White Zoning Ordinance

(11-04-24)

TABLE OF CONTENTS

Chapter 34 ZONING

ARTICLE I. IN GENERAL

Sec. 34-1. Purpose and intent.

It is the purpose of this chapter to promote the public health, safety and welfare of the citizens of the city and visitors thereto. To these ends, this chapter is intended to achieve, and is enacted for, the following purposes:

(1) To guide and regulate the orderly growth, development, redevelopment and preservation of the city in accordance with a well-considered comprehensive plan and with long-term objectives, principles and standards deemed beneficial to the interest and welfare of the people.

(2) To protect the established character and the social and economic well-being of both private and public property.

(3) To promote, in the public interest, the wise use of land.

(4) To provide for adequate light, air, convenience of access, and safety from fire, flood and other dangers.

(5) To reduce or prevent congestion in the public streets.

(6) To facilitate the creation of a convenient, attractive and harmonious community.

(7) To encourage an aesthetically attractive environment, both built and natural, and to provide for regulations that protect and enhance these aesthetic considerations.

(8) To expedite the provision of adequate police and fire protection, safety from crime, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements.

(9) To protect against destruction of, or encroachment upon, historic areas.

(10) To protect against overcrowding of land, overcrowding of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, and loss of life, health or property from fire, flood, or other danger.

(11) To encourage economic development activities that provide desirable employment and enlarge the tax base.

(12) To promote the preservation of the unique natural and physical resources of the city including forested areas, riverbeds, streambeds, and archaeological sites.

(13) To achieve compliance with all applicable state and federal regulations.

(14) To provide for protection of the constitutional rights and obligations of all citizens within the city.

Sec. 34-2. Interpretation of certain terms and words.

In interpreting this chapter, the word "lot" includes the words "plot" and "parcel". The words "used" and "occupied," when applied to any land or building, include the words "intended, arranged or designed to be used or occupied".

Sec. 34-3. Definitions.

Except as specifically defined herein, all words used in this chapter shall carry their customary meaning as defined by a standard dictionary. See section 34-239 for additional definitions relating to signs. See section 34-270 for additional definitions relating to telecommunications towers.

Accessory structure means a structure located on the same lot as the principal use, which is clearly incidental and secondary to the permitted use and which does not change the character of such use, including, but not limited to, private garages, bathhouses, greenhouses, tool sheds, storage buildings, or similar.

Adult entertainment establishment means an establishment subject to the regulations of chapter 6.

Agriculture means all agricultural practices, subdivided into two sub-classifications: 1) horticulture and 2) raising or keeping livestock.

Alley means a minor way, public or private, used for service access to the back or side of properties otherwise abutting a street.

Alternative nicotine products means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. The term alternative nicotine product shall not include any tobacco product, vapor product, or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

Apartment means a multifamily residential use of five or more attached dwelling units for which rent is paid and no fee title is conveyed.

Assembly plant means a facility that performs the fitting together, or assembling of pre-manufactured parts into a complete article, sub-assembly, or product. A "heavy assembly plant" assembles products that exceed 200 pounds per unit (e.g., cars, motorcycles, etc.) or does not have a completely enclosed production line. These definitions shall not apply if a more specific use, term or definition is contained in this chapter.

Block means a piece or parcel of land entirely surrounded by public highways or streets, other than alleys.

Boardinghouse/roominghouse means a dwelling in which lodgers, for a fee, rent a portion thereof and the right to stay for one or more nights, and where meals and some services, such as laundry and cleaning, may be provided.

Building means any structure intended for shelter, housing, or enclosure of persons, animals, chattels or property, and having a roof supported by columns or by walls.

Building, accessory, means a detached structure designed for the use of which is clearly incidental to and subordinate to the principal structure or use of the land, and which is located on the same lot as the principal structure or use.

Building, principal, means a building in which is conducted the main use of the lot on which said building is located.

Casino means a facility for legal gambling authorized under state law, but does not include the sale of lottery tickets without other forms of legal gambling or betting.

Chicken Coop means any structure, building, shelter or other facility for raising, feeding, sheltering or maintaining chickens, or similar birds, containing twenty (20) or less chickens. A chicken coop is not a "major livestock enclosure" as long as it contains only 20 or less chickens.

Chicken House means any structure, building, shelter or other facility for raising, feeding, sheltering or maintaining chickens, or similar birds, containing more than twenty (20) chickens or similar birds. Any chicken house is a "major livestock enclosure".

Commercial or *commercial operations* means an activity undertaken for profit, income, or other business purposes, including sales or manufacture of goods or items, including sale of animals, and including boarding and breeding of animals, and similar activities.

Commercial vehicle means a duly licensed and registered vehicle used to transport passengers or property to further a commercial enterprise. A commercial vehicle must not be used as an office nor have customer entry for a retail transaction. For purposes of this chapter, the following are also commercial vehicles:

(1) Vehicles of more than 10,000 pounds gross vehicle weight;

(2) Vehicles with a manufacturer's rated load capacity of more than three-quarters of a ton;

(3) Vehicles registered as commercial vehicles, common carriers, motor common carriers, or classified as "for hire" by the state, other states, or the ICC; or

(4) A freight trailer, semi-trailer, flatbed, tanker trailer, log trailer or other commercial trailer exceeding 12 feet in length.

A recreational vehicle, farm machine or farm vehicle for agricultural uses is not a commercial vehicle.

Community development director means the city clerk, or a duly authorized representative.

Conditional zoning means the imposition of conditions in the grant of a rezoning application which are in addition to or different from the regulations set forth in this chapter and which are related to the promotion of the public health, safety, morals or general welfare and designed to minimize the negative impact on surrounding lands. Such conditions may include, but are not limited to, restrictions on land use, height, setbacks and other non-use requirements, physical improvements to the property, and infrastructure serving the property.

Condominium means individual ownership units in a multifamily structure, combined with joint ownership of common areas of the building and grounds, or otherwise meeting the definition of condominium in the Georgia Condominium Act, title 44, chapter 3, article 3.

Conventional single-family housing (site-built home) means a dwelling unit constructed on the site from materials delivered to the site, constructed in accordance with the applicable standard building codes.

Developer means the owner of, or person responsible for, a development.

Development or *to develop* means any manmade change on improved or unimproved real estate, including, but not limited to, buildings, structures, mining, dredging, filling, grading, paving, excavation, drilling, or permanent storage of materials or equipment. Also, subdividing a tract of land into three or more lots whether for sale or rental, whether for commercial, industrial, office or residential purposes, or some combination thereof. The term "development" shall include redevelopment of existing development; the construction of any commercial, industrial, multi-family or office building or structure, even if on a single lot; and the construction of a manufactured home park.

Dwelling means a building or other structure designed, arranged, or used for temporary or permanent living quarters for one or more persons.

Dwelling unit means a building or portion thereof, providing complete living facilities for one family.

Easement means a grant by a property owner of the use of land for a specific purpose or purposes by the general public, a corporation, or a certain person or persons.

Enclosure means a structure with four sides and a roof designed to enclose and shelter animals, persons or objects.

Family means an individual or two or more persons related by blood, marriage, or adoption living together in a dwelling unit; or a group of not more than six persons who need not be related by blood, marriage, or adoption, living together in a dwelling unit. For purposes of this chapter, the term "family" may include five or fewer foster children placed in a family foster home licensed by the state, but shall not include fraternities, sororities, nursing homes, or rest homes.

Greenspace means property that has been conveyed to a land trust or the city for preservation in the governor's greenspace program.

Group home for persons with a disability means a residence in which three or more persons with a disability reside and which is licensed by the state department of human resources as a personal care home under title 31. See section 34-173 for further regulations.

Health department means the Bartow County Health Department, which reports to the Bartow County Board of Health.

Home occupation means any use customarily conducted within the principal dwelling and carried on solely by the occupant thereof. See section 34-92 for further regulations.

Hotel means a building or structure typically multi-story, providing multiple residential dwelling units for typically short-term rental (two weeks or less), with interior access to the units.

Industrialized housing means a factory fabricated dwelling built in one or more sections designed to fit together on a foundation but which usually does not originally have wheels for movement and which is constructed in accordance with the Georgia Industrialized Building Act (O.C.G.A. § 8-2-110) and which bears the seal of approval issued by the department of community affairs.

Industry, general, means the manufacture, assembly, repair, processing, testing or packaging of finished products, predominantly from previously prepared materials or from raw materials; includes processing, fabrication, incidental storage, and distribution of such products. In general, such uses shall occur entirely or almost entirely within an enclosed structure. Without restricting the generality of the foregoing, this would include, for example: assembly plants, feed processing plants, soft drink bottling and distribution plants, beer and liquor distribution plants, carpet manufacturing plants, and similar facilities. In cases of facilities not clearly falling into this definition, the community development director shall determine whether a facility is general industry or heavy industry.

Industry, heavy, means a large-scale industrial manufacturing or processing activity, including especially the manufacturing or processing of raw materials for other industry, businesses or uses. Without restricting the generality of the foregoing, this would include for example: plants for the manufacture of petroleum products, pulp and paper products, stone, clay, and glass products, cement and lime products, fertilizers, animal by-products; and plants which will be engaged in the primary metal industry, metal processing, or the processing of natural gas or its derivatives. This would also include plants and facilities involved in the production (or processing) of intrinsically dangerous materials or products such as explosives, acids, and the like. In cases of facilities not clearly falling into this definition, the community development director shall determine whether a facility is general industry or heavy industry.

Institutional-residential uses means uses that provide residential living space or dwelling units for persons in an institutional or group setting, whether for day care, 24-hour care or unassisted living, specifically defined as one of the following types: assisted-living facility, adult day care, child day care, homeless shelter, home for the aged, hospice, nursery school, nursing home, group home, protective housing facility, rehabilitation/treatment facility, residential treatment center, rest home, retirement home, and shelter care facility. See section 34-173 for further applicable regulations.

Junk yard (salvage yard; scrap yard) means any use involving the storage or disassembly of wrecked automobiles, trucks, or other vehicles; storage, baling or otherwise dealing in bones, animal hides, scrap metal, commercial/residential appliances, used paper, used cloth, used plumbing fixtures and used brick, wood, or other building materials. Such uses shall be considered junk yards whether or not all or part of such operations are conducted inside a building or in conjunction with, addition to, or accessory to, other uses of the premises. See section 34-174 for additional regulations.

Land disturbing activity means any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land, but not including agricultural operations and forestry.

Land disturbance permit means a permit granted under the city soil erosion and sedimentation control ordinance that provides the authorization necessary to conduct a land disturbing activity under the provisions of that ordinance and this chapter.

Line, lot, means the boundary line of a lot.

Line, yard, means a line drawn parallel to a lot line at a distance therefrom equal to the depth of the required setback.

Lot means a developed or undeveloped tract of land having defined boundaries and legally transferable as a single unit of land; does not refer to public rights-of-way.

Lot of record means a lot described in a deed, survey or final subdivision plat recorded in the public records of the county clerk of the superior court that was in compliance with ordinances and regulations in existence at the time that the lot was created. Illegal lots that were created in violation of regulations existing at the time of creation are not lots of record.

Lot, depth of, means the mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

Lot, width of, means the distance between side lot lines.

Low THC oil means an oil that contains an amount of cannabidiol and not more than five percent by weight of tetrahydrocannabinol, tetrahydrocannabinolic acid, or a combination of tetrahydrocannabinol and tetrahydrocannabinolic acid which does not contain plant material exhibiting the external morphological features of the plant of the genus Cannabis.

Manufactured home community means a development where multiple manufactured homes may be sited on a single lot to be used as separate dwellings. The manufactured homes may be owned by the owner of the community and leased to the residents or may be owned individually by the residents of the community.

Manufactured house (mobile home) means a detached, single-family dwelling unit designed for long-term occupancy and constructed in one or more units with wheels for movement (whether or not such wheels are later removed) and which has plumbing and electrical connections provided for attachment to outside systems, whether or not such unit is subsequently installed on a foundation or other internal or external changes are made.

Manufactured house, multi-unit, means a detached single-family dwelling unit constructed in two or more units with similar marriage walls with wheels for movement (whether or not such wheels are later removed) and which has plumbing and electrical connections provided for attachment to outside systems, whether or not such unit is subsequently installed on a foundation or other internal or external changes are made.

Manufactured house stand means that area of a manufactured house lot which has been reserved for the placement of a manufactured house.

Motel means a building or structure of typically one or two stories height providing multiple residential dwelling units typically for short-term rental (two weeks or less), with adjacent parking and external access to each unit.

Nonconforming use means a lawful use of or vested right to use any building, structure or land existing at the time of the adoption of the ordinance from which this chapter is derived or the adoption of any amendment thereto. See section 34-89 for further regulations.

Open space means an area that is not used for or occupied by a driveway, an off-street parking area, a loading space, a yard, a refuse storage space, or a building.

Ordinance means this chapter and all amendments thereto including the official zoning map of city.

Place of worship means a structure which is intended for conducting organized religious services for organizations with tax-exempt status, with no overnight facilities. Secondary uses such as child care, senior services, professional counseling, hospices, schools, rehabilitation services, or similar uses are not included in this definition. The term "place of worship" does not include organizations that violate federal, state, or city laws or codes.

Planned unit development (PUD) means a planned development on a minimum of 50 acres with a minimum lot size of 7,500 square feet and without regard to the segregation of housing types or uses and which may include multiple uses within the same tract. See section 34-132 for further regulations.

Plat means a map, plan or layout of a county, city, town, lot, section, subdivision or development indicating the location and boundaries of properties.

Principal use means the specific, primary purpose for which land or a building is used.

Recreational vehicle means a camper, camp trailer, travel trailer, house car, motor home, trailer bus, trailer coach or similar vehicle, with or without motive power, designed for human habitation for recreational or emergency occupancy. Where a recreational vehicle is on or attached to a trailer used to carry or tow said vehicle, they shall together be considered one recreational vehicle. The term "recreational vehicle" shall not include a pickup truck used for transportation to which a camper shell has been attached. See article IV of this chapter for further regulations.

Redevelopment means the process of developing property that has previously been developed. See *Development.*

Retail business means a business consisting primarily of buying merchandise or articles in gross and selling to general consumers in small quantities or broken lots or parcels and not in bulk and not for resale.

Right-of-way line (also r/w) means the dividing line between a lot, tract or parcel of land and a contiguous right-of-way.

Self-storage facility means a commercial operation where outdoor or enclosed individual storage spaces are rented to the public. This definition includes mini-warehouses and boat and recreational vehicle storage, but excludes wholesale facilities or distribution facilities.

Setback means the open space between the lot line and the yard line, which shall be unobstructed by any structure other than as expressly permitted in this chapter. See section 34-61. Where a distinction is made between an external setback and an internal setback, the term "external setback" refers to the setback from external boundary lines and rights-of-way, and the term "internal setback" refers to spacing between multiple buildings on one larger lot (e.g., apartment buildings or townhomes).

Sign means any display of words, shapes or images designed to convey a message to the viewer, located on the exterior of any dwelling, building or structure, or located anywhere on a lot upon a dedicated supporting structure or device, including poles, banners, windows and similar devices. See article IX of this chapter for further sign regulations and definitions.

Special use means a use not ordinarily permitted but which may be permitted upon the imposition of conditions related to the promotion of the public health, safety, morals or general welfare and designed to minimize the negative impact on surrounding lands. Such conditions may include, but are not limited to, restrictions on land use; height, setback and other non-use requirements; physical improvements to the property and infrastructure serving the property. A special use must be approved in the same manner as a rezoning request prior to the issuance of a permit. See article XIV of this chapter.

Street means a way for vehicular traffic, whether designated as an avenue, road, boulevard, highway, expressway, lane, alley or other way.

Structure means anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

Subdivide means dividing a tract of land into three or more lots.

Subdivision means a tract of land divided into three or more lots.

Swimming pool means any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in ground, above ground, and on ground swimming pools, but the term "swimming pool" does not include inflatable temporary pools. See section 34-102 and the city building code ordinance for additional regulations.

Tobacco products means any cigars, little cigars, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff or snuff powder; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such a manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. The term tobacco product shall not include any alternative nicotine product, vapor product, or product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

Tobacco related objects means any papers, wrappers, or other products, devices, or substances, including cigar wraps, which are used for the purpose of making cigarettes or tobacco products in any form whatsoever.

Townhouse means a multifamily residential use consisting of three or more attached dwelling units for which fee simple title is conveyed and for which an incorporated mandatory homeowners' association is provided.

Travel trailer/camper. See *Recreational vehicle.*

Vapor product means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. The term vapor product shall include any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. The term vapor product shall not include any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

Vapor shop means a retail business substantially engaged in the retail sale of low THC oil, tobacco products, tobacco related objects, alternative nicotine products, vapor products, cannabidiol (CBD) or products containing CBD ("the subject products"). For the purposes of this definition, substantially-engaged means one or more of the following conditions are met:

(1) Ten percent or more of the retail stock in trade consists of the subject products, as measured by the number of individual items available for purchase at any given time;

(2) Ten percent or more of the value of gross sales receipts for any day that the entity is open is derived from the sale of subject products;

(3) The subject products make up ten percent or more of the retail value of the retail stock in trade; or

(4) Ten percent or more of the establishment's floor area is devoted to the marketing of the subject products.

Wholesale business means a business primarily engaged in the selling of goods or articles in gross to retailers or jobbers for resale and not to the ultimate consumer.

Yard means an open 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.

Yard, front, means an open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the street and the front line of the building projected to the side lines of the lot.

Yard, rear, means 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 side lines of the lot.

Yard, side, means an open, unoccupied space on the same lot with a principal building, situated between the building and the side lot line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

Zoning map means the official zoning map of White, Georgia. See section 34-26.

Secs. 34-4—34-24. Reserved.

ARTICLE II. ESTABLISHMENT OF ZONING DISTRICTS

Sec. 34-25. Division into districts.

(a) For the purpose of this chapter, the city is divided into zoning districts designated as follows:

A-1	Agricultural District
R-1	Residential District, Single-Family
R-2	Residential District, Single-Family
R-3	Residential District, Manufactured Home
R-4	Residential District, Multi-Family
O-I	Office and Institutional District
C-1	Central Business District
C-2	General Business District
IND-G	General Industrial District
IND-H	Heavy Industrial District
PUD	Planned Unit Development District

(b) Complete district regulations can be found in article V of this chapter, and further applicable regulations can be found throughout this chapter.

Sec. 34-26. District boundaries; official zoning map.

The boundaries of each district are as shown on the "Official Zoning Map of White, Georgia," which is hereby incorporated into this chapter by reference. The official zoning map shall be retained in the office of the community development director and shall be available for inspection by the public during regular city business hours.

Sec. 34-27. Rules for determining boundaries.

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the official zoning map, the following rules shall apply:

(1) Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines, or highway right-of-way lines, such centerlines, street lines, or highway right-of-way lines shall be construed to be such boundaries.

(2) Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.

(3) Where district boundaries are so indicated that they are approximately parallel to the centerlines of streets, highways, railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the map. If no distance is given, such dimension shall be determined by the use of the scale shown on said map.

(4) Where a district boundary line, as appearing on a map, divides a lot in single ownership at the time of this enactment into two or more classifications, the district requirements for the larger portion shall apply to the entire lot.

Secs. 34-28—34-57. Reserved.

ARTICLE III. GENERAL REGULATIONS FOR LOTS

Sec. 34-58. Use; applicable ordinances.

(a) No building, structure, land, lot or portion of a lot shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered, unless the use or occupancy is in conformity with the codes and ordinances in effect in the city at the time a permit is issued, or an application is made for a permit, and all of the regulations herein specified for the district in which it is located. Nonconforming uses are discussed in section 34-89.

(b) There shall be only one principal use per lot. Only accessory structures that are accessory to that principal use shall be permitted. See also section 34-60.

(c) This chapter regulates zoning. The city building code ordinance and the city building inspector should be consulted for applicable state standard minimum codes applying to construction, repair and renovation. The county board of health and the county health department should be consulted for applicable health regulations relating to on-site sewage management systems (i.e., septic systems) and regulation for swimming pools, food service, tourist courts and other potentially applicable regulations.

(d) Each owner and occupant of a lot having an occupied structure shall post the street address of the property in a manner that is readily visible from the public right-of-way.

Sec. 34-59. Yards.

(a) Yards must remain open space, unobstructed by buildings or structures, except as otherwise permitted, such as accessory buildings in the rear or side yard.

(b) No part of a yard, or other open space, or off-street parking or loading space required about, or in connection with, any building for the purpose of complying with this chapter shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

Sec. 34-60. Principal use; accessory buildings.

(a) Only one principal use is permitted per lot or tract.

(b) Every building or structure hereafter erected shall be located on a lot or tract as defined herein, and there shall not be more than one principal building on one lot, plus its accessory buildings.

(c) Accessory buildings and structures in residential zoning districts or ancillary to residential use are permitted only in the side or rear yard and shall not be less than ten feet from the side and rear property lines, and shall also meet all buffer requirements, if applicable. No part of an accessory structure may be built closer to the street than the existing front building line of the principal structure. On lots of less than two acres, there shall be no more than two accessory buildings, including any detached garages.

(d) Temporary accessory structures (for example, mobile storage containers) may be located in any yard (including front yards) for no longer than 14 days. After that time period, any such structure must be removed.

Sec. 34-61. Setbacks and rights-of-way.

(a) No building or other structure may be erected in a front, side or rear setback, except for driveways, walkways, structural retaining walls, and patios (but not elevated decks or cantilevered overhangs). Eaves and stairs may protrude no more than three feet into a setback.

(b) On lots having frontage on more than one street in any district, the front setback figure shall apply to each street.

Sec. 34-62. Lots; creation of illegal lots.

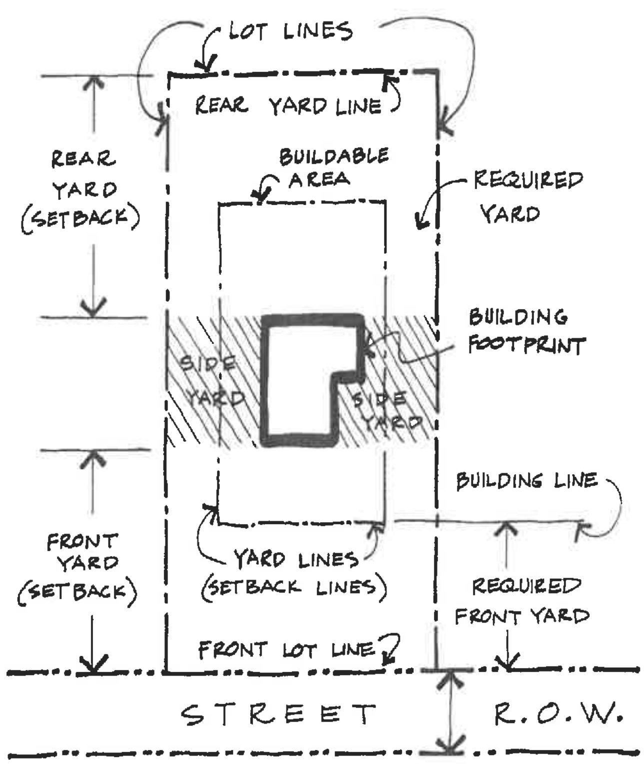
(a) *Lot reduction.* It is not permitted to reduce an existing lot below minimum standards. Specifically, no lot shall be reduced in size so that the mandatory lot frontage or depth; front, side or rear yard; width at building line; or lot area are not maintained. Lots of record that do not meet existing standards may not be reduced. This section shall not apply when a portion of a lot is acquired for public purposes.

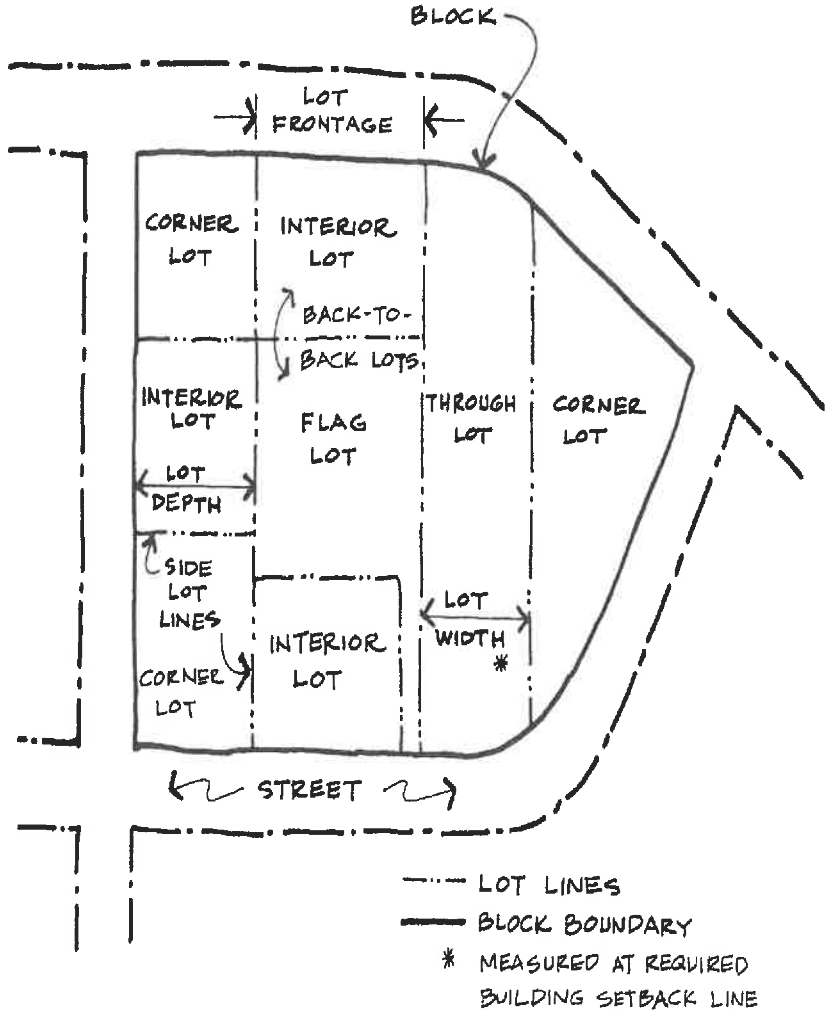
(b) *Illegal lots.* It is not permitted to split or subdivide any lot if any of the resultant lots are under the minimum size lot allowed in the zoning district. Creation of a new lot under the minimum size requirement of the relevant zoning district is not permitted, nor is leaving a remnant under the minimum size requirement. It is not permitted to reduce an existing lot's size under the minimum size requirement. Any subdivision or creation of a substandard lot is illegal and shall not create any vested right nor permit any nonconforming use.

(c) *Substandard single lots.* Where the owner of a lot of record or his successor in title thereto does not own sufficient land to enable him to conform to the dimensional requirements of this chapter, such lot may be used as a building site for a single-family residence in a district where residences are permitted.

(d) *Substandard adjoining lots.* If two or more adjoining lots with continuous frontage are in a single ownership at any time after the adoption of the ordinance from which this article is derived or amendment thereto and such lots individually are too small to meet the yard, width, and area requirements of the district in which they are located, such groups of lots shall be considered as a single lot or several lots of minimum permitted size, and the lot or lots in one ownership shall be subject to the requirements of this chapter.

(e) The following illustrations shall exemplify how the various terms used in regards to lots and setbacks in this zoning ordinance should be interpreted:





Sec. 34-63. Road frontage restrictions; private driveways and easements.

No new lot shall be created, nor shall any principal building be erected, on any lot which does not have immediate access and frontage, of a minimum amount as specified in article V of this chapter, on at least one existing public road or on a newly created internal street in a development. The minimum road frontage requirements are defined in article V of this chapter based on the underlying zoning district.

Sec. 34-64. Street facade requirements.

The following street facade requirements apply to all new developments and structures in the O-I, C-1 and C-2 zoning districts facing on U.S. 411.

(1) Installation of sidewalks shall be required. Sidewalk level uses shall have at least one primary pedestrian entrance which faces, is visible from, and directly adjacent to the

required sidewalk. Where a property fronts on more than one street, only one such entrance shall be required.

(2) The first two stories of building facades shall be brick, cast stone, concrete siding such as Hardiplank, natural wood or stone, with the exception of pedestrian entrances and windows.

(3) Awnings shall be of fabric, canvas, fixed metal, or similar material. Internally lit awnings and canopies that emit light through the awning or canopy material are prohibited.

(4) Blank, windowless walls are prohibited. All building stories with the exception of storefront treatments shall have windows and doors that equal a minimum of 30 percent and maximum of 60 percent of the total facade area with each story being calculated independently.

(5) All windows shall be vertically shaped with a height greater than width, including display windows but not transoms.

(6) Glass panels in windows and storefronts shall be clear and unpainted, and shall not be tinted such that views into the building are obstructed.

(7) Entry facade window trim shall not be flush with the exterior wall and shall have a minimum relief of one-quarter inch from the exterior wall.

(8) Window frames shall be recessed a minimum of two inches from the exterior facade.

(9) Porches and stoops shall not be enclosed with screen wire or glass.

(10) Porch and arcade columns shall be a minimum width of eight inches.

(11) Exterior entry steps shall have enclosed risers.

(12) Building foundations shall be brick, stone, stucco, or concrete with similar appearance.

(13) Parking structures shall conceal automobiles from visibility; shall have the appearance of a horizontal storied building on all levels; shall be faced in brick, stone, cast stone, poured-in-place rubbed concrete, or pre-cast concrete faced in or having the appearance of brick or stone.

Sec. 34-65. Building walls facing public right-of-way.

In all zoning categories, principal and accessory structures must have at least 75 percent of the front of the building constructed of wood, hardiplank siding, brick, stucco, etched-faced block, rock, stone, or similar material. At least 25 percent of any side facing a public right-of-way shall be composed of these same materials. If a different material is proposed, the Building Inspector shall review a written request to use a proposed similar material and determine whether the proposed material is substantially similar to and consistent with the above-listed materials and meets the purpose and intent of this chapter.

Sec. 34-66. Fence requirements.

(a) It is the purpose of the mayor and city council in enacting these regulations to provide standards to safeguard life, public health, property, and welfare by regulating the location, size, height, and quality of materials of fences in residential and commercial zoning districts. This section does not apply to fences in agricultural and industrial districts. This section does not apply to fencing for detention ponds.

(b) No fence shall constitute an obstruction to the vision for or create a hazard to vehicular traffic. No fence shall constitute an obstruction or hazard to utilities. No fence shall be installed within city right-of-way. The city may remove a fence in violation of this article, without giving notice to any party, if said fence is upon the city right-of-way or upon other city property, or if said fence poses an immediate safety threat to public safety.

(c) In all residential and commercial zoning districts, fences shall not exceed five feet in height in a front yard, as defined in this chapter, and shall not exceed eight feet in height in a side or rear yard. Any fence which extends into the front yard shall not be opaque. Any such front yard fence may be constructed of brick, stone, wood, wrought iron, split rail, chain link, or other material as approved by the Building Inspector. No fence shall be constructed of razor wire (ribbon), chicken wire, exposed concrete block, tires, junk, or discarded building materials.

Secs. 34-67—34-88. Reserved.

ARTICLE IV. REGULATION OF PROPERTY

Sec. 34-89. Continuance of a nonconforming use.

Any preexisting lawful nonconforming use of or vested right to use any building, structure or land existing at the time of the adoption of this article, or the adoption of any amendment hereto, may be continued subject to the restrictions contained in this article, even though such use does not conform with the regulations of this article, except that:

(1) A nonconforming use or structure shall not be changed to another nonconforming use.

(2) A nonconforming use or structure shall not be expanded, extended, or enlarged beyond the area of use, size of operation, and/or the size of the structures existing at the time the use became nonconforming except in a manner that is conforming with this article. Similarly, no building containing a nonconforming use can be expanded or enlarged except in conformity with this ordinance.

(3) A nonconforming use or structure shall not be re-established after discontinuance for one year regardless of any reservation of an intent not to abandon.

(4) A nonconforming use or structure shall not be rebuilt, altered, or repaired except as provided herein:

a. If the structure is altered or repaired, said alterations or repairs shall be in conformity with the building codes in force at the time of said alteration or repair; provided, however, that said alteration or repair shall not extend or enlarge the structure being altered or repaired;

b. If the structure is totally rebuilt, the replacement structure shall conform to all the requirements of this chapter, except as to the district; provided, however, said replacement structure may not occupy an area greater than the replaced structure.

(5) Uses and structures made nonconforming by new provisions in this chapter shall be limited to the area of use, size of operation, height, and/or size of structures as existing on the date of adoption of the ordinance from which this chapter is derived.

(6) Uses and structures made nonconforming by prior versions of this ordinance shall be limited to the area of use, size of operation, height and/or size of structures as existing on the date of adoption of the relevant provision by the prior ordinance.

Sec. 34-90. Operation of business from residential district prohibited.

Unless specifically permitted as a use under the applicable provision of article V of this chapter, no business or commercial enterprise may operate in a residentially-zoned district. Operation of a business or commercial enterprise shall include, but not be limited to, such activities as: having employees report to work at the property; storing commercial vehicles at the property; parking commercial vehicles at the property (other than as specifically permitted by section 34-96); conducting any manufacturing or assembly at the property; retail or wholesale sales of any sort; providing any service, maintenance or repair at the property (other than permitted home occupations); and storage of any materials, supplies, products, or components at the property. Home offices and home occupations are permitted as shown in sections 34-91 and 34-92.

Sec. 34-91. Home offices.

Home offices are permitted in any home, allowing the occupant to work from home or to manage a business licensed as a mobile business. No customers, suppliers or vendors shall be permitted at a home office. Employees are not permitted to report to work, receive assignments, or pick up vehicles at a home office. No non-resident of the home may work in the home office (i.e., no outside employees may work in the office). See also section 34-90. Home occupations are permitted as stated in section 34-92.

Sec. 34-92. Home occupations.

(a) Class I home occupations are those consistent with the requirements of this paragraph, and are permitted in zoning districts as listed in article V of this chapter. No class I home occupation shall occupy more than 30 percent of the heated floor space of the principal use building. No separate building or structure may be constructed to house a class I home occupation. A class I home occupation must be a use that is clearly incidental and secondary to the use of the dwelling as a residence and that does not change the character thereof or reveal from the exterior that the dwelling is being used in part for other than a residence. No non-resident of the home may work in the class I home occupation (i.e., no non-resident employees). There shall be no display, stock in trade, or commodity sold on the premises, and no mechanical equipment used except such as is commonly used for purely domestic household purposes. Such permissible occupations include, in general, such personal services such as are furnished by a musician, artist, seamstress, cook, or laundress, consultant, telecommuter, or other occupation which does not generate nonresidential traffic nor has non-occupant employees, but shall not include such uses as tea rooms, animal hospitals, or a wholesale, retail or manufacturing business.

(b) Class II home occupations are home occupations that are not consistent with the requirements of class I home occupations above. Class II home occupations may be permitted in residential and agricultural zoning districts by special use permit, subject to the standards and procedures of this code for special use permits.

Sec. 34-93. Residential living only permitted in permanent structures.

(a) No lot may be used for temporary or permanent residential living quarters unless a permanent dwelling unit has been lawfully erected on the lot, pursuant to the provisions of this article and applicable building and safety codes. Indications that a property is being used as temporary or permanent residential living quarters include actions such as spending significant time at the location on more than one day, repeated eating and sleeping at the location, and performing other life activities at the location repeatedly.

(b) Tents, boats, RVs and other structures that are not permitted permanent dwelling units cannot be occupied either on a permanent or temporary basis on a residential lot, except that tents may be occupied for no more than three days in any two-month period when erected in the rear yard of a permanent dwelling unit.

Sec. 34-94. Occupancy of recreational vehicles.

(a) No recreational vehicle shall be occupied as a temporary or permanent residential living quarter except in conformance with this section or pursuant to a hardship variance which must be approved by the mayor and city council.

(b) Recreational vehicles can be occupied as temporary dwellings as a temporary accessory use for no more than ten days in any two-month period, only if there is a permanent dwelling unit as a principal use on the lot, and only if the vehicle is parked in conformance with this article. No more than one recreational vehicle can be so occupied on the same lot.

Sec. 34-95. Recreational vehicle parking.

Recreational vehicles parked in any residential zone or residentially-used area shall not be permitted to be parked in any required setback or buffer area, nor in any front-yard area. Recreational vehicles on residential property shall only be parked in the side or rear yard, within setbacks. No more than two recreational vehicles shall be parked on any single residential lot.

Sec. 34-96. Commercial vehicle parking.

(a) No more than two commercial vehicles (trailers counted separately if separated from a tractor) shall be parked on any single residential lot, or on any lot in any residentially-zoned lot. Commercial vehicles may not be parked on any residential lot without an occupied single-family dwelling, and may not be parked on vacant residential lots.

(b) Commercial vehicles parked in any residential zone or residentially-used area shall not be permitted to be parked in any required setback or buffer area. Commercial vehicles on any lot under five acres must be parked in the side or rear yard area. The mayor and city council shall be permitted to grant a hardship administrative variance to allow parking in a setback or front yard if no other room exists.

Sec. 34-97. Use of vehicles, shipping containers, or trailers for storage.

Neither vehicles (whether operable or inoperable), shipping containers, nor trailers (whether on or off their axles) may be used as storage buildings unless they are placed in the rear yard, outside of rear or side setbacks. This shall apply to all vehicles and trailers, including commercial vehicles, recreational vehicles, panel vans, tractor-trailer rigs, railroad boxcars, etc.

Sec. 34-98. Appearance of property.

In order to preserve the aesthetic beauty of the city, to protect against nuisances, hazards, vermin and odor, among other hazards, and to preserve the property values of surrounding property, all property in the city shall be required to comply with the following provisions:

(1) All property (other than where explicitly permitted, such as a junk yard or salvage yard) must be free of the following: scrap metal; junked, inoperative or broken appliances (including engines and vehicles or parts of vehicles); junked, inoperative or broken equipment (such as lawn mowers, bicycles, machines); construction or demolition debris; other waste, garbage or refuse such as old tires, discarded carpet, discarded household furniture, bottles, cans, or similar; stumps, branches, dirt, and other debris from land disturbance and grading (except incident to a permit under the city soil erosion and sedimentation ordinance for the subject property and/or pursuant to lawful construction on the subject property); and household trash (except in a trash container in good condition with a lid). Such items may be kept in an enclosed building or enclosed garage erected pursuant to a building permit or otherwise lawfully permitted, but may not be kept in the open.

(2) All property, whether residential, commercial or industrial, containing a grass lawn (for example fescue, rye, bluegrass, bermuda, zoysia or similar grasses), landscaping strips, or other landscaping must be maintained so that the grass is kept cut below the height of 12 inches, and so that shrubbery, weeds and other landscaping is kept

cut to the point where no windows or doors in a structure are completely obscured or blocked.

(3) Storage of lumber, dumpsters, shipping containers, wood pallets, pipe, concrete blocks, other construction material, or other commercial material, or any commercial inventory (including products for sale, use or repair in off-site businesses), or materials associated with a commercial operation, shall be prohibited on residentially-zoned or residentially-used property, unless associated with or required by a permitted use on the property (including repair or construction of a structure that is itself a permitted use, e.g., construction of a single-family residence on said property).

(4) For violations of this section, an owner or resident of property may be given a citation, and, at the hearing on the citation, the municipal court may, in addition to other appropriate penalties under the law, order abatement, pursuant to O.C.G.A. § 41-2-5. The order of abatement may provide that in the event the owner or resident fails to correct the violation within a specified time period, the city is authorized to cause the violation to be remedied and the cost of abatement be placed as a lien against the property which lien may be collected in the same manner as judgements, utility bills and tax collections.

Sec. 34-99. Junk, abandoned, inoperable or unregistered vehicles.

(a) No automobile, vehicle or trailer of any kind or type without a valid license plate attached thereto shall be parked or stand on any residentially-zoned property or other zoned property unless it shall be in a side yard or backyard or completely enclosed building or on property properly zoned as a junk yard, except for such off-road vehicles which by law do not require a license plate, provided the same is in operating condition.

(b) No automobile, vehicle or trailer of any kind or type which shall be inoperative or in a junk condition, or abandoned, shall be parked or stand on any property unless:

(1) It shall be on the premises of a business enterprise operated in a lawful manner, when necessary to the operation of such business enterprise; or

(2) It shall be on property lawfully occupied and used for repair, reconditioning or remodeling of vehicles in conformance with this chapter.

(c) A vehicle in inoperative or junk condition shall include, but shall not be limited to, any automobile, vehicle, trailer of any kind or type, or contrivance, or a part thereof, the condition of which is one or more of the following:

(1) Wrecked;

(2) Dismantled;

(3) Partially dismantled;

(4) Inoperative;

(5) Abandoned;

(6) Discarded;

(7) Scrapped; or

(8) Does not have a valid license plate attached thereto.

(d) Nothing in this section shall authorize the maintenance of a public or private nuisance as defined under other provisions of law.

(e) In all instances where the owner of any abandoned, inoperative, or junk motor vehicle and/or trailer cannot be determined, or when such vehicle is abandoned on public property or a non-owner's property, such junk or abandoned motor vehicle and/or trailer shall be removed under the authority and provisions of O.C.G.A. ch. 40-11. If on public property, such vehicle may be removed after five days; if on private property, it may be removed after 30 days.

(f) In all instances where the owner of any junk, inoperative, unregistered, or abandoned motor vehicle and/or trailer refuses to remove, enclose or register (or, if requested, refuses to give consent for the city to remove) any such vehicle or trailer currently in violation of this article, the city shall be empowered to seek an order from superior court authorizing the city to remove and dispose of such vehicle or trailer. In addition, if the vehicle or trailer is determined to be a health hazard or a nuisance, the city shall be empowered to seek an order from superior court authorizing the city to remove and dispose of such vehicle. Such orders shall be authorized if the vehicle has been in violation of this article for more than 20 days.

(g) For purposes of repair or restoration, one inoperable and unregistered vehicle may be kept in the rear yard of a property, provided it is not visible from the street, is screened from all neighbors by a privacy fence in the rear yard, and is repaired or restored, removed, or placed in a fully enclosed building within six months. Such vehicle shall not be stored in any side yard or any setback or buffer area.

Sec. 34-100. Storage of tires.

The storage of new or used tires on any property is prohibited unless the same are stored within an enclosed building or garage. It is illegal to discard or abandon tires on any property other than a lawful landfill.

Sec. 34-101. Sale of autos and vehicles.

In a residential zoning district or residentially-used area, sales of autos and other vehicles from such property shall be limited to no more than six vehicles per year. No more than two such vehicles shall be parked in the front yard of any property at any one time. Any greater number of sales or vehicles displayed for sale shall constitute a commercial operation, which shall only be permitted in the C-2 commercial zoning district.

Sec. 34-102. Swimming pools.

Swimming pools are permitted as accessory uses in residential zoning districts. Swimming pools are only permitted to be located in the side or rear yards of a property. All portions of a swimming pool (including the pool itself, any recirculation pumps, sumps, heaters, filtration or treatment systems, chemical tanks, or pool-related machinery) shall be set back at least ten feet from the side and rear property lines. Swimming pools shall further comply with applicable board of health regulations and the city building code ordinance. As required by state regulations, private swimming pools (in ground or above ground), hot tubs and spas containing water more than 24 inches in depth shall be completely surrounded by a fence or barrier at least 48 inches in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is a minimum of 54 inches above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of six inches from the gatepost. Above-ground pools shall have a lockable, removable ladder. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Sec. 34-103. Display of retail goods in yards.

In the C-1 zoning district, external display of retail inventory or other goods for sale shall only be permitted within ten feet of the principal structure on the property, and only during regular business hours when the retail business is open to the public.

Sec. 34-104. Timbering operations in nonresidential zoning districts.

Timbering operations (meaning cutting, hauling and/or harvesting timber) shall be a permitted activity in nonresidential zoning districts (that is, C-1, C-2, O-I, IND-G, and IND-H), provided that no timbering operations shall be permitted in the area of any required buffer listed in the relevant zoning district. Crossing the buffer perpendicularly shall be permitted, but the buffer area shall otherwise remain undisturbed.

Secs. 34-105—34-120. Reserved.

ARTICLE V. USE REQUIREMENTS BY DISTRICTS; SPECIAL DISTRICTS

Sec. 34-121. Uses.

The following districts designate certain uses and special uses within each district. A use not specifically named within a district is not permitted. Any question of interpretation as to the appropriate district for a use shall be determined by the community development director. The minimum lot sizes, setbacks and other area and yard requirements for each district are provided both in each district and summarized in article VI of this chapter.

Sec. 34-122. A-1 Agricultural District

(a) *Purpose.* The A-1 Agricultural District is established primarily to provide areas for agricultural uses and low-density residential uses.

(b) *Area, yard, height and buffer requirements.* The following requirements apply in the A-1 district:

(1) Minimum lot size: 2 acres, or greater as required by the county health department.

(2) Minimum lot width at street right-of-way (on existing road): 200 feet.

(3) Minimum lot width at street right-of-way (in new development): 200 feet, 25 feet on cul-de-sac.

(4) Front yard setback (from right-of-way): 25 feet.

(5) Side yard setback (from property line): 20 feet.

(6) Rear yard setback (from property line): 20 feet.

(7) Maximum building and structure height: 35 feet.

(8) Minimum heated square footage for primary structure: 800 square feet.

(9) Buffers: none.

(c) *Height exceptions.* The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on nonresidential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures.

Within an A-1 Agricultural District, which shall be considered a residential zone or residential district as such terms are used throughout this Ordinance, the following uses shall be permitted:

(a) Single-family dwellings on a minimum of 2.0 acres of land; provided that, if there is located on adjoining property an existing major livestock enclosure or chicken house, then the dwelling shall be located not less than 100 feet from the adjoining property line and not less than 500 feet from the closest point to any of the above referred to activities, as defined by the structure or animal enclosure. Provided further that, if there is located on adjoining property an existing minor livestock enclosure or chicken coop, then the dwelling shall be located not less than 100 feet from the adjoining property line and not less than 200 feet from the closest point to any of the above referred to activities, as defined by the structure or animal enclosure.

(b) Agricultural Uses, on a minimum of 5.0 acres of land, subject to the following regulations:

1. Fences. Any livestock shall not be able to roam off the property upon which it is kept, either being kept inside a properly fenced area (sufficient to restrain the animal) or kept in a livestock enclosure.

2. Lifestock Enclosure Setback Provisions. Major livestock enclosures (including, but not limited to, cattle barns, stables, and hog pens holding more than 8 animals, or chicken houses holding more than 20 chickens), and other buildings or structures which are intended for use or used for the housing or shelter of more than 8 livestock animals, shall observe a minimum setback of 100 feet from any property line and be located a minimum of 500 feet from any residence on an adjacent lot or parcel. Minor livestock enclosures (8 animals or less) and chicken coops (20 chickens or less) shall observe a minimum setback of 100 feet from any property line and be located a minimum of 200 feet from any residence on an adjacent lot or parcel.

3. Retail Sales. With a permit from the City Clerk, retail selling of products raised on the premises shall be permissible provided that space necessary for the parking of customers' vehicles shall be provided off the pubic rights-of-way. No additional signs beyond those allowed in the A-1 district shall be allowed. Any accessory structure constructed shall be in the nature of a farm stand, not heated or air-conditioned, and not to exceed 200 square feet. Such structure must be located at least ten feet from the right-of-way. No commercial operations (large-scale selling or re-selling) shall be permitted, nor shall resale of any product purchased from elsewhere be permitted. No employees who do not reside on the property may work in connection with retail selling.

(c) Accessory buildings and structures which are not intended for use or used for the housing of livestock and are ancillary to the residential use (e.g., garage, pool) shall maintain the same front and side yards as the main structure; however, they shall not project beyond the established front building line. For such buildings and structures, rear yard setbacks shall be a minimum of ten feet. Accessory livestock or agricultural buildings or structures (e.g., stable, silo, hay barn) on tracts greater than five (5) acres may be located in front, side, or rear yard. Silos, granaries, barns, and similar accessory livestock and agricultural structures shall be set back by a distance equal to the structure's height from any property line. Accessory livestock structures must additionally meet special setback requirements under subparagraph (b) above.

(d) The following are permitted only with the grant of a special use permit under the requirements of Article XIV. All such uses must likewise meet all requirements of this zoning district.

1. Chicken houses holding or designed to hold more than 500 chickens. Minimum lot size required: 10 acres.

2. Arenas, event facilities; race tracks, horse tracks, steeplechase tracks, similar animal race facilities; kennel clubs, dog clubs, horse clubs, and similar facilities; bike tracks, race tracks, motorcycle tracks; exhibition facilities of any sort. All tracks and structures must be located at least 300 feet from a property line and at least 1,000 feet from adjacent residential structures on adjoining lots. At least 100-foot vegetated buffer required on all sides. There must be adequate on-site parking for

all spectators and participants. Other conditions may be imposed by the Council. Minimum lot size required: 100 acres.

3. Kennels. Minimum setback for kennels is 100 feet from property line and 200 feet from nearest non-owned residences. Higher setbacks may be required depending on the intensity of the use. The maximum number of dogs may be capped depending on the circumstances of the property. Minimum lot size required: 15 acres.

4. Meat processing facilities, chicken processing facilities, and temporary holding lot for livestock, with a 100-foot setback from the property line. Minimum lot size required: 20 acres.

Sec. 34-123. R-1 Residential District (conventional or industrialized single-family housing).

(a) *Purpose.* The R-1 Residential District is established primarily to encourage the development of single-family developments, for conventional or industrialized homes. The R-1 district is a residential district.

(b) *Area, yard, height and buffer requirements.* The following requirements apply in the R-1 district:

   (1) Minimum lot size: 8,500 square feet with sewer; if on septic, 26,000 square feet or greater as required by the county health department.

   (2) Minimum lot width at street right-of-way (on existing road): 100 feet.

   (3) Minimum lot width at street right-of-way (in new development): 100 feet, 25 feet on cul-de-sac.

   (4) Front yard setback (from right-of-way): 25 feet.

   (5) Side yard setback (from property line): 10 feet.

   (6) Rear yard setback (from property line): 25 feet.

   (7) Maximum building and structure height: 35 feet.

   (8) Minimum heated square footage for primary structure: 1,200 square feet.

   (9) Buffers: none.

(c) *Height exceptions.* The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures.

(d) *Nonresidential uses and accessory uses.* Nonresidential uses and accessory uses shall be set back at least 15 feet from all property lines and shall also have a six-foot wooden fence on the inner or outer boundary of the buffer where adjacent to residentially-used property. Off-street parking/loading for all nonresidential uses shall be provided in accordance with the city development regulations. Other provisions of the development regulations may be applicable, and the engineering department should be consulted.

Nonresidential uses must meet special building code requirements, and the city building inspections department and the city building code ordinance should be consulted.

(e) *Development in R-1.* Development must be in accordance with the city development regulations. The engineering department should be consulted.

Sec. 34-124. R-2 Residential District (single-family dwelling district).

(a) *Scope and intent.* Regulations set forth in this section are the R-2 district regulations. The R-2 district is intended to provide areas for higher density single-family residential uses.

(b) *Use regulations.* Within the R-2 district, land and structures shall be used in accordance with the Table of Permitted Uses. Any use not specifically designated as permitted shall be prohibited.

(c) *Development standards.*

(1) Height regulations: buildings shall not exceed a height of 35 feet.

(2) Front yard setback: 20 feet.

(3) Side yard setback: Eight feet.

(4) Rear yard setback: 20 feet.

(5) Minimum lot area: 6,000 square feet.

(6) Minimum lot width at building line on non-cul-de-sac lots: 60 feet.

(7) Minimum lot frontage: 35 feet adjoining a street.

(8) Minimum heated floor area of primary structure: 1,200 square feet.

(9) Metal panel exterior: A metal panel exterior finish product shall not be allowed on metal buildings exceeding 150 square feet in gross floor area constructed or placed on lots within the R-2 district.

(10) Gable or hip roofs: Gable or hip roofs shall have a minimum roof pitch of 5:12. Both gable and hip roofs shall provide overhanging eaves on all sides that extend a minimum of one foot beyond the building wall.

(11) Front building facade: The front building facade of all principal buildings shall be oriented toward street fronts or adjacent arterial street fronts.

(12) Minimum open space requirements: Proposed developments consisting of more than five acres shall reserve a minimum of 20 percent of the gross acreage of the site as open space with common areas provided.

(13) Optional density bonus: Proposed developments may contain lots with minimum areas of 4,000 square feet and the minimum floor area of 400 square feet if the following additional criteria are met:

a. All units will meet certification standards of the EarthCraft House certification program or will be LEED certified home; and

b. All units will be clad with exterior finishes of brick, stone, or hard-coat stucco on 67 percent or more of wall surfaces and 100 percent architectural roofing shingles.

Sec. 34-125. R-3 Residential District.

(a) *Purpose.* The R-3 Residential District is established primarily to provide for the development of single-family developments for conventional, industrialized or manufactured homes. The R-3 district is a residential district.

(b) *Area, yard, height and buffer requirements.* The following requirements apply in the R-3 district:

(1) Minimum lot size: 8,500 square feet with sewer; if on septic, 26,000 square feet or greater as required by the county health department.

(2) Minimum lot width at street right-of-way (on existing road): 200 feet.

(3) Minimum lot width at street right-of-way (in new development): 100 feet, 25 feet on cul-de-sac.

(4) Front yard setback (from right-of-way): 25 feet.

(5) Side yard setback (from property line): 10 feet.

(6) Rear yard setback (from property line): 25 feet.

(7) Maximum building and structure height: 25 feet.

(8) Minimum heated floor area of primary structure: 800 square feet.

(9) Buffers: none.

(c) *Height exceptions.* The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on nonresidential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see article IX of this chapter.

(d) *Nonresidential uses and accessory uses.* Nonresidential uses and accessory uses shall be set back at least 15 feet from all property lines and shall also have a six-foot wooden fence on the inner or outer boundary of the buffer where adjacent to residentially-used property. Off-street parking/loading for all nonresidential uses shall be provided in accordance with the city development regulations. Other provisions of the development regulations may be applicable, and the engineering department should be consulted. Nonresidential uses must meet special building code requirements, and the city building inspections department and the city building code ordinance should be consulted.

(e) *Development in R-3.* Development must be in accordance with the city development regulations. The engineering department should be consulted.

Sec. 34-126. R-4, Residential District, Multifamily

(a) *Scope and intent.* Regulations set forth in this section are the R-4 district regulations. The R-4 district is intended to provide land areas for townhomes and higher density dwellings which will:

(1) Encourage attractive development;

(2) Encourage the provision of recreation areas and facilities;

(3) Be located in areas of intense development near or adjacent to downtown, retail shopping, arterial and major collector streets; and

(4) Be located so as to provide a transition between medium to high density residential areas and nonresidential areas.

(b) *Use regulations.* Within the R-4 district, land and structures shall be used in accordance with the Table of Permitted Uses. Any use not specifically designated as a permitted use in this section shall be prohibited.

(c) *Development standards.*

(1) Height regulations: Buildings shall not exceed a height of 35 feet or three and one-half stories, whichever is higher.

(2) Front yard setback: 10 feet.

(3) Side yard setback: 10 feet (adjacent to interior lot line or street).

(4) Rear yard setback: 25 feet.

(5) Minimum lot width: 100 feet (throughout depth from front to rear lot line).

(6) Minimum lot frontage: 100 feet adjoining a street.

(7) Maximum density: 14 units per gross acre.

(8) Minimum heated floor area per unit:

a. Three-bedroom and duplex dwellings: 900 square feet.

b. Two-bedroom: 750 square feet.

c. Single-bedroom: 600 square feet.

d. Studio/loft (in existing buildings): 450 square feet.

(9) Minimum building separation: The minimum distances between buildings shall be as follows:

a. Front to front: 50 feet.

b. Front or rear to side: 50 feet.

c. Side to side: 20 feet.

(10) Minimum buffer requirements: In addition to required setbacks, a 25-foot wide buffer shall be required along all property lines which abut a single-family district or use to provide a visual screen and a ten-foot buffer adjacent to all other districts other than R-4.

(11) Minimum open space requirements: 20 percent of gross acreage shall be set aside as open space, and provisions shall be made for common areas within said open space for the use of residents of the development. Streets, parking areas, required yards, and required buffer zones shall not be counted as part of the minimum open space. Such area may serve as passive areas and/or developed for recreational purposes such as pools, playground equipment, walking trails, or basketball and tennis courts.

(12) Other required standards:

a. Principal structures within the R-4 district shall have a minimum of 50 percent finish product on the exterior walls of the buildings consisting of brick, stone, hard-coat stucco, or fiber cement siding.

b. A metal panel exterior finish product shall not be allowed on metal buildings exceeding 150 square feet in gross floor area constructed or placed on lots within the R-4 district.

Sec. 34-127. O-I Office and Institutional District.

(a) *Purpose.* The O-I district is established primarily to encourage the development of office and institutional type uses.

(b) *Area, yard, height and buffer requirements.* The following requirements apply in the O-I district:

(1) Minimum lot size: 15,000 square feet on sewer; if on septic, 26,000 square feet or greater as required by the county health department.

(2) Minimum lot width at street right-of-way: 100 feet.

(3) Front yard setback (from right-of-way): 40 feet.

(4) Side yard setback (from property line): 20 feet.

(5) Rear yard setback (from property line): 20 feet.

(6) Maximum building and structure height: 35 feet.

(7) Buffers: 25 feet when adjacent to a residential district; 50 feet when adjacent to residential district if O-I development exceeds 10,000 square feet.

(c) *Buffers.* Buffer standards, and regulations regarding use and crossing of buffers, are located in section 34-152.

(d) *Height exceptions.* The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on nonresidential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see article IX of this chapter.

(e) *Minimum area.* All commercial and retail operations in the O-I district must occupy a structure of a minimum of 500 square feet. The total ground floor area of all structures on the lot shall not exceed 50 percent of the lot.

(f) *Development plans.* Development must be in accordance with the city development regulations. The engineering department should be consulted. Uses in this district are subject to special building code requirements, and the city building inspections department and the city building code ordinance should be consulted.

Sec. 34-128. C-1 Central Business District.

(a) *Purpose.* The C-1 district is established primarily to encourage the development of general commercial uses.

(b) *Area, yard, height and buffer requirements.* The following requirements apply in the C-1 district:

  (1) Minimum lot size: 15,000 square feet on sewer; if on septic, 26,000 square feet or greater as required by the county health department; or larger if required to meet buffers.

  (2) Minimum lot width at street right-of-way: 100 feet.

  (3) Front yard setback (from right-of-way): 40 feet.

  (4) Side yard setback (from property line): 20 feet.

  (5) Rear yard setback (from property line): 20 feet.

  (6) Maximum building and structure height: 35 feet.

  (7) Buffers: 50 feet when adjacent to residential districts.

(c) *Buffers.* Buffer standards, and regulations regarding use and crossing of buffers, are located in section 34-152.

(d) *Height exceptions.* The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on nonresidential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see article IX of this chapter.

(e) *Accessory structures.* Accessory buildings and structures shall maintain the same front and side yards as the main structure; however, they will not project beyond the established building line. Rear yard setback shall be ten feet. If the property is abutting the same zoning district, side and rear setbacks shall be zero, but fire code regulations must still be met.

(f) *Building area.* All commercial and retail operations in the C-1 district must occupy a structure of a minimum of 500 square feet.

(g) *Development plans.* Development must be in accordance with the city development regulations. The engineering department should be consulted. Uses in this district are subject to special building code requirements, and the city building inspections department and the city building code ordinance should be consulted.

(h) *Residential use.* Residential use shall be permitted above commercial use of the structure as permitted by a special use permit.

Sec. 34-129. C-2 General Business District.

(a) *Purpose.* The C-2 district is established primarily to encourage general business development.

(b) *Area, yard, height and buffer requirements.* The following requirements apply in the C-2 district:

   (1) Minimum lot size: 15,000 square feet on sewer; if on septic, 26,000 square feet or greater as required by the county health department; or larger if required to meet buffers.

   (2) Minimum lot width at street right-of-way: 100 feet.

   (3) Front yard setback (from right-of-way): 40 feet.

   (4) Side yard setback (from property line): 20 feet.

   (5) Rear yard setback (from property line): 20 feet.

   (6) Maximum building and structure height: 50 feet.

   (7) Buffers: 50 feet when adjacent to residential districts.

(c) *Buffers.* Buffer standards, and regulations regarding use and crossing of buffers, are located in section 34-152.

(d) *Height exceptions.* The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on nonresidential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see article IX of this chapter.

(e) *Accessory structures.* Accessory buildings and structures shall maintain the same front and side yards as the main structure; however, they will not project beyond the established building line. Rear yard setback shall be ten feet. If the property is abutting the same zoning district, side and rear setbacks shall be zero, but fire code regulations must still be met.

(f) *Building area.* All commercial and retail operations in the C-2 district must occupy a structure of a minimum of 500 square feet.

(g) *Development plans.* Development must be in accordance with the city development regulations. The engineering department should be consulted. Uses in this district are subject to special building code requirements, and the city building inspections department and the city building code ordinance should be consulted.

Sec. 34-130. IND-G General Industrial District.

(a) *Purpose.* The IND-G district is established primarily to encourage the development of general industrial uses, as distinct from heavy industrial uses.

(b) *Area, yard, height and buffer requirements.* The following requirements apply in the IND-G district:

(1) Minimum lot size: one acre, or as required to meet buffers.

(2) Reserved.

(3) Front yard setback (from right-of-way): 40 feet.

(4) Side yard setback (from property line): 20 feet.

(5) Rear yard setback (from property line): 20 feet.

(6) Maximum building and structure height: 75 feet.

(7) Buffers: 200 feet when adjacent to residential districts or O-I district, 50 feet when adjacent to the C-1 or C-2 district.

(c) *Buffers.* Buffer standards, and regulations regarding use and crossing of buffers, are located in section 34-152.

(d) *Height exceptions.* The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on nonresidential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see article IX of this chapter.

(e) *Building area.* All industrial operations in the IND-G district must occupy a building or structure of a minimum of 800 square feet.

(f) *Development plans.* Development must be in accordance with the city development regulations. The engineering department should be consulted. Uses in this district are subject to special building code requirements, and the city building inspections department and the city building code ordinance should be consulted.

Sec. 34-131. IND-H Heavy Industrial District.

(a) *Purpose.* The IND-H district is established primarily to encourage the development of heavy industrial uses, as distinct from general industrial uses.

(b) *Area, yard, height and buffer requirements.* The following requirements apply in the IND-H district:

(1) Minimum lot size: one acre, or as required to meet buffers.

(2) Reserved.

(3) Front yard setback (from right-of-way): 40 feet.

(4) Side yard setback (from property line): 20 feet.

(5) Rear yard setback (from property line): 20 feet.

(6) Maximum building and structure height: 75 feet.

(7) Buffers: 500 feet when adjacent to residential districts or O-I district, 100 feet when adjacent to the C-1 or C-2 district, and 50 feet when adjacent to the IND-G district.

(c) *Buffers.* Buffer standards, and regulations regarding use and crossing of buffers, are located in section 34-152.

(d) *Height exceptions.* The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on nonresidential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see article IX of this chapter.

(e) *Building area.* All industrial operations in the IND-H district must occupy a building or structure, of a minimum of 800 square feet.

(f) *Development plans.* Development must be in accordance with the city development regulations. The engineering department should be consulted. Uses in this district are subject to special building code requirements, and the city building inspections department and the city building code ordinance should be consulted.

Sec. 34-132. PUD Planned Unit Development District.

(a) *Purpose.* The PUD district is established primarily to encourage the development of mixed use developments, containing both residential and commercial property. PUD is considered a residential district where residential uses are placed.

(b) *Area, yard, height and buffer requirements.* The following requirements apply in the PUD district:

(1) Minimum PUD size: two acres; minimum individual lot size, 7,500 square feet on sewer. Septic not allowed in PUD.

(2) Minimum lot width at street right-of-way for individual lot: 50 feet, 25 feet on cul-de-sac.

(3) Front yard setback for individual lot: 25 feet.

(4) Side yard setback for individual lot: 10 feet.

(5) Rear yard setback for individual lot: 25 feet.

(6) External setback: 25 feet (i.e. all buildings to be at least 25 feet from external boundaries of PUD development).

(7) Maximum building and structure height: 50 feet.

(8) Buffers: buffers in PUD districts shall be set according to the zoning district that corresponds to the proposed use and density, and shall be determined at the time the PUD status is granted by rezoning

(c) *Height exceptions.* The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on nonresidential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see article IX of this chapter.

(d) *Accessory structures.* Accessory buildings and structures shall maintain the same front and side yards as the main structure; however, they will not project beyond the established building line. Rear yard setbacks shall be a minimum of ten feet. Nonresidential accessory uses shall be set back at least 50 feet from the property line, shall be screened by a 25-foot vegetative buffer, and shall also have a six-foot wooden fence on the inner or outer boundary of the buffer where adjacent to residentially-used property. Off-street parking/loading for all nonresidential uses shall be provided in accordance with the city development regulations.

(e) *Development plans.* Development must be in accordance with the city development regulations. The engineering department should be consulted. Uses in this district are subject to special building code requirements, and the city building inspections department and the city building code ordinance should be consulted.

(f) *Location.* A planned unit development district shall be located only in an area where public utilities are available. A PUD must be served by public water and sewer. Said district may consist of various residential dwellings, commercial or industrial sites or combinations thereof on lots of not less than 7,500 square feet developed as a unit. A PUD is not intended to be developed as solely residential lots.

(g) *Required information.* The following shall be filed with the application for rezoning, in addition to any information otherwise required of all rezoning applications. Site plans are required to be filed, and the PUD must be conditioned to the site plan at the rezoning hearing. Concept plans with only general delineations of the location of lots and structures are unacceptable:

(1) The proposed name of the PUD;

(2) An aerial photograph of the area and vicinity;

(3) A complete and accurate legal description of the proposed PUD property;

(4) A tabulation of total acreage of the site designated for various uses, i.e., parking, structures, streets, parks, playgrounds and utilities;

(5) A site plan showing all proposed lots in the PUD and proposed building densities (units per acre);

(6) Proposed circulation pattern of the public streets and private driveways;

(7) Parking layout which complies with the provisions of this chapter concerning off-street parking;

(8) All access points to the same arterial streets to be located and which shall have been approved by the road department and/or the state department of transportation;

(9) Detailed landscaping plans, including and designating types of buffer or landscape screens placed between abrupt changes of land uses. Buffers shall be required consistent with the most comparable zoning district for the proposed uses;

(10) Signage plan, showing all proposed signs (providing height, area, type and location) for commercial uses and businesses; and

(11) Site plan showing a minimum of ten percent of the PUD shall be set aside and designated for recreational purposes (for example, parks, fields, playgrounds, walking trails, etc.). Parking lots, streets, setback areas, stormwater control measures, detention facilities, and so forth shall not count towards this requirement.

(h) *Time extension.* Consideration of the application for a PUD shall be in accordance with the procedures set forth in article XIII of this chapter; provided, however, the applicant may request, at the time of filing the application, an extended presentation time.

(i) *Compliance.* Except as otherwise expressly provided herein, the PUD shall comply with all the requirements of this chapter. Where an applicant seeks a variance in conjunction with PUD approval, such request shall be considered by the mayor and city council, but otherwise subject to the restrictions on the grant of a variance provided in section 34-330.

(j) *Abandonment.* Whenever the developer or owner of an approved planned unit development has not broken ground on the development within one year of the mayor and council's approval of the plan, the plan shall be deemed abandoned and shall require resubmittal and approval subject to the terms of this chapter before any further land disturbance activities may take place or any further permits may be issued. Whenever the developer has failed to break ground on a phase of a planned unit development for three years from the date of the plan's approval, the plan shall be deemed abandoned as to that phase and shall require resubmittal and approval subject to the terms of this chapter as to that phase before land disturbance activities may occur in the phase or further development permits in the phase may issue. The one-year and three-year periods in this paragraph may be extended by the owner of the PUD property once by right by filing a notice of intent to continue development with the community development director prior to the applicable one-year or three-year period expiring. Further extensions may be granted by the mayor and city council upon a finding of due diligence or excusable delay on the part of the developer.

Sec. 34-133. Land uses permitted in each zoning district.

The following Table of Permitted Uses is hereby adopted. No principal use shall be established on any property unless it is shown as permitted, by right or subject to special use approval, for the applicable zoning district on the Table of Permitted Uses. A "P" on the Table of Permitted Uses means that the listed use is permitted in the particular zoning classification. An "S" on the Table of Permitted Uses means that the use is permitted in the particular zoning district as a special use.

Table of Permitted Uses

Uses and Structures	A-1	R-1	R-2	R-3	R-4	O-I	C-1	C-2	IND-G	IND-H	PUD
Acid Storage and Manufacturing										P	
Adult Entertainment Establishment (Subject to City's Adult Entertainment Ordinance)									P		
Airports										P	
Airstrip, Private	S									P	
Ambulance or Emergency Service						P		S			
Amusement or Recreational Activities, Commercial	S						P	P	P	P	
Animal Hospital, Commercial Kennels, Veterinary Clinic or Animal Boarding Place	P							P			
Animal Processing Facility	S								P		
Apothecary (Drug Sales Only)						P	P	P			
Armory									P	P	
Auto Parts and Tire Stores							P	P	P		
Equipment Dealers (Auto, Construction, Commercial, Recreation), Includes Rental							S	P			
Automobile washateria (Carwash)								P			
Bakery (Retail)							P	P			P
Bank and Financial Institutions						P	P	P			

Uses and Structures	A-1	R-1	R-2	R-3	R-4	O-I	C-1	C-2	IND-G	IND-H	PUD
Barbershops and Hair Salons		S				P	P	P			P
Bar, Tavern, or Nightclub						P	P	P			
Batching Plant										P	
Bed and Breakfast Inn	P	S	S		S	P	P	P			
Boardinghouse or Roominghouse	S	S	S		S	P					
Bottling Plant									P	P	
Building Contractor and Related Activities								P	P	P	
Bulk Storage										P	
Business Offices, for Personal Services (Insurance, Real Estate)						P	P	P			
Business or Commercial School						P	P	P			
Business Service Center							P	P			
Cabinet Shop								S	P	P	
Campground/Recreational Vehicle Park	S							P			
Special Event of Interest to Public (Carnival, Fair, etc.)	S							P	P	P	
Casino									S	S	
Cement, Lime, Gypsum, or plaster of Paris Manufacture									S	P	
Cemetery						P					
Ceramic Products Manufacture, Limited to use of Electric Kilns									P	P	
Place of Religious Worship (Church, Synagogue, Mosque, etc.)	P	S	S	S	S	P	P	P	P	P	P
Clinic						P	P	P			
Clothing and Dry Good Stores							P	P			P
Club or Lodge	S		S		P	P	P				
Cold Storage, Ice Plant, or Freezer Locker									P	P	
College, University, or Private School						P	P	P			

Uses and Structures	A-1	R-1	R-2	R-3	R-4	O-I	C-1	C-2	IND-G	IND-H	PUD
College or University with Dormitories, Fraternity and/or Sorority Houses Located on Main Campus						P	P	P			
Commercial Livestock Processing	S									P	
Commercial or Large Scale Slaughter of Animals	S									P	
Personal Care Home (Subject to Limitations on Number of Residents)		S	S			P					
Cosmetic and Pharmaceuticals Manufacturing								P	P	P	
Convenience Store							P	P			P
Crematory									S	S	
Cultural Facilities						P	P	P			
Dairy Plant, Ice Cream Manufacturing									P	P	
Dance School or Studio						P	P	P			
Day Care Center		S				P	P	P			
Department Stores							P	P			
Distillation of Bones, Coal, Petroleum, Animal Refuse, Grain, Tar, and Wood	S									P	
Distilleries and Breweries (Wholesale)	S								P	P	
Microbreweries (Retail)**	S						P	P			
Distribution of Products or Merchandise	S								P	P	
Drive-In Restaurants							S	P			
Drive-In Theaters	S							P			
Drug Stores							P	P			
Dry Cleaning or Laundering Establishment							P	P	P		
Dwelling, Multifamily					P						P
Dwelling, Industrialized Housing	P	P	P	P	P	P					P
Dwelling, Single-Family Detached	P	P	P		P						P
Dwelling, Manufactured Home	P			P							
Education or Training Facility						P	P	P	P		

Uses and Structures	A-1	R-1	R-2	R-3	R-4	O-I	C-1	C-2	IND-G	IND-H	PUD
Electrical Appliance and Equipment Sales and Repair							P	P			
Electronic Manufacturing and Assembly									P	P	
Experimental Laboratory									S	S	
Explosives, including Fireworks, Manufacture or Storage in Bulk Quantities									S	S	
Fabricating Shop								P	P	P	
Farmers Market	S					P	P	P			
Feed, Grain, or Fertilizer Manufacture or Storage	S									P	
Feed, Grain, or Fertilizer Wholesaling and Storage	S								P	P	
Feed, Seed, Insecticides, and Fertilizer Retail Sales	S						P	P	P	P	
Flower Shop	P						P	P			P
Food Processing Plant	S								P	P	
Food Stores							P	P			P
Freight Express Office								P			
Funeral Home						P	P	P			
Gasoline Service Station							P	P			
Gasoline Storage Terminal										P	
Glass Sales and Storage							P	P	P		
Golf Course-Private or Public						P		P			P
Greenhouse and Plant Nursery (Commercial)	S						P	P	P	P	
Group Care Home - Subject to number of residents		S	S	S		P					P
Gun Store							P	P			
Heavy Agricultural Equipment Sales and Repair	S								P	P	
Heavy Manufacturing										P	
Home Furnishings and Hardware							P	P	P	P	

Uses and Structures	A-1	R-1	R-2	R-3	R-4	O-I	C-1	C-2	IND-G	IND-H	PUD
Home Occupations (See Class 1 Home Occupations)	P	P	P	P	P						
Hospital						P		P			
Hotels								P			P
Industrial uses which are otherwise permitted, but which are of a size, type, or density that requires development of regional impact review under the regulations of the Georgia Department of Community Affairs, as they may be amended from time to time.									S	S	S
Intermediate Care Home						P					
Intermediate Care Home, Nursing Home, or Personal Care Home						P	P	P			P
Junkyard and Salvage Yards									S	S	
Kennel	S	S						S	P		
Laboratory Serving Professional Requirements - Medical, Dental, etc.						P		P	P		
Landfill										S	
Laundromat or Washateria							P	P			
Library						P	P	P			
Light Manufacturing									P	P	
Locksmith, Gunsmith							P	P	P		
Lumber Yard, Coal Storage, or Other Storage not Specifically Listed in this Column	S								P	P	
Machine Shop		S							P	P	
Manufactured Home Community				P							
Manufacturing activity which does not cause injurious or obnoxious noise, vibrations, smoke, gas, fumes, odor, dust, fire hazard, or other objectionable conditions.									P	P	

Uses and Structures	A-1	R-1	R-2	R-3	R-4	O-I	C-1	C-2	IND-G	IND-H	PUD
Manufacturing activity which may cause injurious or obnoxious noise, vibrations, smoke, gas, fumes, odor, dust, fire hazard, or other objectionable conditions.										P	
Manufacturing in connection with the principal retail business or service on the lot.								P	P		
Medical, Dental, or Similar Clinic						P	P	P			
Mineral Exploration and Mining										S	
Motels								P			
Motor Vehicle Impound Lot								P	P		
Motorized Race Tracks									S	S	
Music Teaching Studio (Also See Home Occupations		S				P	P	P			P
Newspaper or Magazine Publication and Distribution								P	P	P	
Nursery School, Day Care Center						P	P	P			P
Off-Street Parking Lot or Parking Garage							P	P	P		S
Office						P	P	P			P
Office Equipment Sales and Service							P	P			
Offices, Enclosed Retail Trade Establishments, and Personal Service Establishments						P	P	P			P
Pawn Shops								P			
Pest Control, Storage and Materials								P	P	P	
Photography Studio (Also See Home Occupations)		S				P	P	P			P
Planing and Saw Mill	S								P	P	
Printing, Publishing, Reproducing Establishment								P	P	P	
Poultry Processing Plant	S									P	
Public Garage						S			P	P	S

Uses and Structures	A-1	R-1	R-2	R-3	R-4	O-I	C-1	C-2	IND-G	IND-H	PUD
Radio, Television or Telecommunication Transmission Tower Over 35 Feet	S	S	S	S	S	S	S	S	S	S	S
Radio Station								P			
Railroad Classification and Repair Yard										P	
Railroad Freight Station									S	S	
Railroad or Bus Passenger Station								S	S		
Recovered Materials Processing and Solid Waste Handling Facilities										S	
Recreational Area Owned, Operated, and Maintained by the Owner(s) of the permitted use, exclusively for the use of residents and their guests.		P	P	P	P						P
Recycling Center									S	P	
Repair Garage; Paint and Body Shop	S						S	P	P		
Residential Manufactured Housing Sales Room and Sales Lot								P	P		
Restaurants and Food Catering Service	S						P	P			P
Retail Business, Other							P	P			P
Retail or Service Business Greater Than 45,000 Gross Square Feet								P			
Retail or Service Business Greater Than 150,000 Gross Square Feet								S	P		
Roadside stands for sale of agricultural products grown on premises, but not to exceed 500 square feet in floor area.	P						P	P			
Rock, Sand, or Gravel Distribution or Storage	S								P	P	
Roofing Operation									P	P	
Sale of Livestock									P	P	
Scrap Metal Processor										S	
Self-Storage Facility								S	P		
Shell Home Display Yards								S	P	P	
Shooting Range, Indoor	S							P	P		
Shooting Range, Outdoor	S								S	S	

Uses and Structures	A-1	R-1	R-2	R-3	R-4	O-I	C-1	C-2	IND-G	IND-H	PUD
Sign Painting and Fabricating Shop								P	P	P	
Smelting of Tin, Copper, Zinc, or Iron Ores										S	
Solid Waste Landfill or Incineration										S	
Spas, Baths, and Personal Care Services not otherwise addressed by this chapter (ear piercing services, tattoo parlors, massage parlors, tanning salons, etc.)							S	P			
Special Events Facility	S	S	S			P	P				
Taxi Services or Related Services								P			
Taxidermist	S	S						P	P		
Textile Manufacturing Plant									P	P	
Theatre							P	P			
Towing Service and Impound Lots									P		
Tire Recapping									S	S	
Truck Stop								S	P	P	
Truck Terminal									P	P	
Upholstery Shop		S					P	P	P		
Use requiring a license for removal of asbestos-containing material										S	
Use requiring a state permit for the collection, transfer, or disposal of radioactive equipment, supplies, etc.										S	
Use requiring a state permit for the collection, transfer, or disposal of solid waste.										S	
Use requiring state permit for the generation, transport, storage, treatment, and/or disposal of hazardous waste.										S	
Use requiring a state permit for the storage of petroleum products or certain chemicals underground.										S	
Use requiring state permit or license for air quality or air emissions.									S	S	

Uses and Structures	A-1	R-1	R-2	R-3	R-4	O-I	C-1	C-2	IND-G	IND-H	PUD
Vapor Shop								S			
Wholesale and Warehousing Operation								S	P	P	
Wireless Telecommunications (Small Cell Structures)	P	P	P	P	P	P	P	P	P	P	P

Sec. 34-134. Off-Street Parking and Service Requirements

(a) Scope of provisions.

Except as provided in this section, no application for a building permit shall be approved unless there is included with the plan for such building, improvements, or use, a plat plan showing the required space reserved for off-street parking and service purposes. Occupancy shall not be allowed unless the required off-street parking and service facilities have been provided in accordance with those shown on the approved plan. These provisions shall not apply to the DBD district.

(b) Drainage, construction and maintenance.

In multi-family districts and nonresidential districts, all off-street parking, loading, and service areas shall be drained so as to prevent damage to abutting properties and/or public streets and shall be paved with a material such as concrete, asphalt or pavers which will assure a surface resistant to erosion. Outdoor storage yards and less traveled interior drives in commercial and industrial areas may be surfaced with gravel; the use of impervious surface materials such as concrete or asphalt is discouraged on outdoor storage yards and less traveled interior drives because of increased stormwater runoff associated with such paving materials. Driveways and parking spaces for all single-family uses shall be surfaced with an all-weather surface material (e.g., gravel, pavers, concrete, or asphalt); when gravel is used as a surface material on driveways serving single-family uses, a concrete or asphalt paved apron shall be required to meet the road; said apron shall have a minimum length of five (5) feet. All such areas shall be at all times maintained at the expense of the owners thereof, in a clean, orderly, and dust-free condition.

(c) Separation from walkways, sidewalks, and landscaped areas.

All off-street parking, loading, and service areas shall be separated from walkways, sidewalks and landscaped areas by concrete curbing or bumper blocks. Curbing located in parking areas shall be constructed a minimum of five (5) feet from private and/or public property lines.

(d) Joint parking facilities.

Two or more neighboring uses, of the same or different types, may provide joint facilities, provided that the number of off-street parking spaces are not less than the sum of the individual requirements.

(e) Number of parking spaces.

In order to ensure a proper and uniform development of public parking areas throughout the area of jurisdiction of this chapter, to relieve traffic congestion on the streets, to lessen the amount of impervious surface in the city, and to minimize any detrimental effects on adjacent properties, off-street parking space shall be provided and maintained as called for in the following sections. For any use or class of use not mentioned in this section, the requirements shall be the same as similar use as mentioned herein.

Any decrease in the number of parking spaces required by this section must be approved by under the variance procedures set forth by this chapter.

Parking requirements for additions to existing uses shall be based upon the new addition even if the existing use is deficient.

Multifamily dwellings. 2 spaces for each studio or single-bedroom dwelling unit, plus an additional space for each additional bedroom in each unit.

Auditorium, stadium, assembly hall, gymnasium, theater, community recreation center, religious institution. One (1) space per four (4) fixed seats in largest assembly room or area, or one (1) space for each fifty (50) square feet of floor area available for the accommodation of movable seats in the largest assembly room.

Automobile fueling station. One (1) space (in addition to service area) for each pump and grease rack, but not less than six (6) spaces.

Automobile, truck, recreational vehicle sales and service. One (1) space for each five hundred (500) square feet of gross floor area.

Automotive, truck, recreational vehicle repair and service. One (1) space for each five hundred (500) square feet of gross floor area or two (2) spaces per bay.

Billiards and pool halls. Two (2) spaces per pool table.

Bowling alley. Two (2) spaces per alley plus requirements for any other use associated with the establishment such as a restaurant, etc.

Club or lodge. One (1) space for each two hundred (200) square feet of gross floor area within the main assembly area.

Combined uses. Parking spaces shall be the total of the space required for each separate use established by this schedule.

Convenience food stores with self-service fueling pumps. One (1) space per two hundred (200) square feet of gross floor space.

Dance school. One (1) space per two hundred (200) square feet of gross floor area plus safe and convenient loading and unloading of students.

Dormitory, fraternity or sorority. Three (3) spaces for each four (4) occupants.

Golf course. Four (4) spaces for each hole, plus requirements for any other use associated with the golf course.

High schools, trade schools, colleges, and universities. One (1) space for each two (2) teachers, employees and administrative personnel plus five (5) spaces for each classroom.

Hospital or care home. One (1) space for each two (2) beds.

Hotel/motel. One (1) space for each guest room, suite, or unit.

Indoor and outdoor recreational areas (commercial) YMCA, and similar uses. One (1) space for each one hundred fifty (150) square feet of gross floor, building, ground area, or combination devoted to such use.

Industrial or manufacturing establishment or warehouse. One (1) parking space for each one thousand (1,000) square feet of gross floor area.

Kindergarten and nursery schools. One (1) space for each employee plus safe and convenient loading of students.

Mobile home park. One (1) space for each mobile home site.

Office, professional building, or similar use. One (1) space for each four hundred (400) square feet of gross floor area.

Personal service establishment. One (1) space for each four hundred (400) square feet of gross floor area.

Restaurant or place dispensing food, drink, or refreshments which provides seating indoors. One (1) space for each four (4) seats provided for patron use.

Restaurant, drive-thru, with no provision for seating indoors. One (1) space per one hundred (100) square feet of gross floor area, but not less than ten (10) spaces.

Retail stores of all. One (1) space for each four hundred (400) square feet of gross floor area.

Schools, elementary. Three (3) spaces for each classroom, plus safe and convenient loading and unloading of students.

Shopping center. One (1) space for each four hundred (400) square feet of gross floor area.

Single-family dwelling. Two (2) spaces per each unit.

Wholesale establishment. One (1) parking space for each one thousand (1,000) square feet of gross floor area.

(f) Required loading spaces.

Industrial, wholesale, and retail operations shall provide loading space as follows:

Spaces appropriate to functions. Off-street loading spaces shall be provided as appropriate to the functions and scope of operation of individual or groups of buildings and uses.

Design of loading spaces. Off-street loading spaces shall be designed and constructed so that all maneuvering to park and un-park vehicles for loading and unloading can take place entirely within the property lines of the premises. Loading spaces shall be provided so as not to interfere with the free normal movement of vehicles and pedestrians on public rights-of-way.

Secs. 34-135—34-151. Reserved.

ARTICLE VI. BUFFER REQUIREMENTS

Sec. 34-152. Required buffers.

(a) *Buffers.* A buffer area shall be defined as that portion of a lot set aside for separation or screening purposes, pursuant to the applicable provisions of this article, to separate different use districts and or uses on one property from uses on another property of the same use district or a different use district. Transitional buffers are buffers required between dissimilar zoning districts.

(b) *Buffer requirements.* Mandatory buffer widths are listed under each individual zoning district.

(c) *Special exemptions.* The following special exceptions apply to buffers and control over general buffer provisions:

(1) When property zoned C-1, C-2 or O-I is separated by a public road from residentially-zoned property, no buffer shall be required.

(2) When property zoned IND-G is separated from property in a different zoning classification by a state or federal highway right-of-way of at least 100 feet in width, the required buffer for the IND-G property along such right-of-way shall be reduced to 50 feet.

(d) *Buffer standards.* Buffers should be sufficient to provide some screening or protection to neighboring uses, where required by the use and nature of the surrounding area. The particular standards for a specific buffer depend on the nature of the proposed use and the character of the surrounding area.

(1) When considering a particular buffer, the city may impose some or all of the following requirements:

a. Buffers may be required to be left in their natural state with the preexisting vegetation intact.

b. Buffers may be required to be planted or vegetated with fast growing trees and shrubs (for some or all of the width of the required buffer), in species and quantities to be determined by the community development director.

c. Open field buffers may be left as open space.

d. Roads, rights-of-way and streams may be counted towards buffer requirements, or may be left as open space.

e. In addition or in lieu of other requirements, the city may require a fence be erected.

(2) Buffers shall be undisturbed, except that buffer areas may be used for sewer and other utility easements, detention ponds, access roads and fences may be erected in buffer areas.

(3) No structures may be erected in buffers, and buffer areas shall be graded or disturbed only when absolutely necessary. Buffers shall be crossed in such a fashion to minimize incursion into the buffer (i.e., close to perpendicularly). Where possible, buffers shall be restored to an opaque standard after being crossed, and BMPs, as required by the city development regulations (and soil erosion and sedimentation control ordinance), shall be followed at all times.

(4) If a fence is required, it shall be eight feet high, wooden, stone or masonry, and shall be opaque.

(e) *Procedure.* In the event a development is one that requires buffers, the developer shall inform the community development director of the proposed use and provide information about the size of the operation, dimensions of the building, the planned hours of operation, security lighting and other lighting issues, anticipated traffic flow of customers, suppliers and deliveries, and any other information as required by the community development director. The community development director shall review the surrounding area and the uses and zoning of surrounding property. The community development director shall then determine the appropriate buffering standards under subsection (d) of this section, considering the following criteria:

(1) The nature of the use and all the information provided about the use and its potential nuisance impact on the neighboring and surrounding properties;

(2) The existing and adjacent uses that may already impose similar negative impacts on adjoining property;

(3) The existing dissimilar uses of surrounding property and the current zoning of the surrounding property;

(4) The location of any nearby residences; and

(5) The existence of any streams, roads or other rights-of-way, the natural terrain, and the existing topography that may provide buffering.

Secs. 34-153—34-172. Reserved.

ARTICLE VII. DETAILED REGULATIONS FOR SPECIFIC USES

Sec. 34-173. Institutional-residential uses.

(a) *Definitions.* Institutional-residential uses are generally uses that provide residential living space or dwelling units for persons in an institutional or group setting, whether for day care, 24-hour care or unassisted living, specifically defined as one of the following types:

Adult day care means a use that provides care, assistance with personal services and/or supervision for adults for more than four hours and less than 24 hours per day. Uses providing medical services or assistance with medical or rehabilitative treatment are not included.

Assisted-living facility means a residential facility that provides an array of coordinated supportive personal and health care services, available 24 hours per day, to residents who need any of these services. Such facility does not include nursing homes, or group homes for persons with a disability.

Child day care means a use that provides care, assistance with personal services and/or supervision for children for more than four hours and less than 24 hours per day. Uses providing medical services or assistance with medical or rehabilitative treatment are not included.

Disability means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment. The term "disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in section 102 of the Controlled Substances Act, 21 USC 802, or successor law. The term "major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. The term "has a record of such an impairment" means has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities.

Group home for persons with a disability means a residence in which three or more persons with a disability reside and which is licensed by the state department of human resources as a personal care home under O.C.G.A. title 31.

Group home (non-disability) means any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service and one or more personal services for two or more adults who are not related to the owner by blood or marriage and falls under the jurisdiction of the state department of human resources, but that does not meet the definition of "group home for persons with a disability."

Home for the aged means a use comprising a building or buildings providing dwelling units for persons over a certain minimum age, where no domiciliary care, nursing care, or other assistance is provided.

Homeless shelter means a facility that is either:

(1) Operated, licensed or contracted by a governmental entity; or

(2) Operated by a charitable, non-profit organization, which, for no compensation provides temporary lodging, meals, and counseling to individuals and groups such as the homeless, pregnant teenagers, victims of domestic violence, neglected children, and runaways. Temporary lodging is typically less than 30 days.

Hospice means a use, other than uses fitting the description of nursing homes or group home for persons with a disability, in which domiciliary care is provided with support and supervisory personnel that provide room and board, personal care and rehabilitation services in a family environment for persons not meeting the definition of handicapped under the Fair Housing Act, 42 USC 3601 et seq.

Kindergarten means a day program or part-day program for teaching of children between four and six years old, that serves as an introduction to school.

Nursery school. See *Child day care.*

Nursing home means a long-term residential facility for elderly, or otherwise ill persons which may include some or all of the following: individual dwelling units, living and sleeping rooms, a common dining room, skilled nursing care, recreational facilities, and transportation for social and medical purposes. The term "nursing home" does not include an assisted living facility, a hospice, a group home for persons with a disability, or a group home, non-disability.

Protective housing facility. See *Homeless shelter.*

Rehabilitation facility means a facility (residential or nonresidential) to provide rehabilitation, treatment, or counseling services. Without limitation, such services may include rehabilitation, treatment, counseling, or assessment and evaluation services related to delinquent behavior, alcohol and drug abuse, sex offenders, sexual abuse, mental health, behavioral dysfunctions, emotional or psychological problems, or other similar facilities.

Rest home. See *Home for the aged.*

Retirement home. See *Home for the aged.*

Shelter care facility. See *Homeless shelter.*

(b) *Buffer requirements.* Where permitted, any rehabilitation facility or homeless shelter shall be located on property of at least three acres. When adjacent to residentially-zoned or used property, a 25-foot landscaped buffer shall be provided. Any such facility shall be surrounded by an opaque wood fence at least six feet high along all property lines with adjacent commercial uses or that abut other zoning districts, or along the inner or outer boundary of any required buffer. No fence shall be erected along the road frontage.

(c) *Permitted zoning districts for specific uses.* The following uses are permitted in the following districts. This subsection is provided for convenience only, and attempts to summarize the provisions in the various districts in article V of this chapter. No new rights are granted by this section. To the extent there is a conflict between this section and the provisions of article V of this chapter, article V of this chapter shall control.

(1) Group homes for persons with disabilities, for six or fewer residents (not including resident staff), are permitted in A-1, R-1, R-2 and R-3. Please refer to the individual district regulations for more specific requirements, including generally the requirements that they be licensed by and in compliance with the applicable regulations of the state department of human resources, and that:

a. The dwelling shall maintain its residential appearance;

b. There is adequate off-street parking for resident, staff and visitors' parking such that, except for planned special events, there are no vehicles parked on the street or road right-of-way; and

c. Visitation hours are restricted so as to not create undue traffic congestion.

(2) Group homes for persons with disabilities (no size limit) are permitted in C-2.

(3) In home child day cares and kindergartens, for six or fewer children, are permitted in A-1, R-1, R-2 and R-3 districts. Please refer to the individual district regulations for more specific requirements, including generally the requirements that they shall have at least 35 square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area which shall be enclosed by a fence having a minimum height of six feet and provided further that, prior to the application, the applicant shall show proof of registration and licensing as required by the state department of human resources.

(4) Child day cares, adult day cares and kindergartens are permitted in the C-1 and C-2 districts, in accordance with the requirements of those districts.

(5) In C-2, all of the following are permitted, in accordance with the requirements of that district: hospitals, group homes for persons with a disability, group homes (non-disability), clinics, nursing homes, assisted living facilities, adult day cares, child day cares, kindergartens, retirement homes, shelter care facilities, rehabilitation and treatment facilities, residential treatment centers, hospices, and related facilities.

Sec. 34-174. Junk yards; salvage yards; scrap yards.

Any new junk yard (including salvage yards and scrap yards) shall establish a 25-foot opaque buffer. Any stacking of inoperable, crushed or otherwise damaged vehicles shall only be permitted in a junk yard. Impound lots, towing services and similar businesses shall be permitted to retain junk, inoperative or abandoned vehicles for a maximum of 120 days before disposal; long-term or permanent storage of such vehicles shall only be permitted in a junk yard.

Sec. 34-175. Cemeteries.

(a) *Cemeteries.* Cemeteries are burial grounds, generally where multiple burial plots are sold or provided for burial of persons beyond the immediate family. Cemeteries are permitted as accessory uses to churches. All cemeteries shall have a 25-foot vegetative buffer where adjacent to any residentially-zoned or used property.

(b) *Marking and boundaries.* All family plots and cemeteries must be marked on plats and surveys of property, and if not clearly ascertainable, the boundaries must be marked by fencing or other monuments or markers. All abandoned or historic cemeteries must be maintained by the property owner.

(c) *Family cemeteries.* The establishment of private family cemeteries within the city is not permitted.

Sec. 34-176. Hotels and motels.

All new hotels and motels, or expansions of existing hotels and motels, shall have internal corridors only, and rooms for guests shall only be accessible from the interior of the structure. All hotels and motels shall have lighting installed and operational to fully illuminate all parking areas. All hotels and motels shall have fully functional telephones in all rooms open to guests. Notwithstanding the height limitations of the underlying zoning district, hotels may be constructed up to a maximum height of 100 feet.

Sec. 34-177. Extended stay hotels, motels and facilities.

(a) *Definitions.* The words used in this section shall have their commonly-understood meaning, provided that the terms below shall be defined as follows:

Bona fide employee shall mean a person who works in the service of the extended stay hotel, motel, or facility (i.e. the employer) under a contract of hire, whether express or implied, where the employer has the power or right to control or direct the details of what work is to be performed and the manner in which that work is to be performed.

Extended stay hotel, motel, and facility shall be defined as a facility where rooms or suites may be rented by guests for periods of 14 days or longer; provided that this definition shall not apply to single-family or multi-family residences that are leased for a period of one month or longer.

Guest shall mean a person who is not a patron who is present on the premises of the extended stay hotel, motel, or facility with the express permission of:

(1) A guest or patron of the extended stay hotel, motel or facility; and

(2) The owner, operator, keeper or proprietor of the extended stay hotel, motel, or facility.

Housekeeping shall mean the cleaning of guest rooms, guest bathrooms, public areas, changing of linen, and removal of trash from guest rooms and common areas.

Kitchenette/kitchen facilities shall mean kitchen amenities, which at a minimum must include a kitchen-type sink and stove or oven-type cooking device. A bathroom sink does not qualify as a kitchen facility. Amenities limited to a microwave, mini-refrigerator, and/or an appliance designed to produce coffee or tea do not constitute "kitchenette/kitchen facilities" for purposes of this definition.

Patron shall mean a person who pays a fee to the owner, operator, keeper, or proprietor of the extended stay hotel, motel, or facility.

Public nuisance shall mean a condition, obstruction, or use of property allowed or continued by any person, legal entity, or agent that interferes with the comfortable enjoyment of life and property by the neighborhood, community, or members of the public; or which can cause hurt, damage, inconvenience or affect or offend an ordinary and reasonable person.

Vehicle is any car, truck, trailer, motorcycle, or other machinery used for transporting people or goods and is normally required to be registered with a state in order to be legally operated or towed on a public roadway.

Visitor shall mean a person, who is not a patron or a guest, who is on the premises of an extended stay hotel, motel, or facility, at the invitation of a patron or guest, but without express permission of the owner, operator, keeper or proprietor of the extended stay hotel, motel, or facility.

(b) *Permits.* No existing hotel, motel, or facility can be converted into an extended stay hotel, motel, or facility without meeting all the rules and regulations contained in this section. Every hotel, motel, or facility that provides rooms or suites to patrons for 14 or more days shall first obtain a permit from the city and must pay the permit fee of $500.00 per facility plus $50.00 per room designated for extended stay use. The applicant shall identify each specific room that it wishes to designate as an extended stay room. The extended stay permit applicant shall submit evidence that shows that the facility and each room intended to be used for extended stay meets the requirements of this section. The city community development director in reviewing permit applications for extended stay hotels, motels, or facilities shall determine whether to grant or deny a permit application based on the following standards:

(1) Whether the permit application fee for both the facility and for each room has been paid;

(2) Whether the application shows compliance with this section;

(3) The applicant and property's history of criminal or drug-related activity on the premises;

(4) The applicant and property's history of ordinance and safety regulation violations.

(c) *Extended stay room equipment and service requirements.*

(1) All extended stay rooms shall have facilities for both storage and preparation of food (kitchens and kitchenettes).

(2) All extended stay rooms with less than 300 square feet of floor area are limited to a maximum capacity of two persons per such room.

(3) All extended stay rooms with more than 300 square feet of floor may allow an additional person per each additional 75 square feet of floor area.

(4) No exterior access to extended stay rooms is permitted. This requirement shall only apply to buildings and structures built after the date of the adoption of the ordinance from which this section derived.

(5) Each extended stay room must be protected with a sprinkler system approved by the fire marshal or their designee.

(6) Each extended stay room containing a stove-top unit or other type burner unit shall be required to also include a maximum 60-minute automatic power off timer for each room containing such stove-top unit or other type burner.

(7) A hard-wired smoke detector with battery backup shall be provided and installed in each extended stay room. It shall be a violation of this code for any person to disable, tamper or modify any type of smoke detector or other safety device installed in each extended stay room.

(8) No extended stay hotel, motel, or facility shall rent or provide a room for any number of persons greater than the sleeping accommodations provided within the particular rental unit or temporary sleeping accommodations provided by the extended stay hotel, motel, or facility.

(9) Housekeeping shall be included within the standard extended stay room rate of any extended stay hotel, motel, or facility. At a minimum, rooms must be cleaned before each new guest checks in and no less frequently than twice every seven days.

(10) Each extended stay hotel, motel and facility must maintain a log that documents when each room is serviced and cleaned. The log must be maintained for 120 days. Any extended stay hotel, motel, or facility must make these records available to the city within a reasonable time upon request.

(11) All extended stay hotels, motels, and facilities must have in place laundry facilities consisting of washer and dryer machines available to patrons. The equipment shall be maintained and in good repair at all times. Washers and dryers shall be provided at a ratio of one washer and dryer for every 20 rooms or fraction thereof.

(12) Any extended stay hotels, motels, or facilities shall include, on any public facing entry points to the premises, a magnetic or electronic keyboard/locking device for access. Public facing entry point doors shall have operating automatic closures, key entry and shall remain locked at all times between the hours of 9:00 p.m. and 6:00 a.m. All entry point doors shall be equipped with an alarm or other device that will alert security, attendants, or other employees that the door has been opened or remains open. These requirements are not applicable to entry points that enter directly into the lobby of the extended stay hotel, motel, or facility as long as the lobby is manned by a bona fide employee 24 hours a day. These requirements are not applicable to entry points that enter directly into a banquet hall, conference room, or other facility utilized for a special event or meeting hosted by an extended stay hotel, motel, or facility, as long as there is a bona fide employee staffing the banquet hall, conference room, or other facility utilized for the duration of that event.

(d) *Occupancy regulations and limitations.*

(1) No individual guest shall register, reside in, or occupy any room or rooms within the extended stay for more than 120 consecutive days, without a two-day vacancy between stays. The restriction on the length of stay shall be placed on the wall in the lobby of the facility in a conspicuous place and on the wall or back door within each guest room.

(2) An individual guest shall be allowed to stay in excess of 120 days when:

a. There is a written contract or documented agreement between an extended stay hotel, motel, or facility and a business, corporation, firm or governmental agency to house employees or individuals on valid work orders;

b. There is documentation, consistent with HIPPA privacy rules, that an extended stay guest is considered family or is providing care for a patient who is admitted at a local hospital; or

c. An insurance company or federal, state or local agency has provided documentation that an extended stay guest has been displaced from their home by a natural disaster or fire.

(e) *Common area and parking requirements.*

(1) No outside storage or permanent parking of equipment or vehicles shall be allowed.

(2) Extended stay hotels, motels, or facilities must have a minimum of 25 percent of the lot area dedicated to either active or passive open space with a minimum size of 750 square feet. The open space shall include active recreation, such as a children's playground area, and/or passive recreation, such as green space and walking paths.

(3) Extended stay hotels, motels, or facilities must provide and maintain security in the parking area. This shall include one or more of the following: live patrol guard, security fencing that is decorative and consistent with the zoning code, or other security measures approved in writing by the community development director to meet the minimum security standards required under this code section.

(4) Extended stay hotels, motels, or facilities must maintain a security plan which shall include all implemented security measures. Security plans and documentation for approved alternative security measures shall be kept on file and made available to the city within a reasonable time upon written request.

(5) Smoking is prohibited in all extended stay hotels, motels, and facilities with the exception of designated smoking areas. Smoking is expressly prohibited in exterior breezeways, stairwells, or within 25 feet of any guest room or doors used for ingress or egress.

(f) *Record keeping.* Every extended stay hotel, motel, and facility shall keep a record of all rental agreements between the extended stay hotel, motel, or facility and all patrons and their guests for a period of no less than 180 days after the rental agreement's termination.

The following information must be recorded at the time of registration and maintained pursuant to this article:

(1) The full name, phone number, and home address of each patron and overnight guest. If the patron is a tourism company or other business, only the patron shall be required to provide this information;

(2) The total number of occupants (patrons and guests) registered in each room;

(3) The room number assigned to each patron and guest;

(4) The day, month, year and time of arrival of each patron and guest;

(5) The day, month, and year each patron and each guest is scheduled to depart;

(6) Upon departure, record of departure date for each patron and guest;

(7) The rate charged and amount collected for rental of the room;

(8) The method of payment for each room; and

(9) Documentation used to verify a stay in excess of 120 consecutive days where permitted.

Secs. 34-178—34-205. Reserved.

ARTICLE VIII. MANUFACTURED HOMES

Sec. 34-206. Purpose.

The purpose of this article is to ensure that manufactured homes are installed on a site according to applicable federal and manufacturers' requirements; that manufactured homes are architecturally compatible with single-family residences and other land uses in the city currently and consistent with the mayor and city council's vision for future development in the city; and that pre-owned manufactured homes are in a safe and sound condition when they are relocated into the city.

Sec. 34-207. 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:

Applicant means any person seeking to install a pre-owned manufactured home in the incorporated area of the city.

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

Bay window means a window assembly whose maximum horizontal projection is not more than two feet from the vertical plane of an exterior wall and is elevated above the floor level of the home.

Building inspector means the person appointed, employed, or otherwise designated as the director of planning, permits and inspections; the city building official or any of his assistants.

Certificate of occupancy means a document issued by the building inspector certifying that a manufactured home is in compliance with applicable requirements set forth by this article and indicating it to be in a condition suitable for residential occupancy.

Compatibility means, with regard to buildings, achieving harmony in appearance of architectural features in the same vicinity.

Dormer means a window projecting from a roof.

Eave means the projecting lower edges of a roof overhanging the wall of a building.

Install means to construct a foundation system and to place or erect a manufactured home on such foundation system. The term "install" includes, without limitation, supporting, blocking, leveling, securing, or anchoring such manufactured home and connecting multiple or expandable sections of such manufactured home.

Jurisdiction means the incorporated area of the city.

Pre-owned manufactured home means any manufactured home that has been previously used as a residential dwelling and has been titled.

Sec. 34-208. Installation permit and certificate of occupancy required.

(a) No manufactured home shall be installed on any site without first obtaining an installation permit. An installation permit shall not issue unless the building inspector determines that:

  (1) The site meets the requirements of the city's ordinance for the location of manufactured housing, which requires that the subject property be zoned R-3;

  (2) The manufactured home complies with federal and state requirements applicable to manufactured housing; and

  (3) The manufactured home, once installed, will comply with the provisions of this article.

(b) No manufactured home shall be occupied without a certificate of occupancy. The building inspector shall not issue a certificate of occupancy for a manufactured home unless it has been installed in compliance with federal and state laws and regulations, manufacturers' instructions, and unless it is in conformity with all the provisions of this article.

Sec. 34-209. Installation requirements.

(a) *Hauling mechanisms removed.* The transportation mechanisms, including wheels, axles, and hitch, must be removed prior to occupancy.

(b) *Installation regulations.* The manufactured home shall be installed in accordance with the installation instructions from the manufacturer, as appropriate.

(c) *Approved septic system.* Each manufactured home shall be connected to a public sanitary sewer system, community sewerage system, or on-site septic system with capacity available as approved by the health officer.

(d) *Foundation.* The manufactured home shall be placed on a permanent foundation.

(e) *Masonry skirting.* The entire perimeter area between the bottom of the structure of each manufactured home and the ground, including stairways, shall be underpinned with masonry that completely encloses the perimeter of the undercarriage and attached stairways except for proper ventilation and access openings.

(f) *Exterior finish.* The exterior siding of the manufactured home shall consist of wood or hardboard siding material.

(g) *Width and square footing.* The manufactured home shall consist of two fully enclosed parallel sections and a total width of at least 14 feet. It shall be at least 800 square feet in conditioned living space.

(h) *Porch.* A porch or deck shall be provided facing the front yard or street prior to occupancy.

(i) *Yard.* Each newly installed manufactured home shall be located so that there is an unshared yard adjacent to the structure that is at least 5,000 square feet.

(j) *Buffer.* No manufactured home shall be located closer than 30 feet from the property line of an adjacent property having a residential zoning classification.

Sec. 34-210. Legal nonconforming manufactured homes.

Legal nonconforming manufactured homes existing prior to the date of the ordinance from which this article is derived may remain in use without complying with this article; however, whenever a legal nonconforming manufactured home is replaced with a manufactured home, the replacement home shall comply with this article. Whenever a nonconforming manufactured home falls into such a state of disrepair that the certificate of occupancy is revoked, in order for a certification of occupancy to be reissued, the manufactured home shall be brought into compliance with this article.

Sec. 34-211. Mobile homes.

No mobile homes, defined as units constructed prior to June 15, 1976, shall be allowed within the city. Only manufactured homes constructed to the Federal Manufactured Home Construction and Safety Standards governed by the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 USC 5401 et seq. shall be permitted to be installed or relocated within the jurisdiction. Pre-owned manufactured homes relocated into or within the city, must comply with the provisions of this article.

Sec. 34-212. Pre-owned manufactured homes.

In addition to the other requirements of this article, the relocation and installation of pre-owned manufactured homes shall be subject to the following health and safety standards and conditions and inspection program:

(1) *Relocation permit.* A permit shall be required to locate a pre-owned manufactured home in the jurisdiction. To obtain a relocation permit, applicants shall provide to the building inspector:

a. An affidavit signed by the applicant that the pre-owned manufactured home meets health and safety standards required by this article;

b. Photographs of the interior and exterior of the pre-owned manufactured home providing evidence that the home meets the minimum health and safety standards of this article; and

c. The permit and inspection fee required by subsection (4) of this section.

(2) *Inspection.* Upon receipt of a relocation permit, applicants may relocate the manufactured home onto a residential site of the proper zoning classification for the purposes of inspection. Applicant shall arrange for an inspection to be held prior to the installation of the manufactured home. At such time as the building inspector certifies that the manufactured home meets the requirements of this article, applicants may install the manufactured home in accordance with the requirements of this article.

(3) *Certificate of occupancy.* A certificate of occupancy shall be issued to the applicant after installation and at such time that the building inspector certifies that the requirements of this article have been met.

(4) *Fee.* A permit and inspection fee in an amount set by the city council shall be charged to the applicant to cover the cost to process the permit application and inspect the pre-owned manufactured home. Such fee shall cover the initial inspection and one follow-up inspection. The applicant shall be charged an additional amount set by the city council for each additional follow-up inspection that may be necessary.

(5) *Alternative inspection.* At the request of the applicant, the building inspector may, at his discretion, inspect a pre-owned manufactured home prior to its being relocated if the home is then located at another site within the city or within a convenient distance of the city. In the event that the building inspector travels outside of the city to inspect a pre-owned manufactured home, applicant shall pay mileage at the then-applicable federal reimbursement rate from the office of the building inspector, to the site of the inspection, and back to the office of the building inspector.

(6) *Rehabilitation.* At the request of the applicant, and where the building inspector finds that rehabilitation of a pre-owned manufactured home that does not meet the health and safety standard of this article can be accomplished in a reasonably short period of time and without causing any detriment to the neighborhood where the pre-owned

manufactured home will be relocated in the city, the building inspector may issue the relocation permit and delay inspection for a period of up to 45 days to allow for rehabilitation after the pre-owned manufactured home has been relocated into the city. The building inspector shall not grant such request unless the applicant presents satisfactory evidence of a feasible rehabilitation plan. The pre-owned manufactured home shall not be connected to utilities until the inspection is performed and a certificate of occupancy is issued.

Sec. 34-213. Minimum health and safety standards.

All pre-owned manufactured homes shall comply with the following health and safety standards before being issued a certificate of occupancy by the building inspector:

(1) *HUD Code.* Every pre-owned manufactured home located in the jurisdiction shall be in compliance with the Federal Manufactured Housing Construction and Safety Standards Act, 42 USC 5401—5445 (the HUD Code) and shall not have been altered in such a way that the home no longer meets the HUD Code.

(2) *Interior condition.* Every floor, interior wall, and ceiling of a pre-owned manufactured home shall be in sound condition. Doors and windows shall be operable, watertight and in good working condition. The floor system shall be in sound condition and free of warping, holes, water damage, or deterioration.

(3) *Exterior condition.* The exterior of all pre-owned manufactured homes shall be free of loose or rotting boards or timbers and any other conditions that might admit rain or moisture to the interior portions of the walls or to occupied spaces. The exterior siding shall be free of rot and rust. Roofs shall be structurally sound and have no obvious defects that might admit rain or cause moisture to collect on the interior portion of the home.

(4) *Sanitary facilities.* Every plumbing fixture, water, and waste pipe of a pre-owned manufactured home shall be in a sanitary working condition when properly connected and shall be free from leaks and obstructions. Each home shall contain a kitchen sink. Each bathroom shall contain a lavatory and water closet. At least one bathroom shall contain a tub and/or shower facilities. Each of these fixtures shall be checked upon being connected to ensure they are in good working condition.

(5) *Heating systems.* Heating shall be safe and in working condition. Unvented heaters shall be prohibited.

(6) *Electrical systems.* Electrical systems (switches, receptacles, fixtures, etc.) shall be properly installed and wired and shall be in working condition. Distribution panels shall be in compliance with the approved listing, complete with required breakers, with all unused openings covered with solid covers approved and listed for that purpose. The home shall be subject to an electrical continuity test to ensure that all metallic parts are properly bonded.

(7) *Hot water supply.* Each home shall contain a water heater in safe and working condition.

(8) *Egress windows.* Each bedroom of a manufactured home shall have at least one operable window of sufficient size to allow egress if necessary, which shall have a net clear opening that is a minimum of five square feet in area, 24 inches in height, and 20 inches in width. The opening shall have a sill height of not more than 44 inches above the floor. The opening shall be operational from the inside of the room without the use of keys, tools or special knowledge.

(9) *Ventilation.* The kitchen in the home shall have at least one operating window or other ventilation device.

(10) *Smoke detectors.* Each pre-owned manufactured home shall contain one operable battery-powered smoke detector in each bedroom and in the kitchen, which must be installed in accordance with the manufacturers' recommendations.

(11) *State law and regulations.* Each pre-owned manufactured home shall be installed in compliance with the requirements of state law, O.C.G.A. § 8-2-160 et seq., and the rules and regulations adopted pursuant to that law, as they may be amended from time to time.

Sec. 34-214. Enforcement.

(a) Permanent connection to utilities shall not be approved until the building inspector has issued a certificate of occupancy.

(b) Owners of pre-owned manufactured homes that are not in compliance with this article upon a third inspection shall have their permit revoked and shall be required to remove the home from the jurisdiction at their own expense.

(c) Failure to remove a pre-owned manufactured home from the jurisdiction upon failure to receive a certificate of occupancy shall be punishable by a fine of $100.00. Each day any violation under this article continues shall be considered a separate offense.

Sec. 34-215. Manufactured home community.

(a) In order to both support affordable housing in the community, and also ensure that housing developments do not have a negative effect on existing residences, manufactured home communities may be approved as a special use in the R-3 zoning district. Where application is made for a special use permit for a manufactured home community, in addition to the standards for the exercise of the zoning power, the mayor and city council should also consider whether the proposed manufactured home community, and the individual manufactured homes within it, will be aesthetically similar to other residences in the area, or may have a detrimental effect to the surrounding community. Where appropriate, manufactured home communities may be expressly exempted by the city council from some or all of the foundation, masonry skirting, exterior finish, roof pitch and materials, width and square footing, covered porch, and additional architectural feature requirements contained within section 34-209 of this article; the remaining requirement of this article shall still apply.

(b) *Conditions of special use permit.* Manufactured home communities shall meet the minimum standards:

(1) *Privacy fence.* A six-foot high opaque fence shall be erected along all property lines.

(2) *Mail facilities.* It shall be the responsibility of the owner of the manufactured home community to provide an approved mail delivery box for each manufactured home. For any development with a density of four units per acre or greater, a cluster mailbox, of a design approved by the United States Postal Service, shall be provided at a central location to serve the residents of the community.

(3) *Garbage and refuse.* Each manufactured home shall comply with the minimum standards set forth in chapter 37, solid waste, of this Code.

(4) *Electrical power supply.* Each manufactured home shall be provided with an adequate, properly grounded, water-proofed electrical receptacle with a minimum rated capacity of 200 amps. A properly sized over current device shall be installed as a part of each power outlet.

(5) *Skirting.* The entire perimeter area between the bottom of the structure of each manufactured home and the ground, including stairways, shall be underpinned with masonry, or vinyl material, that completely encloses the perimeter of the undercarriage and attached stairways except for proper ventilation and access openings.

(6) *Steps and landings.* Steps and landings are required at all ingress/egress points for all manufactured homes. Minimum landing size shall be 36 inches by 36 inches.

(7) *Registration.* Current registration for each manufactured home shall be displayed in a visible location.

(8) *Minimum unit size.* The individual space for each manufactured home in the community shall be at least 5,000 square feet where lots are served by both public water and public sewer systems. Where public water and sewer is not available, individual spaces for each manufactured home shall be at least 26,000 square feet, or greater if required by the county health department.

(9) *Setbacks.* The front and rear of each manufactured homes shall be spaced at least 25 feet from any other structure, and the side of each manufactured home shall be at least 11 feet from any other structure.

Secs. 34-216—34-236. Reserved.

ARTICLE IX. SIGN REGULATIONS

Sec. 34-237. Purposes.

(a) It is the purpose of the mayor and city council in enacting these regulations to provide standards to safeguard life, public health, property and welfare by regulating the location, size, illumination, erection, maintenance and quality of materials of all signs. More specifically, signs have a powerful impact on the aesthetic environment of the community, and it is the purpose of this article to encourage an aesthetically attractive environment, allowing sufficient opportunities for communications to serve business, interest groups and the public, while complying with the federal and state constitutions and laws. Signs create visual clutter and therefore should be regulated in their size, location, construction and illumination. Signs can detract from the beauty of the neighborhood and lower property values. In seeking to comply with federal and state law, the city has determined the following: large signs are, as the U.S. Supreme Court has recognized, an aesthetic harm; the state supreme court has upheld sign regulations on the basis of aesthetics and preserving the beauty of environment; and, the 11th Circuit has recognized portable signs are visual clutter and a potential traffic hazard. These holdings show that the city's ordinance is within the law and constitutional, which is a goal of the city. The goal of this article is to avoid being an impermissible content-based regulation, and instead to be a permissible time, place and manner restriction.

(b) Many signs can also be a hazard and negatively impact traffic safety by distracting drivers and blocking views of other vehicles and dangers, by making intersections more treacherous, and by making it difficult to see oncoming traffic when entering a roadway. Therefore, it is also the purpose of this article to prevent those harms by regulating signs to safe locations, safe sizes, with proper and safe illumination and construction.

Sec. 34-238. Jurisdiction and applicability of code requirements.

(a) This article shall apply to all properties within the incorporated areas of the city. This article shall not relate to the copy or message on signs within the city.

(b) All signs and sign structures shall be constructed and maintained in conformance with the state minimum standard codes.

(c) If any provisions or requirements of this article are in conflict with any other provision or requirement of this article or any other applicable governmental law, ordinance, resolution, rule, or other governmental regulation of any kind, the more restrictive rule or standard takes precedence.

Sec. 34-239. General provisions and definitions.

(a) No sign shall be placed or maintained within the city except in conformity with this article.

(b) Notwithstanding any other restrictions in this article, any sign, display or device allowed under this article may contain any commercial or non-commercial message, or any political or non-political message; except that such messages cannot depict obscenity, as defined by O.C.G.A. § 16-12-80, nor can they depict sexual conduct or sexually explicit nudity, as defined in O.C.G.A. § 36-60-3.

(c) Height limitations in this article control over the general height limitations of this article and apply to any structure that contains a sign. For example, a church spire or radio antenna with a sign would be subject to the height limitations of this article, rather than general height limitations.

(d) Definitions. The general definitions and interpretative rules of this chapter shall also be used. To the extent those general rules or definitions conflict with these specific definitions, these definitions shall control. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Abandoned sign means a sign and/or sign structure which no longer correctly directs or exhorts any person, or advertises a bona fide business, lessor, owner, product or service.

Animated sign means any sign that all or any part thereof visibly moves or imitates movement in any fashion whatsoever. Any sign that contains or uses for illumination any lights (or lighting devices) that change color, flash or alternate, show movement or motion, or change the appearance of said sign or any part automatically.

Area of sign (copy area) means the area within a continuous perimeter enclosing the limits of writing, representation, emblem, or any figure of similar character together with any frame, or material, open space, or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed.

Banner means a sign hung either with or without a frame, possessing characters, letters, illustrations, or ornamentation applied to paper, plastic, or fabric of any kind. This definition expressly excludes all fabric signs mounted from one side to a flag pole. For purposes of regulation under this article, banners shall be treated as a ground sign, but shall not be maintained for more than 30 consecutive days, or more than 90 total days in any calendar year.

Building sign means any sign attached to any part of a building other than a freestanding sign.

Canopy means any permanent roof-like structure, including awnings and marquees, projecting beyond a building or extending along and projecting beyond the wall of a building, generally designed and constructed to provide protection from the weather.

Canopy sign means any sign attached to, or made a part of, the front, side, or top of a canopy. These signs are regulated as wall signs.

Copy means the wording or graphics on a sign surface in either permanent or removable form.

Crown of the road means the highest point of a road, usually the centerline of a road.

Erect means to build, construct, attach, hang, place, suspend, paint or affix.

Establishment means a commercial, industrial, institutional, educational, office, business or financial entity.

Flag means any fabric sign, regardless of the message conveyed, mounted to a flag pole on one side only.

Flashing sign. See *Animated sign.*

Freestanding sign means any sign which is independent from any building or other structure and is entirely supported by a single or multiple pedestals that are permanently attached at or below ground level.

Frontage, building, means the length of an outside building wall facing a street.

Frontage, street, means the length of the property line of any one parcel along a street on which it borders.

Ground sign means a sign that is anchored to the ground and is wholly independent of a building for support. Freestanding signs are included in this definition, as are signs on poles, frames, or other mounting structures other than buildings.

Illuminated sign means a sign which contains an internal source of light or which is designed or arranged to reflect light from an artificial source.

Mansard sign means any sign attached to or erected within 12 inches of an actual or simulated mansard of a building, with the sign face parallel to and within the limits of the building, but not exceeding the roofline, and not deemed to be a roof sign. These signs are regulated as wall signs.

Monopole sign or *unipole sign* means a freestanding sign that is erected on a single pedestal attached to the ground for the display of messages irrespective of the number of faces or the configuration of the faces.

Monument sign means a permanent sign, other than a freestanding pole sign, placed upon or supported by the ground independent of any other structure and constructed of stone, concrete, masonry, stucco or equal architectural material. These signs are regulated as ground signs.

Moving sign. See *Animated sign.*

Painted wall sign means any sign that is applied with paint or similar substance on the face of a wall.

Permanent sign means a sign permanently affixed to a building or the ground.

Person means any association, company, corporation, firm, organization, or partnership, singular or plural, of any kind.

Planned center means a nonresidential develop with multiple establishments that are separately owned and operated.

Portable sign means any sign supported by its own frame or trailer, with or without wheels, that is designed to move from one place to another.

Projecting sign means any sign affixed to a building or wall, which horizontally extends more than 12 inches beyond the surface of a building or wall.

Revolving sign. See *Animated sign.*

Roof sign means any sign erected, constructed, and maintained upon or over the roof of any building and projecting above the roofline.

Roof sign (integral) means any sign erected or constructed as an integral part of a normal roof structure of any design. No part of the sign can extend vertically above the highest portion of the roof, and no part of the sign can be separated from the rest of the roof by a space of more than six inches.

Setback means the distance from the property line to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the property line.

Sidewalk, sandwich or *A-frame sign* means a sign which is normally in the shape of an "A" of some variation, which is usually two-sided.

Sign means any display of words, shapes or images designed to convey a message to the viewer, located on the exterior of any dwelling, building or structure, or located anywhere on a lot upon a dedicated supporting structure or device, including poles, banners, windows and similar devices.

Sign face means the actual message-carrying portion of the sign that can be used to display content, including any area that can display or does display words, pictures or other communicative elements of the sign, including the background color.

Sign structure means and includes all the elements of the sign, including its supporting structure, sign face, base, lights and every portion of the sign.

Street means any public or private right-of-way for automobile use. This excludes alleyways, parking lots and driveways.

Street frontage means the width in linear feet of a lot or parcel where it abuts the right-of-way of any public street.

Under canopy sign means a sign that is suspended from the underside of a canopy (in awnings and marquees), is perpendicular to the wall surface of a building, and whose copy is not clearly visible from the public right-of-way.

Wall face means a measurement of area equal to the height of the structure from the ground to the coping or eave of the roof multiplied by the width of the wall associated with the individual business. The wall face is to be measured for each wall independently.

Wall sign means a sign that is fastened directly to or is placed or painted directly upon the exterior wall of a building.

Window sign means a sign having its message visible from the exterior of a building that is either located within a building so as to be visible through a window, or affixed directly to the window either inside or outside the building.

Sec. 34-240. Permitted signs.

(a) *Standard permitted signs.* The following signs are permitted in the following zoning districts. If not otherwise stated, any sign not specifically permitted in a zoning district as provided under this section shall be prohibited. These regulations apply to signs located on any lot or development. A double-sided (double-faced) sign is counted as one sign. Height is measured from grade to the highest portion of the sign structure.

(b) *Signs permitted in the A-1, R-1, R-2, R-3 and R-4 zoning districts.*

(1) *Ground signs.* Up to three double-faced signs per lot. No single sign face may exceed 16 square feet. Total maximum area for all sign faces is 32 square feet (e.g., two 16-square-foot sign faces, or four eight-square-foot faces, etc.). Height is limited to five feet.

(2) *Window signs.* Two per lot, total of up to eight square feet of window signs.

(3) *Wall signs.* Not permitted.

(4) *Entrance signs.* Two per subdivision development, maximum area of each sign is 32 square feet. Entrance signs may only be single-sided, unless only one is erected, in which case it can be double-sided. Entrance signs are only permitted at the entrance to a subdivision development. Entrance signs must be set back from the right-of-way a distance equal to their height plus one foot for safety reasons, and cannot block traffic sight lines. Maximum height is six feet.

(c) *Signs permitted in the C-1, C-2 and O-I zoning districts, for individual uses.*

(1) *Ground signs.* One double-faced sign per lot. No sign face may exceed 100 square feet. Total maximum sign face area is 200 square feet. If the lot contains a principal building of over 10,000 square feet, no sign face may exceed 200 square feet and total maximum sign face area is 400 square feet. If the principal building exceeds 100,000 square feet, no sign face may exceed 300 square feet and total maximum sign face area is 600 square feet. Maximum height for all ground signs is 25 feet in C-1 and O-I, and 35 feet in C-2. For lots with frontage on a U.S. highway or state highway, ground signs may have a maximum height of 40 feet.

(2) *Window signs.* Total signage not to exceed 25 percent of the area of windows facing road frontage.

(3) *Wall signs.* Up to four signs per lot. Total wall signage not to exceed 200 square feet on all walls (e.g., four 50-square-foot signs or one 200-square-foot sign). If the lot contains a principal building of over 10,000 square feet, the total amount of permissible wall signage increases to 250 square feet. If the lot contains a principal building of over 100,000 square feet, the total amount increases to 300 square feet. No single wall sign may exceed 250 square feet.

(4) *Entrance signs.* Two per lot, maximum area of each sign is 32 square feet. Entrance signs may only be single-sided, unless only one is erected, in which case it can be

double-sided. Entrance signs are only permitted at the entrance of the development. Entrance signs must be set back from the right-of-way a distance equal to their height plus one foot for safety reasons, and cannot block traffic sight lines. Maximum height is six feet.

(d) *Signs permitted in O-I, C-1 or C-2 zoning districts, for planned centers.*

(1) *Ground signs.* One double-faced sign of up to 200 square feet per face, for the entire planned center. Total maximum sign face area is 400 square feet. If the development contains over 50,000 total square feet, no sign face may exceed 300 square feet. Total maximum sign face area is 600 square feet. Maximum height for all ground signs is 25 feet in C-1 and O-I, and 35 feet in C-2. For lots with frontage on a U.S. highway or state highway, ground signs may have a maximum height of 40 feet.

(2) *Window signs.* Total signage not to exceed 25 percent of the area of windows facing road frontage.

(3) *Wall signs.* Four signs per business. Total area of all signs is not to exceed ten percent of the gross floor area of each business. No single wall sign shall exceed 250 square feet.

(4) *Entrance signs.* Two per planned center, maximum area of each sign is 50 square feet. Entrance signs may only be single-sided, unless only one is erected, in which case it can be double-sided. Entrance signs are only permitted at the entrance to the planned center. Entrance signs must be set back from the right-of-way a distance equal to their height plus one foot for safety reasons, and cannot block traffic sight lines. Maximum height is ten feet.

(e) *Signs permitted in the IND-G and IND-H zoning districts, for individual uses.*

(1) *Ground signs.* One double-faced sign of up to 300 square feet per face; maximum total area is 600 square feet. Maximum height is 35 feet. For lots with frontage on a U.S. highway or state highway, ground signs may have a maximum height of 40 feet.

(2) *Window signs.* Total signage not to exceed 25 percent of the area of windows facing road frontage.

(3) *Wall signs.* Total signage not to exceed 200 square feet on all walls. If the lot contains a principal building of over 50,000 square feet, the total amount increases to 300 square feet. No single wall sign may exceed 200 square feet.

(4) *Entrance signs.* Two per lot, maximum area of each sign is 50 square feet. Entrance signs may only be single-sided, unless only one is erected, in which case it can be double-sided. Entrance signs are only permitted at the entrance to the lot. Entrance signs must be set back from the right-of-way a distance equal to their height plus one foot for safety reasons, and cannot block traffic sight lines. Maximum height is ten feet.

(f) *Signs permitted in IND-G and IND-H zoning districts, for planned centers.*

(1) *Ground signs.* One double-faced sign of up to 300 square feet per face, for the entire planned center. Total maximum sign face area is 600 square feet. Maximum height is 35 feet. For lots with frontage on a U.S. highway or state highway, ground signs may have a maximum height of 40 feet.

(2) *Window signs.* Total signage per business not to exceed 25 percent of the area of windows facing road frontage.

(3) *Wall signs.* Total area of all signs is not to exceed ten percent of the gross floor area. No more than four signs per business are permitted, and no single wall sign shall exceed 250 square feet.

a. *Entrance signs.* Two per planned center, maximum area of each sign is 50 square feet. Entrance signs may only be single-sided, unless only one is erected, in which case it can be double-sided. Entrance signs are only permitted at the entrance to the planned center. Entrance signs must be set back from the right-of-way a distance equal to their height plus one foot for safety reasons, and cannot block traffic sight lines. Maximum height is ten feet.

(g) *Signs permitted in the PUD zoning district.* Within the residential portion of any PUD, the provisions of subsection (b) of this section apply. A sign plan for any commercial portion of a PUD shall be made a part of the PUD application process and approved during the rezoning process. PUD applicants should seek consistency with the signage provisions of commercial zoning districts as shown above.

(h) Reserved.

(i) *Internal signs.* Any sign not visible from the public right-of-way is not restricted or regulated by this article.

(j) *Outdoor facility signs.* Any sign that is located at an outdoor event facility that is open to the general public, such as a ball field, race track, or amphitheater, and is mounted on the internal-facing walls of the facility, is exempt from the maximum number and square footage restrictions.

Sec. 34-241. Regulations for signs.

(a) *Location, height, and setback.*

(1) The property owner must give permission for all sign placement on the owner's property, through the issuance of a letter signed by the owner.

(2) All signs must comply with all side and rear setbacks of this chapter.

(3) Signs can be located in front setback areas, but all signs and sign structures, except as noted below, must be set back at least ten feet from the public right-of-way. No portion of a sign or sign structure shall encroach on or overhang the public right-of-way or any other person's property. Furthermore, for safety reasons, no sign shall be located closer than ten feet from the back of the curb of a public roadway, or if there is no curb, from the edge of the pavement.

(4) Distances are measured from the closest portion of the sign (whether that is the base, sign face, or the sign structure) to the right-of-way, curb or pavement.

(5) The height requirements of a sign shall be computed as the length of a straight vertical line from normal grade to the height of the highest attached component of the sign or sign structure. When the sign is constructed within 15 feet of a right-of-way, the normal grade shall be considered the elevation of the crown of the road. When a sign is constructed 15 or more feet from any right-of-way, normal grade shall be considered the lower of:

a. Existing grade of the site of the sign prior to construction of the sign; or

b. The newly established grade at the base of the sign after construction, exclusive of any filling, beaming, mounding or excavating solely for the purpose of locating the sign.

(b) *Number.* For the purpose of determining the number of signs, ground signs shall be equal to the number of sign structures. All other non-ground signs shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit.

(c) *Illumination.*

(1) Ground signs cannot be internally illuminated except where expressly permitted by this article. All signs may be externally illuminated. External illumination of any sign in any district shall be positioned and shielded so that the light source does not shine directly into the path of motorists on a public right-of-way or into the windows of adjacent dwellings or businesses without the permission of the owner and resident thereof. Signs located in residential districts shall not be illuminated between the hours of 10:00 p.m. and 7:00 a.m.

(2) Flashing, blinking or otherwise varying illumination are not permitted. No external or internal illumination that causes confusion with or distraction from any traffic signal or safety device shall be permitted.

(3) All externally illuminated signs shall utilize low wattage luminaries, mounted in fixtures designed to direct the light and eliminate light trespass, such as light shining into residences or other neighboring structures.

(4) All internally illuminated signs shall utilize low wattage luminaries designed to reduce light glow.

(5) All illuminated signs over ten feet in height shall either be internally illuminated or illuminated by external lighting fixtures not visible to passing motorists.

(6) On non-residential lots fronting on US 411, internally illuminated or LED signs facing US 411 are permissible, provided that the area of the LED portion of the sign shall be no more than 32 square feet. In all other nonresidential districts, internally illuminated or LED signs are permitted upon the issuance of a special permit by the mayor and city council, after consideration of the following criteria:

a. Is the proposed sign appropriately located to avoid traffic interference?

b. Is the proposed sign appropriately located to avoid light trespass to neighboring properties?

c. Is the proposed sign appropriately sized for the area and will it comply with the other regulations of this ordinance pertaining to illumination?

The procedure for the consideration of such a request shall be the same as the procedure for consideration of a variance request.

(7) No sign shall give off light which glares, blinds, or has any other adverse effect on traffic or adjacent properties. The light from an illuminated sign shall be established in such a way that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways. This shall be determined by measuring the footcandles (lumens per square foot) that fall on adjacent properties or the public right-of-way. No sign shall exceed 0.5 footcandles at any adjacent property line in a residential district or two footcandles at any public right-of-way.

(8) Multiple-message signs. Multiple-message signs are those which change the message or copy on the sign face mechanically or electronically by movement or rotation of panels or slates, or by changing electronic display on the sign face. They are subject to the following restrictions:

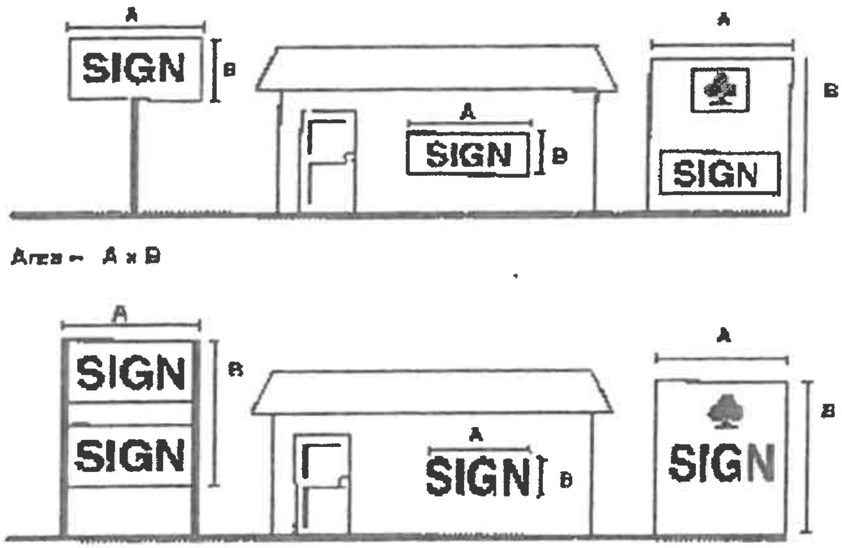
a. No multiple-message sign may change its message or copy, or any pictures or images that are part of the message, more frequently than once every minute, provided that multiple-message billboards shall be allowed to change the copy or images that are part of the message not more frequently than once every ten seconds.

b. When the message of a multiple-message sign is changed mechanically, it shall be accomplished in three seconds or less. When the message of a multiple-message sign is changed in an electronic manner, through the use of light emitting diodes, back lighting or other light source, the transition shall occur within two seconds.

c. When any multiple-message sign is located within 150 feet of any residential district, the display of multiple-messages shall discontinue between the hours of 10:00 p.m. and 7:00 a.m., and the sign shall be static and not display more than one message during that period.

(d) *Calculation of area.* The area of a sign is calculated by determining the area of the smallest square or rectangle which encloses the sign face and the structure surrounding the sign face. For example, the pole or base would not be included, but any frame holding the sign face in place would be counted. See examples:

Examples of Sign Face Area Measurements



(e) *Unusual shaped signs.* Unusual shaped signs are signs that are any shape other than a square or rectangle, and include signs with projecting elements or features, round, oval, and triangular signs, signs with more than four sides, signs in the shape of an animal, object, or device, and so forth. For all such signs, the area is calculated by calculating the area of the smallest rectangle that will completely enclose all elements of the sign face and sign structure supporting the face, not including the base, or any open space.

(f) *Sign support structures.* Signs 300 square feet per face or larger must be constructed with a monopole-type support system.

Sec. 34-242. Safety and construction standards.

(a) *Engineering approval.* All signs in excess of 15 feet in height should be constructed according to plans approved by a state registered professional engineer. The sign owner shall produce such approved plans at the request of the building official.

(b) *Official confusion.* Signs which contain or are in imitation of an official traffic sign or signal are prohibited.

(c) *Fire safety.* No sign or sign structure may be erected or maintained which obstructs any fire escape, ventilation, or door; nor shall any sign or sign structure be attached to a fire escape.

(d) *Corner visibility.* No sign or sign structure above a height of three feet shall be maintained within 15 feet of the intersection of the right-of-way lines of two streets, or of a street intersection with a railroad right-of-way.

(e) *Traffic visibility.* No sign shall obstruct the view of vehicles entering the roadway (i.e., the view of oncoming traffic by vehicles attempting to enter the road).

(f) *Good repair.* All signs, together with all their supports, braces, guys, and anchors shall be kept in good repair. Any structure formally used as a sign, but not in use for any other purpose, must be removed by the owner of the property within ten days after written notification from a designated city official or 30 days after its use as a valid sign has ceased, after which time, the city may cause the removal of the sign at the owner's expense.

(g) *Removal of unsafe signs and safety hazards.* The city may remove a sign in violation of this article, without giving notice to any party, if said sign is upon the public right-of-way or upon other public property, or said sign poses an immediate safety threat to the life or health of any members of the public.

Sec. 34-243. Prohibited signs.

The following types of signs are prohibited:

(1) Roof signs (which means signs mounted above a roof or projecting above the roof-line of a structure).

(2) Rotating signs.

(3) Signs with more than two sides.

(4) Except where expressly permitted, changing copy, moving signs, or signs with moving parts are prohibited. This includes animated signs involving motion or sound; fluttering ribbons; "trivision"-type signs; signs displaying moving pictures or images; LED signs or EVMC signs with content that changes more than once daily; signs with moving words; signs with waiving elements, whether motorized or wind-powered; or similar moving signs. This regulation shall not be construed to prohibit flags, which are regulated as other non-moving signs.

(5) A-frame, sandwich type, sidewalk or curb signs, except in DDA area.

(6) Swinging or projecting signs, except in DDA area.

(7) Portable signs (mobile, trailer).

Sec. 34-244. Procedures; sign registration and building permits.

(a) Except as specifically exempted from the provisions of this article, a person or firm may not legally maintain, post, display, enlarge, erect, move, or substantially change a sign that is larger than four square feet without first obtaining a permit from the community development director. Signs using electrical wiring and connections (i.e., illuminated signs), as well as larger signs, may require additional permits under the city building code, and the building official should be contacted regarding such signs.

(b) All parties are advised to consult with the community development director to avoid erecting signs that violate this article. No person shall obtain a vested right to maintain a sign that does not comply with this article at the time it is erected. Signs erected in violation of this article shall be removed or reconstructed in compliance with this article.

(c) Permit applications for conforming signs shall be filed by the sign owner or his agent with the community development director upon forms furnished by the city.

(1) *Applications.* Applications shall contain the following:

a. The type of the sign as defined in this article.

b. The value of the sign.

c. The street address and zoning designation of the property where the sign is to be located.

d. A site plan drawn to scale that shows the location of the sign on the lot, including indicating setbacks from property lines and rights-of-way.

e. The square foot area per sign and the aggregate square foot area if there is more than one sign face.

f. The name and address of the owner of the real property upon which the sign is to be located, along with written consent of said owner.

g. Engineered construction plans for signs exceeding 15 feet in height, showing they are approved by a state registered professional engineer.

h. Name, address, phone number and business license number of the sign contractor.

(2) *Fees.* No permit shall be issued until the appropriate application has been filed with the community development director and permit fees have been paid as adopted by the mayor and city council and as amended from time to time.

(3) *Granting of permit.* The community development director or his designee shall grant a permit upon receipt of a completed application if the proposed sign meets the requirements of this article.

(4) *Permit expiration.* A permit shall become null and void if construction of the sign has not begun within six months from the date of issuance. Issuance of a permit shall in no way prevent the city from later declaring the sign to be nonconforming or unlawful if, with further review of available information, the sign is found not to comply with the requirements of the ordinance applicable at the time that the complete permit application was filed.

(5) *Violation.* A violation of any provisions of this article will be grounds for termination of a permit granted by the city for the erection of a sign. Should it be determined that a permit was issued pursuant to an incomplete application or an application containing a false material statement, or that a permit has been erroneously issued in violation of this article, the community development director or his designee shall revoke the permit. No information shall be required regarding the content of the sign. Any person failing to obtain a permit prior to construction shall be subject to citation and, upon conviction, shall be punished in accordance with the enforcement provisions of this chapter and applicable law.

Sec. 34-245. Nonconforming signs.

Signs existing legally at the time of the adoption or amendment of the ordinance from which this article is derived, but which do not conform to newly adopted or amended provisions of this article solely because of a change in this article, and not because of a change to the sign, may remain as legal nonconforming signs, subject to the following provisions:

(1) There must be existing property rights in the sign;

(2) The right to continue a nonconforming sign is confined to the sign owner or his transferee;

(3) A nonconforming sign may be restored to its original condition, provided that not more than 50 percent of the sign is destroyed. The 50 percent is to be determined by 50 percent of the value of the materials of the sign, inclusive of poles and other structural members, immediately prior to damage;

(4) A nonconforming sign when relocated or moved shall no longer be considered a nonconforming sign and thereafter shall be subject to all the provisions of law and of these rules relating to outdoor advertising;

(5) The sign must remain substantially the same as it was on the effective date of the adoption of the ordinance from which this article is derived which rendered the sign nonconforming. Extension, enlargement, replacement, rebuilding, adding lights to a non-illuminated sign or re-erection of the sign will be considered a change in the existing use. The maintenance will be limited to:

   a. Replacement of nuts and bolts;

   b. Additional nailing, riveting or welding;

   c. Cleaning and painting;

   d. Manipulating to level or plumb the device, but not to the extent of adding guys or struts for stabilization of the sign structure;

   e. A change of the message, including changing faces, as long as similar materials are used and the sign face is not enlarged;

(6) At no time may changes be made in a nonconforming sign which would increase the value of the sign;

(7) A nonconforming sign may continue as long as it is not abandoned, destroyed, discontinued, or purchased by any governmental agency. Any sign suffering damage in excess of normal wear cannot be repaired without:

   a. Notifying the community development director in writing of the extent of the damage, the reason the damage is in excess of normal wear, and providing a description of the repair work to be undertaken, including the value of the sign materials and the cost of the repair; and

b. Receiving written notice from the community development director authorizing the repair work as described above. If said repair is authorized by the terms of this article, the community development director shall mail such notice to the applicant within 30 days of receipt of the information described in subsection (7)a of this section.

Secs. 34-246—34-268. Reserved.

ARTICLE X. TELECOMMUNICATIONS TOWERS AND STREAMING WIRELESS FACILITIES AND ANTENNAS

Sec. 34-269. Purposes and applicability.

(a) The purpose of this article is to regulate all wireless, cellular, television and radio telecommunication facilities, towers and antennas; to minimize the total number of towers within the community necessary to provide adequate personal wireless services to residents of the city; to encourage the joint use of new and existing tower sites among service providers; to encourage the design and construction of facilities, towers and antennas to minimize adverse visual impacts; and to enhance the ability of the providers of wireless telecommunication services to deliver such services to the community effectively and efficiently.

(b) This article is designed so that the provisions of sections 34-270—34-276 shall govern the installation of telecommunications towers and antennas. The provisions of sections 34-277—34-283 shall govern streaming wireless facilities and antennas within the public rights of way; and in regards to streaming wireless facilities and antennas within the public rights of way, where the provisions of sections 34-277—34-283 are inconsistent with the other provisions of this article, they shall control.

Sec. 34-270. Definitions.

The general definitions and interpretative rules of this chapter shall also be used. To the extent those general rules or definitions conflict with these specific definitions, these definitions shall control. 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:

Alternative tower structure means clock towers, bell towers, church steeples, light/power poles, electric transmission towers, on premises signs, outdoor advertising signs, water storage tanks, and similar natural or manmade alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Antenna means any exterior apparatus designed for wireless telecommunication, radio, or television communications through the sending and/or receiving of electromagnetic waves.

Co-location means the placement of the antennas of two or more service providers upon a single tower or alternative tower structure.

Department means the city planning, zoning and development department.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Geographic antenna placement area means the general vicinity within which the placement of an antenna is necessary to meet the engineering requirements of an applicant's cellular network or other broadcasting need.

Height means, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower structure or appurtenance.

Preexisting towers and antennas means structures as set forth in section 34-271(d).

Scenic views means those geographic areas containing visually significant or unique natural features, as identified in the city comprehensive plan.

Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term "tower" includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telecommunication towers, manmade trees (with accessory buildings/structures) and other similar structures.

Visual quality means the appropriate design, arrangement and location of tower structures in relation to the built or natural environment to avoid abrupt or severe differences.

Sec. 34-271. Applicability.

(a) *General application.* Except as otherwise provided herein, the provisions, requirements and limitations of this article shall govern the location of all wireless telecommunication, cellular telecommunication, television, microwave or radio transmission tower or antenna installed within the city. In the event of any conflict between any other provision of this chapter and this article, this article shall control.

(b) *Governmental exemption.* Except as otherwise specifically provided for in this article, the provisions of this article shall not apply to the city's properties, facilities or structures. Private facilities and structures placed upon city property shall be governed by a lease agreement between the city and the provider.

(c) *Amateur radio; receive-only antennas.* This article shall not govern any tower, or the installation of any antenna, that is 75 feet or less in height and is owned and operated by a federally-licensed amateur radio station operator from the operator's residence, or is used exclusively as a receive-only antenna; provided, however, only one such tower or antenna per residence shall be excluded from this article.

(d) *Preexisting towers and antennas.* Towers and antennas permitted and erected prior to the adoption of the ordinance from which this article is derived or amendment thereto shall be deemed preexisting, and shall not be subject to the requirements of this article. The placement of additional antennas on any nonconforming structure shall not create a vested right for the continued use of the structures should the nonconforming use cease. If an additional antenna is co-located on a legally preexisting tower, the requirements of this article shall be met.

Sec. 34-272. General provisions.

(a) *Special use required.* A special use permit shall be required for the placement of any tower or alternative tower structure, except as otherwise permitted herein. Procedures for special use permits sought under this article are contained in section 34-273.

(b) *Principal or accessory use.* A tower and/or antenna is considered a principal use if located on any lot or parcel of land as the sole or primary structure, and is considered an accessory use if located on a lot or parcel shared with a different existing primary use or existing structures. An existing use or structure on the same lot or parcel shall not preclude the installation of an antenna or tower. For purposes of determining whether the installation of a tower or antenna complies with zoning district requirements, including, but not limited to, setback, buffer and other requirements, the dimensions of the entire lot or parcel shall control, even though the antenna or tower may be located on a leased area within such lot or parcel. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this article shall not be deemed to constitute the expansion of a nonconforming use of structure.

(c) *Co-location of antennas required.* Applicants for the erection of a tower or antenna, except amateur radio operators, shall be required to co-locate upon an existing tower structure, if possible. An exception to co-location shall only be made if the applicant submits a report from an engineer demonstrating that an existing tower suitable for co-location does not exist in the geographic antenna placement area, and that no suitable alternative tower structure is available, or if the applicant submits an affidavit showing that while a suitable tower may exist, no space is available thereon. Co-location is permissible provided the new antenna will add no more than ten feet to the height of the tower and related equipment or appurtenances. Increasing the antenna height more than ten feet requires a special use permit. Co-location requires only a building permit, and the information described in section 34-275(b).

Sec. 34-273. Special use permit required.

(a) *General.*

   (1) A special use permit shall be required for the construction of a new tower in any zoning district. All such uses shall comply with requirements set forth in this article and all other applicable codes and ordinances, unless the applicant can show that the denial of a permit in such a location will cause a significantly harmful and permanent degradation of service which cannot be overcome by any other means including

planned or potential locations which would provide the same or similar coverage or capacity.

(2) In granting a special use permit, the city may impose conditions to the extent that it concludes such conditions are necessary to minimize adverse effects from the proposed tower on adjoining or nearby properties as set out in subsection (f) of this section.

(b) *Application; contents; fee.* All applications for special use permits shall be submitted to the city community development director. Each application shall contain as a part thereof detailed plans and specifications as set forth in section 34-275. An application for a special use permit shall not be accepted for processing without the information required in section 34-275. An application fee shall be charged by the department in the amount stated in section 34-276.

(c) *Independent expert review.* The city may engage a licensed professional engineer as an independent expert to review any of the materials submitted by an applicant for a special use permit and render an opinion regarding any concerns about the proposal, including, but not limited to, structural integrity and the feasibility of alternative sites or co-location. Following the review of an independent expert, the city shall convey its concerns to the applicant in writing and shall allow the applicant a reasonable opportunity to address those concerns. If the applicant is unable to satisfactorily address those concerns, the applicant shall be allowed a reasonable amount of time, not to exceed 30 days, following the receipt of the letter in which to modify the application to alleviate the city's concerns or withdraw the application altogether. The expert's opinion shall be considered determinative, unless the applicant agrees to pay the expenses of submitting both opinions for a peer review, which review shall then be considered final. If the independent third-party expert supports the applicant's expert, then the department shall pay the expenses of said third-party expert. If the independent third-party expert supports the position of the department, then the applicant shall pay the expenses of said third-party expert.

(d) *Public hearing.* Before taking action upon the proposed special use permit, the city shall hold a public hearing on the matter consistent with the procedures of article XIV of this chapter.

(e) *Considerations in approval or denial of special use permits.* Any denial of a request to place, construct or modify a telecommunications facility shall be in writing and supported by substantial evidence contained in a written record. The following factors may be taken into consideration in acting upon a special use permit application under the provisions of this article:

(1) The height and setbacks of the proposed tower or antenna;

(2) The proximity of the tower or antenna to residential structures and residential district boundaries;

(3) The nature of uses on adjacent and nearby properties;

(4) The surrounding topography;

(5) The surrounding tree coverage and foliage;

(6) The design of the tower or antenna, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

(7) The proposed ingress and egress;

(8) The availability of suitable existing towers or other structures for antenna co-location;

(9) The impact of the proposed tower or antenna upon scenic views and visual quality of the surrounding area;

(10) The needs of the applicant as balanced against the detrimental effects on surrounding properties; and

(11) The impact of the proposed tower or antenna on adjacent and nearby properties.

(f) *Requirements for issuance of special use permit.* The special use permit may be issued by the city only upon satisfaction of the following requirements:

(1) A proper application filed in accordance with the requirements of section 34-275;

(2) The application is otherwise in compliance with or otherwise is satisfactory in considering the standards contained in subsection (e) of this section;

(3) The applicant complies with the conditions proposed by the city for the purpose of reducing the harmful effects of the use on surrounding uses and ensuring compatibility with surrounding uses;

(4) The city determines that the benefits and need for the proposed special use are greater than any possible depreciating effects or damages to neighboring or nearby properties; and

(5) All fees, including expert fees, have been paid in full.

(g) *Resubmittal of special use application.* An application for a special use permit which has been denied shall not be resubmitted for a period of 12 months, and then only if the applicant can document a substantial change in need for a tower or antenna at the same location.

(h) *Time.* All co-location applications shall be ruled upon within 90 days of the filing of a completed application; all other applications shall be ruled upon within 150 days of a completed application. Applications which are not completed at the time of filing shall not be accepted, and city staff shall review the application to verify completeness within 30 days from the filing of the application. In the event that an application is determined to not be complete within the initial 30-day period after filing, city staff shall promptly notify the applicant, and the time for issuance of the decision shall be tolled for the time period between such notification to the applicant and the date the applicant files materials which complete the application. The time periods within this subparagraph may be extended by the mutual consent of the city and the applicant.

Sec. 34-274. General requirements for towers.

(a) *Setbacks and separation.* The following setbacks and separation requirements shall apply to all towers.

(1) Towers shall be set back a distance equal to the height of the tower from its base to any public right-of-way or occupied structure, or property line of the lot or parcel containing the tower, except when a property owner or adjoining property owner consents in writing to waive the setback and the applicant clearly demonstrates that the tower will collapse within the parent parcel.

(2) Guy wires and accessory buildings and facilities shall meet the minimum accessory use location and setback requirements.

(3) In zoning districts other than IND-H, towers shall not be located closer than 500 feet from any existing tower. This requirement shall not apply to amateur radio towers.

(4) Notwithstanding any other provision of this article, no tower or antenna shall be permitted in a residential neighborhood or within 1,000 feet of any residential dwelling unless the applicant can show that the denial of a permit in such a location will cause a significantly harmful and permanent degradation of service which cannot be overcome by any other means including planned or potential locations which would provide the same or similar coverage or capacity.

(5) The requirement of subsection (a)(4) of this section may be waived by the adjacent property owner. In such cases, the applicant shall submit a notarized affidavit from the adjacent owner, identifying the property owned, and affirming that he agrees that the tower can be erected at the proposed location, which shall be specifically described, including its distance from that owner's residential dwelling. The affidavit shall further specifically state that the affiant understands that he or she is waiving his rights under this subsection. Waivers shall be required of all property owners whose dwellings are located within 1,000 feet of the proposed tower.

(b) *Aesthetics.* The guidelines set forth in this subsection shall govern the design and construction of all towers, and the installation of all antennas, governed by this article and shall be approved by the director.

(1) Towers and/or antennas shall either maintain a galvanized steel or concrete finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

(2) At all tower sites, the design of all buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and building environment. Any equipment or cabinet that supports telecommunication facilities must be concealed from public view and made compatible with the architecture of the surrounding structures or placed underground. Equipment shelters or cabinets shall be screened from public view by

using landscaping or materials and colors consistent with the surrounding backdrop. The shelter or cabinet must be regularly maintained.

(3) For antennas installed on a structure other than a tower, the antenna and supporting electrical and mechanical ground equipment shall be of a neutral color so as to make the antenna and related equipment visually unobtrusive.

(4) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the city may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. The lighting shall be dimmed or changed to red lights from the sunset to sunrise.

(5) No signage or other identifying markings of a commercial nature shall be permitted upon any tower or alternative tower structure within the city.

(6) To the extent practical, telecommunication facilities shall not be placed in a direct line of sight with historic or scenic view corridors as designated by the governing body or by any state or federal law or agency.

(7) Access to the tower site shall be restricted so as to minimize visibility of the access. Where possible, existing roads shall be used. Where no roads exist, access shall follow the existing contours of the land.

(8) Such other additional requirements as the director shall reasonably require to minimize the visual impact of the site on the surrounding area.

(c) *Security fencing/anti-climbing devices.* All towers and supporting equipment shall be enclosed by fencing not less than six feet in height and shall also be equipped with appropriate anti-climbing devices. Fencing shall be of chain link, wood or other approved alternative.

(d) *Landscaping.* The following requirements shall govern landscaping surrounding all towers:

(1) Where adequate vegetation is not present, tower facilities shall be landscaped with a landscaped strip of plant materials which effectively screens the view of the tower compound. Landscaped strips shall be a minimum of ten feet in width and located outside the fenced perimeter of the compound.

(2) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. Where natural vegetation around the perimeter of the site would provide an adequate visual screen, an undisturbed buffer may be utilized. The applicant shall provide a site plan showing existing significant vegetation to be removed, and vegetation to be replanted to replace that lost.

(3) Landscaping shall be maintained by the provider and shall be subject to periodic review by the director to ensure proper maintenance. Failure to maintain landscaping shall be deemed a violation of this article.

(4) Amateur radio towers and antennas, or receive-only antennas, shall not be subject to the provision of this subsection unless required by the city through the special use permit process.

(e) *Maintenance impacts.* Equipment at a transmission facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street, utilizing existing access to the property on which such facility is to be located, where possible.

(f) *Review of tower and antenna erection by the airport authority.* If, upon receipt of an application for the erection of any tower or alternative tower structure governed by this article, the department deems that the proposed structure may interfere with or affect the use of the airways of the city by the public or interfere with or affect the operation of existing or proposed airport facilities, a copy of the application shall be submitted by the department to the Cartersville-Bartow County Airport Authority for review and recommendation.

(g) *Federal requirements; removal of towers.* All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, the permittee or the lessee of the tower and antenna governed by this article shall bring such tower and/or antenna into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations unless a more or less stringent compliance schedule is mandated by the controlling federal agency. Failure to bring such tower and/or antenna into compliance with such revised standards and regulations shall be deemed to be a declaration of abandonment of the tower and constitute grounds for the removal of the tower or antenna at the owner's, permittee's, or lessee's expense. Any such removal by the city shall be in the manner provided in the city unfit property ordinance then in effect.

(h) *Building codes; safety standards; removal of towers.* To ensure the structural integrity of towers, the owner, permittee or subsequent lessee of a tower or alternative tower structure shall ensure that it is maintained in compliance with standards contained in applicable standard building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the department concludes that a tower fails to comply with all applicable codes and standards, or constitutes a danger to persons or property, then upon receipt of written notice by the owner, permittee or lessee of the tower, said party shall have 15 days to bring the tower into compliance with such standards. Failure to bring such tower into compliance within 15 days shall be deemed a declaration of abandonment of the tower and constitute grounds for removal of the tower as provided in the city unfit property ordinance. Prior to the removal of any tower, the department may consider detailed plans submitted by the owner, permittee or subsequent lessee for repair of substandard towers, and may grant a reasonable extension of the above-referenced compliance period. Abandoned towers or towers deemed unsafe may also be removed under the city unfit property ordinance procedures.

(i) *Change of ownership notification.* Upon the transfer of ownership of an interest in any tower, alternative tower structure, or lot upon which such a structure has been erected, the tower permittee shall notify the department of the transaction in writing within 30 days.

Sec. 34-275. Application procedures.

(a) *General application requirement.* Application for a permit for any telecommunication facility shall be made to the department by the person, company or organization that will own and operate the telecommunications facility. An application will not be considered until it is complete. The director is authorized to develop application forms to assist in providing the required information and facilitate the application process. Except for a co-location information submittal under subsection (b) of this section, the following information shall be submitted when applying for any permit required by this article and must be submitted for an application to be considered complete:

(1) Site plan or plans to scale specifying the location of telecommunications facilities, transmission building and/or other accessory uses, access, parking, fences, landscaped areas, and adjacent land uses. Applicants shall submit both a paper location map and a digitized location map in a format compatible with the GIS software currently utilized by the city information services department.

(2) Landscaped plan to scale indicating size, spacing and type of plantings required in section 34-274(d).

(3) A full description of the environment surrounding the proposed telecommunications facility, including any adjacent residential structures and districts, structures and sites of historic significance, streetscapes or scenic view corridors.

(4) A description of anticipated maintenance needs for the telecommunications facility, including frequency of service, personnel needs, equipment needs, and traffic or safety impacts of such maintenance.

(5) Report from a professional qualified engineer licensed in the state, or other appropriate qualified industry expert, documenting the following:

a. Tower or antenna type, height, and design;

b. Engineering, economic, and other pertinent factors governing selection of the proposed design;

c. Total anticipated capacity of the telecommunications facility, including numbers and types of antennas which can be accommodated;

d. Evidence of structural integrity of the tower or alternative tower structure;

e. Structural failure characteristics of the telecommunications facility and demonstration that site and setbacks are of adequate size to contain debris;

f. Certification that the antenna and related equipment or appurtenances comply with all current regulations of the FCC, with specific reference to FCC regulations governing non-ionizing electromagnetic radiation (NIER), and that the radio frequency levels meet the American National Standards Institute (ANSI) guidelines for public safety;

g. Certification that the proposed height of the tower is the minimum height necessary for coverage; and

h. A propagation study which documents the proposed location is the only location for the tower that reduces alleged gaps in coverage.

(6) Identification of the geographic service area for the subject installation, including a map showing the proposed site and the nearest or associated telecommunications facility sites within the network. Describe the distance between the telecommunications facility sites. Describe how this service area fits into and is necessary for the service network (i.e., whether such antenna or tower is needed for coverage or capacity.)

(7) The applicant must provide a utilities inventory showing the locations of all water, sewage, drainage and power line easements impacting the proposed tower site.

(8) The applicant must provide any other information which may be requested by the department to fully evaluate and review the application and the potential impact of a proposed telecommunications facility.

(b) *Tower co-location information submittals.* Any person or entity co-locating an antenna or antennas on a tower for which a permit has already been issued shall submit the following information only:

(1) The name of the person or entity co-locating the antenna.

(2) The name of the owner of the tower.

(3) The tower's permit number.

(4) The location of the tower.

(5) The remaining structural capacity of the tower.

(6) Certification that the antenna and related equipment or appurtenances comply with all current regulations of the FCC, with specific reference to FCC regulations governing non-ionizing electromagnetic radiation (NIER), and that the radio frequency levels meet the American National Standards Institute (ANSI) guidelines for public safety.

Sec. 34-276. Application and permit fees.

(a) *Special use permit.* The fee for an application seeking a special use permit to erect a new tower on an alternative tower structure shall be $3,000.00.

(b) *Co-location.* There shall be no fee for an application seeking a special use permit for co-location on an existing tower or alternative tower structure other than the building permit fee.

(c) *Building permit fees.* In addition to the application fees set forth herein, the applicable construction and utility inspection permit fees in effect at the time of the application for the permit shall apply.

Sec. 34-277. Purposes.

(a) O.C.G.A. § 32-4-92(a)(10) authorizes the city to establish reasonable regulations for the installation, construction, maintenance, renewal, removal, and relocation of pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, facilities, or appliances in, on, along, over, or under the public roads of the city. Further, 47 U.S.C. § 253(c) provides that the city has authority to manage its public rights-of-way. Finally, the Georgia Streamlining Wireless Facilities and Antennas Act., O.C.G.A. tit. 36, ch. 66C (the "SWFAA"), addresses the placement of small wireless facilities in the public rights of way of the city.

(b) The city finds it is in the best interest of the city and its residents and businesses to establish requirements, specifications, and reasonable conditions regarding placement of small wireless facilities and poles in the public rights of way. These requirements, specifications, and conditions are adopted in order to protect the public health, safety, and welfare of the residents and businesses of the city and to reasonably manage and protect the public rights of way and its uses in the city.

(c) The objective of this article is to:

(1) Implement the SWFA; and

(2) Ensure use of the public rights-of-way is consistent with the design, appearance and other features of nearby land uses, protect the integrity of historic, cultural and scenic resources, and not harm residents' quality of life.

Sec. 34-278. Definitions.

As used in this article, the following terms have the following meanings:

Antenna means:

(1) Communications equipment that transmits, receives, or transmits and receives electromagnetic radio frequency signals used in the provision of wireless services or other wireless communications; or

(2) Communications equipment similar to equipment described in subsection (1) used for the transmission, reception, or transmission and reception of surface waves.

Such term shall not include television broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

Applicable codes means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the state or the city or are otherwise applicable in the city.

Applicant means any person that submits an application.

Application means a written request submitted by an applicant to the city for a permit to:

(1) Collocate a small wireless facility in a right-of-way; or

(2) Install, modify, or replace a pole or decorative pole in a right of way on which a small wireless facility is or will be located.

Authority means any county, consolidated government, or municipality or any agency, district, subdivision, or instrumentality thereof. Such term shall not include an electric supplier.

Authority pole means a pole owned, managed, or operated by or on behalf of the city. Such term shall not include poles, support structures, electric transmission structures, or equipment of any type owned by an electric supplier.

Collocate or *collocation* means to install, mount, modify, or replace a small wireless facility on or adjacent to a pole, decorative pole, or support structure.

Communications facility means the set of equipment and network components, including wires and cables and associated equipment and network components, used by a communications service provider to provide communications services.

Communications service provider means a provider of communications services.

Communications services means cable service as defined in 47 U.S.C. § 522(6); telecommunications service as defined in 47 U.S.C. § 153(53); information service as defined in 47 U.S.C. § 153(24), as each such term existed on January 1, 2019; or wireless services.

Consolidated application means an application for the collocation of multiple small wireless facilities on existing poles or support structures or for the installation, modification, or replacement of multiple poles and the collocation of associated small wireless facilities.

Decorative pole means an authority pole that is specially designed and placed for aesthetic purposes.

Electric supplier means any electric light and power company subject to regulation by the Georgia Public Service Commission, any electric membership corporation furnishing retail service in this state, and any municipality which furnishes such service within this state.

Eligible facilities request means an eligible facilities request as set forth in 47 C.F.R. § 1.40001(b)(3), as it existed on January 1, 2019.

FCC means the Federal Communications Commission of the United States.

Fee means a one-time, nonrecurring charge based on time and expense.

Historic district means:

(1) Any district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior of the United States in accordance with Section VI.D.1.a.i-v of the Nationwide Programmatic Agreement codified by 47 C.F.R. Part 1;

(2) Any area designated as a historic district under O.C.G.A. tit. 44, ch. 10, art. 2, the Georgia Historic Preservation Act; or

(3) Any area designated as a historic district or property by law prior to April 26, 2019.

Law means and includes any and all federal, state, or local laws, statutes, common laws, codes, rules, regulations, orders, or ordinances.

Micro wireless facility means a small wireless facility not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height that has an exterior antenna, if any, no longer than 11 inches.

Permit means a written authorization, in electronic or hard copy format, required to be issued by the city to initiate, continue, or complete the collocation of a small wireless facility or the installation, modification, or replacement of a pole or decorative pole upon which a small wireless facility is collocated.

Person means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an authority.

Pole means a vertical pole such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal, or other material that is lawfully located or to be located within a right of way, including without limitation a replacement pole and an authority pole. Such term shall not include a support structure, decorative pole, or electric transmission structure.

Rate means a recurring charge.

Reconditioning work means the activities associated with substantially painting, reconditioning, improving, or repairing authority poles.

Replace, replacement, or *replacing* means to replace a pole or decorative pole with a new pole or a new decorative pole, similar in design, size, and scale to the existing pole or decorative pole consistent with 47 C.F.R. § 1.40001(b)(7) as it existed on January 1, 2019, in order to address limitations of, or change requirements applicable to, the existing pole to structurally support the collocation of a small wireless facility.

Replacement work means the activities associated with replacing an authority pole.

Right-of-way means, generally, property or any interest therein, whether or not in the form of a strip, which is acquired for or devoted to a public road; provided, however, that such term shall apply only to property or an interest therein that is under the ownership or control of the city and shall not include property or any interest therein acquired for or devoted to an interstate highway or the public rights, structures, sidewalks, facilities, and appurtenances of buildings for public equipment and personnel used for or engaged in administration, construction, or maintenance of public roads or research pertaining thereto or scenic easements and easements of light, air, view and access.

Small wireless facility means radio transceivers; surface wave couplers; antennas; coaxial, fiber optic, or other cabling; power supply; backup batteries; and comparable and associated equipment, regardless of technological configuration, at a fixed location or fixed locations that enable communication or surface wave communication between user equipment and a communications network and that meet both of the following qualifications:

(1) Each wireless provider's antenna could fit within an enclosure of no more than six cubic feet in volume; and

(2) All other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume, measured based upon the exterior dimensions of height by width by depth of any enclosure that may be used. The following types of associated ancillary equipment are not included in the calculation of the volume of all other wireless equipment associated with any such facility: electric meters; concealment elements; telecommunications demarcation boxes; grounding equipment; power transfer switches; cut-off switches; and vertical cable runs for connection of power and other services. Such term shall not include a pole, decorative pole, or support structure on, under, or within which the equipment is located or collocated or to which the equipment is attached and shall not include any wireline backhaul facilities or coaxial, fiber optic, or other cabling that is between small wireless facilities, poles, decorative poles, or support structures or that is not otherwise immediately adjacent to or directly associated with a particular antenna.

State means the State of Georgia.

Support structure means a building, billboard, water tank, or any other structure to which a small wireless facility is or may be attached. Such term shall not include a decorative pole, electric transmission structure, or pole.

Wireless infrastructure provider means any person, including a person authorized to provide telecommunications services in this state, that builds, installs, or operates small wireless facilities, poles, decorative poles, or support structures on which small wireless facilities are or are intended to be used for collocation but that is not a wireless services provider.

Wireless provider means a wireless infrastructure provider or a wireless services provider.

Wireless services means any services provided to the public using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile.

Wireless services provider means a person that provides wireless services.

Wireline backhaul facility means an aboveground or underground wireline facility used to transport communications data from a telecommunications demarcation box associated with a small wireless facility to a network.

In the event that any federal or state law containing definitions used in this article is amended, the definition in the referenced section, as amended, shall control.

Sec. 34-279. Permits and applications.

(a) A permit is required to collocate a small wireless facility in the public right of way or to install, modify, or replace a pole or a decorative pole in the public right of way. A permit is not required to perform the activities described in O.C.G.A. § 36-66C-6(e) or (f).

(1) The collocation can be on or adjacent to a pole, decorative pole, or a support structure. Poles and decorative poles by definition are in the right of way, and support structures may be located outside of the right of way. However, permitting support structures is not part of this process.

(b) Any person seeking to collocate a small wireless facility in the public right of way or to install, modify, or replace a pole or a decorative pole in the public right of way shall submit an application to the city community development director for a permit. Applications are available from the community development director. The application template is included as exhibit A to the ordinance from which this section derived, and the application requirements are listed below in subsection 34-279(d) of this article. Any material change in information contained in an application shall be submitted in writing to the community development director for the city within 30 days after the events necessitating the change.

(c) Each application for a permit shall include the maximum application fees: $100.00 per existing pole, $250.00 per replacement pole, and $1,000.00 per new pole as permitted under O.C.G.A. § 36-66C-5(a)(1), (a)(2) and (a)(3). Such maximum application fees shall automatically increase by 2.5 percent annually on January 1 of each year beginning January 1, 2021, as provided under O.C.G.A. § 36-66C-5(b).

(1) If the FCC issues an order regarding fees that is overturned or modified, the SWFAA fees are capped at what is determined to be "fair and reasonable."

(d) Applications shall be made by the applicable wireless provider or its duly authorized representative and shall contain the following:

(1) The applicant's name, address, telephone number, and email address, including emergency contact information for the applicant;

(2) The names, addresses, telephone numbers, and email addresses of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application;

(3) A general description of the proposed work and the purposes and intent of the proposed facility. The scope and detail of such description shall be appropriate to the nature and character of the physical work to be performed, with special emphasis on those matters likely to be affected or impacted by the physical work proposed;

(4) Detailed construction drawings regarding the proposed use of the right of way;

(5) To the extent the proposed facility involves collocation on a pole, decorative pole, or support structure, a structural report performed by a duly-licensed engineer

evidencing that the pole, decorative pole, or support structure will structurally support the collocation, or that the pole, decorative pole, or support structure may and will be modified to meet structural requirements, in accordance with applicable codes;

(6) For any new aboveground facilities, visual depictions or representations if such are not included in the construction drawings;

(7) Information indicating the horizontal and approximate vertical location, relative to the boundaries of the right of way, of the small wireless facility for which the application is being submitted;

(8) If an application is reasonable and does not impose technical limitations or significant additional costs and the pole or replacement decorative pole applied for cannot be collocated on an existing pole or support structure in which the wireless provider has the right to collocate. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of a licensed engineer, and shall provide a written summary of the basis for such determination;

(9) If the small wireless facility will be collocated on a pole or support structure owned by a third party, other than an authority pole or a decorative pole, a certification that the wireless provider has permission from the owner to collocate on the pole or support structure; and

(10) If the applicant is not a wireless services provider, a certification that a wireless services provider has requested in writing that the applicant collocate the small wireless facilities or install, modify, or replace the pole or decorative pole at the requested location.

(e) The community development director for the city shall review applications for permits according to the timelines and using the procedures identified in O.C.G.A. § 36-66C-7 and section 34-279 of this article for review of applications and O.C.G.A. § 36-66C-13 for consolidated applications.

(f) Within 20 days of receipt of a written application, the community development director in good faith shall:

(1) Notify the applicant in writing of the commencement and completion dates of any widening, repair, reconstruction, or relocation of the applicable right of way that is scheduled to commence, or is anticipated in good faith to commence, within 24 months after the application is filed;

(2) Notify the applicant of any aspect of the application that appears to be grounds for the authority's denial of the application pursuant to subsection (o) of this section; and

(3) Determine whether the application is complete and inform the applicant of its determination in writing.

(g) If the community development director determines that an application is incomplete, it shall specifically identify to the applicant in writing all missing information within such 20-day period; otherwise, the application is deemed complete;

(1) If the community development director identifies missing information to the applicant as provided in this paragraph, the applicant may submit such missing information to the authority within 20 days of receipt of notification in writing from the authority that the application is incomplete without paying any additional application fee, and any subsequent review of the application by the authority for completeness shall be limited to the previously identified missing information;

(2) If the community development director determines that an application remains incomplete, or if the authority determines that the applicant has made material changes to the application other than to address the missing information identified by the authority, the authority shall notify the applicant of such determination in writing within ten days of receipt of the resubmission of the written application, and absent an agreement to the contrary between the authority and the applicant that is confirmed by email or other writing, such notice shall constitute a denial of the application; and

(3) If the community development director does not provide such written notification to the applicant within this ten-day period, the application shall be deemed complete.

(h) The community development director shall make its final decision to approve or deny the application within 30 days of the written determination that the application is complete or when the application is deemed complete under this section, whichever is earlier, for a collocation, and within 70 days of the written determination that the application is complete or when the application is deemed complete under this section, whichever is earlier, for the installation, modification, or replacement of a pole or decorative pole.

(i) A decision to deny an application pursuant to this section shall be in writing, shall identify all reasons for the denial, and shall identify the provisions of applicable codes or other standards applicable pursuant to this section. The decision to deny shall be sent contemporaneously and will not end the review period until its decision is delivered to the applicant.

(j) If the community development director fails to act on an application within the applicable review period, the applicant may submit to them a written notice that the time period has lapsed. The notice gives the community development director 20 days, after receipt of notice, to render its written decision. If the city does not render a written decision, then the application shall be deemed approved.

(k) If an area is designated solely for underground or buried facilities of communications and electric service providers, then the service providers must not install poles in a right of way above ground unless the wireless providers seek a waiver of the underground requirement for placement of a new pole to support small wireless facilities consistent with applicable law.

(l) A city that adopts undergrounding requirements shall allow a wireless provider to maintain in place any previously collocated small wireless facilities subject to any applicable pole attachment agreement or to allow the wireless provider to replace the pole previously collocated at the same location or to propose an alternate location within 50 feet of the prior location, unless the alternate location imposes technical limits or significant additional cost.

(m) A permit from the city does not grant the applicant a license or authorization to impinge upon the rights of others that may already have an interest in the right of way. The collocation, installation, modification, or replacement for which a permit is issued shall be completed within six months after issuance:

(1) An extension shall be granted for up to an additional six months upon written request made to the authority before the end of the initial six-month period if a delay results from circumstances beyond the reasonable control of the applicant.

(n) Applications for permits shall be approved except as follows:

(1) In order to receive a permit to install a pole or replace a decorative pole, the applicant must have determined after diligent investigation that it cannot meet the service objectives of the permit by collocating on an existing pole or support structure on which:

a. The applicant has the right to collocate subject to reasonable terms and conditions; and

b. Such collocation would not impose technical limitations or significant additional costs.

The applicant shall certify that it has made such a determination in good faith, based on the assessment of a licensed engineer, and shall provide a written summary of the basis for such determination.

(2) The community development director may deny an application for a permit upon any of the conditions identified in O.C.G.A. § 36-66C-7(j) as described subsection 34-279(o) of this article.

(3) For applications for new poles in the public right of way in areas zoned for residential use, the community development director may propose an alternate location in the public right of way within 100 feet of the location set forth in the application, and the wireless provider shall use the community development director's proposed alternate location unless the location imposes technical limits or significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of a licensed engineer, and it shall provide a written summary of the basis for such determination.

(o) An application for permitted uses as described in O.C.G.A § 36-66C-6 shall be approved unless the requested collocation of a small wireless facility or requested installation, modification, or replacement of a pole or decorative pole:

(1) Interferes with the operation of traffic control equipment; with sight lines or clear zones for transportation or pedestrians;

(2) Fails to comply with the federal Americans with Disabilities Act, 42 U.S.C. § 12101 et seq., or similar laws of general applicability regarding pedestrian access or movement;

(3) Requests that ground-mounted small wireless facility equipment be located more than 7.5 feet in radial circumference from the base of the pole, decorative pole, or support structure to which the small wireless facility antenna would be attached, provided that the authority shall not deny the application if a greater distance from the base of the pole, decorative pole, or support structure is necessary to avoid interfering with sight lines or clear zones for transportation or pedestrians or to otherwise protect public safety;

(4) Fails to comply with the maximum limitations for fees set forth in O.C.G.A § 36-66C-6(h) or the requirements of O.C.G.A § 36-66C-6(i) regarding exclusive arrangements;

(5) If an application to install a pole or decorative pole interferes with the widening, repair, reconstruction, or relocation of a public road or highway by an authority or the department of transportation that has been advertised for bid and scheduled for completion within six months after the application is filed;

(6) If an application to install a pole or decorative pole interferes with a public works construction project governed by O.C.G.A. tit. 36, ch. 91 and scheduled for completion within six months after the application is filed;

(7) Fails to comply with O.C.G.A § 36-66C-10 regarding historic districts, O.C.G.A § 36-66C-11 regarding alternate locations in right of way, and O.C.G.A § 36-66C-12 regarding decorative pole replacements;

(8) Fails to comply with laws of general applicability that are not inconsistent with O.C.G.A § 36-66C, that address pedestrian and vehicular traffic, safety requirements, or the occupancy or management of the right of way.

(p) A permit issued under this article shall authorize such person to occupy the public rights of way to:

(1) Collocate a small wireless facility on or adjacent to a pole or a support structure that does not exceed the height limitations set forth in O.C.G.A. § 36-66C-7(h)(3) or on or adjacent to a decorative pole in compliance with O.C.G.A. § 36-66C-12; and

(2) Install, modify, or replace a pole or decorative pole for collocation of a small wireless facility that does not exceed the height limitations set forth in O.C.G.A. § 36-66C-7(h)(1) and (h)(2).

(q) Upon the issuance of a permit under this section, and on each anniversary of such issuance, every person issued a permit shall submit to the city the maximum annual payments permitted under O.C.G.A. § 36-66C-5(a)(4) and (a)(5); provided, however, that if such person removes its small wireless facilities from the public rights-of-way pursuant to O.C.G.A. § 36-66C-5(e), then such person shall be responsible for the pro rata portion of the annual payment based on the number of days of occupation since the last annual payment. Upon making such pro rata payment and removal of the small wireless facilities, the person's annual payment obligations under this section shall cease as of the date of the actual removal. The maximum annual payments shall automatically increase on January 1 of each year beginning January 1, 2021, as provided under O.C.G.A. § 36-66C-5(b).

(r) Any person issued a permit shall pay the fees, regarding make-ready work or generally applicable nondiscriminatory fees as identified in O.C.G.A. § 36-66C-5(a)(6) and (a)(7), as applicable.

(s) The city may revoke a permit issued pursuant to this article if the wireless provider or its equipment placed in the public right-of-way under that permit subsequently is not in compliance with any provision of this article or the Georgia Streamlining Wireless Facilities and Antennas Act. Upon revocation, the city may proceed according to subsection 34-279(t).

(t) If a wireless provider occupies the public rights-of-way without obtaining a permit required by this section or without complying with the SWFAA, then the city may, at the sole discretion of the city, restore the right-of-way, to the extent practicable in the reasonable judgment of the city, to its condition prior to the unpermitted collocation or installation and to charge the responsible wireless provider the reasonable, documented cost of the city in doing so, plus a penalty not to exceed $1,000.00, as authorized under O.C.G.A. § 36-66C-6(b). The city may suspend the ability of the wireless provider to receive any new permits from the city under this section until the wireless provider has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided, however, that the city may not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.

(u) All accepted applications for permits shall be publicly available subject to the limitations identified in O.C.G.A. § 36-66C-6(c), which state that upon a reasonable belief portions of the application may be designated as containing trade secrets.

(v) An applicant may file a consolidated application related to multiple small wireless facilities, poles or decorative poles so long as such consolidated application meets the requirements of O.C.G.A. § 36-66C-13.

(w) Activities authorized under a permit shall be completed within the timelines provided in O.C.G.A. § 36-66C-7(k)(2), which states that permits issued hereunder shall be completed within six months after issuance. An additional six-month extension shall be granted upon written request, if such written request is made prior to the end of the initial six-month period, if a delay results from circumstances beyond the reasonable control of the applicant.

(x) Issuance of a permit authorizes the applicant to:

    (1) Undertake the collocation, installation, modification or replacement approved by the permit; and

    (2) Operate and maintain the small wireless facilities and any associated pole covered by the permit for a period of at least ten years.

(y) Permits shall be renewed following the expiration of the minimum ten-year term and upon the terms and conditions identified in O.C.G.A. § 36-66C-7(k)(2)(B) regarding grounds for denial of applications and the widening, repair, reconstruction, or relocation of roads, poles, support structures, or small wireless facilities.

(z) If an application for a permit seeks to collocate small wireless facilities on authority poles in the public rights of way, then the city shall, within 60 days of receipt of the completed application:

    (1) Provide a good faith estimate for any make-ready work necessary to enable the authority pole to support the proposed facility; or

    (2) Notify the wireless provider that the wireless provider will be required to perform the make-ready work.

Any make-ready work performed by the city shall be completed within 90 days of receipt of written acceptance of the good faith estimate by the wireless provider. Such acceptance shall be signified by payment of check or other commercially reasonable and customary means pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(n).

Sec. 34-280. Removal; relocation; reconditioning; replacement; abandonment.

(a) A person may remove its small wireless facilities from the public rights-of-way if they give the city a minimum of 30 days written notice prior to removal pursuant to the procedures of O.C.G.A. § 36-66C-5(e).

(b) If a wireless provider's activity in a right of way creates an imminent risk to public safety, the city may provide written notice to the wireless provider and demand that the wireless provider address such risk. If the wireless provider fails to reasonably address the risk within 24 hours of the written notice, the city may take or cause to be taken action to reasonably address such risk and charge the wireless provider the reasonable documented cost of such actions.

(c) The city may require a wireless provider to repair all damage to a right of way directly caused by their activities while occupying, installing, repairing, or maintaining small wireless facilities, poles, or support structures, and to restore the right of way to its condition before the damage occurred. If the wireless provider fails to return the right of way, to the extent practicable within 90 days of receipt of written notice from the city, the city may, at the sole discretion of the city, restore the right of way to such condition and charge the wireless provider its reasonable, documented cost of doing so, plus a penalty not to exceed $500.00.

(1) The city may suspend the ability of the wireless provider to receive any new permits from them until the wireless provider has paid the assessed restoration costs and penalty, if any;

(2) The city shall not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.

(d) In the event of a removal under section 34-280, the right-of-way shall be, to the extent practicable in the reasonable judgment of the city, restored to its condition prior to the removal. If a person fails to return the right-of-way, to the extent practicable in the reasonable judgment of the city, to its condition prior to the removal within 90 days of the removal, the city may, at the sole discretion of the city, restore the right-of-way to such condition and charge the person the city's reasonable, documented cost of removal and restoration, plus a penalty not to exceed $500.00, as authorized under O.C.G.A. § 36-66C-5(e). The city may suspend the ability of the person to receive any new permits under section 34-279 until the person has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided, however, that the city will not suspend such ability of any person that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.

(e) If, in the reasonable exercise of police powers, the city determines:

(1) A pole or support structure unreasonably interferes with the widening, repair, reconstruction, or relocation of a public road or highway; or

(2) Relocation of poles, support structures, or small wireless facilities is required as a result of a public project, the wireless provider shall relocate such poles, support structures, or small wireless facilities pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(l).

If the wireless provider fails to relocate a pole, support structure or small wireless facility or fails to provide a written good faith estimate of the time needed to relocate the pole, support structure or small wireless facility within the time period prescribed in O.C.G.A. § 36-66C-7(l), the city may take the actions authorized by O.C.G.A. § 36-66C-7(o), in addition to any other powers under applicable law.

(f) The city shall use reasonable efforts to provide the wireless provider with written notice of reconditioning or replacement work at least 120 days before such work begins. Notice less than 30 days prior to the work beginning shall be prohibited. The city shall recondition and replace authority poles consistent with the provisions of O.C.G.A. § 36-66C-7(m) regarding further notice, time limits, costs and payment of costs, removal, and protection of the wireless provider's communications facilities. Wireless providers shall accommodate and cooperate with reconditioning and replacement consistent with the provisions of O.C.G.A. § 36-66C-7(m).

(g) A wireless provider must notify the city of its decision to abandon any small wireless facility, support structure or pole in writing no later than 30 days prior to abandonment pursuant to O.C.G.A. § 36-66C-7(p)(1). The wireless provider shall perform all acts and duties identified in O.C.G.A. § 36-66C-7(p) regarding abandonment. If the wireless provider fails to remove the abandoned small wireless facility, support structure, or pole within 90 days after such notice, the city may remove the abandoned small wireless facility, support structure, or pole and recover the actual and reasonable expenses of doing so from the wireless provider. The city may take all actions and exercise all powers authorized under O.C.G.A. § 36-66C-7(p) upon abandonment, in addition to any other powers under applicable law.

(h) An authority shall send any notice or decision required under this ordinance by registered or certified mail, statutory overnight delivery, hand delivery, or email transmission. The decision or notice shall be deemed delivered upon email transmission, deposit into overnight mail or regular mail receptacle with adequate postage paid, or actual receipt if delivered by hand.

(i) During the installation and maintenance process, right of way applicants shall employ due care with all safety and protection required by generally applicable law.

(j) A right-of-way applicant shall not place any small wireless facilities, support structures, poles, or decorative poles where they will unnecessarily interfere with any existing infrastructure, equipment, vehicular or pedestrian traffic patterns, or the rights and convenience of property owner's right-of-way.

Sec. 34-281. Standards for new, modified or replacement poles.

(a) Small wireless facilities and new, modified, or replacement poles to be used for collocation of small wireless facilities may be placed in the public right of way as a permitted use:

    (1) Upon a receipt of a permit under section 34-279;

    (2) Subject to applicable codes; and

    (3) So long as such small wireless facilities and new, modified, or replacement poles to be used for collocation of small wireless facilities comply with the appropriate provisions of O.C.G.A. § 36-66C-7(h) regarding height and location.

(b) New, modified, or replacement poles installed in the right-of-way in a historic district and in an area zoned primarily for residential use shall not exceed 50 feet above ground level.

(c) Each new, modified, or replacement pole installed in the right of way that is not in a historic district or in an area zoned primarily for residential use shall not exceed the greater of:

    (1) 50 feet above ground level; or

    (2) Ten feet greater in height above ground level than the tallest existing pole in the same public right of way in place as of January 1, 2019, and located within 500 feet of the new proposed pole.

(d) New small wireless facilities in the public right of way and collocated on an existing pole or support structure shall not exceed more than ten feet above the existing pole or support structure.

(e) New small wireless facilities in the public right-of-way collocated on a new or replacement pole under subsection 34-281(b) or (c) may not extend above the top of such poles.

(f) A decorative pole should only be located where an existing pole can be removed and replaced, or at a new location where the city has identified that a streetlight is necessary.

(g) Unless it is determined that another design is less intrusive, or placement is required under applicable law, small wireless facilities shall be concealed as follows:

  (1) Antennas located at the top of poles and support structures shall be incorporated into the pole or support structure, or placed within shrouds of a size such that the antenna appears to be part of the pole or support structure;

  (2) Antennas placed elsewhere on a pole or support structure shall be integrated into the pole or support structure, or be designed and placed to minimize visual impacts.

  (3) Radio units or equipment cabinets holding radio units and mounted on a pole shall be placed as high as possible, located to avoid interfering with, or creating any hazard to, any other use of the public rights of way, and located on one side of the pole. Unless the radio units or equipment cabinets can be concealed by appropriate traffic signage, radio units or equipment cabinets mounted below the communications space on poles shall be designed so that the largest dimension is vertical, and the width is such that the radio units or equipment cabinets are minimally visible from the opposite side of the pole on which they are placed.

  (4) Wiring and cabling shall be neat and concealed within or flush to the pole or support structure, ensuring concealment of these components to the greatest extent possible.

(h) Notwithstanding any provision of this article to the contrary, an applicant may collocate a small wireless facility within a historic district, and may place or replace a pole within a historic district, only upon satisfaction of the following:

  (1) Issuance of a permit under section 34-279; and

  (2) Compliance with applicable codes.

(i) Notwithstanding any provision of this article to the contrary, an applicant may collocate a small wireless facility on a decorative pole, or may replace a decorative pole with a new decorative pole, in the event the existing decorative pole will not structurally support the attachment, only upon satisfaction of the following:

  (1) Issuance of a permit under section 34-279; and

  (2) Compliance with applicable codes.

Sec. 34-282. Appeals.

Decisions under this article may be appealed in the same manner as other decisions of the community development director.

Sec. 34-283. Miscellaneous.

(a) A permittee under this article shall by application for the permit and performance pursuant to the permit in the right of way indemnify and hold the city and its officers and employees harmless against any claims, lawsuits, judgments, costs, liens, losses, expenses, or fees arising from the permittee's negligence and causing harm resulting in claims, lawsuits, judgments, costs, liens, losses, expenses, or fees.

(b) If the city entered an agreement with a wireless provider addressing the subject matter of this chapter prior to October 1, 2019:

(1) This chapter shall not apply until such agreement expires or is terminated pursuant to its terms with regard to poles, decorative poles, support structures, replacement poles, and small wireless facilities installed pursuant to such agreement prior to October 1, 2019; and

(2) Otherwise, the provisions of this chapter shall apply to poles, decorative poles, support structures, replacement poles, and small wireless facilities installed on or after October 1, 2019.

Secs. 34-284—34-300. Reserved.

ARTICLE XI. ENFORCEMENT

Sec. 34-301. Zoning enforcement officer; appeals.

The provisions of this chapter shall be administered and enforced by the community development director. Decisions of the community development director may be appealed in accordance with the provisions of article XIV of this chapter. Requests for a variance other than an administrative variance shall be heard and decided by the mayor and city council in accordance with the guidelines set forth in section 34-330.

Sec. 34-302. Enforcement actions.

(a) *Enforcement options.* Enforcement of this chapter may be through citation, civil fines, or other civil proceedings. Any person, firm, partnership, corporation or other legal entity who shall do anything prohibited by this chapter as the same exists or as it may hereafter be amended or which shall fail to do anything required by this chapter as the same exists or as it may hereafter be amended shall be subject to an enforcement action. The city shall also be authorized to bring actions in rem against the property itself.

(1) Representatives of the city shall have the power to conduct such investigations as may reasonably be deemed necessary to ensure or compel compliance with the requirements and provisions of this chapter, and for this purpose to enter at reasonable times upon any property for the purpose of investigation and inspection, as permitted by law. Officers and officials may seek inspection warrants or search warrants on probable cause of a violation occurring inside a structure. No warrant shall be required to investigate visible and open violations or uses.

(2) No person shall obstruct, hamper or interfere with any city representative while in the process of carrying out his official duties in the enforcement of this chapter.

(b) *Persons who may be cited.* Owners are ultimately responsible for the condition of their property and ensuring that their property and all activity occurring on such property are in compliance with this chapter. For any violation, both the owner of the property and/or the individual agent, tenant or invitee of the owner responsible for the violation may be cited, where appropriate. Agents of the owner would include, but not be limited to, developers, builders, contractors, and sub-contractors. Tenants and invitees would include, but not be limited to, any renter, leaseholder, owner of any vehicle or structure on the property, or other person conducting an activity on the property who is not a trespasser. Corporations and companies responsible for the work may be cited in lieu of or in addition to citations issued to the actual individuals on site committing violations. In addition, the city shall also be authorized to bring actions in rem against the property itself.

(c) *Daily violations.* Each day during which the violation or failure or refusal to comply continues shall constitute a separate violation, subjecting the offender to a new citation, or other civil or court proceeding.

(d) *Multiple violations.* Each separate action, omission, or occurrence relating to any specific provision of this chapter shall be a separate violation, subjecting the offender to a separate citation. Multiple junk cars count as one violation, but the fine increases as shown in section 34-303.

(e) *Citation.* The city's police officers or designated code enforcement personnel, or other authorized personnel, may issue citations for violations of this chapter, or violation of any stop-work order.

(1) Prosecutions for violation of this chapter shall be commenced by the completion, signing, and service of a citation by an authorized city official or zoning enforcement officer. No warning need be issued prior to a citation being issued. The original of the citation shall be personally served upon the accused, his authorized representative or, if a corporation, an officer of the corporation or its on-site representative or the person or persons in charge of the activity on the property; a copy shall be promptly filed with the municipal court. A stop-work order may be issued in conjunction with a citation.

(2) Each citation shall state the time and place at which the accused is to appear for trial in municipal court, shall identify the offense with which the accused is charged, shall have an identifying number by which it shall be filed with the court, shall indicate the

identity of the accused and the date of service, and shall be signed by the deputy sheriff or other authorized officer who completes and serves it.

(3) Any defendant who fails to appear for trial may be arrested on the warrant of the municipal court and required to post a bond for his future appearance.

(4) The city attorney, city solicitor or another attorney designated by the city council may act as prosecuting attorney for violations of this chapter.

(5) Fines shall be assessed in accordance with section 34-303.

(f) *Civil fines and proceedings.* In addition to or in lieu of any other remedy, the city may seek injunctive or other appropriate relief in superior court to enjoin or prevent a violation of any provision of this chapter. Such action may also seek civil fines at the mandatory rates specified in section 34-303 for violation of this chapter, and may additionally seek the costs of restitution, and any other costs associated with the action to enjoin or prevent any violation of any provision of this chapter. The city shall be entitled to its reasonable attorney's fees and costs for bringing an action in superior court wherein any relief is granted or fine assessed.

(g) *Stop-work orders.* Upon notice from the community development director, designated code enforcement officers, or other authorized personnel, work on any project that is being done contrary to the provisions of this chapter shall be immediately stopped.

(1) Stop-work orders shall affect all work being done on a project or development (including work done on other lots in the subdivision owned by the same violator). Stop-work orders stop not only the work in violation, but all other work by contractors or sub-contractors on the same property. Only work to remedy the deficiency shall be allowed until the stop-work order is lifted.

(2) A stop-work order shall be in writing and shall be given to the owner of the property, his authorized agent, or the person or persons in charge of the activity on the property, and shall state the conditions under which work may be resumed. Where an emergency or other exigent circumstances exist, no written notice shall be required, and a verbal stop-work order may be issued, with a written order to be provided within three working days.

a. Stop-work orders may be issued on their own, or in conjunction with criminal citations, or civil proceedings in superior court.

b. Issuance of a stop-work order may be appealed to the mayor and city council.

(h) *Additional penalties.* Persons cited are also subject to other penalties within the jurisdiction of the municipal court.

Sec. 34-303. Fine schedule.

Fines assessed under this chapter shall be assessed according to the following mandatory schedule, whether assessed as a civil fine in superior court, or assessed as a penalty upon conviction in magistrate court. The maximum permissible fine shall be $1,000.00 per offense. In no event shall a fine be reduced below the mandatory minimum, as set forth below. Fines may be increased by mandatory add-ons under state law. As a deterrent to violation, second and subsequent violations by the same offender of any provision of this chapter, whether violations of the same or different provisions of this chapter as the initial violation, and whether involving the same or different property, shall increase the fine owing. However, repeated citations for the same violation on a second and subsequent days shall not count as a subsequent violation, but shall rather be assessed at the same rate as the initial violation. Note: "Per vehicle" additions relate to violations such as junk vehicles, parking violations, and similar violations, where each vehicle is in violation of the chapter.

(1) *First violation.* For the first violation of any provision of this chapter by any violator (whether an individual or corporation), the fine shall be as follows, unless otherwise noted:

Violation of article IV of this chapter:	$250.00 (plus $50.00 per vehicle, if applicable)
Violation of any other article:	$200.00

(2) *Second violation.* For the second violation of any provision of this chapter (whether the same or different as the first violation) by the same violator (whether an individual or corporation), the fine shall be as follows, unless otherwise noted:

Violation of article IV of this chapter:	$500.00 (plus $75.00 per vehicle, if applicable)
Violation of any other article:	$400.00

(3) *Third and subsequent violations.* For the third and subsequent violation of any provision of this chapter (whether the same or different as the prior two violations) by the same violator (whether an individual or corporation), the fine shall be as follows, unless otherwise noted:

Violation of article IV of this chapter:	$750.00 (plus $100.00 per vehicle, if applicable)
Violation of any other article:	$600.00

Sec. 34-304—34-326. Reserved.

ARTICLE XII. VARIANCES AND APPEALS

Sec. 34-327—329. Reserved.

Sec. 34-330. Appeal and variance powers and duties of the mayor and city council.

In addition to other powers provided by law and the City charter, the mayor and city council shall have the following powers and duties:

(1) *Appeals.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the community development director in the enforcement of this chapter. Appeals to the mayor and city council may be taken by any person aggrieved by any decision of the community development director. Such appeal shall be taken within 30 days of said decision by filing with the community development director a written notice of appeal specifying the grounds thereof.

(2) *Variances.* The mayor and city council has the power to hear requests for variances from the provisions of this chapter. Variances may be granted if the mayor and city council find the following to exist:

  a. That one of the following is true, through no action or fault of the property owner or predecessor:

    1. The property is exceptionally narrow, shallow or unusually shaped;

    2. The property contains exceptional topographic conditions;

    3. The property contains other extraordinary or exceptional conditions;

    4. There are existing other extraordinary or exceptional circumstances; and

  b. That the strict application of the requirements of this chapter would result in practical difficulties to, or undue hardship upon, the owner of this property; and

  c. That the requested variance relief may be granted without substantially impairing the intent and purpose of this chapter.

(3) *Conditions.* In granting a variance, the mayor and city council may attach such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable so that the purpose of this chapter will be served, public safety and welfare secured and substantial justice done.

(4) *Limitations on variances; improper variance requests.* Variances cannot be given to totally remove a requirement or to exempt a property or applicant entirely from a requirement. The mayor and city council should not grant a density variance or a use variance to permit a use in a district in which the use is prohibited.

(5) *Self-inflicted hardship.* The mayor and city council should not grant variances when the hardship was created by the property owner or his predecessor, and shall not grant hardship variances based on shape or topography for lots of record not existing

prior to the adoption of the ordinance from which this chapter is derived or amendment thereto. Configuring a subdivision to create lots that are difficult to build is an example of a hardship created by the property owner or predecessor that do not justify a variance.

(6) *Place of worship.* In compliance with federal law, if the variance is requested by a place of worship or church, in connection with the exercise of religion, the mayor and city council shall additionally consider whether the regulation imposes a substantial burden on the exercise of religion, whether the regulation serves a compelling governmental interest, whether the denial is the least restrictive means to serve that interest, or whether the variance can be granted without harming that interest.

(7) *Reasonable accommodation variance.* Notwithstanding any other ordinance provisions to the contrary, the mayor and city council shall consider and grant reasonable accommodations necessary to afford persons with disabilities equal housing opportunities. In determining whether a particular accommodation is reasonable and necessary, the mayor and city council shall consider whether:

a. The accommodation is necessary, because of a disability, to allow the applicant an equal opportunity to use and enjoy the dwelling of his choice;

b. The request imposes an undue burden or expense on the city; and

c. The proposed accommodation would create a fundamental alteration in the zoning scheme.

An application for a reasonable accommodation variance shall comply with all other procedural requirements for consideration and approval of variances under this chapter.

Sec. 34-331. Applications, hearings and notice.

(a) *Applications.* Applications for appeals or variances must be filed in accordance with the schedule set out by the community development director. A site plan prepared and signed by a state licensed surveyor or engineer shall be submitted with all variance applications unless the community development director determines that such a site plan will not meaningfully assist the mayor and city council's consideration of the application. The owner of the property that is the subject of the application shall be mailed notice of the public hearing at least 30 days prior to the date of the hearing.

(b) *Published notice.* Due notice of the public hearings pursuant to this article shall be published in the newspaper of general circulation within the city. Notice advertising the hearing on the appeal or variance and indicating date, time, place and purpose of the public hearing shall be published at least 30 days but not more than 45 days prior to the date of the hearing. The cost of the advertisement shall be borne by the applicant. The community development director shall post, at least 30 days prior to the mayor and city council's public hearing, in a conspicuous place in the public right-of-way fronting the property or on the property for which an application has been submitted, a sign or signs containing information as to the application number, date, time and place of the public hearing.

(c) *Letters to adjacent property owners.* The community development director shall also give notice of the appeal or variance and the public hearing thereon to the owner of record of properties adjoining the property for which said appeal or variance is made or sought. Said notice shall be given to each adjoining property owner by first class mail, with proof of mailing obtained from the post office. Proof of mailing means either a first-class certificate of mailing or a first class certified mail receipt; a proof of delivery is not required. Only owners reflected on the records of the tax assessors as of the date of the application shall be entitled to mailed notice. In determining the adjoining property owners, road, street or railroad rights-of-way shall be disregarded. Said notice must be mailed at least 15 days prior to the date of said scheduled public hearing.

(d) *Information in notice.* The notice required herein to be published and to be served upon adjacent property owners shall contain the following information:

   (1) Name and address of the applicant;

   (2) Address and location of the property for which the appeal or variance is sought;

   (3) Current zoning of the property for which the appeal or variance is sought;

   (4) The variance requested or the subject matter of the appeal and the reason for the requested variance or the appeal; and

   (5) The date, time and place of the public hearing on said requested appeal or variance.

Sec. 34-332. Reserved.

Sec. 34-333. Action by the mayor and city council.

In exercising its powers, the mayor and city council may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination, and to that end shall have all the powers of the community development director.

Sec. 34-334. Conduct of the mayor and city council's hearing.

(a) *Sign up.* All persons who wish to address the mayor and city council at a hearing concerning an appeal or variance under consideration shall first sign up on a form to be provided by the city prior to the commencement of the hearing.

(b) *Matter presented; out of order applications.* The mayor will read the proposed appeal or variance. The community development director, or his designee, shall then present the basis of the appeal or variance, along with the pertinent departmental reviews, if any, prior to receiving public input on the proposed appeal or variance. Any appeal or variance that has not complied with all notice and other requirements of this article may be deemed out of order and be postponed until the next meeting, and if it is still out of order at the next meeting, the application may be dismissed without prejudice.

(c) *Speakers.* The mayor shall call each person who has signed up to speak on the appeal or variance in the order in which the persons have signed up to speak, except the applicant who will always speak first. Prior to speaking, the speaker will identify himself and state his current address.

(d) *Time limits.* The applicant or appellant and those in favor of the variance or appeal shall have at least ten minutes to speak, total. Those opposed to the application or appeal shall have at least ten minutes to speak, total. The mayor may extend these times. Each individual speaker shall have no more than three minutes to speak, except the applicant, who can take as much of the ten minutes as is desired. The applicant may reserve time for rebuttal.

(e) *Evidence, cross examination.* Each side shall have the opportunity to present evidence and witnesses which shall be entered into the record. Cross examination of opposing witnesses shall be allowed by the mayor, but decorum shall be maintained. The mayor may require the applicant and opponents to designate one person to conduct any desired cross examination.

(f) *Decorum and order.* Each speaker shall speak only to the merits of the proposed appeal or variance under consideration and shall address his remarks only to the mayor and city council. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed appeal under consideration. The mayor may limit or refuse a speaker the right to continue if the speaker, after first being cautioned, continues to violate this subsection. Nothing contained herein shall be construed as prohibiting the mayor from conducting the hearing in an orderly and decorous manner to ensure that the public hearing on the appeal or variance is conducted in a fair and orderly manner.

Sec. 34-335. Appeals of decisions of the mayor and city council.

Recourse from a decision of the mayor and city council shall be to a court of competent jurisdiction by the filing of an appeal in accordance with law.

Secs. 34-336—34-358. Reserved.

ARTICLE XIII. AMENDMENTS

Sec. 34-359. Initiation of amendments.

(a) *Text amendment.* An application to amend the text of this chapter may be initiated by the mayor and city council, city staff, or by any person having an interest in the city.

(b) *Map amendment.* An application to amend the official zoning map may be initiated by the mayor and city council or city staff, property owner or agent of the owner. Unless initiated by the mayor and city council or city staff, all applications to amend the official zoning map must be submitted by an owner of the affected property or an authorized agent of an owner, following procedures set forth in sections 34-360 and 34-361. If a property has multiple owners, only one owner need file the application. If owned by a corporation or other entity, the application must be filed by a person with proper corporate or entity authority or a duly authorized agent.

(c) *Resubmission after denial.* In the event an application for an amendment to the zoning map has been denied, another rezoning application affecting the same property shall not be submitted nor accepted until 12 months have passed from the date of the final decision on the prior application.

(d) *Alter conditions.* An application to alter conditions of rezoning may be submitted at any time after the final decision of the mayor and city council. The applicant must show a change in circumstances or additional information not available to the applicant at the time of the original decision by the mayor and city council to impose the condition. Another application to alter the same condition shall not be submitted more than once every 12 months, such interval to begin on the date of the final decision on said application to amend the condition.

(e) *Withdrawal.* An application may be withdrawn without prejudice at any time prior to 6:00 p.m. on the day of the mayor and city council's hearing. The mayor and city council may give permission for a withdrawal without prejudice at its hearing. Withdrawal after the mayor and city council's hearing shall mean such application may not be resubmitted for consideration for a period of six months, counting from the date of withdrawal to the date of renewed application. Unless withdrawn at the hearing, the withdrawal must be in writing, signed and dated by the applicant.

(f) *Campaign contribution disclosures.* Applicants and opponents to rezoning actions that change the zoning district on a parcel are requested to consult the Conflict of Interest in Zoning Act, O.C.G.A. § 36-67A-1, which requires disclosure of campaign contributions, made within two years of the rezoning application, and aggregating $250.00 or more, to any city elected official. Such disclosures should be filed at least five calendar days prior to the public hearing on forms available at the city hall.

Sec. 34-360. Applications for amendments.

(a) *Applications.* Each application required by this article, including, without limitation, to amend this chapter or the official zoning map, shall be filed with the community development director. The following requirements for information are mandatory, unless the requirement is deleted by the community development director: the community development director may require additional information to evaluate the application, the suitability of the proposed use, and other aspects of any proposed development. Such information is not required for city-initiated applications. Incomplete applications will not be accepted except with permission of the community development director.

(b) RESERVED.

(c) *Text amendment applications.* Text amendment applications shall include the following minimum information, unless the requirements listed below are waived by the community development director. Additional information may also be requested by the community development director:

(1) Name and current address of the applicant;

(2) Current provisions of the text to be affected by the amendment;

(3) Proposed wording of text change; and

(4) Reason for the amendment request.

(d) *Zoning map amendment.* Official zoning map amendment applications shall include the following minimum information, unless the requirements listed below are waived by the community development director. Additional information may also be requested by the community development director:

(1) A tax parcel card from the county tax assessor identifying the parcel to be rezoned, or the parent parcel of the parcel to be rezoned, if a split or subdivision is occurring;

(2) One copy of a plat, drawn to scale, showing north arrow, land lot and district, the dimensions, acreage and location of the tract prepared by an architect, engineer, landscape architect or land surveyor whose state registration is current and valid. The preparer's seal shall be affixed to the plat. For subdivision or nonresidential developments, an additional electronic copy of the plat shall be submitted by the applicant, owner or developer to the engineering department;

(3) The present and proposed zoning district for the tract;

(4) Existing and intermediate regional floodplain and structures, as shown on the applicable Federal Emergency Management Agency FIRM rate maps;

(5) The names and addresses of the owners of the land and their agents, if any;

(6) The names and addresses of all adjoining property owners. In determining the adjoining property owners, streams and road, street or railroad rights-of-way shall be disregarded;

(7) Letters of water and sewer capacity if required for the proposed use;

(8) On any rezoning of three or more acres to be subdivided into a residential subdivision, a soil survey prepared by a soil scientist, registered in the state, shall be submitted to the health department prior to application submittal to the zoning department, unless the property is served by sewer, unless all lots in the subdivision are three acres or larger in size, or unless the requirement is administratively varied by the community development director; and

(9) Such other and additional information as may be requested by the community development director.

(e) *Application schedule.* Applications shall be submitted according to the schedule set by the community development director. Application fees for an application to amend this chapter or the official zoning map shall be established by the mayor and city council and made available by the community development director.

(f) *Proposed conditions.* With respect to amendments to the official zoning map, an applicant may file site plans, renderings, construction specifications, written development restrictions and other conditions which the applicant proposes as binding conditions upon the development and use of the property involved in the application.

Sec. 34-361. Public notification.

(a) *Legal notice*. Due notice of the public hearings pursuant to this article shall be published in the newspaper of general circulation within the city. Notice advertising the application and indicating date, time, place and purpose of the public hearing shall be published at least 15 days prior to the date of the scheduled hearing of the mayor and city council but not more than 45 days prior to the date of the first scheduled hearing conducted by the mayor and city council. If the application is for amendment to the official zoning map, then the notice shall also include the location of the property, the present zoning district of the property, and the proposed zoning district of the property. The cost of the advertisement shall be borne by the applicant.

(b) *Signs posted*. The community development director shall post, at least 15 days prior to the public hearing, in a conspicuous place in the public right-of-way fronting the property or on the property for which an application has been submitted, a sign or signs containing information as to the application and date, time and place of the public hearing.

(c) *Letters to property owners*. The community development director shall notify owners of property adjoining the property for which the amendment is sought by mailing to each property owner a letter by first class mail, with proof of mailing obtained from the post office. Proof of mailing means either a first-class certificate of mailing or a first-class certified mail receipt; a proof of delivery is not required. Only owners reflected on the records of the tax assessors as of the date of the application shall be entitled to notice. In determining the adjoining property owners, road, street or railroad rights-of-way shall be disregarded. Said notice must be mailed at least 15 days prior to the date of said scheduled public hearing.

(d) *Exemptions*. The provisions of subsections (b) and (c) of this section shall not apply if the application is initiated by the city staff or mayor and city council.

Sec. 34-362 – 34-363 . Reserved.

Sec. 34-364. Action by the mayor and city council.

(a) *Public hearing.* Before taking action on a proposed amendment, the mayor and city council shall hold a public hearing on the proposed amendment made pursuant to this article, which shall be advertised as stated in section 34-361 and conducted pursuant to section 34-365.

(b) *Powers of the mayor and city council.* At the public hearing, the mayor and city council shall review the analysis submitted by the initiating party. So that the purpose of this chapter will be served, health, public safety and general welfare secured, the mayor and city council may approve or deny the application, reduce the land area for which the application is made, change the district or land use category requested, or add or delete conditions of the application. The mayor and city council shall have the power to impose a different zoning classification from the classification requested, and impose any zoning conditions which ameliorate the impact of the zoning, or serve other lawful purposes of this chapter. The submission of an application for a rezoning shall be deemed notice of this power and consent to any such action.

(c) *Tabling application.* The mayor and city council shall have the power to table incomplete applications or to seek more time for further information to be submitted. The action by the mayor and city council to table the application shall include a statement of the date and time of the next meeting at which the application will be considered, which statement shall constitute public notice of the hearing on the application, and no further notice, such as that required by section 34-361, is required. The application can be tabled for up to three months at a time to obtain necessary information or for other reasons of the mayor and city council. The application can be tabled more than once if necessary, extending the duration the application remains on the table.

Sec. 34-365. Conduct of the mayor and city council's hearing.

(a) *Sign up.* All persons who wish to address the mayor and city council at a hearing concerning a proposed zoning decision under consideration by the mayor and city council shall first sign up on a form to be provided by the city prior to the commencement of the hearing.

(b) *Matter presented.* Proposed zoning decisions shall be called in the order determined by the community development director. The community development director or his designee will read the proposed zoning decision under consideration and summarize the departmental reviews pertaining thereto prior to receiving public input on said proposed zoning decision. If an application is not complete, or all requirements of this article have not been complied with, the application is out of order and will not be called at that meeting. It shall be tabled for one month. If the application is still incomplete or out of order at the next meeting, it shall be deemed withdrawn. The applicant shall have to wait six months to reapply.

(c) *Speakers.* The mayor shall call each person who has signed up to speak on the zoning decision in the order in which the persons have signed up to speak, except the applicant who will always speak first. Prior to speaking, the speaker will identify himself and state his current address. Only those persons who signed up to speak prior to the commencement of the hearing shall be entitled to speak, unless the mayor and city council, in their discretion, allow the person to speak to the zoning decision, notwithstanding the failure of the person to sign up prior to the hearing.

(d) *Time limits.* The applicant or appellant and those in favor of the application shall have at least ten minutes to speak, total. Those opposed to the application or appeal shall have at least ten minutes to speak, total. The mayor and city council may extend these times upon majority vote. Each individual speaker shall have no more than three minutes to speak, except the applicant, who can take as much of the ten minutes as is desired. The applicant may reserve time for rebuttal. Upon vote of a majority of the city council, either side may be granted additional time, but in such event, the other side shall be granted the same additional time.

(e) *Decorum and order.* Each speaker shall speak only to the merits of the proposed zoning decision under consideration and shall address his remarks only to the mayor and city council. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed zoning decision under consideration. The mayor and city council may limit or refuse a speaker the right to continue if the speaker, after first being cautioned, continues to violate this subsection. Nothing contained herein shall be construed as prohibiting the mayor and city council from conducting the hearing in an orderly and decorous manner to ensure that the public hearing on a proposed zoning decision is conducted in a fair and orderly manner.

(f) These procedures shall be available in writing at all hearings.

Sec. 34-366. Appeals to superior court.

Appeals of the grant or denial of a rezoning decision shall be taken within 30 days of the decision by filing an appeal in the county superior court in the manner provided by law.

Sec. 34-367. Standards for governing the exercise of zoning power.

The following standards governing the exercise of the zoning power are adopted in accordance with O.C.G.A. § 36-66-5(b):

(1) The existing land uses and zoning classification of nearby property;

(2) The suitability of the subject property for the zoned purposes;

(3) The extent to which the property values of the subject property are diminished by the particular zoning restrictions;

(4) The extent to which the diminution of property values of the subject property promotes the health, safety, morals or general welfare of the public;

(5) The relative gain to the public, as compared to the hardship imposed upon the individual property owner;

(6) Whether the subject property has a reasonable economic use as currently zoned;

(7) The length of time the property has been vacant as zoned considered in the context of land development in the area in the vicinity of the property;

(8) Whether the proposed zoning will be a use that is suitable in view of the use and development of adjacent and nearby property;

(9) Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property;

(10) Whether the zoning proposal is in conformity with the policies and intent of the land use plan;

(11) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools; and

(12) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

Secs. 34-368—34-392. Reserved.

ARTICLE XIV. SPECIAL USE PERMITS

Sec. 34-393. Procedures.

(a) An applicant for a special use permit shall file an application on forms provided by the community development director. The grant or denial of a special use permit shall follow the procedures for a rezoning, as specified in sections 34-361 through 34-365, unless modified by the provisions of this article, provided that notice of the public hearing shall be provided to the owner of the property that is the subject of the application by mail at least 30 days prior to the public hearing, and the sign and published notice shall be posted at least 30 days prior to public hearing.

(b) Any use which may be authorized by a special use permit may be approved by the mayor and city council only if, in the exercise of the mayor and city council's discretion, they find that:

(1) A proper application has been filed in accordance with the requirements of this article;

(2) Reserved;

(3) The applicant is in compliance with the particular conditions for the proposed special use that are required by this article;

(4) The use is consistent with the purposes and intent of this article; and

(5) After considering the application and the facts, and the standards for making a zoning decision contained in section 34-367, the mayor and city council determine that the standards are satisfied such that the benefits of and need for the proposed special use outweigh any possible harmful effects, negative impacts, or damages to the neighboring properties or the city in general. In making this determination, the city council may consider the effects of the proposed use on traffic, public infrastructure and services, aesthetics, property values, the peaceful enjoyment of private property in the community, and other relevant factors.

(c) An application for an industrial use that is otherwise permitted by right in Ind-G or Ind-H nevertheless requires a special use permit when the particular development meets the definition of a development of regional impact (DRI) in the metropolitan tier of the rules and regulations of the Georgia Department of Community Affairs. This is because such uses have the potential to have significant impacts both to the city and the region. The mayor and city council shall not hold its public hearing until after DRI review has been received from the Northwest Georgia Regional Commission. In addition to the standards for the exercise of the zoning power and standards in paragraph (b) above, the applicant should address, and the mayor and city council should consider, any comments received or recommendations made as part of the DRI review.

Sec. 34-394. Action by the mayor and city council.

The mayor and city council shall consider all evidence in the record in making their decision. This article is automatically a part of the record in each case, as is the entire application file. The mayor and city council shall have the power to table the application for further information to be presented. The mayor and city council shall have the power to grant, deny, or grant with further specific conditions imposed.

Sec. 34-395. Conduct of the hearing.

Public hearings on special use applications shall be conducted in the manner provided for rezoning applications in sections 34-364 and 34-365.

Sec. 34-396. Appeals to superior court.

Appeals of any decision to deny or grant a special use permit shall be filed within 30 days by filing an appeal to the county superior court in the manner provided by law.

Sec. 34-397. Reapplication.

An application for a special use which has been denied shall not be resubmitted for a period of 12 months after the final decision on the matter.

Secs. 34-398—34-422. Reserved.

ARTICLE XV. LEGAL STATUS PROVISIONS

Sec. 34-423. Conflict with other regulations.

Whenever the regulations of this chapter require a greater width or size of yards, courts, or other open spaces; require a lower height of buildings or smaller number of stories; require a greater percentage of lot to be left unoccupied; or impose other more restrictive standards than are required in or under any other ordinance or statute, the regulations and requirements of this chapter shall govern. Whenever the provisions of any other statute or ordinance require more restrictive standards than are required by this chapter, the provisions of such statute or ordinance shall govern.

Sec. 34-424. Separability/severability.

Should any section or provision of this chapter be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the chapter as a whole or any part thereof other than the part so declared to be unconstitutional or invalid. It is the intent of the mayor and city council that any provision declared unconstitutional shall be severed from the chapter and the remainder of the chapter remain in effect.

Sec. 34-425. Repealer.

This chapter repeals and replaces the zoning ordinance existing immediately prior to its adoption. In the event that this chapter is struck down in its entirety as void, unconstitutional or invalid, including, therefore, this provision, that prior ordinance shall be considered to not have been repealed.

Sec. 34-426. Official zoning map adopted.

The Official Zoning Map of White, Georgia, is hereby adopted. Said map shall be that map signed by the mayor and dated contemporaneously with the adoption of this chapter. It is the intent of the adoption of this official zoning map to readopt and replace the previously existing zoning map; in the event that there are conditions of record applicable to individual properties as the result of prior zoning decisions, those conditions shall continue to be in force and shall not be repealed by the adoption of this official zoning map. The official zoning map shall be a public record, and it shall be available to the public for inspection during the regular business hours of the city.