shall have their common dictionary definitions. The following definitions shall apply in the administration, interpretation, and enforcement of this chapter:

Boarding-up: Erecting, installing, placing, or maintaining boards over the doors, windows, or other openings of any building or structure, or otherwise securing such openings by a means other than the conventional method used in the original construction and design of the building or structure.

Code official: The community **and economic** development director of the city of Gainesville, or any other official charged with the administration and enforcement of this chapter, including but not limited to the building official or code enforcement officer, or any duly authorized representative of any such official.



Community donation box: A receptacle for receiving donations such as clothes, shoes, household goods and furniture. Small receptacles specifically designed for the donation of books or food are exempt from the regulations of this chapter.

Let for occupancy or let: To permit, provide, or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premises or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement or contract for the sale of land.

Maintenance: The act of keeping property, premises, buildings, structures, equipment, or vegetation in a proper condition so as to prevent their decline, failure, or uncontrolled growth.

Multi-family: For the purposes of this chapter, multi-family is a building, or collection of buildings on the same property, under single ownership that is designed for or occupied exclusively by six (6) or more families with separate household facilities for each family. This term includes attached residential condominiums, row houses and apartments.

Occupant: Any individual living or sleeping in a building or having possession of a space within a building.

Operator: Any person who has charge, care or control of a structure or premises which is let or offered for occupancy. A real estate broker or salesperson licensed pursuant to Chapter 40 of Title 43 of the O.C.G.A. is not an operator for the purpose of this chapter unless such broker or salesperson is under contract to provide property management services to the owner of such structure or premises.

Owner: Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including but not limited to the guardian, executor, or administrator of the estate of any such person.

Person: An individual, corporation, partnership or any other legally recognized entity.

Premises: A lot, plot or parcel of land, easement or public way, including any structures thereon.

Property: Any unimproved or improved residential or non-residential real property, or portion thereof, situated in the City of Gainesville, including the buildings, structures and improvements located on the real property, regardless of condition.

Registered agent: A person who resides in Hall County, Georgia, or has a brick and mortar business address in Hall County, who is assigned by an owner of a multi-family residential property, as defined in this chapter, to be available seven (7) days a week to accept notices of violation regarding any provision of the Gainesville City Code of Ordinances or Unified Land Development Code, who has the authority and ability to grant access to the building or property by city personnel upon request, and who is registered with the city in accordance with the requirements of this chapter.

Structure: That which is built or constructed, or a portion thereof.

Tenant: A person, corporation, partnership, group, or other legally recognized entity, whether or not the legal owner of record, occupying a building or portion thereof.

(Ord. No. 2018-16, § II, 8-7-18)

Sec. 9-20-15-2. - Responsibility.

- (a) It is the duty of the owner of every dwelling, building, structure, property or premises within the city to construct and maintain such dwelling, building, structure, property or premises in conformance with applicable codes in force within the city, including but not limited to this chapter, the Unified Land Development Code, and the Code of Ordinances of the City of Gainesville.
- (b) Both the occupant and the owner of the premises shall be liable for compliance with the provisions of this chapter, and shall be responsible for violations thereof. Any Let of property of an owner which purports to transfer responsibility for this provision shall be ineffective in shielding the owner for responsibility under this chapter, and such owner shall remain liable, along with the occupant of the premises.
- (c) The owner and occupant of the premises shall maintain structures and property in compliance with the requirements of this chapter.
- (d) A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter.
- (e) Owners and occupants of property are responsible for keeping in a clean, sanitary and safe condition that part of the property which they occupy and control.
- (f) All vacant structures and premises, as well as vacant land, shall be maintained in a clean, safe, secure and sanitary condition as provided in this chapter so as not to cause a blighting problem or adversely affect the public health or safety.
- (g) Any property owners or occupants with properties that are not in compliance at the time of the adoption of this chapter shall have no more than sixty (60) days from the date of the adoption of this chapter to bring properties into compliance with this chapter.

(Ord. No. 2018-16, § II, 8-7-18)

Sec. 9-20-15-3. - Transfer of ownership.

It shall be unlawful for the owner of any building, structure, property, or premises who has received a notice of violation of this chapter, or other provision within the Unified Land Development Code or Code of Ordinances of the City of Gainesville to sell, transfer, mortgage, lease or otherwise dispose of such building, structure, property, or premises until said violation has been remedied, or until such owner shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of the notice of violation and fully accepting the responsibility, without condition, for making the corrections or repairs required by the notice of violation.

(Ord. No. 2018-16, § II, 8-7-18)

Sec. 9-20-15-4. - Registered agents.

- (a) Prior to the issuance of a business occupation tax certificate for any multi-family residential property, or during the first thirty (30) calendar days of each year, whichever occurs earlier, the owner and each occupation tax certificate holder for any multi-family residential property must annually designate the name, Hall County address, and twenty-four (24) hour phone number of a registered agent for the multi-family residential property.
- (b) The registered agent must meet all criteria of a registered agent as established by definition in this chapter.
- (c) The designation required by this section shall be submitted to the city's business tax and licensing division. Such designation shall be confirmed at the time of each annual designation of the registered agent.
- (d) In the event that the holder of an occupational tax certificate or the owner of the property desires to change the name or contact information of the registered agent, the occupational tax certificate holder and/or owner shall supply written notice to the city's business tax and licensing division. No change in registered agent shall be effective until written notice thereof is received by the city's business tax and licensing division.
- (e) The registered agent shall give consent to enter multi-family residential property and buildings thereon to a code official upon request.

(Ord. No. 2018-16, § II, 8-7-18)

Sec. 9-20-15-5. - Defacement of property.

- (a) No person shall willfully or wantonly damage, mutilate or deface any interior or exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.
- (b) It shall be a violation of this chapter for any owner of real property to permit graffiti to remain on a structure located thereon for a continuous period of more than seventy-two (72) hours. For purposes of this section, the term "graffiti" shall have the same meaning as set forth in O.C.G.A. § 17-15A-2.

(Ord. No. 2018-16, § II, 8-7-18)

Sec. 9-20-15-6. - Outdoor furniture.

- (a) Only furniture which is fabricated with materials appropriate to be maintained outside of a dwelling or structure shall be permitted to be placed on a porch of a dwelling, building, or structure, or placed in any other exterior area of a property.
- (b) No furniture (e.g., couches, chairs covered with fabric, recliners, etc.) which is fabricated with materials intended only to be used, kept, or maintained on the interior of a dwelling building, or structure, or which will rot, decompose or degrade in outdoor conditions, shall be kept, stored, or maintained on a porch of a dwelling, building, or structure, or placed in any other exterior area of a property.

(Ord. No. 2018-16, § II, 8-7-18)

Sec. 9-20-15-7. - Plastic or impervious covers.

- (a) Except for those covers specifically designed for the purpose of covering conventional outdoor equipment, such as a gas grill, patio furniture, lawnmower, etc., it shall be unlawful for any person to erect or utilize any plastic or nylon tarp or other impervious covering, on any porch of a dwelling, building, or structure, or in any exterior area of a property.
- (b) The pitching of a camping tent, or a temporary movable structure, shall not violate this section, provided it is erected for no more than seventy-two (72) consecutive hours on the property.

- (c) The covering of firewood with a clear plastic or brown tarp shall not violate this section, provided such firewood is stored in a side or rear yard of the property.

(Ord. No. 2018-16, § II, 8-7-18)

Sec. 9-20-15-8. - Vacant structures.

Vacant structures shall be maintained in good repair and be in compliance with all applicable laws, codes, and ordinances. Any vacant structure shall at a minimum:

- (a) Have all doors, windows, and other openings weather-tight and secured against entry by the general public as well as animals and pests. The vacant structures shall be secured using the conventional methods used in the original construction.
- (b) All roof and roof flashings shall be sound and tight such that no rain will penetrate the structure and must allow for appropriate drainage so as to prevent deterioration of the interior walls or other interior portions of the structure.
- (c) The structure must be maintained in good repair and must be structurally sound and free from rubbish, garbage and other debris.
- (d) Supporting parts of the structure shall be capable of bearing all loads making up the parts of and contents of the structure, and the foundation walls likewise shall be capable of supporting such loads.
- (e) The exterior of the structure shall be free of loose or rotten materials, as well as holes. Any exposed metal, wood or other surface shall be protected from the elements by appropriate weather coating materials such as paint or similar treatment.
- (f) All balconies, canopies, signs, metal awnings, stairways, fire escapes or other overhanging extensions shall be in good repair and appropriately anchored. The exposed metal and wood surface of such overhanging extensions shall also be protected from the elements against rust or decay by appropriate application of paint or similar weather coating.
- (g) Any accessories or appurtenant structures, including but not limited to garages, sheds or other storage facilities shall meet the standards set forth in this section.
- (h) Retaining walls, drainage systems, or other structures must be maintained in good repair and be structurally sound. Any existing fence shall be maintained in good repair and be structurally sound.

(Ord. No. 2018-16, § II, 8-7-18)

Sec. 9-20-15-9. - Boarding-up structures.

- (a) Boarding-up permit. No person shall erect, install, place, or maintain boards over the doors, windows or other opening of any building or structure or otherwise secure such opening by a means other than the conventional method used in the original construction and design of the building or structure without first obtaining a boarding-up permit in accordance with this section. Any properties with such boards existing at the time of the adoption of this section shall have sixty (60) days from the date of adoption of this section to submit an application to the community development department for a permit to continue to board-up the building or structure.
- (b) Permit application requirements. The community development department may issue a boarding-up permit only upon satisfaction of the following conditions:
 - (1) Submission of a written application including such information as specified by the department on a boarding-up permit application made available to the public; and
 - (2) Submission of a written statement specifying the length of time the owner expects the boarding-up to take place or continue, a plan to secure or board up the structure including manner and materials, and a proposed maintenance plan for monitoring and maintenance of the structure and premises in

conformance with this chapter. The community development department may conduct an inspection of the subject property at any time to ensure that the structure is boarded up in accordance with the plan approved by the department.

- (c) Duration of permit and renewal. A boarding-up permit issued pursuant to this section shall authorize the boarding-up or other securing of a building or structure for a period of no longer than six (6) months. An owner of a property desiring to continue to board-up property beyond a six-month term must submit a renewal application to renew the boarding-up permit and continue to meet the requirements for the issuance of a renewal boarding-up permit. Only one (1) six-month renewal boarding-up permit will be issued for each property. Application for a renewal boarding-up permit must be made within thirty (30) days of the expiration of the original boarding-up permit.
- (d) Temporary emergency. No boarding-up permit shall be required to board-up a building for up to thirty (30) days in the event of a temporary emergency situation, including but not limited to damage caused by vandalism, theft, fire, or weather. In the event an emergency situation requires a building or structure to be boarded-up for more than thirty (30) days, the owner of the building or structure or the owner's authorized representative must obtain a valid building permit for repair or a valid boarding-up permit in accordance with this section.
- (e) Boarding specifications. The boarding of doors, windows, or other openings of any building or structure or any means of securing such openings, other than by the conventional method used in the original construction and design of the building or structure, shall be according to the specifications approved under the boarding-up permit. All boarded openings shall be painted with a minimum of two (2) coats of exterior paint, which shall be of a color compatible with the exterior color of the building or structure.
- (f) Any structure which is boarded-up shall be posted with the name, permit information, and twenty-four-hour contact phone number of the owner of the property.

(Ord. No. 2018-16, § II, 8-7-18)

Sec. 9-20-15-10. - Burned structures.

- (a) Whenever any building or structure is partially burned, or burned to such an extent that it is rendered incapable of being repaired, the owner shall, within sixty (60) days after completion of the scene investigation by the fire department and/or insurer of the property, remove from the premises all refuse, debris, and all charred and partially burned lumber and materials.
- (b) If such building or structure is burned to such an extent that it is incapable of being repaired, the remaining portion of the building or structure shall be removed from the property within sixty (60) days after completion of the scene investigation by the fire department and/or insurer of the property.
- (c) If the building or structure is to be repaired, a permit shall be obtained and work shall begin within sixty (60) days after completion of the scene investigation by the fire department and/or insurer of the property and shall be completed within one hundred eighty (180) days from the date a permit is obtained.

(Ord. No. 2018-16, § II, 8-7-18)

Sec. 9-20-15-11. - Community donation boxes.

It shall be unlawful to erect or maintain community donation boxes in an exterior property area, unless approved by the community and economic development director in compliance with one (1) of the following criteria:

- (a) It is located in a Light Industrial (L-I) or Heavy Industrial (H-I) zoning district; or
- (b) It is located on the same property as a business or organization with a 501(c)(3) designation.

Where approved, community donation boxes shall be located flush against a building wall and shall be maintained on a regular basis in compliance with the Unified Land Development Code and Code of Ordinances of the City of Gainesville.

(Ord. No. 2018-16, § II, 8-7-18)

Sec. 9-20-15-12. - Inoperable accessory items.

Inoperable accessory items such as telephone booths, satellite dishes, electrical wires, lighting, poles, magazine stands, coolers, heating/cooling equipment or other similar items are not permitted and shall be removed and appropriately stored so as not to be visible from the right-of-way or adjacent property.

(Ord. No. 2018-16, § II, 8-7-18)

UNIFIED LAND DEVELOPMENT CODE

CITY OF GAINESVILLE, GEORGIA

Article 9-22 - APPLICATIONS AND PROCEDURES

Chapter 9-22-1	Definitions
Chapter 9-22-2	Zoning Changes and Special Uses
Chapter 9-22-3	Annexations
Chapter 9-22-4	Traffic Impact Analysis
Chapter 9-22-5	Development of Regional Impact
Chapter 9-22-6	Zoning Variances
Chapter 9-22-7	Appeal of Administrative Decision
Chapter 9-22-8	Text Amendments
Chapter 9-22-9	Procedures for Calling and Conducting Public Hearings

CHAPTER 9-22-1. - DEFINITIONS

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

Applicant: A property owner or their authorized representative who has petitioned the city for approval of an application under the terms of this article.

Application: A petition for approval of an application under the terms of this article.

Best Management Practices or BMP: Both structural devices to store or treat stormwater runoff and non-structural programs or practices which are designed to prevent or reduce the pollution of the waters of the State of Georgia.

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

Condition of zoning approval: A requirement adopted by the governing body at the time of approval of a rezoning, special use or zoning of annexed lands; placing greater or additional requirements or restrictions on the property than provided in this Code in order to reduce an adverse impact of the request and to protect the public health, safety, or general welfare.

Director: The director of the city community and economic development department. ~~of planning and development.~~

Presiding official: The person chairing a meeting of the planning and appeals board or the governing body in their official capacity.

Rezoning: An amendment to the official zoning map, or an amendment to an overlay zone boundary, that changes the zoning district or overlay zone of one or more properties specified in an application. Rezoning also includes applications to change conditions of zoning approval.

Special use: A use which is not automatically permitted by right, but which may be permitted within a zoning district subject to meeting specific requirements of this Code.

Text amendment: An amendment to the following articles of this Code: Articles 9-1 through 9-24.

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

Variance: A relaxation of the terms of this title where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Code would result in unnecessary and undue hardship, or practical difficulty.

Zoning change: See definition for "Rezoning."

(Ord. No. 2009-47, § XXXIX, 12-15-09)

CHAPTER 9-22-2. - ZONING CHANGES AND SPECIAL USES

Sec. 9-22-2-1. - Generally.

The official zoning map, and overlay zone maps, may be amended from time to time and zoning amendments may be approved for specific properties by the governing body under the procedures in this chapter. In addition, changes in the conditions of approval pertaining to a specific rezoning or special use approval may also be approved by the governing body following the procedures in this chapter. The procedures for special uses, which may be approved for specific properties, shall also be as provided in this chapter.

Sec. 9-22-2-2. - Initiation.

An application for a rezoning or special use for any property or properties in the city may be initiated by the governing body, planning and appeals board, owner of the property, or some other person(s) given authorization by property owner to file said application.

Any applicant wishing to submit an application for rezoning or special use must schedule an appointment with the ~~planning department~~community and economic development department staff in order to review the application for completeness. No such application shall be accepted for processing by the director unless it meets the requirements of this section. Incomplete or improper applications will be returned to the applicant. The director is hereby authorized to establish administrative deadlines for the receipt of applications.

Any applicant wishing to file an application for a zoning change related to a planned unit development zoning district must schedule a conference with the ~~community and economic development department~~planning department staff at least fifteen (15) days prior to filing an application and shall also submit the additional application materials specified in section 9-22-2-5.

Sec. 9-22-2-3. - Requirements for submittal.

All applications for a rezoning or special use shall at a minimum consist of the following:

- (a) *Application form.* A completed application. All applications shall be submitted to the ~~department of planning and development~~community and economic development department on the department's application forms.
- (b) *Fee.* All applications shall be accompanied by a non-refundable fee as fixed from time to time by the governing body. A fee shall not be charged if the governing body or the planning and appeals board initiate the application.
- (c) *Plat or boundary survey.* A plat or boundary survey of the property or properties involved in the application. Provide one scaled and folded copy, and one 8.5" × 11" or 11" × 17" reproducible size copy.
- (d) *Legal description.* A paper copy and an electronic copy in Microsoft Word format of the legal description of the property that corresponds with the property or properties shown on the submitted boundary survey/plat.
- (e) *Written narrative.* A written narrative should indicate at a minimum:
 - (1) The purpose of the request, proposed use, economic and environmental impacts as well as overlay zones or protection areas in which the property is located, such as the North Oconee Water Supply Watershed Protection Overlay Zone.
 - (2) Any planned developments shall include a narrative which fully describes the concept plan and must include at a minimum the proposed use, setbacks, right-of-way widths, building heights, signage, whether the applicant wishes the city to maintain the road(s) as well as identify any overlay zones or protection areas such as the North Oconee Water Supply Watershed Protection Overlay Zone that may affect the use.
- (f) *Architectural renderings.* Architectural renderings for any proposed new construction or exterior alterations of the existing structure(s), including at a minimum:
 - (1) Roof pitch;

- (2) Materials to be used on exterior;
- (3) Basic landscaping proposed; and
- (4) Building elevations.

If the architectural rendering is in a color format or is larger than an 11" × 17" size copy, twenty (20) copies of the colored or large-scale rendering must be submitted with the completed application.

- (g) *Concept plan.* An application for a rezoning or special use approval related to a residential subdivision, multi-family, or nonresidential use or zoning district shall be accompanied by a concept plan if any new construction is proposed or alteration of the site is required under the site or development design standards of this Code. An as-built survey (rather than a concept plan) indicating the most current development conditions must be submitted with those applications regarding existing developments that are not to be altered. The concept plan must be prepared by a professional engineer, or a registered land surveyor; landscape architect; or architect. The concept plan shall meet the requirements of section 9-22-2-4. The applicant shall submit twenty (20) scaled and folded copies, folded to fit into an 8" × 10" size ~~envelope~~~~envelop~~, and one 11" × 17" reproducible copy.
- (h) *Traffic impact analysis.* Any application for a rezoning or special use which can be reasonably expected to generate one thousand (1,000) vehicle trip ends during a single day and/or more than one hundred (100) vehicle trips during the morning or afternoon peak hours shall submit a traffic impact analysis as specified in chapter 9-22-4.
- (i) *Development of regional impact.* Any application for a rezoning or special use and development approval that meets or exceeds the thresholds established by the state department of community affairs shall be considered a development of regional impact (DRI), and as such, shall comply with the procedures set forth in chapter 9-22-5.

The director may request information in addition to that specified in this section when considered necessary for review of the application by the governing body or planning and appeals board.

Anyone filing an application may be exempt from the above submittal requirements of this section, provided the application is for rezoning to an R-I-A or R-I zoning district, does not involve a subdivision development, and includes the fee, plat or boundary survey, legal description and written narrative.

Sec. 9-22-2-4. - Concept plan requirements.

Applications for a rezoning or special use shall include a concept plan drawn to scale on a boundary survey of the tract by a professional architect, a professional engineer, or a registered land surveyor; landscape architect; or architect. The concept plan shall at minimum include thereon the information specified in this section.

- (a) Name, address, and telephone number of the property owner.
- (b) Name, address, and telephone number of the applicant.
- (c) Date of survey, north point and graphic scale, source of datum, date of plan drawing, and revision dates, as appropriate.
- (d) Proposed use of the property.
- (e) Location (land district and land lot) and size of the property in acres (or in square feet if less than an acre).
- (f) Location map of the property in relation to the surrounding area with regard to well-known landmarks such as arterial streets or railroads. Location maps must be drawn at a scale sufficient to show clearly the information required, but not less than one inch equal to two thousand (2,000) feet. U.S. Geological Survey maps may be used as a reference guide.
- (g) Zoning district classification of the subject property and all adjacent properties, and zoning district boundaries as appropriate.

- (h) Natural features within the property, including drainage channels, bodies of water, wooded areas and other significant natural features such as rock outcroppings. On all water courses entering or leaving the property, the direction of flow shall be indicated. The 100-year flood plain, if any, shall be outlined.
- (i) Man-made features within and adjacent to the property, including existing streets and names, city and county political boundary lines, and other significant information such as location of bridges, ~~utility lines~~utilities, existing buildings to remain, and other features as appropriate to the nature of the request.
- (j) The proposed project layout including:
 - (1) For subdivisions, approximate lot lines and street right-of-way lines, along with the front building setback line on each lot.
 - (2) For multi-family and nonresidential development projects, the approximate outline and location of all buildings, and the location of all minimum building setback lines, outdoor storage areas, buffers, parking areas and driveways.
- (k) The proposed phasing of the development if it is proposed to be built in sections.
- (l) A statement as to the source of domestic water supply.
- (m) A statement as to the provision for sanitary sewage disposal.
- (n) A statement as to the practicability of runoff reduction and feasibility of site and size of aboveground and/or belowground stormwater BMPs with respect to desired zoning density.
- ~~(o)~~ The approximate location and surface area of proposed stormwater ~~detention~~-facilities.
- ~~(p)~~ Such additional information as may be useful to permit an understanding of the proposed use and development of the property.

Sec. 9-22-2-5. - Special application requirements for planned unit developments.

Applications for rezoning to the PUD, planned unit development district, or applications for a zoning amendment of an existing PUD; shall in addition to the other requirements specified in this chapter, include the following:

- (a) *Binding concept plan.* Unless specifically approved otherwise, the concept plan shall become a condition of zoning approval and must be followed.
- (b) *Architectural elevations.* Applications shall include perspective front, side, and rear elevation drawings of representative building types. These drawings shall indicate general architectural characteristics. If the PUD is approved, architectural elevations submitted as part of the application shall be considered binding unless specifically noted otherwise in the approval.
- (c) *Land uses and development summary.* The application shall include a list of all land uses proposed to be included in the PUD, the total land area devoted to each of the land uses proposed, the percentage of the total land area within the PUD devoted to each proposed land use, the number of residential units by type, floor area for each type of dwelling unit (typical, or a range as appropriate), density, and the total square footage of buildings devoted to non-residential uses. In addition, the application shall contain a development schedule indicating the approximate dates for beginning and completing the project, or each phase if the development is to be phased, and the extent of development and types of land uses in each phase.
- (d) *Dimensional requirements.* The application shall contain all dimensional requirements that are proposed to apply within the PUD, including minimum lot sizes, minimum lot widths, maximum building coverage, stormwater structural best management practices coverage, maximum impervious area, front, side and rear building setbacks, and maximum heights. Such proposed dimensional requirements shall be presented in a table on the development plan or in the written text accompanying the application. The application should indicate dimensional provisions for those items specified in tables 9-5-2 and 9-6-2, to the extent they apply to the uses proposed.

- (e) *Improvement requirements comparison.* The application shall contain descriptions of improvements to be constructed within the PUD, such as but not limited to street types, right-of-way widths, pavement widths, pavement materials, sidewalk locations and dimensions, and other improvements. Such proposed improvements shall be presented in a table on the development plan or in the written text accompanying the application that shows the proposed improvements in comparison with improvements that would be required otherwise without approval of a PUD. To the extent they can be shown at the time of development plan approval, environmental quality standards should be incorporated in the development application, particularly as they relate to storm water runoff, stream protection, and tree protection.
- (f) *Private restrictions.* PUDs that have commonly owned facilities and space shall have private restrictions and covenants established which shall be subject to the approval of the city attorney and the director. The developer of a PUD involving commonly owned facilities and space shall submit, along with the development plan application, a declaration of covenants, conditions, and restrictions and articles of incorporation and by-laws for the property owners or home owners association. The declaration shall confer membership to the owner of property subject to assessment by the association, provide for voting rights in the association with suggestions for the division of power between the developer and the property owners, and provide for maintenance assessments, among other things. The director may waive the requirements of this paragraph when, in his or her opinion, an applicant submits a letter that demonstrates his or her intent to comply with these requirements and addresses any particular issues associated with maintenance of common grounds.
- (g) *Community benefit statement.* The applicant shall submit a written statement identifying the relative benefits that will accrue to the community as a result of the property being developed under PUD provisions. Benefits to the community include mixed land uses that reduce vehicle trips, open spaces provided and linked to larger open space networks, natural features retained, and quality architectural designs provided. This statement is a developer's opportunity to define why the PUD proposal merits approval and how it will serve the community better than a conventional development.

Sec. 9-22-2-6. - Notice of public hearing in newspaper.

Before the governing body may take final action on a proposed rezoning or special use application, the planning and appeals board shall hold a public hearing on the proposal. At least fifteen (15) days but not more than forty-five (45) days prior to the public hearing before the planning and appeals board, notice shall be published in a newspaper of general circulation within the city. The published notice shall be prepared by the community and economic development department ~~planning department~~ and shall include the location of the property, the present zoning classification of the property, the proposed rezoning or special use requested, and the date, time, and place of the public hearing before the planning and appeals board. Notice of the date, time, and place of the public hearing before the governing body shall also be provided.

Sec. 9-22-2-7. - Notice of public hearing by sign on property.

At least fifteen (15) days but not more than forty-five (45) days prior to the public hearing, the city shall post a sign or signs stating the date, time and place of the public hearing before the planning and appeals board, the present zoning classification and the proposed zoning change or the proposed special use. One such sign shall be placed in a conspicuous location along each street frontage of the property for which the rezoning or special use has been requested. If the property has no street frontage, the sign shall be placed on each street from which access will be gained to the property. Notice of the date, time, and place of the public hearing before the governing body shall also be provided.

Sec. 9-22-2-8. - Notice to adjacent property owners.

At least ten (10) days prior to the planning and appeals board public hearing, the applicant shall cause a notice to be mailed to all persons owning property located abutting or across any street from the property that is the subject matter of the rezoning or special use application. The written notice shall be mailed to the property owners as such names and addresses appear on the county's ad valorem tax records. The notice shall state the date, time, place and purpose of the hearing by the planning and appeals board. Notice of the date, time, and place of the public hearing before the governing body shall also be provided.

Sec. 9-22-2-9. - Special notice requirements.

Pursuant to the specific requirements of the Zoning Procedures Law (O.C.G.A. 36-66-6), when a proposed rezoning or special use application relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency, the director shall ensure that the additional public notice requirements of O.C.G.A. 36-66-6 are met.

Sec. 9-22-2-10. - Investigations and staff recommendation.

Within a reasonable period of time after acceptance of a complete application, the director may but shall not be required to send the application or notice thereof out for review by internal municipal departments and external agencies as may be appropriate. Any written comments received in a timely manner as a result of such review shall be submitted for consideration to the planning and appeals board and governing body, or summarized in a memorandum. Any such comments shall become public records.

The director may but shall not be required to investigate and make a recommendation regarding a rezoning or special use application. Any such investigation and recommendation shall if in writing be made available to the applicant and planning and appeals board prior to its public hearing and shall become public records. Copies of the director's findings and recommendations, if provided, shall be available no later than the time of the planning and appeals board's public hearing on the matter.

Sec. 9-22-2-11. - Planning and appeals board hearing and recommendation.

The planning and appeals board shall convene a public hearing on the rezoning or special use application as provided in the public notice. The public hearing shall follow policies and procedures which govern calling and conducting public hearings established in chapter 9-22-9. The planning and appeals board shall have sixty-five (65) calendar days from the date of its public hearing within which to submit its recommendation on the rezoning or special use application. The planning and appeals board may submit any additional report it deems appropriate. The recommendations of the planning and appeals board shall have an advisory effect only and shall not be binding on the governing body.

Sec. 9-22-2-12. - Criteria to consider for applications.

The planning and appeals board and the governing body shall consider the following standards in considering any rezoning, zoning amendment, or special Use application, giving due weight or priority to those factors that are appropriate to the circumstances of each proposal:

- (a) Is the proposed use suitable in view of the zoning and development of adjacent and nearby property?
- (b) Will the proposed use adversely affect the existing use or usability of adjacent or nearby property?
- (c) Is the proposed use compatible with the purpose and intent of the comprehensive plan?
- (d) Are there substantial reasons why the property cannot or should not be used as currently zoned?
- (e) Will the proposed use cause an excessive or burdensome use of public facilities or services, including but not limited to streets, schools, water or sanitary sewer utilities, drainage or stormwater management, and police or fire protection?
- (f) Is the proposed use supported by new or changing conditions not anticipated by the comprehensive plan or reflected in the existing zoning on the property or surrounding properties?
- (g) Does the proposed use reflect a reasonable balance between the promotion of the public health, safety, morality, or general welfare and the right to unrestricted use of property?

Sec. 9-22-2-13. - Additional procedures and criteria for planned unit developments.

In addition to the requirements for a rezoning or special use specified in section 9-22-2-3, approval proceedings for PUD rezoning/zoning amendment and development approval shall include the following:

- (a) *Preapplication conference.* At least fifteen (15) calendar days prior to filing a formal application for a PUD, the applicant is required to confer with the director or representative of the planning and development community and economic development department in order to review the general character of the plan and to obtain information on the nature and extent of the proposed development.

- (b) *Criteria for approval.* In considering and acting upon applications for PUDs, the planning and appeals board and the governing body shall consider and base their recommendation and decision, respectively, on the following criteria (not all inclusive), and any other factors it may consider appropriate in reaching such a decision:
 - (1) Consistency with the comprehensive plan of the city.
 - (2) The extent to which the proposed mix of land uses is appropriate in terms of location and character.
 - (3) The extent to which the development is compatible with surrounding properties. Compatibility can be achieved by ensuring that the overall scale and design of development does not overwhelm or otherwise detract from the established character of the neighborhood or surroundings. The PUD zoning district is not intended to allow for the intrusion of incompatible land uses into single-family neighborhoods that create negative land use impacts.
 - (4) The extent to which the proposed architectural features of buildings within the development are harmonious.
 - (5) The adequacy of open spaces, play areas and recreation facilities that are provided for the needs of the development occupants.
- (c) *Revisions.* Amendments to approved planned unit development rezoning and development applications, including those approved prior to the adoption of this chapter, shall be permitted but governed by this chapter.
- (d) *Land development plans.* Upon approval of a PUD rezoning and development application by the governing body, the developer may apply for land development permit approval.
- (e) *Permits and certificates.* No building permit or certificate of occupancy shall be issued for a building, structure, or use, nor shall any excavation, grading, or land disturbance applications be approved, for any planned unit development that has not been approved in accordance with the provisions of this chapter. The director shall authorize the issuance of building permits for buildings and structures in the area covered by the approved development if they are in substantial conformity with the approved development, after improvements are installed in accordance with applicable improvement requirements, and if found to be in conformance with all other applicable regulations. The director shall authorize the issuance of a certificate of occupancy for any completed building, structure, or use located in the area covered by the planned unit development approval if it conforms to the requirements of the approved development and all other applicable regulations. After completion of a planned unit development, the use of land and construction, modification, or alteration of any buildings, structures, or uses within the area covered by the planned unit development shall continue to be regulated by the approved development plan.

Sec. 9-22-2-14. - Additional criteria to consider for special use applications.

The planning and appeals board and the governing body shall consider the following standards in considering any special use application, giving due weight or priority to those factors that are appropriate to the circumstances of each proposal:

- (a) The type of street providing access to the subject property is adequate to serve the proposed special use.
- (b) Access into and out of the property adequately provides for traffic and pedestrian safety, the anticipated volume of traffic flow, and access by emergency vehicles.
- (c) Public facilities such as schools, water or sanitary sewer utilities, drainage and stormwater management facilities, and police or fire protection are adequate to serve the special use.
- (d) Refuse, service, parking and loading areas on the property are located and screened to protect other properties in the area from such adverse effects as noise, light, glare or odor.
- (e) The hours and manner of operation of the special use have no adverse effects on other properties in the area.

- (f) The height, size and location of the buildings or other structures proposed on the property are compatible with the height, size or location of buildings or other structures on neighboring properties.

Sec. 9-22-2-15. - Withdrawal and waiting period for reapplication.

A rezoning or special use application may be withdrawn at any time at the discretion of the person or entity initiating such a request upon notice to the director, up until the public hearing by the planning and appeals board is closed.

If the applicant withdraws the application prior to the publication of notice for public hearing before the planning and appeals board, the application shall be withdrawn administratively by the director without restriction on the refiling of a proposed zoning change or special use on the property in the future.

If the applicant withdraws the application after notice has been published or is irretrievably set for publication but the application has not been heard by the planning and appeals board, the application shall be withdrawn administratively by the director and an application for rezoning or special use on the property may not be resubmitted for six (6) months from the date of withdrawal.

If the request for withdrawal is made at the planning and appeals board public hearing on the case, the request may be approved by a majority vote of the board, but an application for a rezoning or special use on the property may not be resubmitted for six (6) months from the date of withdrawal.

If the request for withdrawal is made by the applicant following the planning and appeals board hearing, the application shall remain on the governing body public hearing agenda and the withdrawal request shall be considered for approval or denial, with or without prejudice, by the governing body.

If denied, a rezoning or special use request affecting the same property shall not be reconsidered for a period of six (6) months from the date of denial.

(Ord. No. 2009-47, § XLI, 12-15-09)

Editor's note— Ord. No. 2009-47, § XLI, adopted December 15, 2009, changed the title of section 9-22-2-15 from "Withdrawal of application" to "Withdrawal and waiting period for reapplication."

Sec. 9-22-2-16. - Notice of public hearing by the governing body.

The governing body shall hold a public hearing on the rezoning or special use application. If the planning and appeals board makes a recommendation on the rezoning or special use application at the date of its public hearing or within a time frame sufficient for the public hearing by the governing body to be held as scheduled, the governing body shall proceed with the advertised public hearing.

If the planning and appeals board does not make a recommendation on the rezoning or special use application before the scheduled and advertised public hearing to be held by the governing body, the director shall schedule a new date for the public hearing by the governing body and will provide notice of said rescheduled public hearing at least fifteen (15) days but not more than forty-five (45) days prior to the public hearing. Said notice shall be accomplished by notice in a newspaper of general circulation in the city, posting of a sign on the property, and notice to adjacent property owners just the same as required by this chapter for the initial application.

Sec. 9-22-2-17. - Revision of concept plan.

A concept plan that is part of a rezoning or special use application may be revised and resubmitted by the applicant during the process, but in no event shall a revised concept plan resubmitted by an applicant be accepted or considered less than ten (10) calendar days prior to the public hearing by the governing body. At its discretion, the governing body may refer an application involving a concept plan revised after its consideration by the planning and appeals board back to the planning and appeals board for additional study and recommendation.

Sec. 9-22-2-18. - Action by governing body.

No action shall be taken on a rezoning or special use application by the governing body until it has received a recommendation by the planning and appeals board, or upon the expiration of the 65-day review period of the planning and appeals board. In rendering a decision on a rezoning or special use application, the governing body

shall consider all information supplied by the applicant, the director, and the planning and appeals board, any information presented at the public hearing of the planning and appeals board, and information gained at its own public hearing.

After conducting a public hearing, in taking action on an application, the governing body may:

- (a) Approve the application as submitted by ordinance.
- (b) Approve the application with conditions.
- (c) Deny the proposal.
- (d) Table the proposal for consideration at its next scheduled meeting.
- (e) Refer the application back to the planning and appeals board for further consideration, with notice of public hearings before the planning and appeals board and governing body, the same as required for the initial application.
- (f) Refer the application back to the planning and appeals board for further consideration, without the requirement to hold a public hearing and provide notice thereof.

(Ord. No. 2018-06, § II, 2-20-18)

Sec. 9-22-2-19. - Insufficient basis for denial.

Applications for a rezoning and special use shall not be required to demonstrate compliance with all applicable regulations of this Code for land development permits or building permits. The planning and appeals board shall not base its recommendation to deny a rezoning or special use application, and the governing body shall not base its denial of a rezoning or special use application, on the failure of a rezoning or special use application to demonstrate compliance with land development permitting requirements including but not limited to tree protection, stormwater management, and flood plain regulations.

Sec. 9-22-2-20. - Decisions involving constitutional challenges.

In ruling on any rezoning in which the applicant has brought a constitutional challenge to the existing zoning classification, the governing body shall pay particular attention to the following criteria which have been applied by state courts in zoning matters:

- (1) Existing uses and zoning of the subject and nearby property;
- (2) The extent to which property values are diminished by the particular zoning restrictions;
- (3) The extent to which the destruction of property values, if any, promotes the healthy, safety, morals or general welfare of the public;
- (4) The relative gain to the public, as compared to the hardship, if any, imposed upon the individual property owner;
- (5) The suitability of subject property for zoned purposes;
- (6) The length of time the property, if vacant, has been vacant as zoned considered in the context of land development in the areas and the vicinity of the property.

The existing zoning classification shall be considered presumptively valid and it shall be the responsibility of the applicant to present evidence that rebuts this presumption. If the governing body determines, from the evidence presented, that the existing zoning classification is unduly burdensome to the applicant and is not offset by the considerations of the public's health, safety, morals and general welfare, and considerations of the integrity of this Code and of the official zoning map, the governing body may impose upon said property any appropriate zoning classification, including conditions, which might be consistent with these considerations and the criteria described in this chapter.

Sec. 9-22-2-21. - Fast track process.

The governing body may, in its judgment in cases involving redevelopment or extraordinary economic development, pass a motion in a regular meeting, which provides for an expediting of the procedures for rezoning applications and special uses established in this chapter, including the following:

- (a) The separate public hearing required by the planning and appeals board may be combined with the public hearing before governing body.
- (b) Application requirements specified in this chapter may be waived, in order to expedite the review and public hearing process.

Such a fast track process, if exercised, shall not be inconsistent with the Zoning Procedures Act, O.C.G.A. § 36-66. seq. In opting to use this fast track approval process, the governing body may instruct the director to notify the public and seek input on the matter by other means.

Sec. 9-22-2-22. - Incorporation clause.

This chapter is intended to comply with the provisions of the Georgia Zoning Procedures Law, O.C.G.A. § 36-66 et seq., which Act is incorporated by reference in its entirety into this Code. Where any provision of this chapter is in conflict with any provision of the law, the law shall control. Or where this chapter is incomplete in having failed to incorporate a provision necessarily required for the implementation of the law, such provision of the law, so as to meet the mandate of the law, shall be fully complied with, except that where an application to annex property into the city is initiated by the governing body, only those notice requirements and public hearing procedures set forth in O.C.G.A. § 36-66-4(d) shall be required for zoning of property to be annexed into the city, notwithstanding any other procedures or requirements set forth in this Code.

(Ord. No. 2013-10, § IV, 6-13-13)

CHAPTER 9-22-3. - ANNEXATIONS

Sec. 9-22-3-1. - Generally.

An area proposed for annexation into the city shall first be considered for zoning prior to its annexation. Consideration of the zoning shall be subject to the same procedures, standards, and requirements for any rezoning or special use as contained in chapter 9-22-2, except as specifically modified by this chapter.

Sec. 9-22-3-2. - Initiation.

An application for annexation for any property or properties contiguous to the city may be initiated by the governing body, planning and appeals board, owner of the property, or some other person(s) given authorization by property owner to file said application. Unless initiated by the governing body or the planning and appeals board, all such applications shall be initiated by the owner of a majority interest in the property affected.

Any applicant wishing to submit an application for annexation must schedule an appointment with the ~~planning~~ community and economic development department staff in order to review the application for completeness. No such application shall be accepted for processing by the director unless it meets the requirements of this section. Incomplete or improper applications will be returned to the applicant. The director is hereby authorized to establish administrative deadlines for the receipt of applications.

Any applicant wishing to file an application for a planned unit development zoning district must schedule a conference with the community and economic development ~~planning~~ department staff at least fifteen (15) days prior to filing an application and shall submit the additional application materials required for a PUD district as outlined in chapter 9-22-2 for a zoning change application.

Sec. 9-22-3-3. - Withdrawal and waiting period for reapplication.

Any applicant wishing to withdraw a proposed annexation request shall comply with the withdrawal procedures as outlined in chapter 9-22-2 for rezoning applications and special use with the exception that there shall be no waiting period for reapplication upon withdrawal or denial of an annexation request.

(Ord. No. 2009-47, § XLII, 12-15-09)

Sec. 9-22-3-4. - Requirements for submittal.

Applications for annexation shall include the following requirements:

- (a) *Application form.* A completed application. All applications shall be submitted to the ~~department of planning and development~~ community and economic development department on the department's application forms.
- (b) *Fee.* All applications shall be accompanied by a non-refundable fee as fixed from time to time by the governing body. A fee shall not be charged if the governing body or the planning and appeals board initiate the application.
- (c) *U.S. Department of Justice data.* Data as required on a form that is part of the application form provided by the community and economic development ~~planning~~ department.
- (d) *Letter of cost estimate.* A letter of cost estimate must be obtained from the city ~~public utilities~~ department of water resources if an applicant wishes to have the city share in the cost of sanitary sewer line extension.
- (e) *Plat or boundary survey.* A plat or boundary survey of the property or properties involved in the application. Provide one scaled and folded copy, and one 8.5" × 11" or 11" × 17" reproducible size copy.
- (f) *Legal description.* A paper copy and an electronic copy in Microsoft Word format of the legal description of the property that corresponds with the property or properties shown on the submitted boundary survey/plat.
- (g) *Written narrative.* A written narrative should indicate at a minimum:

- (1) The purpose of the request, proposed use, economic and environmental impacts as well as overlay zones or protection areas in which the property is located, such as the North Oconee Water Supply Watershed Protection Overlay Zone.
 - (2) Any planned developments shall include a narrative which fully describes the concept plan and must include at a minimum the proposed use, setbacks, right-of-way widths, building heights, signage, whether the applicant wishes the city to maintain the road(s) as well as identify any overlay zones or protection areas such as the North Oconee Water Supply Watershed Protection Overlay Zone that may affect the use.
- (h) *Architectural renderings.* Architectural renderings for any proposed new construction or exterior alterations of the existing structure(s), including at a minimum:
- (1) Roof pitch;
 - (2) Materials to be used on exterior;
 - (3) Basic landscaping proposed; and
 - (4) Building elevations.

If the architectural rendering is in a color format or is larger than an 11" × 17" size copy, twenty (20) copies of the colored or large-scale rendering must be submitted with the completed application.

- (i) *Concept plan.* An application for annexation approval related to a residential subdivision, multi-family, or nonresidential use or zoning district shall be accompanied by a concept plan if any new construction is proposed or alteration of the site is required under the site or development design standards of this Code. An as-built survey (rather than a concept plan) indicating the most current development conditions must be submitted with those applications regarding existing developments that are not to be altered. The concept plan must be prepared by a professional engineer, or a registered land surveyor; landscape architect; or architect. The concept plan shall meet the requirements of section 9-22-3-5. The applicant shall submit twenty (20) scaled and folded copies, folded to fit into an 8" × 10" size ~~envelope~~~~envelop~~, and one 11" × 17" reproducible copy.
- (j) *Traffic impact analysis.* Any annexation application which can be reasonably expected to generate one thousand (1,000) vehicle trip ends during a single day and/or more than one hundred (100) vehicle trips during the morning or afternoon peak hours shall submit a traffic impact analysis as specified in chapter 9-22-4. The cost of conducting the traffic impact analysis as well as any improvements put forth in the recommendations shall be the financial responsibility of the applicant. No application shall be accepted nor advertised for a public hearing by the ~~community and economic development~~~~planning~~ department until such time as the transportation impact study, if required, has been completed and submitted to the ~~community and economic development~~~~planning~~ department.
- (k) *Development of regional impact.* Any annexation application that would result in a zoning or development approval that meets or exceeds the thresholds established by the state department of community affairs shall be considered a development of regional impact (DRI), and as such, shall comply with the procedures set forth in chapter 9-22-5.

The director may request information in addition to that specified in this section when considered necessary for review of the application by the governing body or planning and appeals board.

Anyone filing an application may be exempt from the above submittal requirements of this section, provided the application is for annexation with a zoning classification of R-I-A or R-I, does not involve a subdivision development, and includes the fee, plat or boundary survey, legal description and written narrative.

Sec. 9-22-3-5. - Specifications for concept plans.

The concept plan shall show the following, as appropriate to the annexation requested:

- (a) Name, address and telephone number of the property owner.

- (b) Name, address and telephone number of the applicant.
- (c) Date of survey, north point and graphic scale, source of datum, date of plan drawing, and revision dates, as appropriate.
- (d) Proposed use of the property.
- (e) Location (land district and land lot) and size of the property in acres (or in square feet if less than an acre).
- (f) Location map of the property in relation to the surrounding area with regard to well-known landmarks such as arterial streets or railroads. Location maps must be drawn at a scale sufficient to show clearly the information required, but not less than one inch equal to two thousand (2,000) feet. U.S. Geological Survey maps may be used as a reference guide.
- (g) Zoning district classification of the subject property and all adjacent properties, and zoning district boundaries as appropriate.
- (h) Natural features within the property, including drainage channels, bodies of water, wooded areas and other significant natural features such as rock outcroppings. On all water courses entering or leaving the property, the direction of flow shall be indicated. The 100-year flood plain, if any, shall be outlined.
- (i) Man-made features within and adjacent to the property, including existing streets and names, city and county political boundary lines, and other significant information such as location of bridges, ~~utility lines~~ utilities, existing buildings to remain, and other features as appropriate to the nature of the request.
- (j) The proposed project layout including the following:
 - (1) For subdivisions, approximate lot lines and street right-of-way lines, along with the front building setback line on each lot;
 - (2) For multi-family and non-residential development projects, the approximate outline and location of all buildings, and the location of all minimum building setback lines, outdoor storage areas, buffers, parking areas, and driveways.
- (k) The proposed phasing of the development if it is proposed to be built in sections.
- (l) A statement as to the source of domestic water supply.
- (m) A statement as to the provision for sanitary sewage disposal.
- (n) A statement as to the practicability of runoff reduction and feasibility of site and size of aboveground and/or belowground stormwater BMPs with respect to desired zoning density.
- (o) The approximate location and surface area of proposed stormwater ~~detention~~ facilities.
- (p) Such additional information as may be useful to permit an understanding of the proposed use and development of the property.

Sec. 9-22-3-6. - Special application requirements for planned unit developments.

Applications for annexation with a zoning classification of PUD, planned unit development district shall in addition to the other requirements specified in this chapter include those additional application materials required for a PUD district as outlined in chapter 9-22-2.

Sec. 9-22-3-7. - Process for annexation.

In addition to the process and procedures for a rezoning or special use request as outlined in chapter 9-22-2, there are additional steps to be taken when processing applications for annexation.

- (a) Upon or following the date of notice to the county of the proposed annexation as required under O.C.G.A. 36-36-6, the governing body shall initiate the zoning of the property to be annexed or consider an application for a zoning submitted by or on behalf of the owner of such property under the provisions of this chapter.

- (b) The planning and appeals board and the governing body shall conduct their public hearings on the zoning prior to the annexation of the land into the city. Notice of such hearing shall be provided under the provisions of chapter 9-22-2 for a rezoning or special use; provided further that the notice shall be published in a newspaper of general circulation in the county.
- (c) If the annexation request is denied, any action by the governing body on the zoning shall be null and void.
- (d) Furthermore, there are mandatory reports required that must be submitted to local, state and federal agencies. Such reports and documents shall be prepared by and submitted by the community and economic development department on behalf of the applicant.

Sec. 9-22-3-8. - Criteria to consider for annexation.

The planning and appeals board and the governing body shall consider the following standards in considering any annexation proposal, giving due weight or priority to those factors that are appropriate to the circumstances of each proposal. In addition, any application that proposes a change in the conditions of approval previously established by the governing body through action on an annexation shall be reviewed in light of the standards set forth in this section, as appropriate.

- (a) Is the proposed use suitable in view of the zoning and development of adjacent and nearby property?
- (b) Will the proposed use adversely affect the existing use or usability of adjacent or nearby property?
- (c) Is the proposed use compatible with the purpose and intent of the comprehensive plan?
- (d) Are there substantial reasons why the property cannot or should not be used as currently zoned?
- (e) Will the proposed use cause an excessive or burdensome use of public facilities or services, including but not limited to streets, schools, water or sanitary sewer utilities, drainage and stormwater management, and police or fire protection?
- (f) Is the proposed use supported by new or changing conditions not anticipated by the comprehensive plan or reflected in the existing zoning on the property or surrounding properties?
- (g) Does the proposed use reflect a reasonable balance between the promotion of the public health, safety, morality, or general welfare and the right to unrestricted use of property?

Sec. 9-22-3-9. - Additional procedures and criteria for planned unit developments.

In addition to the requirements for annexation applications specified in this chapter, approval proceedings for annexation with PUD zoning/development approval shall comply with the additional procedures and criteria for PUD zoning/development as outlined in chapter 9-22-2 for a zoning change.

Sec. 9-22-3-10. - Effective date.

The zoning of property hereafter annexed shall become effective on the day the zoning is approved by the governing body, on the date that the annexation becomes effective, or where a county has interposed an objection pursuant to O.C.G.A. 36-36-11, the date provided for in paragraph (8), subsection (b) of O.C.G.A. Section 36-36-11, whichever is later.

Sec. 9-22-3-11. - Issuance of permits.

No application for a land development or building permit shall be filed on newly annexed property until the first of the month following the effective date of the annexation approval.

Sec. 9-22-3-12. - Existing nonconforming use.

Any use existing at the time of annexation approval on property annexed by the city which does not comply with the use provisions of the city's zoning district assigned to said annexed property shall be considered a nonconforming use which shall be governed by chapter 9-11-3.

Sec. 9-22-3-13. - Conformity with this Code.

Lands hereafter annexed into the city limits shall, upon the effective date of such annexation, be subject to all applicable procedural and substantive requirements of this Code as now or hereafter amended. Any new use of an

annexed property after zoning approval shall only be permitted if it conforms to all applicable provisions of this Code.

CHAPTER 9-22-4. - TRAFFIC IMPACT ANALYSIS

Sec. 9-22-4-1. - Purpose and intent.

Understanding the demands placed on the community's transportation network by development is an important dimension of assessing the overall impacts of development proposals. All development generates traffic, and it may generate enough traffic to create congestion and thus require the community to invest more capital funds into the transportation network in the form of new roads, traffic signals, and intersection improvements. Traffic congestion results in a number of problems, including economic costs due to delayed travel times, air pollution and accidents. A traffic impact analysis is a mechanism for the city to foresee the demands a development proposal will place on the transportation network.

Sec. 9-22-4-2. - Objectives.

The city finds that requiring a traffic impact analysis for proposed developments that meet certain thresholds will help to achieve the following objectives:

- (a) Forecast additional traffic associated with new development, based on accepted practices.
- (b) Determine the improvements that are necessary to accommodate the new development.
- (c) Allow the city to assess the impacts that a proposed development may have and assist the city in making decisions regarding development proposals.
- (d) Help to ensure safe and reasonable traffic conditions on streets after the development is complete.
- (e) Reduce the negative impacts created by developments by helping to ensure that the transportation network can accommodate the development.
- (f) Protect the substantial public investment in the street system.
- (g) Provide information relevant to citywide comprehensive planning, transportation planning, transit planning, and the provision of programs and facilities for traffic safety, road improvements, transportation demand management, pedestrian access, and other transportation system considerations.

Sec. 9-22-4-3. - Definitions.

Director of public works: The director of the public works department of the city, or his or her designee.

Discretionary development proposal: Any application for a rezoning, preliminary plat, special use permit, final design plan approval, or certificate of appropriateness. For purposes of this Code, a determination of applicability shall be made at the first discretionary development proposal encountered.

Horizon year: Unless otherwise specified or approved by the director of public works, the horizon year shall be twenty (20) years into the future from the year during which a traffic impact study is being prepared.

Internal trips: Trips that are made within a multi-use or mixed-use development, by vehicle or by an alternate mode such as walking.

Level of service (LOS): A quantitative and qualitative measure of how well traffic flows on a given street or highway. Level of service relates to such factors as highway width, number of lanes, percentage of trucks, total traffic volume, turning movements, lateral clearances, grades, sight distance, capacity in relation to volume, travel speed, and other factors which affect the quality of flow. Level of service is typically summarized by letter grades described as follows:

Level "A" is a condition with low traffic volumes, high speeds, and free-flow conditions.

Level "B" is a condition with light traffic volumes, minor speed restrictions, and stable flow.

Level "C" is a condition with moderate traffic volumes, where speed and maneuvering are restricted to a limited degree by the amount of traffic.

Level "D" is a condition with heavy traffic operating at tolerable speeds, although temporary slowdowns in flow may occur.

Level "E" is a condition of very heavy flow and relatively low speeds. Under Level "E" the traffic is unstable and short stoppage may occur.

Level "F" is a condition of extremely heavy flow, with frequent stoppage and very slow speeds. It is an unstable traffic condition under which traffic often comes to a complete halt.

New trips: Total vehicle trips, minus pass-by trips, minus internal trips if applicable.

Pass-by trips: Vehicle trips which are made by traffic already using the adjacent roadway and entering the site as an intermediate stop on the way to another destination.

Peak hour: 7:00 a.m. to 8:00 a.m., or 8:00 a.m. to 9:00 a.m., or the highest four (4) 15-minute increments within such time period for the a.m. peak hour; 4:00 p.m. to 5:00 p.m., 5:00 p.m. to 6:00 p.m., or the highest four (4) 15-minute increments within such a time period for the p.m. peak hour.

Peak-hour trip generation study: A study by a qualified professional of one or more actual developments of similar land use and development characteristics which provides empirical data on the actual number of trips entering and exiting said development(s) during the a.m. and p.m. peak hour. A peak-hour trip generation study shall consist of a.m. and p.m. peak hour traffic counts by direction (entering and exiting) on at least three separate weekdays if the study is based on only one similar development, or at least one a.m. and p.m. traffic count for three different actual developments. The results of actual traffic counts from peak-hour trip generation studies may be adjusted to discount pass-by trips as provided in this chapter.

Professionally accepted: Published by the Institute of Transportation Engineers; or prepared by a qualified professional under work supervised by the city or Hall County, or prepared by a qualified professional and accepted by the director of public works.

Qualified professional: For purposes of conducting traffic impact analyses as may be required by this chapter, a qualified professional shall mean a registered professional engineer with experience in traffic engineering. For purposes of conducting peak hour trip generation studies, a qualified professional shall mean a registered professional engineer with experience in traffic engineering, or another professional approved by the director of public works based on education and experience to conduct such trip generation studies.

Traffic impact analysis: A study, conducted by a qualified professional, which assesses the effects that a discretionary development proposal's traffic will have on the transportation network in a community or portion thereof. Traffic impact studies vary in their range of detail and complexity depending on the type, size, and location of the proposed development.

Trip: A single or one-directional travel movement with either the origin or destination of the trip inside the study site.

Trip generation: An estimate of the number of vehicle trips that will be generated due to the new development, which is calculated based on the type and amount of land uses in the proposed development and professionally accepted trip generation rates for each such land use. Trip generation may be expressed on an average daily basis or average peak hour (a.m., p.m.), or both.

Sec. 9-22-4-4. - Thresholds of applicability.

A traffic impact study shall be required for any discretionary development proposal which can be reasonably expected to generate one thousand (1,000) vehicle trip ends during a single day and/or more than one hundred (100) vehicle trips during the morning or afternoon peak hours, as determined by professionally acceptable information as provided in this chapter.

Sec. 9-22-4-5. - Exemptions.

- (a) A traffic impact analysis is not required if a discretionary development proposal is initiated by the governing body or the planning and appeals board.
- (b) A discretionary development proposal may be exempted from the traffic impact study requirement by the director of public works if a prior traffic impact study for the subject property has been submitted to the city

or is available from Hall County and the proposed development is substantially similar to that for which the prior traffic impact study was conducted.

Sec. 9-22-4-6. - Trip generation data.

The source for trip generation rates for the purposes of this Code shall be " *Trip Generation* " published by the Institute of Transportation Engineers (ITE), most recent edition, unless otherwise approved by the director of public works. Final determinations of whether this chapter applies shall be made based on application of data from ITE *Trip Generation*, which may change from time to time, or as otherwise approved by the director of public works.

Sec. 9-22-4-7. - Determination of applicability.

At the time a discretionary development proposal is filed, or during any pre-application meeting if possible, the director of ~~community and economic development planning and development~~ shall determine whether a traffic impact analysis shall be required according to this chapter. The director of ~~community and economic development planning and development~~ shall calculate the expected trip generation of the proposed development using professionally accepted trip generation rates or other data and compare it to the thresholds specified in this chapter to determine whether a traffic impact analysis is required. The director of public works shall assist in this effort by providing the director of ~~community and economic development planning and development~~ with any updated information available on trip generation rates.

Applicants for discretionary development proposals shall provide sufficient information about the development proposal (e.g., number of dwelling units, square footage of buildings, number of employees, land area of the development, etc.) for the director of ~~community and economic development planning and development~~ to apply professionally accepted trip generation rates to the proposed development. The director of ~~community and economic development planning and development~~ shall not accept a discretionary development proposal for processing unless it contains the data on the proposed development necessary to apply available trip generation rates. Further, no application for a discretionary development proposal shall be accepted nor advertised for a public hearing until such time as the transportation impact study, if required, has been completed and submitted in accordance with this chapter.

Sec. 9-22-4-8. - Cases where data are not available.

In the event that information submitted by the applicant of the discretionary development proposal is sufficient to calculate the trip generation that would be expected to result from the proposed development, but trip generation rates or other data are not available or in sufficient quantity of studies to make a determination of applicability under the terms of this chapter, this section shall apply.

- (a) The director of ~~community and economic development planning and development~~ shall first consult with the director of public works to determine if:
 - (1) Professionally acceptable trip generation rates applicable to the subject development exist from other reputable sources, such as the *Journal of the Institute of Transportation Engineers*;
 - (2) Other trip generation studies of similar developments are available; or
 - (3) Professionally acceptable trip generation rates for one or more similar land uses can be used in making the determination of applicability.

If the director of public works is able to provide such information and determines it is professionally reputable, then the director of ~~community and economic development planning and development~~ shall use said data as may be interpreted by the director of public works to make the determination of applicability. The director of ~~community and economic development planning and development~~ and director of public works shall have no more than ten (10) working days to comply with the provisions of this section, when it applies.

- (b) In the event the director of ~~community and economic development planning and development~~ is unable to make a determination of applicability after consulting with the director of public works pursuant to section, the director shall notify the proposed applicant in writing that professionally accepted trip generation rates are not available for purposes of making a determination of applicability.

- (c) Upon receipt of notice described in this section, the applicant for a discretionary development proposal shall have thirty (30) days to have a qualified professional prepare and submit a peak-hour trip generation study as defined by this chapter.

Sec. 9-22-4-9. - Specifications for peak-hour trip generation studies.

- (a) *Discounting of pass-by trips.* The peak-hour trip generation study may subtract from the empirical data on actual vehicle trips those trips that are reasonably considered to be "pass-by" trips as defined by this chapter, using professionally accepted assumptions about the percent of pass-by trips approved by the director of public works.
- (b) *Reduction for internal trips in multi-use or mixed use developments.* In calculating the new trips generated from a proposed development containing multiple uses or mixed uses, a qualified professional with the approval of the director of public works may apply a percentage reduction to the total vehicle trips shown in any peak hour trip generation study to account for internal trips, as defined in this chapter, so as to account for (discount) the number of internal trips reasonably expected to occur in such multi-use or mixed use development. Said reduction shall not exceed twenty-four (24) percent of total trips generated.

Sec. 9-22-4-10. - Scoping meeting.

Once it is determined that a traffic impact analysis is required, a scoping meeting may be held with the developer or his or her consultant and the appropriate representatives of the city public works department and if appropriate, the ~~community and economic development planning and development~~ department. It will be the responsibility of the developer or his or her consultant to initiate this meeting. The purpose of this meeting is to discuss the availability of site-specific information concerning the development, available forecasts of traffic volumes, and to ensure the applicant understands the content requirements for traffic impact analyses.

Sec. 9-22-4-11. - Required contents of a traffic impact study.

A traffic impact analysis must evaluate the adequacy of the existing transportation system to serve the proposed development and determine the expected effects of the proposed development on the transportation system. The traffic impact study must provide adequate information for city staff to evaluate the development proposal and, when appropriate, recommend conditions of approval.

The qualified professional preparing the traffic impact study is encouraged to coordinate preparation with city staff and staff from other jurisdictions, as appropriate, to ensure that all necessary components are included in the traffic impact study and to reduce revision and review time.

In order to be reviewed, the traffic impact study shall include at least the following minimum components:

- (a) *Title page.* A title page listing the name of the proposed development and its location.
- (b) *Table of contents.* A table of contents outlining the study shall be provided.
- (c) *Certification.* The study shall be signed and stamped by a qualified professional.
- (d) *Executive summary.* An executive summary, discussing the development, the major findings of the analysis, and any recommendations made by the qualified professional.
- (e) *Vicinity map.* A vicinity map showing the location of the proposed project in relation to the transportation system of the area.
- (f) *Study area map.* A map of the traffic impact study area. For purposes of this chapter, the traffic impact analysis area shall be determined according to trip generation rates as follows. In the event there is a difference as a result of applying peak and total trips, the more restrictive requirement (larger study area) shall apply.

Study Area Size Requirements

Peak Hour Trips Generated	Daily Trips Generated	Distance from Perimeter of Proposed Development Along Roads
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100—150	1,000 — 1,500	½ mile
151—500	1,501 — 5,000	1 mile
501—1,000	5,001 — 10,000	2 miles
1,001 or more	10,001 or more	3 miles

- (g) *Inventory of transportation facilities in the study area.* A description of transportation facilities in the study area, including roadway names, locations and functional classifications, intersection lane configurations and traffic control (including signal timing), existing rights-of-ways, transit routes and stops (if any), pedestrian and bicycle facilities, and planned transportation system improvements. An existing lane configuration sketch shall be submitted for all roadways and intersections within the study area.
- (h) *Concept plan and development data.* A complete description of the proposed development, including a concept plan, with the best available information as to the nature and size of each proposed use, and the proposed location and traffic control of all proposed access points, including the distance from all proposed access points to adjacent accesses and/or streets, including those across a street right-of-way from the subject development.
- (i) *Existing traffic volumes.* Peak and total daily traffic volumes on all arterial, collector, and local streets within the study area. Traffic counts should, as a rule, not be more than one year old when the report is prepared. Traffic counts between one and three (3) years old may be used if factored to the current year. Traffic counts older than three (3) years will not be accepted.
- (j) *Facility performance.* Existing performance of the transportation system, including levels of service (LOS) and volume/capacity ratios (V/C) for all intersections and road segments as appropriate within the study area.
- (k) *Trip generation.* Complete trip generation figures for all aspects of the proposed development. The source for trip generation rates shall be " *Trip Generation* " published by the Institute of Transportation Engineers (ITE), most recent edition, unless otherwise approved by the director of transportation. For developments expected to generate more than thirty (30) trucks per day, the trip generation data shall include separate figures for trucks. If phased development is proposed, the study shall include projections for the year that each phase of the development is planned to be complete. The traffic impact analysis shall also include trip generation data for any pending and approved developments that would affect the study area. The city shall facilitate the review of applicable files by a qualified professional to determine the names and development characteristics of pending and approved developments in the study area.
- (l) *Trip distribution and assignment.* Trip distribution for the proposed development. For developments expected to generate more than thirty (30) truck trips per day, the study shall include separate trip distribution figures for trucks.
- (m) *Forecast traffic volumes without the development.* Forecast traffic volumes without the development, on all arterial, collector, and local roads within the study area, in the year that the proposed development is planned to commence, and in the horizon year. Qualified professionals should consult city public works department staff for information to determine the most appropriate sources or methods of determining future traffic volumes. If phased development is proposed, the traffic impact study shall include projections for the year that each phase of the development is planned to be complete.
- (n) *Forecast performance without the development.* Forecast performance, including levels of service (LOS) and volume/capacity ratios (V/C) of the transportation system without the development in the year that each phase is planned to be complete and in the horizon year.

- (o) *Forecast traffic volumes with the development.* Forecast traffic volumes with the development, on all arterial, collector, and local roads within the study area, in the year that the proposed development is planned to commence, and in the horizon year.
- (p) *Forecast performance with the development.* Forecast performance, including levels of service (LOS) and volume/capacity ratios (V/C) of the transportation system with the development in the year that each phase is planned to be complete and in the horizon year.
- (q) *Sight distance.* A safety analysis of the site accesses, and an assessment whether adequate sight distances are provided at driveways and streets abutting the development.
- (r) *Operational characteristics.* Analysis of prevailing operating speeds, if significantly different than speed limits, right and left turn lane warrants, queue lengths, acceleration and deceleration lanes including lengths and tapers, throat lengths, channelization, and other characteristics of the site accesses, which exist and may be needed, as appropriate. The traffic impact analysis shall address whether driveways and intersections are located and spaced safely and designed to accommodate expected traffic volumes and maneuvers. The operational characteristics analysis shall also evaluate the turning and traveling characteristics of the vehicles that will be using the proposed development and the adequacy of the geometrics of the existing and proposed roadway (public and/or private) configurations to accommodate these characteristics.
- (s) *On-site circulation.* The traffic impact analysis shall address whether on-site vehicular and pedestrian circulation and parking layouts are safe and efficient.
- (t) *Significant impacts.* Analysis as appropriate of any potential adverse or controversial effects of the proposed development on the transportation system in the area. Examples of possible effects include, but are not limited to, infiltration of non-residential traffic into residential neighborhoods, traffic noise, creation of potential for traffic violations, conflicting turning movements with other driveways, any new pedestrian or bicycle transportation needs arising from the development, etc.
- (u) *Mitigation measures.* Listing of all intersections and road segments that are forecasted to be level of service "E" and "F" in the horizon year, or if phased, in the years that each phase is planned to be complete, and an identification and description of specific mitigation measures including signal, turn lane, or other warrant analyses as appropriate and necessary to bring these intersections and road segments into compliance with a level of service "D" or other city-adopted level of service for said road segment or intersection.
- (v) *Drawing of improvements.* If roadway improvements are needed, the study shall show a drawing at an engineering scale of one inch equals twenty (20) feet for all recommended lane configurations.
- (w) *Signalization.* If signalization is warranted by the traffic signal warrants outlined in the Manual on Uniform Traffic Control Devices (MUTCD), a warrant analysis shall also be conducted as a part of the traffic impact analysis. If a traffic signal is warranted, the warrant package in the study shall show a drawing at an engineering scale of one inch equals twenty (20) feet detailing the signal design and phasing plans.
- (x) *Costs.* The estimated costs associated with implementing all such mitigation measures shall be provided in the traffic impact analysis. The traffic impact analysis may take into account any city/county/state approved roadway, traffic signalization, and other improvements in determining mitigation measures and providing recommendations.
- (y) *References.* A listing of all technical documents and resources cited or consulted in preparing the traffic impact analysis.
- (z) *Technical appendix.* Relevant technical information, including but not limited to: copies of raw traffic count data used in the analysis, calculation sheets and/or computer software output for all LOS and V/C calculations in the analysis, and warrant worksheets for signals, turn lanes, signal phasing, etc. used in the analysis.

Sec. 9-22-4-12. - Additional technical specifications.

The director of public works is further authorized to promulgate and require the use of additional technical specifications for conducting traffic impact analysis, which shall be consistent with analysis methods included in the most recent *Highway Capacity Manual*, *Manual on Uniform Traffic Control Devices*, and/or *Traffic Access and Impact Studies for Site Development: A Recommended Practice* (Washington, DC: Institute of Transportation Engineers, 1991), as may be amended or republished from time to time.

Sec. 9-22-4-13. - Costs and fees.

The city assumes no liability for any costs or time delays (either direct or consequential) associated with the preparation and review of traffic impact analyses. There shall be no application review fee for a traffic impact study.

Sec. 9-22-4-14. - Submittal and review of study.

The applicant for the proposed development or the qualified professional shall submit one electronic copy of the traffic impact study and technical appendix, five (5) paper copies of the traffic impact analysis, and one paper copy of the technical appendix to the director of community and economic development planning and development. The director of community and economic development planning and development shall transmit the electronic copy, four (4) paper copies of the traffic impact study and the paper copy of the technical appendix to the director of public works, who may at his or her discretion submit copies of the report to applicable review agencies such as the state department of transportation, the metropolitan planning organization, or an adjacent local jurisdiction. Within ten (10) working days of receipt of a traffic impact analysis, the director of public works shall review all calculations and analyses and determine if they are complete, reasonable, understandable, consistent, and fully explained. The conclusions presented in the traffic impact analysis shall be consistent with and supported by the data, calculations, and analyses in the report. Calculations, graphs, tables, data, and/or analysis results that are contrary to good common sense or not consistent with and supported by the data will not be accepted. In such events, the director of public works shall return the traffic impact analysis to the development applicant for correction.

Sec. 9-22-4-15. - Recommendations for mitigation of impacts.

Within ten (10) working days of receipt of a completed traffic impact study, the director of public works shall complete his or her review the study and submit to the director of community and economic development planning and development all recommendations for mitigation measures as stated in the traffic impact study and include any interpretations or recommended conditions of approving the discretionary development proposal that will mitigate traffic impacts of the proposed development.

Sec. 9-22-4-16. - Determination of project and system improvements.

Upon receipt of the recommendations of the director of public works with regard to the traffic impacts of the discretionary development proposal, the director of community and economic development planning and development shall determine which mitigation measures constitute "project" improvements and which mitigation measures constitute "system" improvements within the context of the Georgia Development Impact Fee Act of 1990.

In the event that a particular improvement is called for in the traffic impact study or recommended by the director of public works, and the director of community and economic development planning and development is unable to uniquely attribute the recommendation as a project or system improvement or finds that such improvement has characteristics of both a project improvement and a system improvement, the director of community and economic development planning and development with the assistance of the director of public works if necessary shall determine the proportion of the cost of such improvement that can reasonably be attributed to the development as a project improvement, and the portion of such improvement that can reasonably be considered a system improvement.

Sec. 9-22-4-17. - Conditions of development approval for project improvements.

Upon the determination of project improvements needed to mitigate the traffic impacts of the discretionary development proposal as provided in this chapter, the director of community and economic development planning and development shall recommend that the project improvements be completed by the developer as conditions of approval of the discretionary development proposal.

Sec. 9-22-4-18. - System improvements.

When the director of public works recommends improvements as a condition of a development proposal that the director determines are wholly or partially "system" improvements, the director of community and economic

~~development planning and development~~ may include such recommendations in the recommended conditions of approval for the discretionary development application. The development applicant and the city in the case of system improvements shall have the following options:

- (a) The applicant for a discretionary development proposal may voluntarily agree to pay for the cost of providing the system improvements, or a pro-rated share of the cost of said system improvements that are reasonably attributed to the subject development, as determined by the city.
- (b) In the case of an application for discretionary development proposal before the governing body, the city may find that the proposed development will provide substantial adverse impacts on the transportation system. The city may find further that the existing transportation system is insufficient to serve the proposed development and that the city is unable to provide adequate transportation facilities within a reasonable amount of time after the impacts of said development would occur. Given such findings, the governing body may reduce the development density or intensity to the degree that the impacts of the development proposal do not degrade transportation facilities below accepted level of service standards, require a phasing of the development in a manner that adequate public facilities will be provided publicly or privately, or in cases where such other alternatives do not address the adverse impacts, deny an application for a discretionary development proposal.

Sec. 9-22-4-19. - Appeal.

An applicant for a discretionary development proposal may appeal a decision of the director of public works or the director of ~~community and economic development planning and development~~ in the administration and interpretation of this chapter to the planning and appeals board as an appeal of an administrative decision as provided in this Code.

CHAPTER 9-22-6. - ZONING VARIANCES

Sec. 9-22-6-1. - Generally.

Persons may seek relief from compliance with the zoning-related requirements of this Code pursuant to this chapter when the strict application would create a particular and unique hardship, by filing an application for variance with the director of ~~community and economic development planning and development~~ for consideration by the planning and appeals board in accordance with this chapter. Such relief may be granted only to the extent necessary to alleviate such unnecessary hardship and not as a convenience neither to the applicant nor to gain any advantage or interest over similarly zoned properties.

Sec. 9-22-6-2. - Initiation.

An application for a zoning variance for any property or properties in the city may be initiated by the governing body, planning and appeals board, owner of the property, or some other person(s) given authorization by property owner to file said application.

Any applicant wishing to submit an application for a zoning variance request must schedule an appointment with the ~~community and economic development department planning department~~ staff in order to review the application for completeness. No such application shall be accepted for processing by the director unless it meets the requirements of this section. Incomplete or improper applications will be returned to the applicant. The director is hereby authorized to establish administrative deadlines for the receipt of applications.

Sec. 9-22-6-3. - Waiting period for reapplication.

If denied, a variance request affecting the same property shall not be reconsidered for a period of twelve (12) months from the date of denial; provided, however, that the planning and appeals board may reduce the waiting period under extenuating circumstances or on its own motion. A request to reduce the waiting period must be asked for and acted upon by the planning and appeals board during the public hearing at which the request was first considered.

Sec. 9-22-6-4. - Requirements for submittal.

Applications for zoning variance shall include the following:

- (a) *Application form.* A completed application. All applications shall be submitted to the ~~department of planning and development~~community and economic development department on the department's application forms.
- (b) *Fee.* All applications shall be accompanied by a non-refundable fee as fixed from time to time by the governing body. A fee shall not be charged if the governing body or the planning and appeals board initiate the application.
- (c) *Plat or boundary survey.* A plat or boundary survey of the property or properties involved in the application. Provide one scaled and folded copy, and one 8.5" × 11" or 11" × 17" reproducible size copy.
- (d) *Statement of hardship.* Form with various questions to be answered by an applicant in a manner describing how each situation applies to the application. The applicant may complete the questions on the form provided with the application, or the applicant can type the answers on a separate sheet of paper as part of the written narrative, identifying each component as such.
- (e) *Written narrative.* A written narrative should indicate at a minimum: the purpose of the request, proposed use, economic and environmental impacts as well as overlay zones or protection areas in which the property is located, such as the North Oconee Water Supply Watershed Protection Overlay Zone.
- (f) *Architectural renderings.* Architectural renderings for any proposed new construction or exterior alterations of the existing structure(s), including at a minimum:
 - (1) Roof pitch;
 - (2) Materials to be used on exterior;
 - (3) Basic landscaping proposed; and

(4) Building elevations.

If the architectural rendering is in a color format or is larger than an 11" × 17" size copy, nine (9) copies of the colored or large-scale rendering must be submitted with the completed application.

- (g) *Concept plan.* An application for a zoning variance approval related to a residential subdivision, multi-family, or non-residential use or zoning district shall be accompanied by a concept plan if any new construction is proposed or alteration of the site is required under the site or development design standards of this Code. An as-built survey (rather than a concept plan) indicating the most current development conditions must be submitted with those applications regarding existing developments that are not to be altered. The concept plan must be prepared by a professional engineer, or a registered land surveyor; landscape architect; or architect. The concept plan shall meet the requirements of section 9-22-6-5. The applicant shall submit nine (9) scaled and folded copies, folded to fit into an 8" × 10" size ~~envelope~~envelop, and one 11" × 17" reproducible copy.

The director may request information in addition to that specified in this section when considered necessary for review of the application by the governing body or planning and appeals board.

Sec. 9-22-6-5. - Specifications for concept plans.

The concept plan shall show the following, as appropriate to the variance requested:

- (a) Name, address and telephone number of the property owner.
- (b) Name, address and telephone number of the applicant.
- (c) Date of survey, north point and graphic scale, source of datum, date of plan drawing, and revision dates, as appropriate.
- (d) Proposed use of the property.
- (e) Location (land district and land lot) and size of the property in acres (or in square feet if less than an acre).
- (f) Location map of the property in relation to the surrounding area with regard to well-known landmarks such as arterial streets or railroads. Location maps must be drawn at a scale sufficient to show clearly the information required, but not less than one inch equal to two thousand (2,000) feet. U.S. Geological Survey maps may be used as a reference guide.
- (g) Zoning district classification of the subject property and all adjacent properties, and zoning district boundaries as appropriate.
- (h) Natural features within the property, including drainage channels, bodies of water, wooded areas and other significant natural features such as rock outcroppings. On all water courses entering or leaving the property, the direction of flow shall be indicated. The 100-year flood plain, if any, shall be outlined.
- (i) Man-made features within and adjacent to the property, including existing streets and names, city and county political boundary lines, and other significant information such as location of bridges, ~~utility lines~~utilities, existing buildings to remain, and other features as appropriate to the nature of the request.
- (j) The proposed project layout including:
 - (1) For residential development projects, approximate lot lines and street right-of-way lines, along with the building setback lines.
 - (2) For multi-family and non-residential development projects, the approximate outline and location of all buildings, and the location of all minimum building setback lines, outdoor storage areas, buffers, parking areas, and driveways.
- (k) The proposed phasing of the development if it is proposed to be built in sections.
- (l) A statement as to the source of domestic water supply.
- (m) A statement as to the provision for sanitary sewage disposal.

(n) A statement as to the practicability of runoff reduction and feasibility of site and size of aboveground and/or belowground stormwater BMPs with respect to desired zoning density.

(o) The approximate location and surface area of proposed stormwater ~~detention~~ facilities.

(p) Such additional information as may be useful to permit an understanding of the proposed use and development of the property.

Sec. 9-22-6-6. - Notice of public hearing in newspaper.

Before the planning and appeals board may take final action on a proposed variance application, the planning and appeals board shall hold a public hearing on the proposal. At least fifteen (15) days but not more than forty-five (45) days prior to the public hearing before the planning and appeals board, notice shall be published in a newspaper of general circulation within the city. The published notice shall be prepared by the community and economic development department and shall include the location of the property, the present zoning classification of the property, the variance requested, and the date, time, and place of the public hearing before the planning and appeals board.

Sec. 9-22-6-7. - Notice of public hearing by sign on property.

At least fifteen (15) days but not more than forty-five (45) days prior to the public hearing, the city shall post a sign or signs stating the date, time and place of the public hearing before the planning and appeals board, the present zoning classification and the proposed variance. One such sign shall be placed in a conspicuous location along each street frontage of the property for which the variance has been requested. If the property has no street frontage, the sign shall be placed on each street from which access will be gained to the property.

Sec. 9-22-6-8. - Notice to adjacent property owners.

At least ten (10) days prior to the planning and appeals board public hearing, the applicant shall cause a notice to be mailed to all persons owning property located abutting or across any street from the property that is the subject matter of the variance application. The written notice shall be mailed to the property owners as such names and addresses appear on the county's ad valorem tax records. The notice shall state the date, time, place and purpose of the hearing by the planning and appeals board.

Sec. 9-22-6-9. - Investigations and staff recommendation.

Within a reasonable period of time after acceptance of a complete application, the director may but shall not be required to send the application or notice thereof out for review by internal municipal departments and external agencies as may be appropriate. Any written comments received in a timely manner as a result of such review shall be submitted for consideration to the planning and appeals board and governing body, or summarized in a memorandum. Any such comments shall become public records.

The director may but shall not be required to investigate and make a recommendation regarding the variance application. Any such investigation and recommendation if in writing be made available to the applicant and planning and appeals board prior to its public hearing and shall become public records. copies of the director's findings and recommendations, if provided, shall be available no later than the time of the planning and appeals board's public hearing on the matter.

Sec. 9-22-6-10. - Planning and appeals board hearing and action.

The planning and appeals board shall convene a public hearing on the variance application as provided in the public notice. The public hearing shall follow policies and procedures which govern calling and conducting public hearings established in chapter 9-22-9. The planning and appeals board shall have sixty-five (65) calendar days from the date of its public hearing within which to take final action on the variance application.

In rendering a decision on a variance application, the planning and appeals board shall consider all information supplied by the applicant, the director, and any information presented at the public hearing of the planning and appeals board. After conducting a public hearing, in taking action on an application, the planning and appeals board may:

- (a) Approve the application as submitted.
- (b) Approve the application with conditions.

- (c) Deny the proposal.
- (d) Table the proposal for consideration at its next scheduled meeting, provided that it acts within its allotted 65-day review period.

The action of the planning and appeals board on the variance application shall be final; provided, however, that any person adversely affected by any determination made by the planning and appeals board relative to the approval or denial of a variance application may appeal such determination to a court of competent jurisdiction in the manner provided by law.

Sec. 9-22-6-11. - Criteria to consider for variance applications.

The planning and appeals board shall consider the following standards in considering any variance application, giving due weight or priority to those factors that are appropriate to the circumstances of each proposal:

- (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;
- (b) The application of this Code to this particular piece of property would create an unnecessary hardship; and
- (c) There are conditions that are peculiar to the property which adversely affect its reasonable use or usability as currently zoned.
- (d) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Code.
- (e) There must be a proved hardship by showing beyond a doubt the inability to make a reasonable use of the land if the zoning ordinance were applied literally.
- (f) The hardship cannot be self-created; e.g., as in a case where the lot was purchased with the knowledge of an existing restriction.

Sec. 9-22-6-12. - Withdrawal of application.

A variance application may be withdrawn at any time at the discretion of the person or entity initiating such a request upon notice to the director, up until the public hearing by the planning and appeals board is closed.

If the applicant withdraws the application prior to the publication of notice for public hearing before the planning and appeals board, the application shall be withdrawn administratively by the director without restriction on the refile of a proposed variance on the property in the future.

If the applicant withdraws the application after notice has been published or is irretrievably set for publication but the application has not been heard by the planning and appeals board, the application shall be withdrawn administratively by the director and an application for variance on the property may not be resubmitted for six (6) months from the date of withdrawal.

If the request for withdrawal is made at the planning and appeals board public hearing on the case, the request may be approved by a majority vote of the board, but an application for a variance on the property may not be resubmitted for twelve (12) months from the date of withdrawal. However, that the planning and appeals board may reduce the waiting period under extenuating circumstances or on its own motion. A request to reduce the waiting period must be asked for and acted upon by the planning and appeals board during the public hearing at which the request was first considered.

Sec. 9-22-6-13. - Provisions that cannot be varied.

In no case shall a variance be granted for any of the following:

- (a) A condition created by the applicant, including the result of an unwise investment decision or real estate transaction.
- (b) A change in the conditions of approval imposed through a rezoning application approved by the governing body.

- (c) Reduction of a minimum lot size required by a zoning district.
- (d) Use of land or buildings or structures that is not permitted by the zoning district that is applicable to the property.
- (e) Any increase in the number of dwelling units or nonresidential building floor area otherwise permitted by the zoning district that is applicable to the property.

Sec. 9-22-6-14. - Duration of validity.

Approval of a zoning variance on a property located within the city shall be in full force and effect upon its approval by the planning and appeals board and shall be effective for a period of twelve (12) months. If no action is taken by the applicant to implement the purpose of the application within twelve (12) months from the date of approval, said approval shall become null and void. A zoning variance shall be specific to the request made by the current applicant and shall not stay with the property, as is the case for a zoning change.

UNIFIED LAND DEVELOPMENT CODE

CITY OF GAINESVILLE, GEORGIA

Article 9-24 - ADMINISTRATION AND ENFORCEMENT

Chapter 9-24-1 Chapter 9-24-2 Chapter 9-24-3	Administration Enforcement Administrative Variances
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CHAPTER 9-24-1. - ADMINISTRATION

Sec. 9-24-1-1. - Fees.

From time to time, the governing body may adopt fees for the issuance of permits, the submission of applications, the provision of inspections, and such other activities and authorizations as regulated by this Code.

Sec. 9-24-1-2. - Right to inspect.

No person shall refuse entry or access to any authorized representative or agent of the city, inspections personnel of the city or county, the state soil and water conservation commission, the Hall County Soil and Water Conservation District, or the state environmental protection division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

Sec. 9-24-1-3. - Director of ~~planning and development~~community and economic development.

The director of ~~planning and development~~community and economic development or designee shall have all the necessary powers explicitly provided or reasonably implied in connection with the administration of this Code, including but not limited to those enumerated in this section. Where such provisions indicate the director of ~~community and economic development~~ ~~planning and development~~ has the authority to review and approve a given application or activity, said authority shall also include the denial of such application or activity.

- (a) *Schedules.* To adopt schedules of dates, times and places as appropriate and necessary for the processing of applications established by this Code.
- (b) *Administrative procedures and forms.* To prepare administrative procedures, guidelines, application forms, to tend to other administrative details not inconsistent with the provisions of this Code, and to implement the provisions of this Code.
- (c) *Approval of preliminary and final plats.* To review and approve preliminary plats and final plats as also specifically provided in section 9-13-1-2.
- (d) *Land development plans.* To review and approve or deny land development plans and issue or refuse to issue land development permits in accordance with chapter 9-13-7.
- (e) *Home occupations.* To review and approve home occupations as specifically provided in section 9-10-4-12.
- (f) *Special temporary outdoor events.* To review and authorize, and to issue permits for special temporary outdoor events as provided in section 9-10-8-2.

- (g) *Nonconforming situations.* To compel an applicant to completely correct or reduce the noncompliance of nonconforming situations, pursuant to authority and subject to the limitations of chapter 9-11-5.
- (h) *Modify and extend application requirements.* To waive certain requirements, and to require additional information be submitted, for applications submitted pursuant to article 9-22 and article 9-23.
- (i) *Public notices.* To provide notices or require the notice of applications submitted pursuant to article 9-22 and article 9-23.
- (j) *Recommendations on applications.* To provide recommendations on annexation, rezoning and special use applications to the planning and appeals board and governing body, as may be appropriate, and as authorized in article 9-22. Also, the director may provide findings or recommendations regarding zoning variances to the planning and appeals board.
- (k) *Certificates of appropriateness.* To review, approve, and issue certificates of appropriateness for minor work projects and to provide findings and if appropriate recommendations to the historic preservation whether to issue certificates of appropriateness for major work projects pursuant to chapter 9-23-1.
- (l) *Permits for tree removal.* To issue permits when required for the removal of certain trees as specified in section 9-16-5-7.
- (m) *Secretary, planning and appeals board.* To serve as secretary to the planning and appeals board, as provided in section 9-21-1-10, or to appoint a planning commission clerk or other designee to serve in such capacity.
- (n) *Inspections and investigations.* To conduct such investigations as he or she may reasonably deem necessary to assure or compel compliance with the requirements and provisions of this Code, even if such responsibilities are delegated to code enforcement officers or other administrative or enforcement officers of the city.
- (o) *Enter property.* To enter at reasonable times upon any property for purposes of investigation, inspection and enforcement.
- (p) *Enforcement.* To enforce any and all provisions of this Code.
- (q) *Delegation.* To delegate the functions and responsibilities of the director's position to other personnel in the community and economic development ~~planning and development~~ department.
- (r) *Interpretation.* To interpret the provisions of this Code, as provided in section 9-2-1-1. Also, when the administrative or enforcement responsibilities of this article are in question, the director of community and economic development ~~planning and development~~ shall make such interpretation.
- (s) *Maintain official zoning maps and overlay zone maps.* To maintain and update the official zoning map of the city as provided in section 9-4-1-3 and overlay zone maps of the city as provided in section 9-4-2-3.
- (t) *Determine zoning boundaries.* To determine the location of the boundary of zoning districts and overlay zones when the exact location cannot be determined, as provided in section 9-4-3-7.
- (u) *Administrative variances.* To review and approve applications for administrative variances, as provided under chapter 9-24-3 and as specifically provided in any other chapters or sections of this code not specifically referenced in said chapter.

Sec. 9-24-1-4. - Director of public works.

The director of public works shall have all the necessary powers explicitly provided in connection with the administration of this Code, as they pertain to functions assigned to said director, including but not limited to those enumerated in this section. Where such provisions indicate the director of public works has the authority to review and approve a given application or activity, said authority shall also include the denial of such application or activity.

- (a) *Inspection.* To periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with all applicable provisions of this Code.
- (b) *Delegation.* To delegate the functions and responsibilities to other personnel in the public works department.
- (c) *Land development plans.* To review land development plans and review streets and non-~~utility~~water resources related public improvements and recommendations for acceptance of public improvements by the governing body as provided in article 9-13.
- (d) *Promulgation of additional technical standards.* To promulgate additional technical standards and construction specifications for land development improvements not already specified by this Code, including but not limited to streets, ~~storm drainage systems~~, driveways, curb cuts related to flow of traffic, and parking lots, as specifically provided in section 9-13-1-2.
- (e) *Traffic impact analyses.* To administer the provisions of chapter 9-22-5 regarding the technical review of traffic impact analyses, and to promulgate and require the use of additional technical specifications for conducting traffic impact analyses, as provided in section 9-22-5-12.
- ~~(f) Flood hazard area regulations. To fulfill the functions and duties assigned under article 9-15 relative to flood plain management regulations.~~
- (f) *Enforcement.* To enforce those provisions of this Code that relate to the primary activities of the director of public works.
- (g) *Airport zones.* To direct a property owner to that a tree or structure that violates airport overlay zone requirements be removed or modified to the extent necessary to comply with the applicable height limit, as provided in section 9-8-1-9; and to review and recommend variances with regard to airport overlay zone requirements as provided in section 9-8-1-11.
- (h) *Administrative variances.* To review and approve applications for administrative variances, pursuant to chapter 9-24-3, but only as explicitly permitted in this Code.

Sec. 9-24-1-5. - Director of ~~public utilities~~water resources.

The director of ~~water resources~~public utilities shall have all the necessary powers explicitly provided in connection with the administration of this Code, as they pertain to functions assigned to said director, including but not limited to those enumerated in this section. Where such provisions indicate the director of ~~public utilities~~water resources has the authority to review and approve a given application or activity, said authority shall also include the denial of such application or activity.

- (a) *Approval of ~~public utilities~~water, wastewater and stormwater management facilities.* To review and approve the design of ~~public utilities~~ water, wastewater and stormwater management facilities for subdivisions and land developments.
- (b) *Inspection.* To periodically inspect the sites of ~~utility installations~~water, wastewater and stormwater management facilities for which permits have been issued to determine if the activities are being conducted in accordance with all applicable provisions of this Code.
- (c) *Delegation.* To delegate the functions and responsibilities to other personnel in the ~~public utilities~~ department of water resources.
- (d) *Promulgation of additional technical standards.* The director of ~~public utilities~~water resources is authorized to promulgate additional technical standards and construction specifications for land development improvements not already specified by this Code, including but not limited to water and sanitary sewer systems and ~~utilities~~stormwater management facilities.
- (e) *Enforcement.* To enforce those provisions of this Code that relate to the primary activities of the director of ~~public utilities~~water resources.

(f) Flood hazard area regulations. To fulfill the functions and duties assigned under article 9-15 relative to flood plain management regulations.

Sec. 9-24-1-6. - Building official.

The building official shall have all the necessary powers explicitly provided in connection with the administration of this Code, as they pertain to functions assigned to the building official, including but not limited to the following:

- (a) *Building permits and certificates of occupancy.* To review, approve, and issue building permits and certificates of occupancy, and to administer all provisions of article 9-20.
- (b) *Delegation.* To delegate the functions and responsibilities to one or more building inspectors.
- (c) *Enforcement.* To enforce those provisions of this Code that relate to the primary activities of the building official.

CHAPTER 9-24-2. - ENFORCEMENT

Sec. 9-24-2-1. - Complaints.

Whenever a violation of this Code occurs or is alleged to have occurred, any person may file a written complaint with the designated code enforcement officer of the city. Such complaint shall state clearly and fully the causes and bases of the complaint. The designated code enforcement officer shall record properly such complaint, investigate, and take action thereon as may be appropriate to enforce this Code.

Sec. 9-24-2-2. - Enforcement responsibilities generally.

If, through inspection, it is deemed that a person engaged in land-disturbing, development, building construction, or use or other activities has failed to comply with any provision of this Code, the city through the appropriate official as provided in this article shall enforce the provisions of this Code as more fully set forth in this chapter.

The ~~director of planning and development~~director of community and economic development, the director of public works, the director of ~~public utilities~~water resources, and the building official shall have responsibilities and the authority to enforce the provisions of this Code as provided in this chapter. City marshals, code enforcement officers, land development inspectors, planners, ~~utility department of water resources~~ inspectors, and building inspectors, if delegated such responsibilities, shall have such authority and responsibility to enforce the provisions of this Code assigned to the officer delegating such authority.

Sec. 9-24-2-3. - Enforcement responsibilities specifically.

Without limiting the generality of this chapter, enforcement responsibilities are logically divided into different activities regulated under this Code. It is the intent of this chapter to assign enforcement responsibilities to the administrative personnel who has primary review responsibility for that particular activity, but that intent shall not preclude one or more administrative officers assigned enforcement responsibilities by this article from enforcing a provision of this Code that is not a primary review responsibility.

Sec. 9-24-2-4. - Enforcement techniques.

Administrative officers shall have at their disposal the enforcement techniques provided in this chapter, subject to the limitations specified in this chapter.

Sec. 9-24-2-5. - Written notice to comply.

When violations are discovered, a written notice to comply shall be served upon the owner of the property, his authorized agent or the person or persons in charge of the activity on the property. Each of these persons shall be assumed to be individually responsible for compliance with this Code.

The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the violating activity fails to comply within the time specified, he shall be deemed in violation of this Code.

Sec. 9-24-2-6. - Stop work order.

Upon notice from the city, work on any project that is being done contrary to the provisions of this Code or in a dangerous or unsafe manner, shall be immediately stopped.

Such notice shall be in writing and shall be given to the owner of the property, his authorized agent or the person or persons in charge of the activity on the property, and shall state the conditions under which work may be resumed. Where in the opinion of the director of ~~planning and development~~community and economic development, director of public works, director of water resources, or building official an emergency exists (whichever has enforcement responsibilities), no written notice shall be required.

Such stop work order may be lifted at such time as the enforcing officer is satisfied that a good faith effort is being made to comply with applicable provisions of this Code. Nothing shall prevent said officer from reissuing a stop work order where warranted.

Sec. 9-24-2-7. - Injunction.

The city through authorized personnel may issue an injunction to cause a violation of this Code to cease or to be corrected.

Sec. 9-24-2-8. - Revocation of permit or license.

The city may suspend or invalidate existing land development permits and building permits in order to enforce the provisions of this Code.

The city is authorized and directed to deny and withhold permits or permissions on any new project or application pursuant to this Code where the applicant, applicant's business or agent has failed or refused to comply with this Code.

The city may revoke business registrations, work permit or other authorization for the unlawful conduct of any activities within the jurisdictional boundaries of the city.

Sec. 9-24-2-9. - Bond forfeiture.

The city may deem that a person required to post a bond (e.g., performance bond or landscape bond) pursuant to this Code is in violation of the provisions of this Code and may find a violator of this Code to have forfeited such bond. The city may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to bring the unlawful activity into compliance.

Sec. 9-24-2-10. - Withholding of utility service.

The city may [withhold municipal utility services or](#) request or direct an applicable [public](#) utility service provider to withhold utility service to any property on which a violation is alleged to have occurred.

Sec. 9-24-2-11. - Refusal of plat recording.

The city may request or direct the clerk of superior court to refuse or deny the recording of a final subdivision plat that is found to be in violation of this Code.

Sec. 9-24-2-12. - Citation.

The city shall have authority to issue citations and to prosecute violations before a court of competent jurisdiction.

Sec. 9-24-2-13. - Other necessary actions.

Administrative officers with authority and responsibility for enforcement as described in this article shall be authorized to take any other appropriate or necessary action to ensure compliance with or to prevent violation of the provisions of this Code.

Sec. 9-24-2-14. - Penalties for violation.

Any person found guilty of violating any provision of this Code shall, upon conviction by the municipal court of the city, be punished as provided in section 1-1-7 of the City Code. Violations of this Code may be tried upon citation with or without a prosecuting attorney as well as upon accusations.

CHAPTER 9-24-3. - ADMINISTRATIVE VARIANCES

Sec. 9-24-3-1. - Authority.

The director of ~~community and economic development planning and development~~ shall have the authority to upon application grant or deny administrative variances from certain provisions of this Code as enumerated in this article, where in his or her opinion, the intent of this Code can be achieved and equal performance obtained by granting an administrative variance.

Sec. 9-24-3-2. - Administrative variances by the director of ~~community and economic development planning and development~~.

In addition to any other administrative variances specifically authorized by this Code, the following provisions of this Code may be administratively varied by the director of ~~community and economic development planning and development~~, subject to the specific limitations of this section. Where this section omits specific reference to the director of ~~community and economic development's planning and development's~~ authority to grant an administrative variance, and such authority is clearly evident in a provision of this Code, the omission from this section shall not be construed as limiting the director's authority.

- (a) Front building setback for a principal building, reduction not to exceed seven (7) feet.
- (b) Side building setback for a principal building, reduction not to exceed three (3) feet.
- (c) Rear building setback for a principal building, reduction not to exceed five (5) feet.
- (d) Setback for an accessory building, reduction not to exceed two (2) feet.
- (e) Maximum building coverage, maximum impervious surface coverage, not to exceed five (5) percent above the applicable maximum. This provision shall not apply in the North Oconee Water Supply Watershed overlay zone.
- (f) Maximum height of a building, not to exceed five (5) feet above the applicable maximum. This provision shall not apply to height limits imposed in the airport overlay zones.
- (g) Minimum open space, reduction of not more than ten (10) percent of total minimum required landscaped open space. For example, a minimum open space requirement of twenty (20) percent of the lot ~~cannot~~ ~~can~~ be reduced administratively below ten (10) percent by the director.
- (h) Landscape strip minimum widths, reduction not to exceed twenty (20) percent of the minimum required width. For example, if the minimum landscape strip width is ten (10) feet, the director may authorize a reduction to no less than eight (8) feet. The director may also authorize an average width of landscape strip rather than a minimum.
- (i) The required number of parking spaces, reduction not to exceed twenty (20) percent below the minimum required, and addition not to exceed ten (10) percent above the maximum permitted number of spaces.

Sec. 9-24-3-3. - Administrative variances by the director of public works ~~and/or the director of water resources~~.

This Code authorizes the director of public works ~~and the director of water resources~~ in certain instances to vary or waive requirements (as distinguished from design variances as specified in article 9-13). In such instances, the director of public works ~~or director of water resources~~ may exercise such authority upon application for such an administrative variance to the director of ~~planning and development~~ ~~community and economic development~~, which shall be forwarded to the public works director ~~or water resources director~~ for review and approval, conditional approval, or disapproval, in accordance with the provisions of this chapter.

Sec. 9-24-3-4. - Requirements for administrative variance applications.

To initiate an application for administrative variance, an application must be submitted to the ~~planning community and economic development~~ department which shall include at minimum the following:

- (a) A completed application form supplied by the department and a statement of hardship form included with application form must be completed by the applicant.
- (b) A non-refundable fee as fixed from time to time by the governing body.
- (c) A written narrative explaining and justifying the request;
- (d) Plat or boundary survey. One scale copy and one 8.5" x 11" or 11" x 17" reproducible size copy of a plat or boundary survey of the property or properties involved in the application.

The ~~planning community and economic development~~ department in reviewing an application shall also be authorized to require any supporting information necessary to review an administrative variance on the record necessary to resolve the request for relief. These may include but are not limited to architectural renderings, concept plans or as-built surveys.

Sec. 9-24-3-5. - Review for completeness.

The ~~planning community and economic development~~ department shall review the application for completeness within ten (10) days of the published closing date. Incomplete or improper applications will be returned to the applicant.

Sec. 9-24-3-6. - Criteria for approval of administrative variances.

In acting upon applications for administrative variances, the director of ~~planning and development~~community and economic development (or, if he or she has jurisdiction, the director of public works or director of water resources) shall consider whether one or more of the following condition(s) exist to justify or provide grounds for disapproval of said request:

- (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, location within or near environmentally sensitive area, or topography;
- (b) The application of this Code to this particular piece of property would create an unnecessary hardship; and
- (c) There are conditions that are peculiar to the property which adversely affect its reasonable use or usability as currently zoned.

Sec. 9-24-3-7. - Decision.

In rendering a decision on an administrative variance application, the director of ~~planning and development~~community and economic development (or, if he or she has jurisdiction, the director of public works or director of water resources) shall consider all information supplied by the applicant. Within twenty-one (21) calendar days of receipt of a completed application for administrative variance, the director(s) ~~may~~ may of ~~planning and development~~ may:

- (a) Approve the application as submitted;
- (b) Approve the application with conditions; or
- (c) Deny the application.

Sec. 9-24-3-8. - Notice of action.

Notice of the action on an administrative variance shall be sent by United States mail to the applicant. If the application for administrative variance is denied, the reasons for denial shall be stated in the notice of action.

Sec. 9-24-3-9. - Finality and variance remedy.

The action of the director of ~~planning and development~~community and economic development on the administrative variance application (or, if he or she has jurisdiction, the director of public works or director of water resources) shall be final and may not be appealed as an administrative decision pursuant to chapter 9-22-7; provided, however, that any person who is denied an application for administrative variance pursuant to this chapter may file an application for variance with the planning and appeals board pursuant to chapter 9-22-6.

Sec. 9-24-3-10. - Records.

The director of ~~planning and development~~community and economic development shall keep public records of all administrative variances applied for and granted pursuant to this chapter.