



Planning and Zoning Commission Agenda

**Tuesday, July 11, 2023
7:00 p.m.**

-
- A. Call to Order**
 - B. Determination of a Quorum**
 - C. Pledge of Allegiance**
 - D. Approval of the Meeting Agenda**
 - E. Approval of the Meeting Minutes**
 - 1. Approval of the May 02, 2023, Regular Meeting Minutes
 - F. Public Comments**
 - G. Old Business**
 - H. New Business**
 - 1. **Concept Plat: Living Word Church Ministries Inc**
Applicant: William O'Neal
Address: 0 Senoia Road, Parcel ID: 09F100200471368
Request to review the plat.
 - 2. **Concept Plan: Living Word Church Ministries Inc**
Applicant: William O'Neal
Address: 0 Senoia Road, Parcel ID: 09F100200471368
Request to review the concept plan and building elevations.
 - 3. **ZPL Text Amendment**
Text amendments to Chapter 80 for the purposes of reconciling City ordinances with State mandated procedural updates (HB 1405 and HB 916)
 - I. Commissioner Comments**
 - J. Adjournment**

CITY OF FAIRBURN

56 SW Malone Street, Fairburn, GA 30213-1341 | (770) 964-2244 | Fax (770) 969-3474 | www.fairburn.com



Planning and Zoning Commission
Meeting Minutes
City Hall: 56 Malone Street,
Fairburn, GA 30213
Tuesday, May 2, 2023
7:00 p.m.

Jason Jones, Chair
Anthony Stewart, Vice-Chair
Elizabeth Echols
LaVone Deavers
Michelle James
Tony Smith

Planning Director: Denise Brookins
Planner: Chancellor Felton
City Attorney: Valerie Ross

-
- A. Call to Order:** The meeting was called to order at 7:00 pm by Chairman Jones.
- B. Determination of a Quorum:** A quorum was determined, and the meeting proceeded.
- C. Pledge of Allegiance:** Chairman Jones led the Pledge to the Flag.
- D. Approval of the Meeting Agenda:**
1. Commissioner James made a motion to approve the agenda. Commissioner Echols seconded.
THE MOTION CARRIED.
- E. Approval of Meeting Minutes:**
1. Commissioner Stewart made a motion to approve the March 7, 2023, minutes. Commissioner Deavers seconded.
THE MOTION CARRIED.
- F. Approval of Executive Session Minutes:**
1. Commissioner James made a motion to approve the executive session minutes. Commissioner Smith seconded.
THE MOTION CARRIED.
- G. Public Comments:** Chairman Jones opened the floor to general, public comments. No public comments were made. Chairman Jones closed the floor to general, public comments.
- H. Old Business:** None.
- I. New Business:** Denise Brookins introduced the new Planner, Chancellor Felton, and the new Code Enforcement Manager, Londell Fleming.
1. **Concept Plan: Package Depot Plaza**
Applicant: Ishwar Dayabhai
Address: 7895 Senoia Road, Parcel ID Number: 09F070000270825
Request: To review the concept plan for the Package Depot Plaza
 - a. Chairman Jones introduced the case. Chancellor Felton presented the case on behalf of Staff. Staff made a recommendation for approval with conditions. Chairman Jones opened the floor for the Commission to ask Staff questions.

- b. Commissioner James asked if the current case was involving retrofitting an existing building. Mr. Felton responded yes. Commissioner James informed us of construction going on in the adjacent parking lot. Mr. Felton stated that he was not aware of any construction at the site but will investigate.
- c. Commissioner Echols inquired if the car maintenance/repair shop was going to stay a tenant of the shopping plaza. Mr. Felton informed the Commission that the end-users of the shopping plaza are not known at this time as end-users are only reviewed before the issuing of a certificate of occupancy and business license.
- d. Commissioner Echols inquired if the burial site on the property was still there and if it would stay. Mr. Felton responded yes to both questions.
- e. Chairman Jones recapped the current case as being a standard remodeling and landscaping plan. Mr. Felton confirmed.
- f. Commissioner James asked if all the tenants will be retailers. Mr. Felton stated that the end-users of the shopping plaza are not known at this time as end-users are only reviewed before the issuing of a business license. Chairman Jones restated that the property is C-2 (General Commercial).
- g. Commissioner Stewart asked if the liquor store will remain on the property. Mr. Felton informed the Commission that the liquor store will be moving to a new building that will be adjacent to the existing shopping plaza. Commissioner James wondered if that was the construction that was mentioned earlier.
- h. Chairman Jones wanted to go back to the survey to identify the scope of the concept plan. Mr. Felton confirmed the scope of the concept plan.
- i. Commissioner Deavers wanted to know if the existing building will be demolished or will be accompanied by a new building. Mr. Felton informed the Commission that the current case is about a retrofit of the existing building that will stay. Chairman Jones reiterated that the existing building will simply have upgrades.
- j. Commissioner Stewart inquired if the driveway will be redone. Mr. Felton responded that the parking lot and all driveways will be redone to meet current standards.
- k. Commissioner James stated that she is glad that something is finally happening to improve this property.
- l. Commissioner Stewart asked if the Code Enforcement Manager, Londell Fleming, wanted to introduce himself. Mr. Fleming came up to introduce himself.
- m. Chairman Jones attempted to open the floor for a public hearing. Attorney Ross commented that the current case is a concept plan and does not require a public hearing, so a motion can be made.

Chairman Jones called for a vote. Commissioner Echols made a motion to recommend **APPROVAL**. Commissioner Stewart seconded.

THE MOTION CARRIED.

J. Commissioner Comments:

- 1. Commissioner Deavers commented that the month of April was boring because there was no meeting. However, everything is good. Commissioner Deavers further commented that the year has started out well and she is glad Commissioner Smith's surgery went well.
- 2. Commissioner James welcomed the two new staff members: Planner Chancellor Felton and Code Enforcement Manager Londell Fleming, and commented that she is happy to have them. James also thanked the Planning and Zoning Director, Denise Brookins, as well as her fellow commissioners.
- 3. Chairman Jones echoed Commissioners Deavers' and James' comments.
- 4. Commissioner Stewart welcomed the two new staff members. He also asked for prayers as he must have the same surgery that Commissioner Smith had.
- 5. Commissioner Smith thanked everyone for their encouragement and prayers during his surgery.

6. Commissioner Echols is glad that Commissioner Smith is doing well. She also welcomed the new Planner and is grateful to be here again working and collaborating.

K. Adjournment:

1. Commissioner James motioned to adjourn the public meeting at 7:15 pm. Commissioner Deavers seconded.
THE MOTION CARRIED.

| Approval Signatures | |
|--|--|
| Date Approved | |
| Jason Jones, Chair | |
| Chancellor Felton, Recording Secretary | |

CITY OF FAIRBURN

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CITY OF FAIRBURN
PLANNING AND ZONING COMMISSION
AGENDA ITEM

To: Planning and Zoning Commission

From: Chancellor Felton, Planner

Date: July 11, 2023, Planning and Zoning Commission

Agenda Item: 1 – New Living Word Church – 0 Senoia Road [Parcel ID: 09F100200471368] – Request to review the subdivision plat.

Agent/Applicant/Petitioner Information

Applicant: Emmaline Soliz, Southeast Civil Group, LLC; Pastor William O’Neal

Property Owner: Living Word Church Ministries, Inc

Background

The site is located at 0 Senoia Road on the eastern side of the intersection of Senoia Road and Valleybrook Drive. The site is currently zoned R-1 (Single-family Residential) and is located in the Georgia Highway 74 Overlay District. The site is approximately 9.03 acres and is undeveloped woodlands.

Discussion

The applicant is proposing a subdivision of the site into two sites: Tract 1 and Tract 2. Tract 1 is 1.95 acres and will be developed into a place of worship. Tract 2 is 7.07 acres and will remain undeveloped woodlands. An accurate, up-to-date, and certified survey is included. The subdivision plat meets the setback requirements of R-1.

The subdivision plat includes buffer easements, utilities, and other required infrastructure.

It is worth noting that the applicant has concurrently submitted a request to review this subdivision plat and a concept plan.

Staff Recommendations

Staff recommends **APPROVAL** of the subdivision plat with the following condition:

- Any significant modifications as determined by Staff to the approved subdivision plat would necessitate a further review by the Planning and Zoning Commission.

Attachments:

- Site Pictures
- Current Survey and Proposed Subdivision

[illegible]

| CURVE TABLE | | | | |
|-------------|------------|---------|-----------------|--------------|
| CURVE | ARC LENGTH | RADIUS | CHORD BEARING | CHORD LENGTH |
| C1 | 294.97 | 556.32' | N 58° 15' 47" E | 291.91' |
| C2 | 198.42 | 600.74' | N 64° 13' 49" W | 197.52' |



| PARCEL SUMMARY | | | | | |
|----------------|------------------------------|--|----------------------------------|-----------------|--------------|
| PARCEL # | AREA | TAX ID # | OWNER | DEED REFERENCE | PLAT CLOSURE |
| TRACT 1 | 41.90 AC. 10.90 SQ. FT. | PORTION OF 14P-150200-0000 14P-150200-0000 | LYNN HAZARD CLARK HARRIS PUGH | DB 96-218 PG 10 | |
| TRACT 2 | 337.71 AC. 11.50 SQ. FT. | PORTION OF 14P-150200-0000 14P-150200-0000 | LYNN HAZARD CLARK HARRIS PUGH | DB 96-218 PG 11 | |
| TOTAL AREA | 383.60 AC. 150,399.90 FT. | | | | 43,227.74 |

ZONING & SETBACKS:
CURRENT ZONING= R-1
ZONING CODE= R-1
ZONING CODE DESCRIPTION= SINGLE-FAMILY RESIDENTIAL
ZONING CODE COMMENTS= ALL SETBACKS ARE TAKEN FROM IDEALS COUNTY ZONING CODE
MAX. BUILDING HEIGHT= 48'
MAX. LOT COVERAGE= 30 PERCENT
MAX. LOT AREA= 1.00 ACRES
MINIMUM LOT WIDTH= 125'
MINIMUM LOT AREA= 1.00 ACRES (43,560 SQ. FT.)
SETBACKS= FRONT = 60'
REAR = 60'
SIDE = 10' (ANY STREET LARGER THAN A COLLECTION STREET)
SIDE (ADJACENT TO INTERIOR LINE) = 20'
REAR = 40'

[illegible]

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f 770.942.0152
www.hrcengineering.com

THE SOUTHEAST CIVIL GROUP, LLC
0 SENOIA ROAD

LOCATED IN LAND LOT 47
9-F DISTRICT
FULTON COUNTY, GEORGIA

LOCATED IN LAND LOT 47
9-F DISTRICT
FULTON COUNTY, GEORGIA

| | |
|---|------|
| I HEREBY SUBMIT THE PRELIMINARY PLAT AS THE OWNER, OR HIS AUTHORIZED AGENT OF ALL PROPERTY SHOWN THEREON. | DATE |
| SIGNATURE OF AUTHORIZED AGENT/OWNER | DATE |
| NAME OF OWNER/AGENT (PRINTED) | DATE |

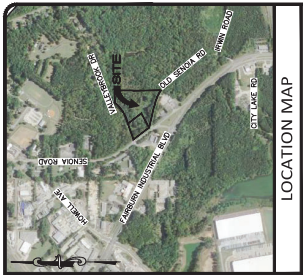
| | |
|--|------|
| I HEREBY CERTIFY THAT THIS PROPOSED PRELIMINARY PLAN CONFORMS TO THE REQUIREMENTS OF THE ZONING ORDINANCES AND THE OTHER DEVELOPMENT CODES AND ORDINANCES OF THE CITY. | |
| DEVELOPMENT COORDINATOR | DATE |
| CITY ENGINEER | DATE |

| | |
|---|------|
| _____ | DATE |
| MAYOR OF CITY ADMINISTRATION ACKNOWLEDGED BY | |
| _____ | DATE |
| OWNER/ DEVELOPER | |

| | |
|--|--|
| <p>It is hereby certified that this plat is true and correct and conforms to all actual surveys shown hereon, actual as well as past, and that the same is a true and correct copy of the original as shown hereon, and that the location, size, type, and material are correctly shown. This plat conforms to all requirements of the Georgia Plat Act of 1923.</p> | <p>6/29/23</p> <p>DATE</p> |
| <p>_____</p> <p>REGISTERED GEORGIAN LAND SURVEYOR</p> <p>_____</p> <p>SIGNATURE</p> | <p>_____</p> <p>CH. FILE NO.</p> <p>_____</p> <p>NO.</p> |

| NO. | DATE | REVISION DESCRIPTION | DRAWN BY/NO |
|-----|---------|----------------------|-----------------|
| 1 | 6/26/23 | CLIENT COMMENTS | CHECKED BY/NO |
| | | | JOB NO.: H23143 |
| | | | SCALE: 1"=60' |

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LOCATION MAP



CITY OF FAIRBURN
PLANNING AND ZONING COMMISSION
AGENDA ITEM

To: Planning and Zoning Commission

From: Chancellor Felton, Planner

Date: July 11, 2023, Planning and Zoning Commission

Agenda Item: 2 – New Living Word Church – 0 Senoia Road [Parcel ID: 09F100200471368] – Request to review the conceptual site plan and building elevations

Agent/Applicant/Petitioner Information

Applicant: Emmaline Soliz, Southeast Civil Group, LLC; Pastor William O’Neal

Property Owner: Living Word Church Ministries, Inc

Background

The site is located at 0 Senoia Road on the eastern side of the intersection of Senoia Road and Valleybrook Drive. The site is currently zoned R-1 (Single-family Residential) and is located in the Georgia Highway 74 Overlay District. The site is approximately 9.03 acres and is undeveloped woodlands.

Discussion

The applicant is proposing a new 3,276-square-foot building. An accurate, up-to-date, and certified survey is included. The concept plan meets the setback and parking requirements of R-1 and the Highway 74 Overlay District design standards.

The concept plan includes all buildings and structures, driveways, parking facilities, walkways, landscaping, buffer easements, utilities, and other required infrastructure. The site will have ingress/egress along Senoia Road. The applicant is also proposing a stormwater management facility in the east central corner of the site. The building will consist of an all-brick front façade facing Senoia Road with two cathedral windows in the center and exterior lighting on both sides of said windows with the other facades being brick midway up and the rest of the façades being wood with standard windows; a covered, double-door entryway on the side façade facing Valleybrook Drive; a covered, single-door entryway on the façade facing Old Senoia Road with two other standard, single-entry, painted metal doors; and a recessed entryway on the rear façade with a cathedral window in the center.

It is worth noting that the applicant has concurrently submitted a request to review this concept plan and a subdivision plat.



Staff Recommendations

Staff recommends **APPROVAL** of the concept plan and building elevations with the following conditions:

- Applicant must include a walkway from the right-of-way of Senoia Road to the parking facility and a crosswalk from the mentioned walkway to the church entrance walkway to meet the Highway 74 Overlay regulations.
- Applicant must include the total developed vehicular area and the total landscaped island area to meet the Vehicular Use Area Landscaping requirements.
- Any significant modifications as determined by Staff to the approved concept plan would necessitate a further review by the Planning and Zoning Commission.

Attachments:

- Site Pictures
- Current Survey
- Proposed Concept Plan
- Proposed Elevations
- Proposed Floor Plan

SITE PICTURES



The intersection of Valleybrook Drive
(to the left) and Senoia Road (to the
right)



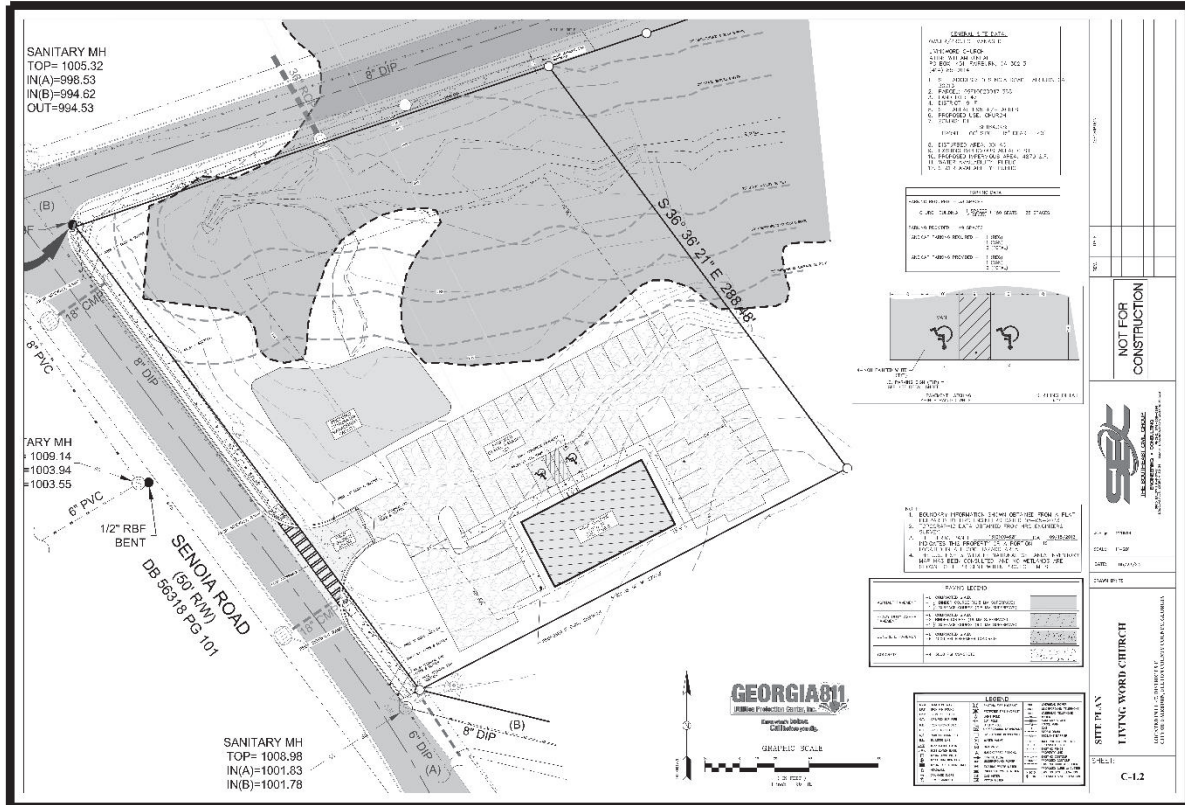
Heading north on Senoia Road



Heading west on Valleybrook Drive



PROPOSED CONCEPT PLAN



PROPOSED ELEVATIONS

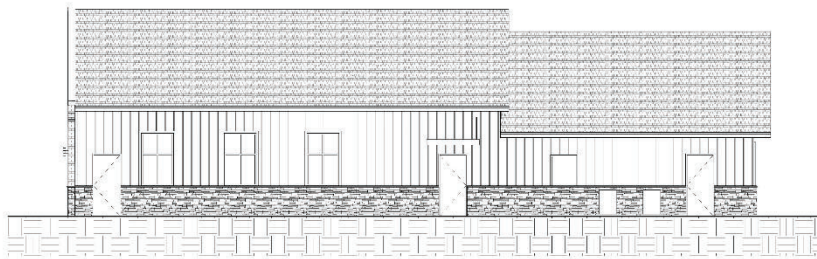


2 FRONT PERSPECTIVE 2

PPF-1.1 1/2" = 1'-0"

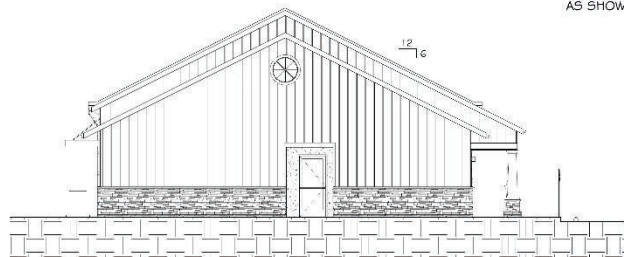
THIS DRAWING IS THE PROPERTY OF BELL & ASSOCIATES ARCHITECTS

6/5/2023 11:25:44 AM



2 REAR ELEVATION

PPF-1.3 1/2" = 1'-0"



1 SIDE ELEVATION

PPF-1.3 1/2" = 1'-0"

COLORS SHALL MATCH COLOR RENDERING
AS SHOWN ON SHEET PPF-1.1

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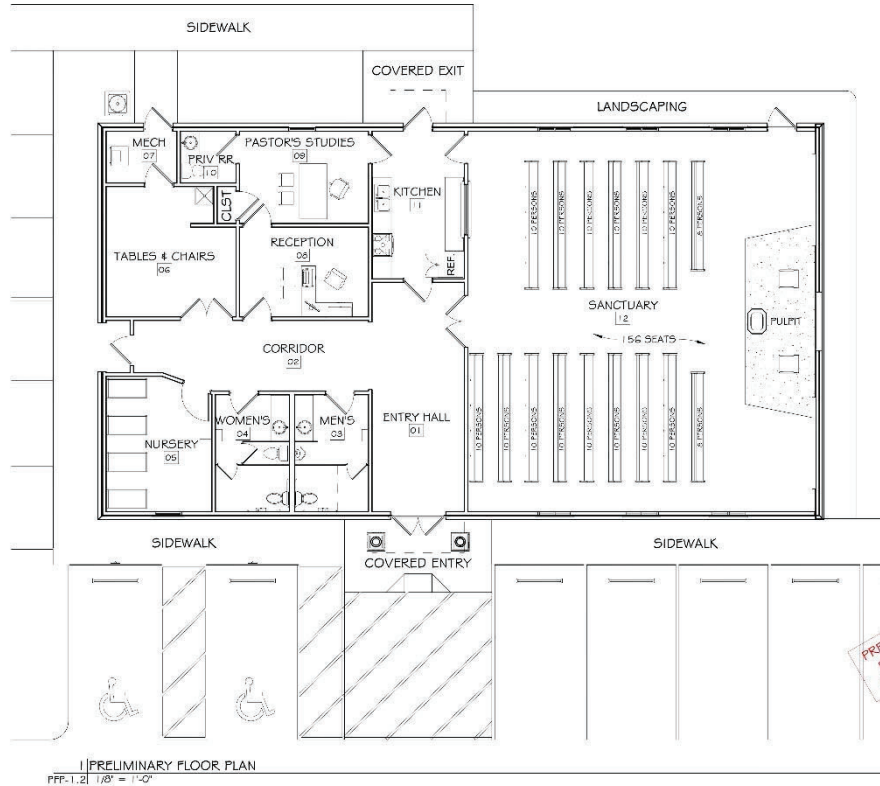
| | |
|---|--|
| | |
| BELL & ASSOCIATES ARCHITECTS, INC. 1124 LINDSEY ROAD CAMPBELLTON, GA 30213 (770) 440-0056 | |
| CLIENT LIVING WORDS CHURCH 1715 FRED | |
| PROJECT NEW SANCTUARY 114 W CAMPBELLTON ST FAIRBURN, GA 30213 | |
| PROJECT NO. TDD | |
| DATE 1 05/23/2023 2 05/24/2023 3 06/05/2023 4 5 6 7 8 9 10 | |
| DRAWING NO. PPF-1.1 | |


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| BELL & ASSOCIATES ARCHITECTS, INC. 1124 LINDSEY ROAD CAMPBELLTON, GA 30213 (770) 440-0056 | |
| CLIENT LIVING WORDS CHURCH 1715 FRED | |
| PROJECT NEW SANCTUARY 114 W CAMPBELLTON ST FAIRBURN, GA 30213 | |
| PROJECT NO. TDD | |
| DATE 1 05/23/2023 2 3 4 5 6 7 8 9 10 | |
| DRAWING NO. PPF-1.3 | |

PROPOSED FLOOR PLAN

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5/24/2023 1:26:56 PM



| | |
|--|-------------------------------|
|  BELL & ASSOCIATES ARCHITECTS, INC. 114 W CAMPBELLTON ST FAIRBURN, GA 30213 (770) 233-8822 | |
| CLIENT UNITED METHODIST CHURCH FAIRBURN | |
| PROJECT NEW SANCTUARY 114 W CAMPBELLTON ST FAIRBURN, GA 30213 | |
| PROJECT NO. 150 | |
| REVISION 1 05/23/2023 05/24/2023 | 2 05/23/2023 05/24/2023 |
| SHEET NO. PFP-1.2 | |



**CITY OF FAIRBURN
PLANNING & ZONING COMMISSION
AGENDA ITEM**

Date: July 7, 2023

To: Planning and Zoning Commission

From: Denise Brookins, Planning & Zoning Director

Agenda Item: **ZPL Text Amendment** – Text amendments to Chapter 80 for the purposes of reconciling City ordinances with State mandated procedural updates (HB 1405 and HB 916)

INTENT

Staff is bringing forward redlines to the Zoning Ordinance to bring the City’s hearing and notice procedures into compliance with new regulations promulgated by the State in the 2021-2022 Regular Session of the General Assembly, effective July 1, 2023.

DISCUSSION

Two bills recently adopted by the state legislature, HB 1405 and HB 916, affect the City’s zoning procedure. Known by the State Statute, the “Zoning Procedures Law” (ZPL) outlines the minimum required notice and hearing procedures local and county governments are required to follow in carrying out zoning and quasi-judicial decisions.

Per the Georgia General Assembly, the revisions to the ZPL, HB 1405, are as follows:

A BILL to be entitled an Act to amend Title 36 of the Official Code of Georgia Annotated, relating to local governments, so as to revise "The Zoning Procedures Law"; to revise provisions related to judicial review of zoning decisions; to revise definitions; to provide for requirements for zoning decisions by boards or agencies using delegated powers; to require review procedures for decisions made by boards or agencies using delegated powers; to provide for judicial review of zoning decisions; to require certain designations relating to appeals of quasi-judicial decisions; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 1405 specifically lays out additional public hearing and public notice requirements for city-initiated rezonings for specific changes to multi-family uses in single-family zoning districts. The new ZPL dictates that signs are required every 500 feet in the affected area, specifies the size of the required newspaper ads, requires additional public hearings, and specifies a new timeline for approval by the City Council. Additionally, HB 1405 updated the public notice requirements for quasi-judicial proceedings.

Separately, the Georgia Assembly has revised the appeals process, as follows:

A BILL to be entitled an Act to amend Title 5 of the O.C.G.A., relating to appeal and error, so as to provide for a unified procedure for appealing decisions of a lower judicatory to a superior or state court; to repeal and reserve Chapter 4 of said title, relating to certiorari to superior court; to amend various titles of the Official Code of Georgia Annotated, so as to provide for conforming changes; to correct cross-references and remove obsolete or improper references; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

HB 916 lays out a new process for appealing zoning decisions. Rather than requiring a “writ of certiorari,” appeals can be made as a “petition for review.”

In response to HB 1405 and HB 916, staff has updated the Zoning Ordinance for all impacted provisions.

REVIEW AUTHORITY

In accordance with Section 80-298, “no amendment shall be made or become effective until the same shall have been proposed by or be first submitted for review by the city planning and zoning commission.” The Planning and Zoning Commission shall review and provide comments to the Mayor and City Council within 30 days.

Attachments:

- Redlines copy of Chapter 80 Zoning
- Copy of HB 1405
- Copy of HB 916

Chapter 80 ZONING

ARTICLE I. IN GENERAL

Sec. 80-1. Preamble.

This chapter establishes zoning regulations for the city and provides for the division of land areas for various uses, regulates development of land parcels. This chapter also provides for its administration, enforcement, and amendment.

(Ord. No. 2008-10Z, exh. A, § 1.01, 8-25-2008; Ord. of 10-28-2019(1))

Sec. 80-2. Authority.

This chapter is adopted under the authority of the Charter of the city, as approved by the governor, and under the authority granted to municipal corporations by the laws of the state.

(Ord. No. 2008-10Z, exh. A, § 1.03, 8-25-2008; Ord. of 10-28-2019(1))

Sec. 80-3. Purpose.

This chapter has been made in accordance with the comprehensive plan of the city, designed for the purposes of, among others, promoting public health, safety, convenience and general welfare; lessening congestion in the streets; securing safety from fire, panic, and other dangers; providing adequate light and air; encouraging such timing, density and distribution of land development and uses as will facilitate an economic and adequate provision of transportation, communication, water supply, drainage, sanitation, education, recreation and other public requirements; protecting property against blight and depreciation; preventing the overcrowding of land and undue concentration of population and urban sprawl; encouraging the most appropriate use of land, buildings, and other structures throughout the city; and for other purposes. These regulations have been developed with reasonable consideration of the character of various zoning districts and their peculiar suitability for particular uses, and with the general objective of promoting desirable living environments, stable neighborhoods, sound commercial and industrial areas and protecting the city's natural resources.

(Ord. No. 2008-10Z, exh. A, § 1.04, 8-25-2008; Ord. of 10-28-2019(1))

Sec. 80-4. Reserved.

Editor's note(s)—An ordinance adopted Oct. 28, 2019 repealed § 80-4, which pertained to definitions and derived from Ord. No. 2008-10Z, exh. A, §§ 2.01, 2.02, adopted Aug. 25, 2008; Ord. No. 2012-04, § 1(Exh. A), adopted June 11, 2012; Ord. No. 2013-18, § 1(Exh. A), adopted Sept. 9, 2013; Ord. No. 2013-25, § 1, adopted Oct. 14, 2013; Ord. No. 2013-26, § 1, adopted Oct. 14, 2013; Ord. No. 2014-01, § 1, adopted Feb. 14, 2014; and Ord. No. 2014-09, adopted June 9, 2014. See § 80-478 for current provisions.

Sec. 80-5. Provisions of chapter declared to be minimum requirements or maximum limitations.

In their interpretation and application, the provisions of this chapter shall be construed to be the minimum requirements or maximum limitations, as the case may be, commensurate with promotion of the purposes of zoning and adopted for the promotion of the public health, safety or general welfare. Wherever the requirements of this chapter are at variance with the requirements of any other government officially adopted statutes, rules, regulations, ordinances, deed restrictions, covenants or codes, the most restrictive or that imposing the highest standards shall govern.

(Ord. No. 2008-10Z, exh. A, § 16.01, 8-25-2008)

Sec. 80-6. Repeal of conflicting ordinances and validity of prior approvals and actions.

- (a) Nothing herein shall be construed as repealing or modifying the conditions of operation or conditions of site development accompanying those zoning approvals or use permits issued under previous zoning ordinances or resolutions; however, modification or repeal of these past conditions of approval may be accomplished as provided by this chapter.
- (b) All variances and exceptions granted by the mayor and city council shall remain in full force and effect, and all terms conditions and obligations imposed by the mayor and city council shall remain in full force and effect and be binding. Prior ordinances shall remain in effect insofar as required for initiation of prosecution of any violations heretofore commenced.

(Ord. No. 2008-10Z, exh. A, § 16.04, 8-25-2008; Ord. of 10-28-2019(1))

Sec. 80-7. Projects under construction.

Nothing in this chapter shall require any change in the development or proposed use of properties which are legally under construction as provided in section 80-171 or for which a development plan or preliminary plat has been approved at the effective date of the ordinance from which this chapter is derived and the development of which shall be commenced within one year after the effective date of the ordinance from which this chapter is derived. Further, nothing in this chapter shall prohibit the use of property in any manner lawfully permitted immediately prior to the effective date of the ordinance from which this chapter is derived, provided a building permit is obtained, and construction thereunder is commenced, within 12 months after the effective date of the ordinance from which this chapter is derived, even though such use may be prohibited by the terms of this chapter.

(Ord. No. 2008-10Z, exh. A, § 16.05, 8-25-2008; Ord. of 10-28-2019(1))

Sec. 80-8. Remedies.

If any structure is constructed, reconstructed, altered, repaired, converted or maintained, or if any structure or land is used in violation of this chapter, the city administrator, code enforcement officer or adjacent property owner who would be damaged by such violation, in addition to other remedies, may institute an injunction, mandamus or other appropriate action in proceeding to stop the violation in the case of such structure or land use.

(Ord. No. 2008-10Z, exh. A, § 16.06, 8-25-2008; Ord. of 10-28-2019(1))

Sec. 80-9. Georgia Zoning Procedures Law

The review and approval procedures of this Zoning Ordinance are intended to comply with the provisions of the Georgia Procedures Law, O.C.G.A. § 36-66-1 et seq., which is incorporated by reference in its entirety. If any provision of this Zoning Ordinance is in conflict with any provision of the Zoning Procedures Law, the Zoning Procedures Law controls. This does not apply to procedures that are more restrictive than those established by the Georgia Zoning Procedures Law.

Secs. 80-~~109~~—80-34. Reserved.

ARTICLE II. ZONING DISTRICTS

DIVISION 1. GENERALLY

Sec. 80-35. Official zoning map—Adopted.

- (a) The city is divided into zoning districts, as provided herein and as shown on the official zoning map, which, together with all explanatory notes, is adopted by reference and declared to be a part of this chapter.
- (b) The boundaries of the aforementioned districts are hereby established as shown on a map entitled "City of Fairburn Official Zoning Map" and certified by the city clerk. Said map and all explanatory matter depicted thereon is hereby made a part of this chapter and shall be on file in the office of the city clerk.

(Ord. No. 2008-10Z, exh. A, § 3.01, 8-25-2008; Ord. No. 2015-16, § 1(Exh. A), 7-22-2013, 7-27-2015)

Sec. 80-36. Same—Replacement.

- (a) In the event the official zoning map becomes damaged, lost, or difficult to interpret because of the nature or number of changes and additions, the city council may, by resolution, adopt a new official zoning map, which shall supersede the previous official zoning map.
- (b) The new official zoning map may correct drafting or other errors or omissions in the previous official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof.
- (c) Unless the previous official zoning map has been lost or wholly destroyed, said documents or any remaining significant portions thereof shall be preserved, together with all available records pertaining to its adoption or amendment.

(Ord. No. 2008-10Z, exh. A, § 3.02, 8-25-2008)

Sec. 80-37. Same—Recording amendments.

On the effective date of amendment of the official zoning map, the change shall be posted in an appropriate manner; and records accompanying the map shall identify the official action by which such amendment was accomplished, the date of such action, and the date of posting. No such amendment shall become effective until such change and entry have been made, it being the intent of these regulations that the public shall be able to rely

on the official records of the council as the correct and final authority concerning current zoning status without investigating for possible errors or omissions.

(Ord. No. 2008-10Z, exh. A, § 3.03, 8-25-2008)

Sec. 80-38. Same—Authentication; location for public inspection.

The official zoning map, properly attested, shall be on file and available for public inspection in the office of the city clerk. The official records of the council shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the city.

(Ord. No. 2008-10Z, exh. A, § 3.04, 8-25-2008)

Sec. 80-39. Changes to map.

No changes of any nature shall be made to the official zoning map except in conformity with the procedures set forth in this chapter.

(Ord. No. 2008-10Z, exh. A, § 3.05, 8-25-2008)

Sec. 80-40. Rules for interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries shown on the official zoning map, the following rules shall apply:

- (1) Where zoning district boundaries are shown as approximately following the centerline of a street, alley, or public right-of-way, land lot line, corporate limit line, railroad right-of-way, militia district line, or a property boundary, or such lines extended, then such lines shall be construed to be the zoning district boundaries.
- (2) Where a zoning district boundary is shown as being set back from a street or a railroad right-of-way, and approximately parallel thereto, then such zoning district boundary shall be construed as being the noted distance, or, in the absence of such a note, the scaled distance from the centerline of the street or railroad right-of-way and as being parallel thereto.
- (3) Where a zoning district boundary divides a lot, the location of the line shall be the noted distance, or in the absence of such a note, the scaled distance from the lot lines.
- (4) Where a zoning district boundary divides a lot which was in single ownership at the time of passage of the ordinance from which this chapter is derived, the mayor and city council may permit, as an exception, the extension of the regulations for either portion of the lot, not to exceed 50 feet beyond the zoning district boundary into the remaining portion of the lot.
- (5) Where zoning district boundaries are in doubt, the mayor and city council shall determine the location of boundaries.

(Ord. No. 2008-10Z, exh. A, § 3.06, 8-25-2008)

Sec. 80-41. Districts established.

The city is divided into the following zoning districts.

Table 80-41: Districts Established

| District Abbreviation | District Name |
|----------------------------------|--|
| Residential Districts | |
| AG | Agricultural |
| R-1 | Single-Family Residential, Low-Density, one acre |
| R-2 | Single-Family Residential, Low to Medium, one-half acre |
| R-3 | Single-Family Residential, Medium Density, one-third acre |
| R-4 | Single-Family Residential, Medium Density, one-fourth acre |
| R-CT | Residential Condominium/Town House, Medium Density, one acre |
| RM-12 | Multi-Family Residential, Medium Density, 12 units per acre |
| RM-36 | Multi-Family Residential, Medium Density, 36 units per acre |
| PD | Planned Development |
| Non-Residential Districts | |
| O&I | Office and Institutional |
| DTMU | Downtown Mix-Use |
| C-1 | Neighborhood Commercial |
| C-2 | Highway Commercial |
| M-1 | Light Industrial |
| M-2 | Heavy Industrial |
| P&O | Parks and Open Space |
| RR | Railroads |
| Overlay Districts | |
| GA Hwy 74 | Georgia Highway 74 |
| US 29 | Georgia Highway 29 |

(Ord. No. 2008-10Z, exh. A, art. 4, 8-25-2008; Ord. No. Z2013-03, exh. A, 4-22-2013; Ord. No. Z2013-04, exh. A, 4-22-2013; Ord. of 10-28-2019(1))

Sec. 80-42. Donations boxes.

- (a) As used in this section, the term "donation box" shall be defined as follows:
- (1) Donation box shall mean any unattended container, receptacle, or similar device used for soliciting and collecting donations of clothing and/or other salvageable personal property. This term does not include any unattended donation box location within a building which is permitted by-right.
- (b) In addition to accessory uses otherwise permitted in this chapter, donation boxes may only be installed by obtaining a permit under the following conditions and requirements:
- (1) *Application.* Prior to delivery and/or installation of any donation box, an application shall be filed with the director of planning or his/her designee identifying the size, color, and location of each donation box, as well as any signage proposed on the exterior, of the donation box. A permit shall be required for each donation box installed within the city limits.
 - (2) *Zoning.* Donation boxes shall only be permitted within the non-residential zoning districts, unless otherwise specified herein.
 - (3) *Approval of property owner.* As a part of the application process, a letter must be provided from the owner of the property indicating they are aware and approve the installation of a donation box on

their property, including that they are aware of their responsibility to maintain the current operator contact information and, if necessary, maintain or remove the donation box if the operator does not follow the provisions of this section.

- (4) *Fees.* Fees shall be as adopted by city council in the schedule of fees and kept on file in the city clerk's office.
- (5) *Size.* Donation boxes shall be limited to no more than 128 cubic feet (four feet wide by four feet deep by eight feet tall). The height of each donation box shall not exceed eight feet in height from finish grade to the highest point of the roof.
- (6) *Color.* Donation boxes shall be painted or stained with a low reflectance and subtle, neutral or earth-tone color scheme. High-intensity colors, metallic colors, black, or fluorescent colors shall not be used.
- (7) *Number of boxes permitted.* No more than one donation box shall be permitted on each zoning lot, with a minimum lot size of four acres.
- (8) *Location.* Donation boxes shall be installed on a paved surface but may not be located within a designated parking space, drive aisle, or loading area. Donation boxes shall not be located within any building setback or established buffer area. Donation boxes shall not be located in such a manner that they block sight lines on the subject tract as determined by the city engineer. To the extent feasible, donation boxes shall be placed so as to be inconspicuous as viewed from the public right-of-way.
- (9) *Signage/contact information.* The total square footage for all signage on each donation box shall not exceed two square feet. No advertising shall be permitted on the donation box. An additional sign shall contain the following contact information; the name, address, email, and phone number of both the property owner/manager and operator, it too shall not exceed two square feet.
- (10) *Cleanliness of premises.* Donation boxes shall be maintained in good condition and appearance with no structural damage, holes, or visible rust, and shall be free of graffiti. All boxes shall be free of debris and shall be serviced regularly so as to prevent overflow of donations or the accumulation of junk, debris, or other material.
- (11) *Revocation of permit.* Any permit granted pursuant to the provisions of this section may be subject to revocation for cause by the director of planning (or his/her designee), including but not limited to, the failure to comply with this section or any other applicable provisions of this Code.
- (12) *Renewal of permit.* The term of the permit shall expire one year from the date of issuance. An operator may apply for permit renewal by submitting to the director of planning before the expiration of the permit, a renewal application and associated fee.
 - a. No person to whom a permit has been issued shall transfer, assign, or convey such permit to another person.
 - b. Prior to expiration of the permit, the permittee may voluntarily cancel the permit by notifying the director of planning in writing of the intent to cancel the permit. The permit shall become void upon the director's receipt of a written notice of intent to cancel the permit.
 - c. Donation boxes shall be removed when the property becomes vacant or is foreclosed upon.
- (13) *Approval/denial of permit.* The planning and zoning administrator shall approve a new or renewal permit application if he/she finds that no circumstances exist at the time the application is reviewed or existed at any time during which the previous permit was in effect that are inconsistent with any requirement in this section.
- (14) *Display of permit.* The operator of the donation box and the property owner shall be responsible for maintaining the permit for each donation box required by this section. The director of planning shall inspect each donation box following its installation to ensure the donation box is installed in

accordance with the approved permit. Once it is determined the donation box complies with said permit, a decal shall be affixed to the actual donation box or to the entrance door of the place of business indicating the donation box has been approved. The purpose of this decal shall be to notify city officers and employees that the donation box complies with the provisions of this chapter and the approved donation box permit application.

(Ord. No. 2015-08, § 1(Exh. A), 7-27-2015; Ord. of 10-28-2019(1))

Sec. 80-43. Reserved.

Sec. 80-44. Uses not listed.

For any use not listed in this chapter, the planning and zoning commission shall determine the proper requirements by classifying the proposed use among the uses which are listed and assigning the use to appropriate zoning district or prohibited uses. After the planning and zoning commission meeting, the director of planning or designee will prepare a zoning ordinance text amendment for review at the next regularly scheduled meeting of the planning and zoning commission, pursuant to sections 80-287 and 80-298 of this Code.

(Ord. No. 2015-12, § 1(Exh. A), 7-27-2015; Ord. of 10-28-2019(1))

Secs. 80-45—80-70. Reserved.

DIVISION 2. DISTRICT REGULATIONS¹

Sec. 80-71. AG—Agricultural Zoning District.

- (a) *AG—Intent.* The AG Agricultural Zoning District has been established to provide a low-density transitional area in the city between the high-density uses in the downtown area and along the major thoroughfares and the very low-density uses in the rural areas surrounding the city in unincorporated Fulton, Fayette, and Coweta counties.
- (b) *AG—Permitted uses.* The following uses shall be permitted in any AG Agricultural Zoning District:
 - (1) Agricultural, general and specialized farming uses, including: Horticulture, plant nursery, greenhouse, dairy farming, livestock raising, and poultry raising, provided however that buildings used for animals and other agriculture related purposes must be at least 100 feet from all property lines, and outside areas to be used by farm animals are kept at least 100 feet from any adjoining residential property line.
 - (2) Building, facility, or land for public utility services.

¹Editor's note(s)—Ord. No. 2012-04, § 1, adopted June 11, 2012, repealed ch. 80, art. II, divs. 2 and 3, §§ 80-71—80-91 and 80-111, 80-112 added a new ch. 80, art. II, div. 2, §§ 80-71—80-90. Former ch. 80, art. II, div. 2 pertained to similar material and was derived from Ord. of 8-25-2008; Ord. No. 2008-10Z, Exh. A, §§ 4.01—4.21, 8-25-2008; Ord. No. 2009-7Z, § 1, 6-8-2009; Ord. No. 2009-10Z, § 1, 9-14-2009; Ord. No. 2009-11Z, § 1, 11-23-2009. Former ch. 80, art. II, div. 3, pertained to special districts and was derived from Ord. No. 2008-10Z, Exh. A, §§ 4.22, 4.24, adopted August 25, 2008.

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- (3) Building, facility, or land for non-commercial park, recreation, or open space purposes.
 - (4) Cemetery provided all buildings must be at least 100 feet from all property lines; provided the property is at least five acres; and provide no grave is within 50 feet of a property line.
 - (5) Civic, social, or fraternal associations, provided any retail sales associated with the operation are for members only, all buildings on the parcel shall be at least 100 feet from all property lines, the parcel is not less than five acres in area, and an undisturbed landscaped buffer at least 35 feet wide shall be maintained along the entire perimeter of the parcel.
 - (6) Commercial farm animal uses and commercial agricultural services; provided all buildings are at least 500 feet from any property line and all outside areas to be used by animals other than for horse and cattle grazing, are at least 500 feet from any property line. Commercial horse and cattle grazing areas must be kept at 100 feet from any adjoining residential property line.
 - (7) Commercial nursery operation; provided any retail sales associated with the operation constitutes less than ten percent of the business, that all buildings on the parcel are at least 100 feet from all property lines, and that the lot is not less than five acres in area.
 - (8) Communication/utilities.
 - (9) Events. Special indoor/outdoor events held with less than 75 persons are subject to the review and approval of an administrative permit; events held with 75 or more persons are subject to the review and approval of a use permit.
 - (10) Family day care homes.
 - (11) Farm stand.
 - (12) Forestry and fishing uses.
 - (13) Institutional uses.
 - (14) Kennel, veterinary hospital or veterinary clinic, provided buildings housing animals are fully enclosed and at least 100 feet from all property lines; and pens, runs, etc. which are not located in a fully enclosed building are at least 200 feet from all property lines.
 - (15) Nurseries.
 - (16) Places of worship are subject to a use permit.
 - (17) Publicly owned building, facility, or land.
 - (18) Riding or boarding stables, subject to the following conditions:
 - a. All show or exercise rings, trails, pastures or other areas containing animals except structures, must be set back 100 feet from any property boundary adjacent to a residential district;
 - b. A minimum area of 15 acres is provided;
 - c. One horse or other member of horse (equine) family per fenced acre shall be allowed in association with a single-family dwelling; and
 - d. All structures for the shelter of horses shall be at least 100 feet from the lot line of any residentially zoned or used property and located within the rear yard.
 - (19) Single-family detached dwellings.
 - (20) Single-family dwellings used primarily as guest or second homes.
 - (21) Telecommunications and broadband facilities (co-location cellular towers) less than 150 feet in height are subject to an administrative permit.

(22) Timber cultivation and harvesting.

(23) U-pick orchards.

(c) *AG—Accessory uses and structures.*

(1) Accessory uses and structures incidental to any permitted use. Temporary storage pods are intended for a limited period of time and not for permanent storage. See section 80-71(b)15.

a. Accessory structures may be located within the rear, or side yards only but shall not be located within a setback or within the front yard areas.

(2) Accessory dwelling units. AG zoning district shall conform to the following standards:

a. Accessory dwelling units, where the total number of dwelling units on any parcel, including the accessory dwelling unit, does not exceed two.

b. No accessory dwelling unit shall be of a commercial nature.

c. No accessory dwelling unit shall be constructed until construction of the principal building has actually begun, and no accessory dwelling building shall be used or occupied until the principal building is completed and in use.

d. All residential development shall provide two spaces per dwelling unit, except accessory dwelling units as described in section 80-337, Off-street parking requirements.

e. All accessory dwelling units shall be constructed with materials similar as those of the principal building.

f. All accessory dwelling units shall not exceed the following development standards:

1. Minimum side setback: 25 feet.

2. Minimum rear setback: 40 feet.

3. Maximum building height: 48 feet.

4. Maximum heated floor area: 800 square feet.

5. No accessory dwelling unit shall be permitted in the required front setback area.

(3) Home occupations in accordance with section 80-138.

(4) Storage and utility buildings.

(5) Swimming pools, tennis courts and similar facilities.

(d) *AG—Conditional uses.*

| <i>Uses Subject to an Administrative Permit:</i> | <i>Subject to the requirements of Article IV—Administrative Permit Requirements:</i> |
|--|--|
| Administrative Permit Uses: | See sections 80-174 through 80-195 |
| (1) Amateur radio antenna. | See section 80-176. Allowable districts: All. |
| (2) Amphitheaters. | See section 80-199. Allowable districts: AG, O&I, C-1, C-2. |
| (3) Bed and breakfast. | See section 80-201. Allowable districts: AG, C-1, C-2, DTMU. |
| (4) Broadcasting structures. | See section 80-177. Maximum height shall not exceed 200 feet. Allowable districts: AG, R, C-2, DTMU, O&I, M-1 and M-2. |

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| (5) Cemetery and/or mausoleum (human or pet). A cemetery provided all buildings must be at least 100 feet from all property lines; provided the property is at least five acres; and provided no grave is within 50 feet of a property line. | See section 80-179. Allowable districts: All except AG. |
| (6) Farmers markets. | See section. 80-179.1. Allowable districts: AG, O&I, DTMU, C-1, C-2, M-1, M-2 and P&O. |
| (7) Events, special outdoor/indoor. | See section 80-179. Allowable districts: AG, O&I, C-1, C-2, DTMU, M-1, M-2, and P&O for persons 75 or less. |
| (8) Recreational court, private. | See section 80-182. Allowable districts: AG, O&I, C-1, C-2, and P&O. |
| (9) Revival tent. | See section 80-186. Allowable districts: AG, O&I, C-1, C-2, and P&O. In residential districts, a revival tent may be placed only on property occupied by an existing building used as a place of worship. |
| (10) Swimming pool, private. | See section 80-190. Allowable districts: All except C-1, C-2. |
| (11) Temporary classroom. | See section 80-190. Allowable districts: All. |
| (12) Temporary structures. | See section 80-193. Allowable districts: All, except emission inspection stations shall be permitted only in non-residential districts except AG. |
| (13) Utility substation (telephone, electric, or gas, etc.) | See section 80-194. Allowable districts. All. |
| Uses Subject to a Use Permit: | Subject to the requirements of Article IV—Use Permit Requirements: |
| Use Permit Uses | See Sections 80-196 through 80-239 |
| (1) Agricultural-related activities. | See section 80-197. Allowable districts: All. |
| (2) Amateur radio antenna. | See sections 80-176, 80-177, 80-198. Maximum height shall not exceed 90 feet. Allowable districts: All. |
| (3) Amphitheaters. | See section 80-199. Allowable districts: AG, O&I, C-1, C-2 and P&O. |
| (4) Antenna tower, and associated structure (radio, t.v., microwave broadcasting, etc.), to exceed the district height. | See section 80-200. Allowable districts: AG, R (See same heading in section 80-174, for other non-residential districts). |
| (5) Bed and breakfast. | See section 80-201. Allowable districts: AG, R-1, R-2, R-3, R-4, C-1, C-2, DTMU. |
| (6) Event, special indoor/outdoor with more than 75 persons are subject to a special use permit. | See section 80-179. Allowable districts: AG, O&I, C-1, C-2, DTMU, M-1, M-2 and P&O. |
| (7) Child day care center. | See section 80-208. Allowable districts: AG, R-1, R-2, R-3, O&I, P&O and districts where places of worship are permitted. |
| (8) Group homes/shelters. | See sections 80-211 through 80-218; group homes located within subdivision area are required to provide written approval from authorized homeowner association(s). |
| (9) Lodge, retreat and/or campground. | See section 80-222. Allowable districts: AG, M-1, M-2. |
| (10) Massage therapy establishments. | See section 80-182. Allowable districts: All. |
| (11) Personal care home/assisted living. | See section 80-182. Allowable districts: AG, C-1, C-2, O&I, DTMU. |

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| (12) Places of worship. | See section 80-203. Allowable districts: All. |
| (13) Portable sawmills. | See section 80-225. Allowable districts: All. |
| (14) Recreational court, private. | See section 80-182. Allowable districts: All except C-1, C-2. |
| (15) Recreational court, public. | See section 80-183. Allowable districts: O&I, C-1, C-2, M-1, M-2 and P&O. |
| (16) Recreational fields. | See section 80-182. Allowable districts: All. |
| (17) Revival tent. | See section 80-186. Allowable districts: AG, R, O&I, C-1, C-2, M-1, M-2, P&O and may be placed only on property occupied by an existing building used as a place of worship. |
| (18) Roadside produce stands. | See section 80-187. Allowable districts: AG, R-1, C-1, C-2 and accessory to institutional uses, such as a place of worship or school. |
| (19) School, private or special. | See section 80-230. Allowable districts: All. |
| (20) Seasonal business use. | See section 80-189. Allowable districts: AG only when occupied by a use such as a church, C-1, C-2, M-1, M-2, and P&O. |
| (21) Senior housing. | See section 80-233. Allowable districts: All except M-1, M-2. |
| (22) Skywalks. | See section 80-234. Allowable districts: AG, O&I, C-1, C-2. |
| (23) Stadium (off-site) associated with a private school. | See section 80-235. Allowable districts: All. |
| (24) Swimming pool, private. | See section 80-190. Allowable districts: All except C-1, C-2. |
| (25) Swimming pool, public. | See section 80-190. Allowable districts: O&I, C-1, C-2, and P&O. |
| (26) Temporary classroom. | See section 80-190. Allowable districts: All. |
| (27) Temporary structures. | See section 80-193. Allowable districts: All, except emission inspection stations shall be permitted only in non-residential districts except AG. |
| (28) Utility substations (telephone, electric, or gas, etc.). | See section 80-194. Allowable districts: All. |

(e) *AG—Prohibited uses.*

- (1) Commercial feed lots.
- (2) Commercial hog farms.
- (3) Commercial poultry houses.
- (4) Landfills.
- (5) Transfer stations.

(f) *AG—Development standards.* Unless otherwise provided in this chapter, uses permitted in the AG zoning district shall conform to the following standards:

| | |
|----------------------------|----------|
| Minimum front yard setback | 100 feet |
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| Minimum front yard setback | |
| a. Along any street larger than a collector street | 110 feet |
| Minimum side yard setback | |
| a. Adjacent to interior line | 50 feet |
| Minimum rear yard setback | 50 feet |
| Minimum lot area | 3 acres (130,680 square feet) |
| Minimum lot width | 200 feet |
| Minimum lot depth | None |

(g) *AG—Building height and form.*

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| Maximum height | 48 feet |
| Maximum lot coverage | 15 percent |
| Minimum heated floor (minimum living area) | 2,000 square feet |

(h) *AG—Design standards.* Unless otherwise provided in this chapter, uses permitted in the AG district shall conform to the following design standards:

- All buildings, structures, kennels, or other means of housing animals must be set back a minimum of 200 feet from any property boundary abutting a zoning district other than AG.

See section 80-197, Agricultural-related activities.

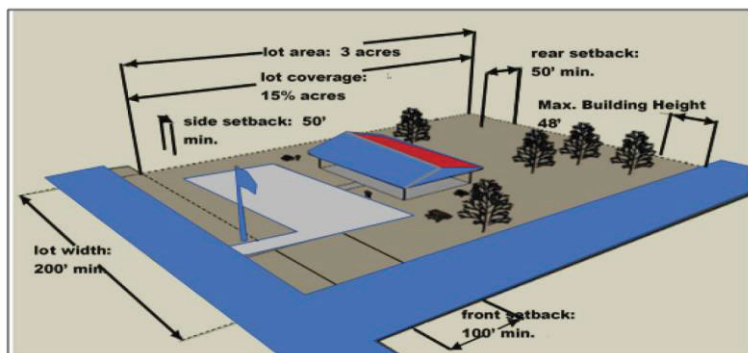
Figure 80-71a. AG: Typical Lot Pattern



Figure 80-71b. AG: Typical Building Form



Figure 80-71c. AG: Typical Building/Lot Configuration



- (i) *AG—Other regulations.* The headings below contain provisions applicable to uses allowed in the AG Agricultural Zoning District:

*Chapter
Number*

Building RegulationsChapter 62

EnvironmentChapter 65

Soil Erosion and Sedimentation ControlChapter 65

Stormwater ManagementChapter 65

Stream Buffer ProtectionChapter 65

FloodsChapter 68

Land DevelopmentChapter 71

LandscapingChapter 74

SubdivisionsChapter 77

ZoningChapter 80

SignsChapter 80

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. No. 2014-02, § 1, 2-24-2014; Ord. of 10-28-2019(1))

Editor's note(s)—An ordinance adopted Oct. 28, 2019 changed the title of § 80-71 from AG-1 Agricultural Zoning District to AG Agricultural Zoning District.

Sec. 80-72. R-1—Single-family Residential Zoning District.

- (a) *R-1—Intent.* The Single-family Residential Zoning District regulations set forth in this section are the "R-1" district regulations. Article IV should be consulted to determine uses and minimum standards for uses allowed by administrative permit or use permit. The R-1 district encompasses lands devoted to low density residential areas and closely related uses or as a use allowed by administrative permit or use permit.
- (b) *R-1—Use regulations.* Within the R-1 district, land and structures shall be in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by administrative permit or use permit shall be prohibited.
- (c) *R-1—Permitted uses.* Structures and land may be used for only the following purposes:
 - (1) Communications/utilities.
 - (2) Institutional uses: public, private and parochial schools, religious facilities.
 - (3) Non-profit recreational uses; public or private playgrounds, parks, golf courses and lakes.
 - (4) Single-family detached dwelling.
- (d) *R-1—Accessory uses and structures.*
 - (1) Accessory uses and structures incidental to any permitted use.
 - (2) Accessory dwelling units. R-1 zoning district shall conform to the following standards:
 - a. Accessory dwelling units, where the total number of dwelling units on any parcel, including the accessory dwelling unit, does not exceed two.
 - b. No accessory dwelling unit shall be of a commercial nature.
 - c. No accessory dwelling unit shall be constructed until construction of the principal building has actually begun, and no accessory dwelling building shall be used or occupied until the principal building is completed and in use.
 - d. All residential development shall provide two spaces per dwelling unit, except accessory dwelling units as described in section 80-337, Off-street parking requirements.
 - e. All accessory dwelling units shall be constructed with materials similar as those of the principal building.
 - f. All accessory dwelling units shall not exceed the following development standards:
 - 1. Minimum side setback: 30 feet.

2. Minimum rear setback: 30 feet.
 3. Maximum building height: 48 feet.
 4. Maximum heated floor area: 800 square feet.
 5. No accessory dwelling unit shall be permitted in the required front setback area.
- (3) Carports/garages.
 - (4) For sale, for rent, or for lease signs in accordance with the sign regulations of this section.
 - (5) Parking of one unoccupied travel trailer, etc.
 - (6) Temporary storage pods are intended for a limited period of time and not for permanent storage.

(e) *R-1—Conditional uses.*

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| <i>Uses Subject to an Administrative Permit:</i> | <i>Subject to the requirements of Article IV—Administrative Permit Requirements:</i> |
| Administrative Permit Uses: | See sections 80-174 through 80-195 |
| (1) Festivals or events, outdoor/indoor. | See section 80-179. Allowable districts: All (less than 75 persons). |
| (2) Home Occupations. | See section 80-138. Allowable districts: All residential districts. |
| (3) Relocated residential structure. | See section 80-184. Allowable districts: R-1, R-2, R-3, R-4, R-CT, RM-12, RM-36. |
| (4) Swimming pool, private. | See section 80-190. Allowable districts: All. |
| (5) Temporary structures. | See section 80-192. Allowable districts: All, except emission inspection stations shall be permitted only in non-residential districts except AG. |
| (6) Utility substations (telephone, electric, or gas, etc.) | See section 80-194. Allowable districts: All. |
| <i>Uses Subject to a Use Permit:</i> | <i>Subject to the requirements of Article IV—Use Permit Requirements:</i> |
| Use Permit Uses: | See sections 80-196 through 80-239 |
| (1) Agricultural-related activities. | See section 80-197. Allowable districts: All. |
| (2) Amateur radio antenna to exceed the administrative height. | See section 80-198. Allowable districts: All. |
| (3) Antenna tower, and associated structure (radio, t.v., microwave broadcasting, etc.), to exceed the district height. | See section 80-200 (See same heading in section 174 for other non-residential districts). Allowable districts: All Residential districts. |
| (4) Bed and breakfast. | See section 80-201. Allowable districts: AG, R-1, R-2, R-3, R-4. |
| (5) Cemetery and/or mausoleum (human or pet). | See section 80-202. Allowable districts: All districts except AG. |
| (6) Child day care center. | See section 80-208. Allowable districts: AG, R-1, R-2, R-3, O&I and P&O. |
| (7) Festivals or events, outdoor/indoor. | Allowable districts: All (more than 75 persons). |
| (8) Group homes/shelters. | See sections 80-211 through 80-218; group homes located within subdivision area are required to |

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| | provide written approval from authorized homeowner association(s). |
| (9) Massage therapy establishments. | See section 80-238. Allowable districts: All. |
| (10) Places of worship. | See section 80-203. Allowable districts: All. |
| (11) Portable sawmills. | See section 80-202. Allowable districts: All. |
| (12) Recreational fields. | See section 80-227. Allowable districts: All. |
| (13) School, private or special. | See section 80-227. Allowable districts: All. |
| (14) Senior housing. | See section 80-233. Allowable districts: All except M-1, M-2. |
| (15) Stadium (off-site) associated with a private school. | See section 80-233. Allowable districts: All. |

- (f) *R-1—Development standards.* Unless otherwise provided in this chapter, uses permitted in the R-1 zoning district shall conform to the following standards:

| | |
|--|--------------------------------|
| Minimum front yard setback | 60 feet |
| Minimum front yard setback a. Along any street larger than a collector street | 70 feet |
| Minimum side yard setback a. Adjacent to interior line | 15 feet |
| Minimum rear yard setback | 40 feet |
| Minimum lot area | 1 acre (43,560 square feet) |
| Minimum lot width | 125 feet |

- (g) *R-1—Building height and form.*

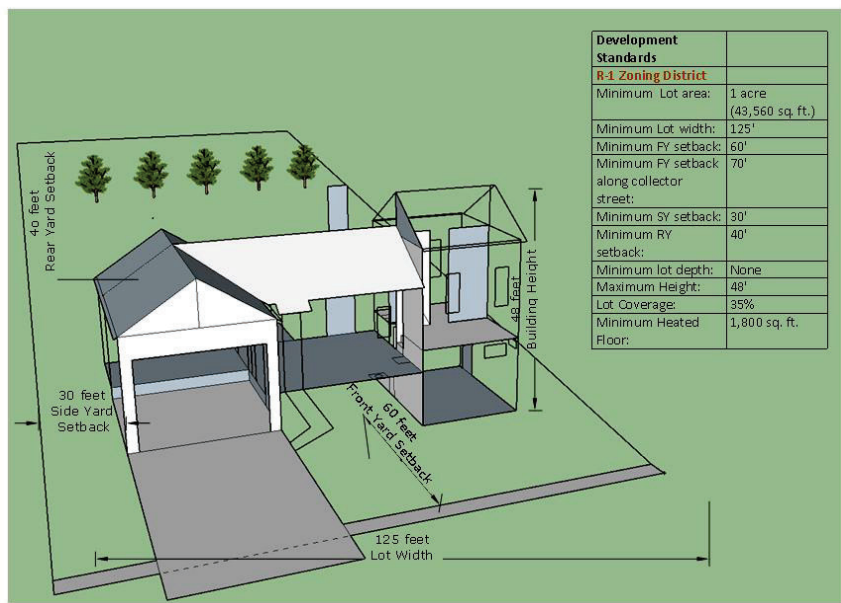
| | |
|--|------------|
| Maximum height | 48 feet |
| Maximum lot coverage | 35 percent |
| Minimum heated floor (minimum living area) | 1,800 feet |

- (h) *R-1—Design standards.* Unless otherwise provided in this chapter, uses permitted in the R-1 district shall conform to the following design standards:
- (1) Accessory structures may be located in the rear or side yards only but not be located within a setback. Habitable accessory structures must be constructed with materials similar as those of the principal structure.
 - (2) Off-street parking shall be provided as specified in article IX.
 - (3) Buffers shall be provided as specified in article X.

Figure 80-72a. R-1: Typical Lot Pattern Figure 80-72b. R-1: Typical Building Form



Figure 80-72c. R-1: Typical Building/Lot Configuration



(i) *R-1—Other regulations.* The headings below contain provisions applicable to uses allowed in the R-1 Single-family Residential Zoning District:

Chapter
Number

Fire CodesChapter 29
Manufactured and Mobile HomesChapter 38
Solid WasteChapter 47
Traffic and VehiclesChapter 56
Building RegulationsChapter 62
EnvironmentChapter 65
Soil Erosion and Sedimentation ControlChapter 65
Stormwater ManagementChapter 65
Stream Buffer ProtectionChapter 65
Flood Damage PreventionChapter 68
Land Development RegulationsChapter 71
LandscapingChapter 74
SubdivisionsChapter 77
ZoningChapter 80
Overlay DistrictsChapter 80
Home OccupationChapter 80
FencingChapter 80
Off-Street ParkingChapter 80
Use PermitsChapter 80
Non-ConformingChapter 80
AppealsChapter 80
SignsChapter 80
(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-73. R-2—Single-family Residential Zoning District.

- (a) *R-2—Intent.* The R-2 Single-family Residential Zoning District regulations set forth in this section are the "R-2" district regulations. Article IV should be consulted to determine uses and minimum standards for uses allowed by administrative permit or use permit. The R-2 district encompasses land devoted to medium density residential areas and closely related uses or as a use allowed by administrative permit or use permit.
- (b) *R-2—Use regulations.* Within the R-2 district, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by administrative permit or use permit shall be prohibited.
- (c) *R-2—Permitted uses.* Structures and land may be used for only the following purposes:
 - (1) Accessory dwelling unit.
 - (2) Communications/utilities.

- (3) Institutional uses: Public, private and parochial schools, religious facilities.
 - (4) Non-profit recreational uses: Public or private playgrounds, parks, golf courses and lakes.
 - (5) Single-family detached dwelling.
- (d) *R-2—Accessory uses and structures.*
- (1) Accessory uses and structures incidental to any permitted use.
 - (2) R-2 zoning district shall conform to the following standards:
 - a. Accessory dwelling units, where the total number of dwelling units on any parcel, including the accessory dwelling unit, does not exceed two.
 - b. No accessory dwelling unit shall be of a commercial nature.
 - c. No accessory dwelling unit shall be constructed until construction of the principal building has actually begun, and no accessory dwelling building shall be used or occupied until the principal building is completed and in use.
 - d. All residential development shall provide two spaces per dwelling unit, except accessory dwelling units as described in section 80-337, Off-street parking requirements.
 - e. All accessory dwelling units shall be constructed with materials similar as those of the principal building.
 - f. All accessory dwelling units shall not exceed the following development standards:
 - 1. Minimum side setback: 30 feet.
 - 2. Minimum rear setback: 30 feet.
 - 3. Maximum building height: 48 feet.
 - 4. Maximum heated floor area: 800 square feet.
 - 5. No accessory dwelling unit shall be permitted in the required front setback area.
 - (3) Carports/garages.
 - (4) For sale, for rent, or for lease signs in accordance with the sign regulations of this section.
 - (5) Temporary storage pods are intended for a limited period of time and not for permanent storage.

(e) *R-2—Conditional uses.*

| <i>Uses Subject to an Administrative Permit:</i> | <i>Subject to the requirements of Article IV—Administrative Permit Requirements:</i> |
|--|--|
| Administrative Permit Uses: | See sections 80-174 through 80-195 |
| (1) Festivals or events, outdoor/indoor. | Allowable districts: All (less than 75 persons). |
| (2) Golf course. | See section 80-203. Allowable districts: All. |
| (3) Home occupations. | See section 80-138. Allowable districts: All residential districts. |
| (4) Recreational court, private. | See section 80-182. Allowable districts: All districts except C-1, C-2. |
| (5) Relocated residential structure | See section 80-184. Allowable districts: R-1, R-2, R-3, R-4, R-CT, RM-12, RM-36. |

| | |
|---|--|
| (6) Revival tent. | See section 80-186. Allowable districts: AG, O&I, C-1, C-2 and P&O. In residential districts, a revival tent may be placed only on property occupied by an existing building used as a place of worship. |
| (7) Swimming pool, private. | See section 80-190. Allowable districts: All except C-1, C-2. |
| (8) Temporary classroom. | See section 80-190. Allowable districts: All. |
| (9) Temporary structures. | See section 80-193. Allowable districts: All, except emission inspection stations shall be permitted only in non-residential districts except AG. |
| (10) Utility substation (telephone, electric, or gas, etc.) | See section 80-194. Allowable districts: All. |
| Uses Subject to a Use Permit: | Subject to the requirements of Article IV—Use Permit Requirements: |
| Use Permit Uses | See Sections 80-196 through 80-239 |
| (1) Agricultural-related activities. | See section 80-197. Allowable districts: All. |
| (2) Amateur radio antenna to exceed the administrative height. | See section 80-198. Allowable districts: All. |
| (3) Antenna tower, and associated structure (radio, t.v., microwave broadcasting, etc.), to exceed the district height. | See section 80-174. Allowable districts: All. |
| (4) Bed and breakfast. | See section 80-201. Allowable districts: AG, R-1, R-2, R-3, R-4, C-1, C-2, DTMU. |
| (5) Cemetery and/or mausoleum (human or pet). | See section 80-202. Allowable districts: All districts except AG. |
| (6) Child day care center. | See section 80-208. Allowable districts: R-1, R-2, R-3, O&I and P&O. |
| (7) Convalescent center/nursing home/hospice. | See section 80-206. Allowable districts: AG, R-2, R-3, R-4, C-1, C-2, O&I, M-1. |
| (8) Event, special outdoor/indoor. | See section 80-179 and 80-210. Allowable districts: All (more than 75 persons). |
| (9) Group homes/shelters. | See sections 80-211 through 80-218; group homes located within subdivision area are required to provide written approval from authorized homeowner association(s). |
| (10) Massage therapy establishments. | See section 80-238. Allowable districts: All. |
| (11) Places of worship. | See section 80-203. Allowable districts: All. |
| (12) Portable sawmills. | See section 80-202. Allowable districts: All. |
| (13) Recreational fields. | See section 80-227. Allowable districts: All. |
| (15) School, private or special. | See section 80-227. Allowable districts: All. |
| (16) Senior housing. | See section 80-233. Allowable districts: All except M-1, M-2. |
| (17) Stadium (off-site) associated with a private school. | See section 80-233. Allowable districts: All. |

- (f) *R-2—Development standards.* Unless otherwise provided in this chapter, uses permitted in the R-2 zoning district shall conform to the following standards:

| | |
|---|--------------------------------|
| Minimum front yard setback | 50 feet |
| Minimum front yard setback a. Along any street larger than a collector street: | 60 feet |
| Minimum side yard setback | 25 feet |
| Minimum side yard setback a. Adjacent to interior line | 15 feet |
| Minimum rear yard setback | 35 feet |
| Minimum lot size | ½ acre (21,780 square feet) |
| Minimum lot width | 100 feet |

(g) *R-2—Building height and form.*

| | |
|--|-------------------|
| Maximum height | 48 feet |
| Maximum lot coverage | 35 percent |
| Minimum heated floor (minimum living area) | 1,800 square feet |

(h) *R-2—Design standards.* Unless otherwise provided in this chapter, uses permitted in the R-2 district shall conform to the following design standards:

- (1) Accessory structures may be located in the rear or side yards only but not be located within a setback. Habitable accessory structures must be constructed with materials similar as those of the principal structure.
- (2) Off-street parking shall be provided as specified in article IX.
- (3) Buffers shall be provided as specified in article X.

Figure 80-73a. R-2: Typical Lot Pattern

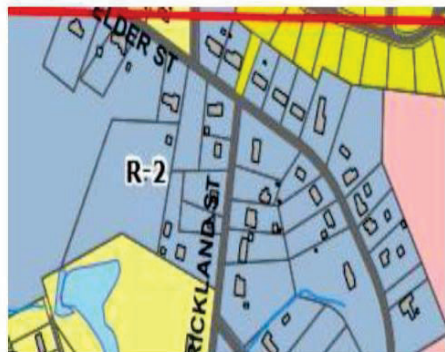
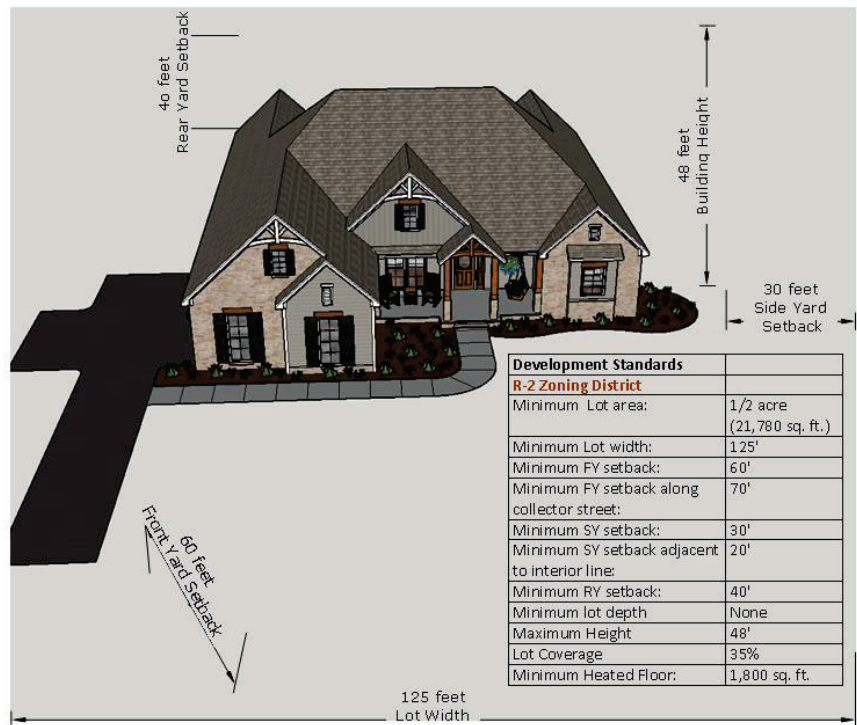


Figure 80-73b. R-2: Typical Building Form



Figure 80-73c. R-2: Typical Building/Lot Configuration



(i) *R-2—Other regulations.* The headings below contain provisions applicable to uses allowed in the R-2 Single-family Residential Zoning District:

*Chapter
Number*

- Fire CodesChapter 29
- Manufactured and Mobile HomesChapter 38
- Solid WasteChapter 47
- Traffic and VehiclesChapter 56
- Building RegulationsChapter 62
- EnvironmentChapter 65
- Soil Erosion and Sedimentation ControlChapter 65
- Stormwater ManagementChapter 65

Stream Buffer ProtectionChapter 65

Flood Damage PreventionChapter 68

Land Development RegulationsChapter 71

LandscapingChapter 74

SubdivisionsChapter 77

ZoningChapter 80

Overlay DistrictsChapter 80

Home OccupationChapter 80

FencingChapter 80

Off-Street ParkingChapter 80

Use PermitsChapter 80

Non-ConformingChapter 80

AppealsChapter 80

SignsChapter 80

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. No. 2014-10, § 1, 6-9-2014; Ord. No. 2017-05, § 1(Exh. A), 5-22-2017; Ord. of 10-28-2019(1))

Sec. 80-74. R-3—Single-family Residential Zoning District.

- (a) *R-3—Intent.* The R-3 Single-family Residential Zoning District regulations set forth in this section are the "R-3" district regulations. The R-3 Single-family Residential Zoning District is established to provide locations for land areas devoted to development of medium density single-family residential uses on relatively small lots. The district also provides for closely related uses. Article IV should be consulted to determine uses and minimum standards for uses allowed by administrative permit or use permit.
- (b) *R-3—Use regulations.* Within the R-3 district, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by administrative permit or use permit shall be prohibited.
- (c) *R-3—Permitted uses.* Structures and land may be used for only the following purposes:
 - (1) Accessory dwelling unit.
 - (2) Communications/utilities.
 - (3) Institutional uses: Public, private and parochial schools, religious facilities.
 - (4) Non-profit recreational uses: Public or private playgrounds, parks, golf courses and lakes.
 - (5) Single-family detached dwelling.
- (d) *R-3—Accessory uses and structures.*
 - 1. Accessory uses and structures incidental to any permitted use.
 - 2. Accessory dwelling units. R-3 zoning district shall conform to the following standards:

- a. Accessory dwelling units, where the total number of dwelling units on any parcel, including the accessory dwelling unit, does not exceed two.
 - b. No accessory dwelling unit shall be of a commercial nature.
 - c. No accessory dwelling unit shall be constructed until construction of the principal building has actually begun, and no accessory dwelling building shall be used or occupied until the principal building is completed and in use.
 - d. All residential development shall provide two spaces per dwelling unit, except accessory dwelling units as described in section 80-337, Off-street parking requirements.
 - e. All accessory dwelling units shall be constructed with materials similar as those of the principal building.
 - f. All accessory dwelling units shall not exceed the following development standards:
 1. Minimum side setback: 30 feet.
 2. Minimum rear setback: 30 feet.
 3. Maximum building height: 48 feet.
 4. Maximum heated floor area: 800 square feet.
 5. No accessory dwelling unit shall be permitted in the required front setback area.
- (3) Carports/garages.
- (4) For sale, for rent, or for lease signs in accordance with the sign regulations of this section.
- (5) Temporary storage pods are intended for a limited period of time and not for permanent storage.

(e) *R-3—Conditional uses.*

| <i>Uses Subject to an Administrative Permit:</i> | <i>Subject to the requirements of Article IV—Administrative Permit Requirements:</i> |
|--|---|
| Administrative Permit Uses: | See sections 80-174 through 80-195 |
| (1) Event, special indoor/outdoor. | See section 80-179. Allowable districts: All (less than 75 persons). |
| (2) Golf course. | See section 80-203. Allowable districts: All. |
| (3) Home Occupations. | See section 80-138. Allowable districts: All residential districts. |
| (4) Recreational court, private. | See section 80-182. Allowable districts: All districts except C-1, C-2. |
| (5) Relocated residential structure | See section 80-184. Allowable districts: R-1, R-2, R-3, R-4, R-CT, RM-12, RM-36. |
| (6) Revival tent. | See section 80-186. Allowable districts: AG, O&I, C-1, C-2, and P&O. In residential districts, a revival tent may be placed only on property occupied by an existing building used as a place of worship. |
| (7) Swimming pool, private. | See section 80-190. Allowable districts: All except C-1, C-2. |
| (8) Temporary classroom. | See section 80-190. Allowable districts: All. |

| | |
|---|--|
| (9) Temporary structures. | See section 80-193. Allowable districts: All, except emission inspection stations shall be permitted only in non-residential districts except AG. |
| (10) Utility substation (telephone, electric, or gas, etc.) | See section 80-194. Allowable districts: All. |
| Uses Subject to a Use Permit: | Subject to the requirements of Article IV—Use Permit Requirements: |
| Use Permit Uses | See Sections 80-196 through 80-239 |
| (1) Agricultural-related activities. | See section 80-197. Allowable districts: All. |
| (2) Amateur radio antenna to exceed the administrative height. | See section 80-198. Allowable districts: All. |
| (3) Antenna tower, and associated structure (radio, t.v., microwave broadcasting, etc.), to exceed the district height. | See section 80-174. Allowable districts: All. |
| (4) Bed and breakfast. | See section 80-201. Allowable districts: AG, R-1, R-2, R-3, R-4, C-1, C-2, DTMU. |
| (5) Cemetery and/or mausoleum (human or pet). | See section 80-202. Allowable districts: All districts except AG. |
| (6) Child day care center. | See section 80-208. Allowable districts: R-1, R-2, R-3, O&I and P&O. |
| (7) Community gardens. | See section 80-197. Allowable districts: All. |
| (8) Convalescent center/nursing home/hospice. | See section 80-206. Allowable districts: AG, R-2, R-3, R-4, C-1, C-2, O&I, and M-1. |
| (9) Event, special indoor/outdoor. | See section 80-179. Allowable districts: All (more than 75 persons). |
| (10) Group homes/shelters. | See sections 80-211 through 80-218; group homes located within subdivision area are required to provide written approval from authorized homeowner association(s). |
| (11) Massage therapy establishments. | See section 80-238. Allowable districts: All. |
| (12) Places of worship. | See section 80-203. Allowable districts: All. |
| (13) Portable sawmills. | See section 80-202. Allowable districts: All. |
| (14) Recreational fields. | See section 80-227. Allowable districts: All. |
| (15) School, private or special. | See section 80-227. Allowable districts: All. |
| (16) Senior housing. | See section 80-233. Allowable districts: All except M-1, M-2. |
| (17) Stadium (off-site) associated with a private school. | See section 80-233. Allowable districts: All. |

- (f) *R-3—Development standards.* Unless otherwise provided in this chapter, uses permitted in the R-3 zoning district shall conform to the following standards:

| | |
|--|---------|
| Minimum front yard setback | 35 feet |
| Minimum front yard setback a. Along any street larger than a collector street | 45 feet |
| Minimum side yard setback a. Adjacent to interior line | 10 feet |
| Minimum rear yard setback | 30 feet |

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| | |
|--|--------------------------------|
| Minimum lot size | ½ acre (14,520 square feet) |
| Minimum lot width | 90 feet |
| Maximum height | 48 feet |
| Maximum lot coverage | 45 percent |
| Minimum heated floor (minimum living area) | 1,600 feet |

- (g) *R-3—Design standards.* Unless otherwise provided in this chapter, uses permitted in the R-3 district shall conform to the following design standards:
- (1) Accessory structures may be located in the rear or side yards only but not be located within a setback. Habitable accessory structures must be constructed with materials similar as those of the principal structure.
 - (2) Off-street parking shall be provided as specified in article IX.
 - (3) Buffers shall be provided as specified in article X.

Figure 80-74a. R-3: Typical Lot Pattern

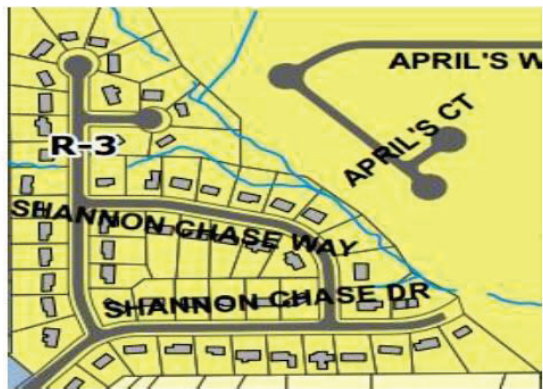
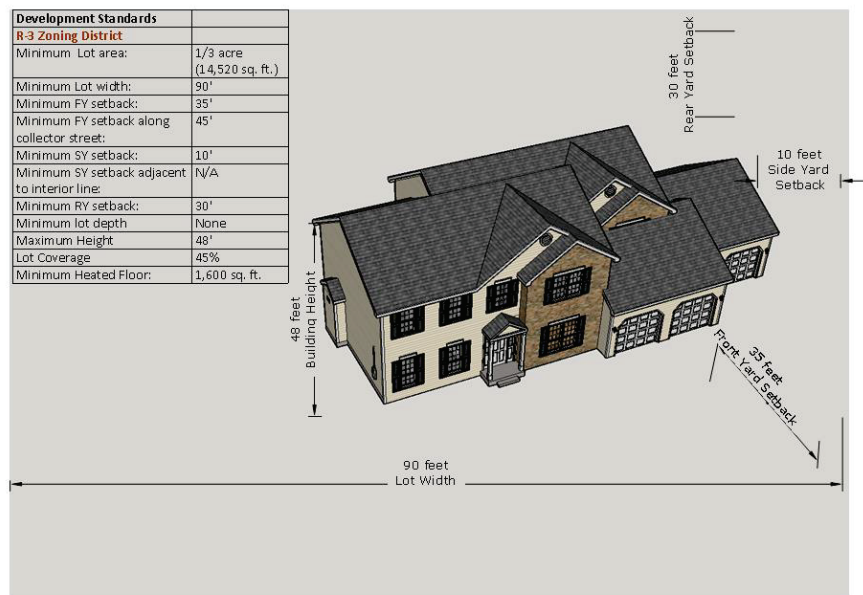


Figure 80-74b. R-3: Typical Building Form



Figure 80-74c. R-3: Typical Building/Lot Configuration



(h) *R-3—Other regulations.* The headings below contain provisions applicable to uses allowed in the R-3 Single-family Residential Zoning District:

*Chapter
Number*

Fire CodesChapter 29

Manufactured and Mobile HomesChapter 38

Solid WasteChapter 47

Traffic and VehiclesChapter 56

Building RegulationsChapter 62

EnvironmentChapter 65

Soil Erosion and Sedimentation ControlChapter 65

Stormwater ManagementChapter 65

Stream Buffer ProtectionChapter 65

Flood Damage PreventionChapter 68

Land Development RegulationsChapter 71

LandscapingChapter 74

SubdivisionsChapter 77

ZoningChapter 80

Overlay DistrictsChapter 80

Home OccupationChapter 80

FencingChapter 80

Off-Street ParkingChapter 80

Use PermitsChapter 80

Non-ConformingChapter 80

AppealsChapter 80

SignsChapter 80

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. No. 2013-19, § 1(Exh. A), 9-9-2013; Ord. of 10-28-2019(1))

Sec. 80-75. R-4—Single-family Residential Zoning District.

- (a) *R-4—Intent.* Regulations set forth in this section are the R-4 Single-family Residential Zoning District regulations. Article IV should be consulted to determine uses and minimum standards for uses allowed by administrative permit or use permit. The R-4 district is intended to provide land areas devoted to high density residential uses on small lots. The district also provides for closely related uses. Land areas zoned R-4 are further intended to provide a transition between low- and high-density dwelling areas or between low density dwelling areas and non-residential areas.
- (b) *R-4—Use regulations.* Within the R-4 district, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by administrative permit or use permit shall be prohibited.
- (c) *R-4—Permitted uses.* Structures and land may be used for only the following purposes:
 - (1) Accessory dwelling unit.
 - (2) Communications/utilities.
 - (3) Institutional uses: Public, private and parochial schools, religious facilities.
 - (4) Non-profit recreational uses: Public or private playgrounds, parks, golf courses and lakes.
 - (5) Single-family **detached** dwelling.
- (d) *R-4—Accessory uses and structures.*
 - (1) Accessory uses and structures incidental to any permitted use.
 - (2) Carports/garages.
 - (3) For sale, for rent, or for lease signs in accordance with the sign regulations of this section.
 - (4) Temporary storage pods are intended for a limited period of time and not for permanent storage.
- (e) *R-4—Conditional uses.*

| | |
|---|--|
| Uses Subject to an Administrative Permit: | Subject to the requirements of Article IV—Administrative Permit Requirements: |
| Administrative Permit Uses: | See sections 80-174 through 80-195 |
| (1) Event, special indoor/outdoor. | Allowable districts: All (less than 75 persons). |
| (2) Golf course. | See section 80-180. Allowable districts: All. |
| (3) Home occupations. | See section 80-138. Allowable districts: All residential districts. |
| (4) Recreational court, private. | See section 80-182. Allowable districts: All except C-1, C-2. |
| (5) Relocated residential structure. | See section 80-183. Allowable districts: R-1, R-2, R-3, R-4, R-CT, RM 12, RM-36. |
| (6) Swimming pool, private. | See section 80-190. Allowable districts: All except C-1, C-2. |
| (7) Temporary classroom. | See section 80-192. Allowable districts: All. |
| (8) Temporary structures. | See section 80-193. Allowable districts: All except emission inspection stations shall be permitted only in non-residential districts except AG. |
| (9) Utility substations (telephone, electric, or gas, etc.) | See section 80-194. Allowable districts: All. |
| Uses Subject to a Use Permit: | Subject to the requirements of Article IV—Use Permit Requirements: |
| Use Permit Uses | See Sections 80-196 through 80-239 |
| (1) Agricultural-related activities. | See section 80-197. Allowable districts: All. |
| (2) Amateur radio antenna to exceed the administrative height. | See section 80-198. Allowable districts: All. |
| (3) Antenna tower, and associated structure (radio, t.v., microwave broadcasting, etc.), to exceed the district height. | See section 80-200. Allowable districts: Residential districts, AG (see same heading in section 80-174, for other non-residential districts). |
| (5) Cemetery and/or mausoleum (human or pet). | See section 80-202. Allowable districts: All except AG. |
| (6) Convalescent center/nursing home/hospice. | See section 80-206. Allowable districts: R-2, AG, R-3, R-4, C-1, C-2, O&I, M-1. |
| (8) Event, special indoor/outdoor. | See sections 80-179. Allowable districts: All (more than 75 persons). |
| (9) Group homes/shelters. | See sections 80-211 through 80-218; group homes located within subdivision area are required to provide written approval from authorized homeowner association(s). |
| (10) Massage therapy establishments. | See section 80-238. Allowable districts: All. |
| (11) Places of worship. | See section 80-203. Allowable districts: All. |
| (12) Portable sawmills. | See section 80-225. Allowable districts: All. |
| (13) Recreational fields. | See section 80-225. Allowable districts: All. |
| (14) School, private or special. | See section 80-230. Allowable districts: All. |
| (15) Senior housing. | See section 80-233. Allowable districts: All except M-1, M-2. |
| (16) Stadium (off-site) associated with a private school. | See section 80-235. Allowable districts: All. |

- (f) *R-4—Development standards.* Unless otherwise provided in this chapter, uses permitted in the R-4 zoning district shall conform to the following standards:

| | |
|--|--------------------------------|
| Minimum front yard setback | 25 feet |
| Minimum front yard setback a. Along any street larger than a collector street | 35 feet |
| Minimum side yard setback a. Adjacent to interior line | 10 feet |
| Minimum rear yard setback | 20 feet |
| Minimum lot area | ¼ acre (10,890 square feet) |
| Minimum lot width | 75 feet |

- (g) *R-4—Building height and form.*

| | |
|--|------------|
| Maximum height | 48 feet |
| Maximum lot coverage | 55 percent |
| Minimum heated floor (minimum living area) | 1,400 feet |

- (h) *R-4—Design standards.* Unless otherwise provided in this chapter, uses permitted in the R-4 district shall conform to the following design standards:
- (1) Accessory structures may be located in the rear or side yards only but not be located within a setback. Habitable accessory structures must be constructed with materials similar as those of the principal structure.
 - (2) Off-street parking shall be provided as specified in article IX.
 - (3) Buffers shall be provided as specified in article X.

Figure 80-75a. R-4: Typical Lot Pattern

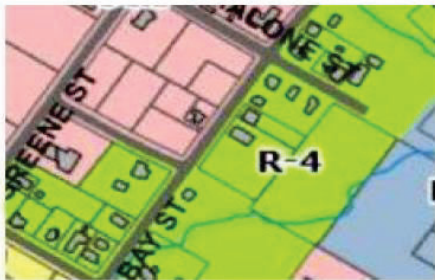


Figure 80-75b. R-4: Typical Building Form

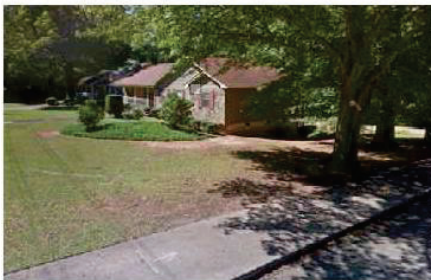
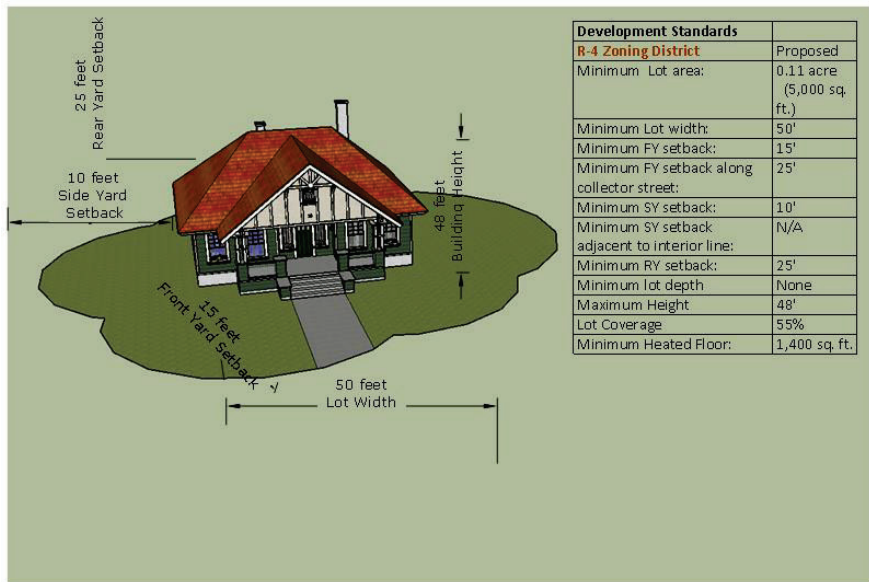


Figure 80-75c. R-4: Typical Building/Lot Configuration



(i) *R-4—Other regulations.* The headings below contain provisions applicable to uses allowed in the R-4 Single-family Residential Zoning District:

*Chapter
Number*

- Fire CodesChapter 29
- Manufactured and Mobile HomesChapter 38
- Solid WasteChapter 47
- Traffic and VehiclesChapter 56
- Building RegulationsChapter 62
- EnvironmentChapter 65
- Soil Erosion and Sedimentation ControlChapter 65
- Stormwater ManagementChapter 65
- Stream Buffer ProtectionChapter 65
- Flood Damage PreventionChapter 68
- Land Development RegulationsChapter 71
- LandscapingChapter 74
- SubdivisionsChapter 77

ZoningChapter 80

Overlay DistrictsChapter 80

Home OccupationChapter 80

FencingChapter 80

Off-Street ParkingChapter 80

Use PermitsChapter 80

Non-ConformingChapter 80

AppealsChapter 80

SignsChapter 80

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. No. 2013-20, § 1(Exh. A), 9-9-2013; Ord. No. 2013-20, § 1(Exh. A), 9-9-2013; Ord. No. 2017-05, § 1(Exh. A), 5-22-2017; Ord. of 10-28-2019(1) ; Ord. No. 2022-235, § 1, 3-28-2022)

Sec. 80-76. Reserved.

Editor's note(s)—An ordinance adopted Oct. 28, 2019, repealed § 80-76, which pertained to the DP-6 (two-family) residential district, and derived from Ord. No. 2012-04, § 1(Exh. A), June 11, 2012.

Sec. 80-77. Reserved.

Editor's note(s)—An ordinance adopted Oct. 28, 2019, repealed § 80-77, which pertained to the RM-4 Multifamily Residential District, and derived from Ord. No. 2012-04, § 1(Exh. A), adopted June 11, 2012.

Sec. 80-78. Reserved.

Editor's note(s)—An ordinance adopted Oct. 28, 2019, repealed § 80-78, which pertained to the RM-8 Multifamily Residential District, and derived from Ord. No. 2012-04, § 1(Exh. A), adopted June 11, 2012.

Sec. 80-79. R-CT—Residential Condominium/Townhouse District.

- (a) *R-CT—Intent.* Regulations set forth in this section are the R-CT Residential Condominium/Townhouse District regulations. Article IV should be consulted to determine uses and minimum standards for uses allowed by administrative permit or use permit. The R-CT district is intended to promote cluster type residential development areas that are consistent with medium density, single-family residential districts. The district also provides for closely related uses.
- (b) *R-CT—Use regulations.* Within the R-CT district, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by administrative permit or use permit shall be prohibited.
- (c) *R-CT—Permitted uses.* Structures and land may be used for only the following purposes:
 - (1) Condominiums or townhouses.
 - (2) Family day care homes.
 - (3) Single-family detached dwelling.

(4) Single-family attached dwelling.

(d) *R-CT—Accessory uses and structures.*

- (1) Accessory uses and structures incidental to any permitted use.
- (2) For sale, for rent, or for lease signs in accordance with the sign regulations of this section.
- (3) Temporary storage pods are intended for a limited period of time and not for permanent storage.

(e) *R-CT—Conditional uses.*

| | |
|---|--|
| <i>Uses Subject to an Administrative Permit:</i> | <i>Subject to the requirements of Article IV—Administrative Permit Requirements:</i> |
| Administrative Permit Uses: | See sections 80-174 through 80-195 |
| (1) Family day care homes. | See section 80-224. Prohibited in multi-family districts. |
| (2) Golf course. | See section 80-180. Allowable districts: All. |
| (3) Home occupations. | See section 80-138. Allowable districts: All residential districts. |
| (4) Recreational court, private. | See section 80-180. Allowable districts: All except C-1, C-2. |
| (5) Relocated residential structure. | See section 80-184. Allowable districts: R-1, R-2, R-3, R-4, R-CT, RM-12, RM-36. |
| (6) Swimming pool, private. | See section 80-190. Allowable districts: All except C-1, C-2. |
| (7) Temporary classroom. | See section 80-192. Allowable districts: All. |
| (8) Temporary structures. | See section 80-193. Allowable districts: All except emission inspection stations shall be permitted only in non-residential districts except AG. |
| (9) Utility substations (telephone, electric, or gas, etc.) | See section 80-194. Allowable districts: All. |
| <i>Uses Subject to a Use Permit:</i> | <i>Subject to the requirements of Article IV—Use Permit Requirements:</i> |
| Use Permit Uses | See Sections 80-196 through 80-239 |
| (1) Agricultural-related activities. | See section 80-197. Allowable districts: All. |
| (2) Amateur radio antenna to exceed the administrative height. | See section 80-198. Allowable districts: All. |
| (3) Antenna tower, and associated structure (radio, t.v., microwave broadcasting, etc.), to exceed the district height. | See section 80-200. Allowable districts: Residential districts, AG (see same heading in section 80-174, for other non-residential districts). |
| (4) Massage therapy establishments. | See section 80-238. Allowable districts: All. |
| (5) Places of worship. | See section 80-203. Allowable districts: All. |
| (6) Portable sawmills. | See section 80-225. Allowable districts: All. |
| (7) Recreational fields. | See section 80-225. Allowable districts: All. |
| (8) School, private or special. | See section 80-230. Allowable districts: All. |
| (9) Senior housing. | See section 80-233. Allowable districts: All except M-1, M-2. |
| (10) Stadium (off-site) associated with a private school. | See section 80-235. Allowable districts: All. |

- (f) *R-CT—Development standards.* Unless otherwise provided in this chapter, uses permitted in the R-CT zoning district shall conform to the following standards:

| Minimum standards attached unit: | |
|---|---|
| Minimum heated floor area per dwelling unit with a one-car garage: | 1,200 square feet |
| Minimum front yard setback | 20 feet |
| (1) The required front yard on any street larger than a collector street. | 45 feet |
| (2) All yard areas are increased by 10 feet when abutting any single-family district. | |
| Minimum side yard setback | 20 feet |
| (1) Each group of dwellings shall be separated by a minimum distance of 20 feet at the side yard; otherwise, there is no minimum side yard requirement. | |
| Minimum rear yard setback | 18 feet |
| Minimum lot area | 1 acre (43,560 square feet) |
| Minimum lot depth | 80 feet |
| Minimum lot width | 30 feet |
| Minimum distance between buildings: | 25 feet |
| Minimum standards detached unit (one building per lot): | |
| Minimum heated floor area per dwelling unit with a one-car garage: | 1,200 square feet |
| a. Minimum front yard setback | 20 feet |
| b. Minimum side yard setback | 5 feet adjacent to interior lot line, except that up to a 5-foot encroachment and maintenance easement may be provided on adjacent parcels, in combination with or in lieu of a side yard, such that a minimum building separation of 10 feet is maintained 10 feet adjacent to street |
| c. Minimum rear yard setback | 10 feet |
| d. Minimum lot area | 3,000 square feet |
| Minimum accessory structure requirements | Accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard |

- (g) *R-CT—Building height and form.*

| | |
|----------------|---------|
| Maximum height | 48 feet |
|----------------|---------|

- (h) *R-CT—Design standards.*

- (1) No building or structure shall contain more than eight dwelling units.
- (2) The façade of each dwelling unit shall be a combination of wood, brick, stone or masonry stucco on concrete (EIFS prohibited). The brick, or stone materials shall comprise not less than 25 percent of the

exterior finishes of the façades of buildings. The architectural design shall be subject to approval by the director of planning.

- (3) No fences or walls shall be constructed in the front yard of a townhouse unit. Fences or walls may be constructed in the rear yards only, those fences or walls must all conform to a consistent design throughout the same project, and that design must be approved by the director of planning.
- (4) All such developments shall provide a minimum five-foot sidewalk along both sides of all internal streets, sodded front yards, pedestrian scale street lighting and one canopy tree for each 50 feet of street frontage.
- (5) Site plans must reserve a minimum of 20 percent of the total lot area as improved open space, and at least ten percent of the total open space must be outside of a required stormwater management area.
- (6) Off-street parking shall be provided as specified in article IX.
- (7) Buffers shall be provided as specified in article X.
- (8) Property maintenance shall be accomplished through a condominium of townhouse association in which membership shall be mandatory. Such maintenance shall encompass all individual lots and all common areas that are not contained within the boundaries of individual lots. Such association by-laws shall be subject to approval by the city administrator and shall be recorded with covenants that shall be subject to approval by the city administrator.

Figure 80-79a. R-CT: Typical Lot Pattern

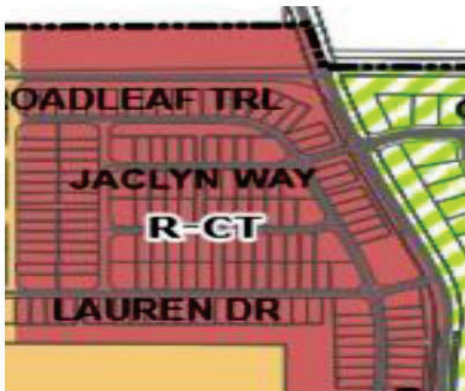
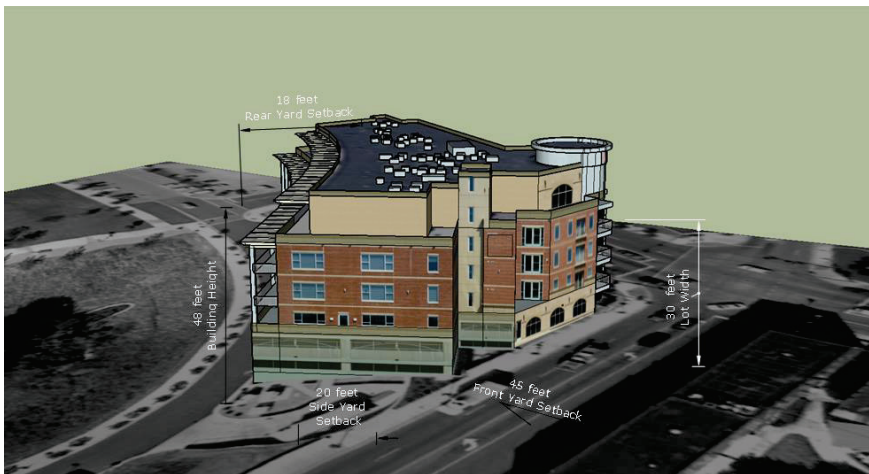


Figure 80-79b. R-CT: Typical Building Form



Figure 80-79c. R-CT: Typical Building/Lot Configuration



- (i) *R-CT—Other regulations.* The headings below may contain provisions applicable to the R-CT Residential Condominium/Townhouse District:

*Chapter
Number*

Fire CodesChapter 29

Manufactured and Mobile HomesChapter 38

Solid WasteChapter 47
Traffic and VehiclesChapter 56
Building RegulationsChapter 62
EnvironmentChapter 65
Soil Erosion and Sedimentation ControlChapter 65
Stormwater ManagementChapter 65
Stream Buffer ProtectionChapter 65
Flood Damage PreventionChapter 68
Land Development RegulationsChapter 71
LandscapingChapter 74
SubdivisionsChapter 77
ZoningChapter 80
Overlay DistrictsChapter 80
Home OccupationChapter 80
FencingChapter 80
Off-Street ParkingChapter 80
Use PermitsChapter 80
Non-ConformingChapter 80
AppealsChapter 80
SignsChapter 80
(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. No. 2015-10, § 1(Exh. A), 7-27-2015; Ord. of 10-28-2019(1))

Sec. 80-79.1. RM-12—Multi-family Residential Zoning District.

- (a) *RM-12—Intent.* Regulations set forth in this section are the RM-12 Multi-family Residential Zoning District regulations. Article IV should be consulted to determine uses and minimum standards for uses allowed by administrative permit or use permit. The RM-12 district is intended to provide land areas devoted to medium density residential uses on small lots. The district also provides for closely related uses. Land areas zoned RM-12 are further intended to provide a transition between low- and high-density dwelling areas or between low density dwelling areas and non-residential areas.
- (b) *RM-12—Use regulations.* Within the RM-12 district, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by administrative permit or use permit shall be prohibited.
- (c) *RM-12—Permitted uses.* Structures and land may be used for only the following purposes:
 - (1) Two-family dwellings.
 - (2) Multi-family dwellings.

- (3) Senior housing.

(d) *RM-12—Accessory uses and structures.*

- (1) Accessory uses and structures incidental to any permitted use.
- (2) Garages.
- (3) For sale, for rent, or for lease signs in accordance with the sign regulations of this section.
- (4) Temporary storage pods are intended for a limited period of time and not for permanent storage.

(d) *RM-12—Conditional uses.*

| | |
|--|---|
| Uses Subject to an Administrative Permit: | Subject to the requirements of Article IV—Administrative Permit Requirements: |
| Administrative Permit Uses: | See sections 80-174 through 80-195 |
| (1) Golf course. | See section 80-180. Allowable districts: All. |
| (2) Home occupations. | See section 80-138. Allowable districts: All residential districts. |
| (3) Recreational court, private. | See section 80-180. Allowable districts: All except C-1, C-2. |
| (4) Relocated residential structure | See section 80-183. Allowable districts: All except C-1, C-2. Allowable districts: R-1, R-2, R-3, R-4, R-CT, RM-12, R-36. |
| (5) Temporary structures. | See section 80-193. Allowable districts: All except emission inspection stations shall be permitted only in non-residential district except AG. |
| (6) Utility substations (telephone, electric, or gas, etc.). | See section 80-194. Allowable districts: All. |
| Uses Subject to a Use Permit: | Subject to the requirements of Article IV—Use Permit Requirements: |
| Use Permit Uses | See Sections 80-196 through 80-239 |
| (1) Agricultural-related activities. | See section 80-197. Allowable districts: All. |
| (2) Amateur radio antenna to exceed the administrative height. | See section 80-198. Allowable districts: All. |
| (3) Cemetery and/or mausoleum (human or pet). | See section 80-202. Allowable districts: All except AG. |
| (4) Massage therapy establishments. | See section 80-203. Allowable districts: Within 2,000 feet of interstate highway right-of-way; within any zoning category other than general commercial (C-2) and DTMU. |
| (5) Places of worship. | See section 80-203. Allowable districts: All. |
| (6) Portable sawmills. | See section 80-225. Allowable districts: All. |
| (7) Recreational fields. | See section 80-227. Allowable districts: All. |
| (8) School, private or special. | See section 80-230. Allowable districts: All. |
| (9) Senior housing. | See section 80-233. Allowable districts: All except M-1, M-2. |
| (10) Stadium (off-site) associated with a private school. | See section 80-235. Allowable districts: All. |

- (e) *RM-12—Development standards.* Unless otherwise provided in this chapter, uses permitted in the RM-12 zoning district shall conform to the following standards:

| | |
|--|--------------------------------|
| Minimum front yard setback | 15 feet |
| Minimum front yard setback | |
| a. Along any street larger than a collector street | 25 feet |
| Minimum side yard setback | |
| a. Adjacent to interior lot line | 15 feet |
| Minimum rear yard setback | 25 feet |
| Minimum lot area | 1 acre (43,560 square feet) |
| Minimum land area per (building) dwelling unit | 1,200 square feet |
| Minimum lot width | 75 feet |

- (f) *RM-12—Building height and form.*

| | |
|---|-------------------|
| Maximum height | 48 feet |
| Maximum lot coverage | 65 percent |
| Minimum heated floor (minimum living area): | |
| (1) Multi-family dwelling: | |
| a. One-bedroom unit | 800 square feet |
| b. Two-bedroom unit | 1,000 square feet |
| c. Three-bedroom unit | 1,200 square feet |
| (2) Two-family dwelling | 1,000 square feet |

- (g) *RM-12—Design standards.* Unless otherwise provided in this chapter, uses permitted in the RM-12 district shall conform to the following design standards:
- (1) Accessory structures may be located in the rear or side yards only but not be located within a setback. Habitable accessory structures must be constructed with materials similar as those of the principal structure.
 - (2) Off-street parking shall be provided as specified in article IX.
 - (3) Buffers shall be provided as specified in article X.

Figure 80-79.1a. RM-12: Typical Lot Pattern



Figure 80-79.1b. RM-12: Typical Building Form



Figure 80-79.1c. RM-12: Typical Building/Lot Configuration



(h) *RM-12—Other regulations.* The headings below contain provisions applicable to the RM-12 Multi-family Residential Zoning District:

*Chapter
Number*

Fire CodesChapter 29
Manufactured and Mobile HomesChapter 38
Solid WasteChapter 47
Traffic and VehiclesChapter 56
Building RegulationsChapter 62
EnvironmentChapter 65
Soil Erosion and Sedimentation ControlChapter 65
Stormwater ManagementChapter 65
Stream Buffer ProtectionChapter 65
Flood Damage PreventionChapter 68
Land Development RegulationsChapter 71
LandscapingChapter 74
SubdivisionsChapter 77
ZoningChapter 80
Overlay DistrictsChapter 80
Home OccupationChapter 80
FencingChapter 80
Off-Street ParkingChapter 80
Use PermitsChapter 80
Non-ConformingChapter 80
AppealsChapter 80
SignsChapter 80
(Ord. of 10-28-2019(1))

Sec. 80-79.2. RM-36—Multi-family Residential Zoning District.

- (a) *RM-36—Intent.* Regulations set forth in this section are the RM-36 Multi-family Residential Zoning District regulations. Article IV should be consulted to determine uses and minimum standards for uses allowed by administrative permit or use permit. The RM-36 district is intended to promote high density residential development areas devoted for rental units in order to provide a wide range of housing options. The district also provides for closely related uses.
- (b) *RM-36—Use regulations.* Within the RM-36 district, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by administrative permit or use permit shall be prohibited.
- (c) *RM-36—Permitted uses.* Structures and land may be used for only the following purposes:
 - (1) Two-family dwellings.

(2) Multi-family dwellings.

(3) Senior housing.

(d) *RM-36—Accessory uses and structures.*

(1) Accessory uses and structures incidental to any permitted use.

(2) Garages.

(3) For sale, for rent, or for lease signs in accordance with the sign regulations of this section.

(4) Temporary storage pods are intended for a limited period of time and not for permanent storage.

(e) *RM-36—Conditional uses.*

| | |
|--|---|
| Uses Subject to an Administrative Permit: | Subject to the requirements of Article IV—Administrative Permit Requirements: |
| Administrative Permit Uses: | See sections 80-174 through 80-195 |
| (1) Golf course. | See section 80-180. Allowable districts: All. |
| (2) Home occupations. | See section 80-138. Allowable districts: All residential districts. |
| (3) Recreational court, private. | See section 80-182. Allowable districts: All. |
| (4) Relocated residential structure | See section 80-183. Allowable districts: All. |
| Uses Subject to a Use Permit: | Subject to the requirements of Article IV—Use Permit Requirements: |
| Use Permit Uses | See Sections 80-196 through 80-239 |
| (1) Agricultural-related activities. | See section 80-197. Allowable districts: All. |
| (2) Amateur radio antenna to exceed the administrative height. | See section 80-198. Allowable districts: All. |
| (3) Cemetery and/or mausoleum (human or pet). | See section 80-202. Allowable districts: All except AG. |
| (4) Massage therapy establishments. | See section 80-203. Allowable districts: Within 2,000 feet of interstate highway right-of-way; within any zoning category other than general commercial (C-2) and DTMU. |
| (5) Places of worship. | See section 80-203. Allowable districts: All. |
| (6) Portable sawmills. | See section 80-225. Allowable districts: All. |
| (7) Recreational fields. | See section 80-227. Allowable districts: All. |
| (8) School, private or special. | See section 80-230. Allowable districts: All. |
| (9) Senior housing. | See section 80-233. Allowable districts: All except M-1, M-2. |
| (10) Stadium (off-site) associated with a private school. | See section 80-235. Allowable districts: All. |
| (11) Swimming pool, private. | See section 80-190. Allowable districts: All except C-1, C-2. |
| (12) Temporary classroom. | See section 80-192. Allowable districts: All. |
| (13) Utility substations (telephone, electric, or gas, etc.) | See section 80-194. Allowable districts: All. |

(f) *RM-36—Development standards.* Unless otherwise provided in this chapter, uses permitted in the RM-36 zoning district shall conform to the following standards:

| | |
|--|--------------------------------|
| Minimum front yard setback: | 35 feet |
| a. Along any street larger than a collector street | 45 feet |
| b. All yards are increased by 10 feet when abutting any single-family district. | |
| Minimum side yard setback: | |
| a. All yard areas are increased by 10 feet when abutting any single-family district. | 10 feet |
| Minimum rear yard setback: | |
| a. All yards are increased by 10 feet when abutting any single-family district. | 15 feet |
| Minimum lot area | 1 acre (43,560 square feet) |
| Minimum land area per (building) dwelling unit | 1,200 square feet |
| Minimum lot width | 75 feet |

(g) *RM-36—Building height and form.*

| | |
|--|-------------------|
| Maximum height | 48 feet |
| Maximum lot coverage | 65 percent |
| Minimum heated floor (minimum living area) | 1,200 feet |
| Minimum distance between buildings | 20 feet |
| Minimum heated floor area: | |
| a. One-bedroom unit | 600 square feet |
| b. Two-bedroom unit | 800 square feet |
| c. Three-bedroom unit | 1,000 square feet |

(h) *RM-36—Design standards.* Unless otherwise provided in this chapter, uses permitted in the RM-36 district shall conform to the following design standards:

- (1) Minimum accessory structure requirements. Accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard.
- (2) Site plans must reserve a minimum of 30 percent of the total lot area as improved open space, independent of any stormwater management structures or required yards. This area may be reduced by the provisions of section 80-372, District buffer standards.
- (3) The developer may in lieu of an on-site reservation of open space, contribute to an escrow account earmarked for acquisition of public open space to be located in the vicinity of the site.
- (4) Off-street parking shall be provided as specified in article IX.
- (5) Buffers shall be provided as specified in article X.

Figure 80-79.2a. RM-36: Typical Lot Pattern

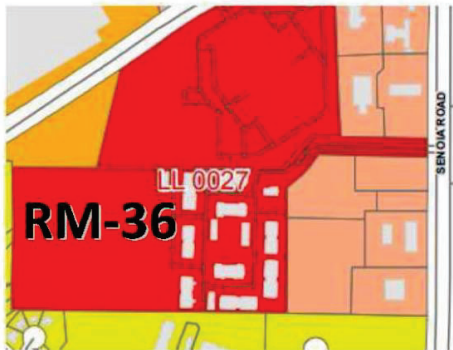


Figure 80-79.2b. RM-36: Typical Building Form



Figure 80-79.2c. RM-36: Typical Building/Lot Configuration



- (i) *RM-36—Other regulations.* The headings below contain provisions applicable to the RM-36 Multi-family Residential Zoning District:

*Chapter
Number*

Fire CodesChapter 29

Manufactured and Mobile HomesChapter 38

Solid WasteChapter 47
Traffic and VehiclesChapter 56
Building RegulationsChapter 62
EnvironmentChapter 65
Soil Erosion and Sedimentation ControlChapter 65
Stormwater ManagementChapter 65
Stream Buffer ProtectionChapter 65
Flood Damage PreventionChapter 68
Land Development RegulationsChapter 71
LandscapingChapter 74
SubdivisionsChapter 77
ZoningChapter 80
Overlay DistrictsChapter 80
Home OccupationChapter 80
FencingChapter 80
Off-Street ParkingChapter 80
Use PermitsChapter 80
Non-ConformingChapter 80
AppealsChapter 80
SignsChapter 80
(Ord. No. Z2013-03, § 1(exh. A), 4-22-2013; Ord. of 10-28-2019(1))

Sec. 80-80. O&I—Office Institutional Zoning District.

- (a) *O&I—Intent.* Regulations set forth in this section are the O&I Office Institutional Zoning District regulations. Article IV should be consulted to determine uses and minimum standards for uses allowed by administrative permit or use permit. The O&I district is to provide for the compatible transition from commercial and residential development to limited office and institutional development at selected locations within the city.
- (b) *O&I—Use regulations.* Within the O&I district, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by administrative permit or use permit shall be prohibited.
- (c) *O&I—Permitted uses.* Structures and land may be used for only the following purposes:
 - (1) Banking and financial institutions.
 - (2) Child day care center (small, medium and large), subject to a use permit.
 - (3) Churches and other places of worship, subject to a use permit.
 - (4) Educational services.

- (5) Funeral services and homes.
- (6) Group residence (small, medium, large), subject to a use permit.
- (7) Group residence/shelter (small, medium, large), subject to a use permit.
- (8) Medical/health services.
- (9) Planned office and institutional parks.
- (10) Professional and business offices.

(d) *O&I—Accessory uses and structures.*

- (1) Accessory uses and structures incidental to any permitted use.
- (2) Minimum accessory structure requirements: Accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard.
- (3) For sale, for rent, or for lease signs in accordance with the sign regulations of this section.
- (4) Temporary storage pods are intended for a limited period of time and not for permanent storage.

(e) *O&I—Conditional uses.*

| <i>Uses Subject to an Administrative Permit:</i> | <i>Subject to the requirements of Article IV—Administrative Permit Requirements:</i> |
|--|---|
| Administrative Permit Uses: | See sections 80-174 through 80-195 |
| (1) Amateur radio antenna to exceed the district height. | See section 80-176. Allowable districts: All. |
| (2) Antenna, tower, and associated structures (radio broadcasting, t.v. broadcasting, microwave broadcasting, etc.), to exceed the district height. | See section 80-177. Allowable districts: O&I, C-2, DTMU, M-1 and M-2 (see use permit, for use in residential and the AG district). |
| (3) Club. | See section 80-178. Allowable districts: O&I, C-1, C-2. |
| (4) Event, special indoor/outdoor (less than 75 persons). | See section 80-179. Allowable districts: O&I, C-1, C-2, DTMU, M-1, M-2, P&O, AG and residential districts in conjunction with an institutional use, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like. |
| (5) Farmers market. | See section 80-179.1. Allowable districts: O&I, DTMU, C-1, C-2, M-1, M-2 and P&O. Allowable in AG and residentially zoned districts only when the property is occupied by a church, school, lodge/retreat, farm, plant nursery, etc., existing as a conforming or a lawful non-conforming nonresidential use. The issuance of this permit does not constitute an expansion or extension of a nonconforming use. |
| (6) Golf course. | See section 80-180. Allowable districts: All. |
| (7) Home occupations. | See section 80-138. Allowable districts: All residential districts. |
| (8) Parking, off-site and shared. | See section 80-181. Allowable districts: O&I, DTMU, C-1, C-2. |
| <ul style="list-style-type: none"> • Whenever parking as required in article IX cannot be accomplished, shared parking in accordance with article IX may be approved via an administrative permit provided: | |

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|--|--|
| <p>a. If the off-site parking is committed for a specified period of time, the duration of the administrative permit shall be limited to the period of time stipulated therein.</p> <p>b. No more than 20 percent of the total parking requirement may be provided off-site via an administrative permit.</p> <p>c. The property must be located no more than 300 feet from the principal use with pedestrian access provided between the sites as may be required by the department of planning and zoning.</p> | |
| (9) Recreational court, public. | See section 80-183. Allowable districts: O&I, C-1, C-2, M-1, M-2 and P&O with standards. |
| (10) Revival tent. | See section 80-186. Allowable districts: O&I, C-1, C-2, and P&O with standards. In AG or R districts, a revival tent may be placed only on property occupied by an existing building used as a place of worship. |
| (11) Swimming pool, private. | See section 80-190. Allowable districts: All except C-1, C-2. |
| (12) Swimming pool, public. | See section 80-191. Allowable districts: O&I, C-1, C-2, and P&O. |
| (13) Temporary classroom. | See section 80-192. Allowable districts: All. |
| (14) Temporary structure. | See section 80-193. Allowable districts: All, except emission inspection stations shall be permitted only in non-residential districts except AG. |
| (15) Utility substations (telephone, electric, or gas, etc.). | See section 80-194. Allowable districts: All with standards. |
| Uses Subject to a Use Permit: | Subject to the requirements of Article IV—Use Permit Requirements: |
| Use Permit Uses | See Sections 80-196 through 80-239 |
| (1) Agricultural-related activities. | See section 80-197. Allowable districts: All with standards. |
| (2) Amateur radio antenna to exceed the administrative height. | See section 80-198. Allowable districts: All with standards. |
| (3) Amphitheaters. | See section 80-199. Allowable districts: AG, O&I, C-1, C-2. |
| (4) Cemetery and/or mausoleum (human or pet). | See section 80-202. Allowable districts: All except AG with standards. |
| (5) Child day care center. | See section 80-208. Allowable districts: R-1, R-2, R-3, O&I and P&O with standards. |
| (6) Driving range (not associated with a golf course). | See section 80-209. Allowable districts: O&I, C-1, C-2 and M-1 with standards. |
| (7) Event, special indoor/outdoor (more than 75 persons). | See section 80-179. Allowable districts: O&I, C-1, C-2, DTMU, M-1, M-2, AG, P&O and residential districts in conjunction with an institutional use, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like. |
| (8) Massage therapy establishments. | See section 80-238 for locational standards. |
| (9) Mobile food truck. | See section 80-237. Allowable districts: O&I, C-1, C-2, DTMU, M-1, M-2 and P&O. |
| (10) Places of worship. | See section 80-203. Allowable districts: All. |

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| (11) Personal care home/assisted living. | See section 80-224. Allowable districts: C-1, C-2, O&I. |
| (12) Portable sawmills. | See section 80-225. Allowable districts: All. |
| (13) Recreational fields. | See section 80-227. Allowable districts: All. |
| (14) School, private or special. | See section 80-230. Allowable districts: All. |
| (15) Colleges, universities and trade schools, private. | See section 80-230. Allowable districts: C-1, C-2, DTMU, M-1, M-2, O&I and P&O. |
| (16) Senior housing. | See section 80-233. Allowable districts: All except M-1, M-2. |
| (17) Skywalks. | See section 80-234. Allowable districts: AG, O&I, C-1, C-2. |
| (18) Stadium (off-site) associated with a private school. | See section 80-235. Allowable districts: All. |
| (19) Swimming pool, private. | See section 80-190. Allowable districts: All except C-1, C-2. |
| (20) Temporary classroom. | See section 80-192. Allowable districts: All. |
| (21) Utility substations (telephone, electric, or gas, etc.). | See section 80-194. Allowable districts: All. |

- (f) *O&I—Development standards.* Unless otherwise provided in this chapter, uses permitted in the O&I zoning district shall conform to the following standards:

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|--|-----------------------------------|
| Minimum front yard setback: | 35 feet |
| a. Along any street larger than a collector street | 40 feet |
| b. All yards are increased by 10 feet when abutting any single-family district | |
| Minimum side yard setback: | |
| a. All yard areas are increased by 10 feet when abutting any single-family district. | 15 feet |
| Minimum rear yard setback: | |
| a. All yards are increased by 10 feet when abutting any single-family district | 25 feet |
| Minimum lot area | 0.46 acre (20,000 square feet) |
| Minimum land area per (building) dwelling unit | 1,200 square feet |
| Minimum width of lot frontage or width at building line | 50 feet |

- (g) *O&I—Building height and form.*

| | |
|----------------------|------------|
| Maximum height | 48 feet |
| Maximum lot coverage | 50 percent |

- (h) *O&I—Design standards.* In order to establish and maintain the O&I (office institutional) district as a quality area, compatible with surrounding uses, which will preserve the investments of all land owners and developers, as well as the tax base of the city, the lot area covered by buildings and parking areas shall not exceed 50 percent of the total lot area and all construction and development within the O&I district must comply with the following site improvement and development standards:

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- (1) All operations and activities, except loading and unloading in connection with office building uses, shall be conducted within a completely enclosed building.
 - (2) Off-street parking shall be provided as specified in article IX.
 - (3) Buffers shall be provided as specified in article X.
- (i) *O&I—Other regulations.* The headings below contain provisions applicable to the O&I Office Institutional Zoning District:

*Chapter
Number*

Fire CodesChapter 29
Manufactured and Mobile HomesChapter 38
Solid WasteChapter 47
Traffic and VehiclesChapter 56
Building RegulationsChapter 62
EnvironmentChapter 65
Soil Erosion and Sedimentation ControlChapter 65
Stormwater ManagementChapter 65
Stream Buffer ProtectionChapter 65
Flood Damage PreventionChapter 68
Land Development RegulationsChapter 71
LandscapingChapter 74
SubdivisionsChapter 77
ZoningChapter 80
Overlay DistrictsChapter 80
Home OccupationChapter 80
FencingChapter 80
Off-Street ParkingChapter 80
Use PermitsChapter 80
Non-ConformingChapter 80
AppealsChapter 80
SignsChapter 80

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. No. 2012-12, § 1, 10-8-2012; Ord. of 10-28-2019(1))

Sec. 80-81. Reserved.

Editor's note(s)—An ordinance adopted Oct. 28, 2019 repealed § 80-81, which pertained to the DC-1 Historic Downtown Commercial District and derived from Ord. No. 2012-04, § 1(Exh. A), adopted June 11, 2012.

Sec. 80-82. Reserved.

Editor's note(s)—An ordinance adopted Oct. 28, 2019 repealed § 80-82, which pertained to the DC-2 Downtown Commercial District and derived from Ord. No. 2012-04, § 1(Exh. A), adopted June 11, 2012.

Sec. 80-82.1. DTMU—Downtown Mixed-Use Zoning District.

- (a) *DTMU—Intent.* Regulations set forth in this section are the DTMU downtown commercial and historic downtown commercial district regulations. Article IV should be consulted to determine uses and minimum standards for uses allowed by administrative permit or use permit. The purpose of the downtown commercial and historic downtown commercial districts are to:

- (1) Complement retail and office uses in the historic downtown core; and
- (2) To reinforce the historic downtown as the focus of community activity.

The DTMU district is intended to promote a vibrant downtown and opportunities for social interaction consistent with its historic role. To promote and preserve the DTMU district, businesses which increase the number of vehicles in the downtown, and uses which require excessive outside storage, are prohibited.

- (b) *DTMU—Use regulations.* Within the DTMU district, land and structures shall be used in accordance with the standards herein. Any use not specifically designated as a permitted use in this section, or as a use allowed by use permit shall be prohibited.
- (c) *DTMU—Permitted uses.* Permitted uses are allowed in the O&I, C-1, C-2, and RM-12 districts.

Structures and land may be used for only the following purposes:

- (1) Office and institutional services and similar uses, including:
 - a. Accounting, auditing, and bookkeeping services.
 - b. Advertising agencies, outdoor advertising services.
 - c. Banking and financial institutions.
 - d. Commercial art and graphic design.
 - e. Computer repair, programming services and stores.
 - f. Dance studios, schools, and halls.
 - g. Employment services.
 - h. Engineering, architectural, and surveying services.
 - i. Insurance agencies, agents, brokers and services.
 - j. Labor unions and similar labor organizations.
 - k. Land subdivides and developers (except cemeteries).
 - l. Legal services.
 - m. Libraries.

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- n. Management and public relations services.
 - o. Medical equipment rental and leasing.
 - p. Museums.
 - q. Offices and clinics of doctors of medicine, dentists, doctors of osteopathy, chiropractors, optometrists, podiatrists, nurses, and health practitioners.
 - r. Pension, health and welfare funds services.
 - s. Photographic studios and photography services.
 - t. Political organizations.
 - u. Real estate operators and lessors, agents and managers.
 - v. Research and development services (excluding testing laboratories).
 - w. Secretarial and court reporting services.
 - x. Security systems services.
 - y. Tax return preparation services.
 - z. Theatrical producers (except motion picture).
 - aa. Title abstract offices.
- (2) Recreational and similar uses, including:
- a. Bowling centers.
 - b. Membership sports and recreation clubs.
 - c. Sports and recreational camps.
- (3) Retail services and similar uses, including:
- a. Antique stores.
 - b. Auto and home supply stores.
 - c. Barber shops.
 - d. Bicycle shops.
 - e. Book stores.
 - f. Cable and other pay television services.
 - g. Camera and photographic supply stores.
 - h. Candy, nut, and confectionery stores.
 - i. Computer and computer software stores.
 - j. Dance studios, schools, and halls.
 - k. Department stores.
 - l. Drapery, curtain and upholstery stores.
 - m. Drop-off laundry, garment services, and agents for laundries and dry-cleaners.
 - n. Drug stores.

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- o. Electrical and electronic repair shops.
 - p. Floor covering stores.
 - q. Florists.
 - r. Fruit and vegetable markets.
 - s. Furniture stores.
 - t. Gift, novelty, and souvenir shops.
 - u. Grocery stores.
 - v. Hardware stores.
 - w. Hobby, toy and game shops.
 - x. Home furnishings stores.
 - y. Hotels, motels, and residential facilities, or other similar accommodations: Provided that no guest room shall have direct access to the exterior of the building except through a main or central lobby; that the main or central lobby must have an area of at least 700 square feet; and that the main or central lobby must have a management employee on duty 24 hours per day and seven days per week.
 - z. Household appliance stores.
 - aa. Jewelry stores.
 - bb. Men's, women's, and children's clothing, specialty shops, shoes, and accessory stores.
 - cc. Optical goods stores.
 - dd. Paint, glass, and wallpaper stores.
 - ee. Photocopying and duplicating stores.
 - ff. Radio and television repair shops and stores.
 - gg. Bakeries.
 - hh. Reupholstery and furniture repair.
 - ii. Shoe repair shops and shoeshine parlors.
 - jj. Sporting goods stores.
 - kk. Telephone communications.
 - ll. Tobacco and cigars stores.
 - mm. Used merchandise.
 - nn. Watch, clock, and jewelry repair.
 - (4) Other uses, including:
 - a. Art galleries.
 - b. Bed and breakfast.
 - c. Civic, social, and fraternal associations.
 - d. Coin-operated laundries and drycleaning.

- e. Film, music studios and services allied to film and music production.
- f. Motion picture theaters (except drive-in).
- g. Physical fitness facilities.
- h. Restaurants and eating and drinking establishments.
- i. Sewing, needlework, and piece goods stores.
- j. Transportation, tour operators, and travel agencies (excluding trucking).

(d) *DTMU—Accessory uses and structures.*

- (1) Accessory uses and structures incidental to any permitted use.
- (2) Minimum accessory structure requirements: Accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard.
- (3) Accessory buildings and uses customarily incidental to the permitted uses, provided that the square footage devoted to storage not to exceed 25 percent of the total building square footage.
- (4) For sale, for rent, or for lease signs in accordance with the sign regulations of this section.
- (5) Temporary storage pods are intended for a limited period of time and not for permanent storage.

(e) *DTMU—Conditional uses.*

| <i>Uses Subject to an Administrative Permit:</i> | <i>Subject to the requirements of Article IV—Administrative Permit Requirements:</i> |
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| Administrative Permit Uses: | See sections 80-174 through 80-195 |
| (1) Amateur radio antenna to exceed the district height. | See section 80-176. Allowable districts: All. |
| (2) Antenna, tower, and associated structures (radio broadcasting, t.v. broadcasting, microwave broadcasting, etc.), to exceed the district height. | See section 80-177. Allowable districts: O&I, C-2, DTMU, M-1 and M-2 (see use permit, for use in residential and the AG district). |
| (3) Club. | See section 80-178. Allowable districts: O&I, C-1, C-2. |
| (4) Event, special indoor/outdoor (less than 75 persons). | See section 80-179. Allowable districts: O&I, C-1, C-2, DTMU, M-1, M-2, AG, P&O and residential districts in conjunction with an institutional use, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like. |
| (5) Farmers market | See section 80-179.1. Allowable districts: O&I, DTMU, C-1, C-2, M-1, M-2, and P&O. Allowable in AG and residentially zoned districts only when the property is occupied by a church, school, lodge/retreat, farm, plant nursery, etc., existing as a conforming or a lawful non-conforming nonresidential use. The issuance of this permit does not constitute an expansion or extension of a nonconforming use. |
| (6) Golf course. | See section 80-180. Allowable districts: All. |
| (7) Home occupations. | See section 80-138. Allowable districts: All residential districts. |
| (8) Parking, off-site and shared. | See section 80-181. Allowable districts: O&I, DTMU, C-1, C-2. |

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| <ul style="list-style-type: none"> • Whenever parking as required in article IX cannot be accomplished, shared parking in accordance with article IX may be approved via an administrative permit provided: <ul style="list-style-type: none"> a. If the off-site parking is committed for a specified period of time, the duration of the administrative permit shall be limited to the period of time stipulated therein. b. No more than 20 percent of the total parking requirement may be provided off-site via an administrative permit. c. The property must be located no more than 300 feet from the principal use with pedestrian access provided between the sites as may be required by the department of planning and zoning. | |
| (9) Recreational court, public. | See section 80-183. Allowable districts: O&I, C-1, C-2, M-1, M-2 and P&O with standards. |
| (10) Revival tent. | See section 80-186. Allowable districts: O&I, C-1, C-2, and P&O with standards. In AG or R districts, a revival tent may be placed only on property occupied by an existing building used as a place of worship. |
| (11) Swimming pool, private. | See section 80-190. Allowable districts: All except C-1, C-2. |
| (12) Swimming pool, public. | See section 80-191. Allowable districts: O&I, C-1, C-2, and P&O. |
| (13) Temporary classroom. | See section 80-192. Allowable districts: All. |
| (14) Temporary structure. | See section 80-193. Allowable districts: All, except emission inspection stations shall be permitted only in non-residential districts and except AG. |
| (15) Utility substations (telephone, electric, or gas, etc.). | See section 80-194. Allowable districts: All with standards. |
| <i>Uses Subject to a Use Permit:</i> | |
| Use Permit Uses | <i>Subject to the requirements of Article IV—Use Permit Requirements:</i> |
| See Sections 80-196 through 80-239 | |
| (1) Agricultural-related activities. | See section 80-197. Allowable districts: All with standards. |
| (2) Amateur radio antenna to exceed the administrative height. | See section 80-198. Allowable districts: All with standards. |
| (3) Amphitheaters. | See section 80-199. Allowable districts: AG, O&I, C-1, C-2. |
| (4) Cemetery and/or mausoleum (human or pet). | See section 80-202. Allowable districts: All except AG with standards. |
| (5) Child day care center. | See section 80-208. Allowable districts: R-1, R-2, R-3, O&I, and P&O with standards. |
| (6) Driving range (not associated with a golf course). | See section 80-209. Allowable districts: O&I, C-1, C-2 and M-1 with standards. |
| (7) Event, special indoor/outdoor (more than 75 persons). | See section 80-179. Allowable districts: O&I, C-1, C-2, DTM, M-1, M-2, P&O, AG and residential districts in conjunction with an institutional use, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like. |
| (8) Massage therapy establishments. | See section 80-238 for locational standards. |

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| (9) Mobile food truck. | See section 80-237. Allowable districts: O&I, C-1, C-2, DTMU, M-1, M-2, and P&O. |
| (10) Places of worship. | See section 80-203. Allowable districts: All. |
| (11) Personal care home/assisted living. | See section 80-224. Allowable districts: C-1, C-2, O&I. |
| (12) Portable sawmills. | See section 80-225. Allowable districts: All. |
| (13) Recreational fields. | See section 80-227. Allowable districts: All. |
| (14) School, private or special. | See section 80-230. Allowable districts: All. |
| (15) Colleges, universities and trade schools, private. | See section 80-230. Allowable districts: C-1, C-2, DC-1, DTMU, M-1, M-2, O&I, and P&O. |
| (16) Senior housing. | See section 80-233. Allowable districts: All except M-1, M-2. |
| (17) Skywalks. | See section 80-234. Allowable districts: AG, O&I, C-1, C-2. |
| (18) Stadium (off-site) associated with a private school. | See section 80-235. Allowable districts: All. |
| (19) Swimming pool, private. | See section 80-190. Allowable districts: All except C-1, C-2. |
| (20) Temporary classroom. | See section 80-192. Allowable districts: All. |
| (21) Utility substations (telephone, electric, or gas, etc.). | See section 80-194. Allowable districts: All. |

- (f) *DTMU—Development standards.* Unless otherwise provided in this chapter, uses permitted in the DTMU zoning district shall conform to the following standards:

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|--|------|
| Minimum front yard setback | None |
| Minimum side yard setback: a. All yard areas are increased by 15 feet when abutting any single-family district. | None |
| Minimum rear yard setback: a. All yards are increased by 15 feet when abutting any single-family district. | None |
| Minimum lot area | None |
| Minimum width of lot frontage or width at building line | None |

- (g) *DTMU—Building height and form.*

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|--|------------|
| Maximum height | 48 feet |
| Maximum lot coverage a. Including accessory structures. | 80 percent |

- (h) *DTMU—Design standards.* Unless otherwise provided in this chapter, uses permitted in the DTMU district shall conform to the following design standards:

- (1) All outside storage of materials and equipment must be completely screened from public view from adjacent properties and streets by opaque fencing or other screening.
- (2) All outside display of merchandise or products must not impede parking or pedestrian walks and must not violate the requirements of the Americans with Disabilities Act of 1990, as amended.

(3) Off-street parking shall be provided as specified in article IX.

(4) Buffers shall be provided as specified in article X.

(i) *DTMU—Other regulations.* The headings below contain provisions applicable to the DTMU district:

Chapter

Number

Fire CodesChapter 29

Manufactured and Mobile HomesChapter 38

Solid WasteChapter 47

Traffic and VehiclesChapter 56

Building RegulationsChapter 62

EnvironmentChapter 65

Soil Erosion and Sedimentation ControlChapter 65

Stormwater ManagementChapter 65

Stream Buffer ProtectionChapter 65

Flood Damage PreventionChapter 68

Land Development RegulationsChapter 71

LandscapingChapter 74

SubdivisionsChapter 77

ZoningChapter 80

Overlay DistrictsChapter 80

Home OccupationChapter 80

FencingChapter 80

Off-Street ParkingChapter 80

Use PermitsChapter 80

Non-ConformingChapter 80

AppealsChapter 80

SignsChapter 80

(Ord. of 10-28-2019(1))

Sec. 80-83. C-1—Neighborhood Commercial Zoning District.

- (a) *C-1—Intent.* Regulations set forth in this section are the C-1 Neighborhood Commercial Zoning District regulations. Article IV should be consulted to determine uses and minimum standards for uses allowed by administrative permit or use permit. The C-1 neighborhood commercial district is to serve the convenience and pedestrian needs of surrounding residents.

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- (b) *C-1—Use regulations.* Within the C-1 district, land and structures shall be used in accordance with the standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by use permit shall be prohibited.
- (c) *C-1—Permitted uses.* Structures and land may be used for only the following purposes:
- (1) Office and institutional services and similar uses, including:
- a. Art studios, galleries, halls and schools.
 - b. Banking and financial institutions.
 - c. Clubhouse.
 - d. Dance studios, halls and schools.
 - e. Insurance agencies, agents, brokers, and services.
 - f. Legal service offices.
 - g. Martial arts facilities.
 - h. Music studios, halls and schools.
 - i. Photography studios.
 - j. Physical fitness facilities.
 - k. Real estate agencies, agents, brokers, and services.
 - l. Theatrical producers (except motion picture).
- (2) Retail services and similar uses, including:
- a. Bicycle repair shops.
 - b. Book stores.
 - c. Camera and photographic supply stores.
 - d. Candy, nut, and confectionery stores.
 - e. Dairy products stores.
 - f. Delicatessens.
 - g. Drop-off laundry, garment services and agents for laundries and drycleaners.
 - h. Drug stores and proprietary stores.
 - i. Florists.
 - j. Fruit and vegetable markets.
 - k. Gift, novelty, and souvenir shops.
 - l. Hardware stores.
 - m. Hobby, toys, and games shops.
 - n. Jewelry stores.
 - o. Lock smith.
 - p. Men's, women's, and children's apparel, shoes, and accessory stores.
 - q. Sporting goods stores.

- r. Stationery stores.
- s. Tobacco and cigar stores.
- t. Used merchandise stores.
- (3) Personal services and similar uses, including:
 - a. Barber shops.
 - b. Beauty shops.
 - c. Shoe repair and shoeshine shops.

(d) *C-1—Accessory uses and structures*

- (1) Accessory uses and structures incidental to any permitted use.
- (2) Minimum accessory structure requirements: Accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard.
- (3) Accessory buildings and uses customarily incidental to the permitted uses, provided that the square footage devoted to storage not to exceed 25 percent of the total building square footage.
- (4) For sale, for rent, or for lease signs in accordance with the sign regulations of this section.
- (5) Temporary storage pods are intended for a limited period of time and not for permanent storage.

(e) *C-1—Conditional uses.*

| <i>Uses Subject to an Administrative Permit:</i> | <i>Subject to the requirements of Article IV—Administrative Permit Requirements:</i> |
|---|--|
| Administrative Permit Uses: | See sections 80-174 through 80-195 |
| (1) Amateur radio antenna to exceed the district height. | See section 80-176. Allowable districts: All. |
| (2) Club. | See section 80-178. Allowable districts: O&I, C-1, C-2. |
| (3) Event, special indoor/outdoor (less than 75 persons). | See section 80-179. Allowable districts: O&I, C-1, C-2, DTMU, M-1, M-2, P&O, AG and residential districts in conjunction with an institutional use, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like. |
| (4) Farmers market | See section 80-179.1. Allowable districts: O&I, DTMU, C-1, C-2, M-1, M-2, and P&O. Allowable in AG and residentially zoned districts only when the property is occupied by a church, school, lodge/retreat, farm, plant nursery, etc., existing as a conforming or a lawful non-conforming nonresidential use. The issuance of this permit does not constitute an expansion or extension of a nonconforming use. |
| (5) Golf course. | See section 80-180. Allowable districts: All. |
| (6) Home occupations. | See section 80-138. Allowable districts: All residential districts. |
| (7) Parking, off-site and shared. | See section 80-181. Allowable districts: O&I, DTMU, C-1, C-2. |

| | |
|---|---|
| <ul style="list-style-type: none"> • Whenever parking as required in article IX cannot be accomplished, shared parking in accordance with article IX may be approved via an administrative permit provided: <ul style="list-style-type: none"> a. If the off-site parking is committed for a specified period of time, the duration of the administrative permit shall be limited to the period of time stipulated therein. b. No more than 20 percent of the total parking requirement may be provided off-site via an administrative permit. c. The property must be located no more than 300 feet from the principal use with pedestrian access provided between the sites as may be required by the department of planning and zoning. | |
| (8) Recreational court, private. | See section 80-183. Allowable districts: C-1, and C-2 M-2 with standards. |
| (9) Recreational court, public. | See section 80-183. Allowable districts: O&I, C-1, C-2, M-1, M-2, and P&O with standards. |
| (10) Revival tent. | See section 80-186. Allowable districts: O&I, C-1, C-2, and P&O with standards. In AG or R districts, a revival tent may be placed only on property occupied by an existing building used as a place of worship. |
| (11) Roadside produce stands. | See section 80-187. Allowable districts: C-1, C-2 (with standards), and accessory to institutional uses, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like. |
| (12) Roadside vending. | See section 80-188. Allowable districts: C-1, C-2 (with standards), and accessory to institutional uses, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like. |
| (13) Seasonal business use. | See section 80-189. Allowable districts: C-1, C-2, M-1 and M-2 with standards. Allowable in AG and residentially zoned districts only when the property is occupied by a church, school, lodge/retreat, farm, plant nursery, etc., existing as a conforming or a lawful nonconforming nonresidential use. The issuance of this permit does not constitute an expansion or extension of a nonconforming use. |
| (14) Swimming pool, private. | See section 80-190. Allowable districts: All except C-1, C-2. |
| (15) Swimming pool, public. | See section 80-191. Allowable districts: O&I, C-1, C-2, and P&O. |
| (16) Temporary classroom. | See section 80-192. Allowable districts: All. |
| (17) Temporary structures. | See section 80-193. Allowable districts: All, except emission inspection stations shall be permitted only in non-residential districts except AG. |
| (18) Utility substations (telephone, electric, or gas, etc.). | See section 80-194. Allowable districts: All with standards. |
| Uses Subject to a Use Permit: | Subject to the requirements of Article IV—Use Permit Requirements: |

| Use Permit Uses | See Sections 80-196 through 80-239 |
|---|---|
| (1) Agricultural-related activities. | See section 80-197. Allowable districts: All with standards. |
| (2) Amateur radio antenna to exceed the administrative height. | See section 80-198. Allowable districts: All with standards. |
| (3) Amphitheaters. | See section 80-199. Allowable districts: AG, O&I, C-1, C-2. |
| (4) Antenna tower, and associated structure (radio, t.v., microwave broadcasting, etc.), to exceed the district height. | See section 80-200. Allowable districts: Residential districts, AG (see same heading in section 80-174, for other non-residential districts). |
| (5) Bed and breakfast. | See section 80-201. Allowable districts: C-1, C-2, and DTMU with standards. |
| (6) Cemetery and/or mausoleum (human or pet). | See section 80-202. Allowable districts: All except AG with standards. |
| (7) Child day care center. | See section 80-208. Allowable districts: R-1, R-2, R-3, O&I, and P&O with standards. |
| (8) Commercial amusement, outdoor. | See section 80-204. Allowable districts: C-1, M-1, M-2 with standards. |
| (9) Convalescent center/nursing home/hospice. | See section 80-206. Allowable districts: R-2, R-3, R-4, C-1, C-2, and M-1 with standards. |
| (10) Country inn. | See section 80-207. Allowable districts: C-1, and C-2 with standards. |
| (11) Driving range (not associated with a golf course). | See section 80-209. Allowable districts: O&I, C-1, C-2 and M-1 with standards. |
| (12) Event, indoor/outdoor (more than 75 persons). | See section 80-179. Allowable districts: O&I, C-1, C-2, DTM, M-1, M-2, P&O, AG and residential districts in conjunction with an institutional use, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like. |
| (13) Massage therapy establishments. | See section 80-238 for locational standards. |
| (14) Mobile food truck. | See section 80-237. Allowable districts: O&I, C-1, C-2, DTMU, M-1, M-2, and P&O. |
| (15) Places of worship. | See section 80-203. Allowable districts: All. |
| (16) Personal care home/assisted living. | See section 80-224. Allowable districts: C-1, C-2, O&I. |
| (17) Portable sawmills. | See section 80-225. Allowable districts: All. |
| (18) Recreational fields. | See section 80-227. Allowable districts: All. |
| (19) School, private or special. | See section 80-230. Allowable districts: All. |
| (20) Small group home/shelter (18 and older). | See section 80-211. Allowable districts: 24-hour care R-2, R-3, R-4, C-1, C-2, and M-1 with standards. |
| (21) Medium group home/shelter (18 and older). | See section 80-212. Allowable districts: 24-hour care R-3, R-4, C-1, C-2, and M-1 with standards. |
| (22) Large group home/shelter (18 and older). | See section 80-213. Allowable districts: 24-hour care R-4, C-1, C-2, and M-1 with standards. |
| (23) Congregate group home/shelter (18 and older). | See section 80-214. Allowable districts: 24-hour care C-1, C-2, and M-1 with standards. |
| (24) Small group home (17 and younger). | See section 80-215. Allowable districts: 24-hour care R-2, R-3, R-4, C-1, C-2, and M-1 with standards. |

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| (25) Medium group home (17 and younger). | See section 80-216. Allowable districts: 24-hour care R-3, R-4, C-1, C-2, and M-1 with standards. |
| (26) Large group residence (17 and younger). | See section 80-217. Allowable districts: 24-hour care R-4, C-1, C-2, and M-1 with standards. |
| (27) Congregate group home (17 and younger). | See section 80-218. Allowable districts: 24-hour care C-1, C-2, and M-1 with standards. |
| (28) Colleges, universities and trade schools, private. | See section 80-230. Allowable districts: C-1, C-2, DTMU, M-1, M-2, and O&I. |
| (29) Landscaping business, plant nursery, or garden center with indoor retail component. | See section 80-221. Allowable districts: C-1, C-2, DTMU with standards. |
| (30) Self-storage/multi. | See section 80-232. Allowable districts: C-1, and C-2 with standards. |
| (31) Senior housing. | See section 80-233. Allowable districts: All except M-1, M-2. |
| (32) Skywalks. | See section 80-234. Allowable districts: AG, O&I, C-1, C-2. |
| (33) Stadium (off-site) associated with a private school. | See section 80-235. Allowable districts: All. |
| (34) Swimming pool, private. | See section 80-190. Allowable districts: All except C-1, C-2. |
| (35) Temporary classroom. | See section 80-192. Allowable districts: All. |
| (36) Utility substations (telephone, electric, or gas, etc.). | See section 80-194. Allowable districts: All. |

- (f) *C-1—Development standards.* Unless otherwise provided in this chapter, uses permitted in the C-1 zoning district shall conform to the following standards:

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| Minimum front yard setback | 30 feet |
| Minimum side yard setback | None |
| Minimum rear yard setback | 15 feet |
| Note: All C-1 uses abutting a residential district must maintain a side and rear yard of 25 feet with a minimum ten-foot landscaped buffer as specified in article X, or undisturbed natural buffer. No storage of equipment or vehicle parking is permitted in the side yard and/or rear yard. | |
| Minimum lot area | ¼ acre (10,890 square feet) |
| Minimum width of lot frontage or width at building line | 80 feet |

- (1) A small box discount retail store must be separated from another small box discount retail store by a minimum distance of 1,500 feet. The required separation distance must be measured in a straight route from the nearest point on the lot line of the property occupied by a small box discount retail store to the nearest point on a lot line of the other property occupied by a small box discount retail store. This subsection (1) shall not apply to the rebuilding and/or enlargement of an existing small box discount retail store. For the purposes of this subsection, rebuilding and/or enlargement shall mean partial or complete demolition of an existing structure and submittal of a building permit application within six months from the demolition of the existing structure. Failure to obtain a building permit shall require a developer and/or landowner to follow the development requirements for a small box discount retail store.

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(g) *C-1—Building height and form.*

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| Maximum height | 48 feet |
| Maximum lot coverage a. Including accessory structures. | 80 percent |

(h) *C-1—Design standards.* Unless otherwise provided in this chapter, uses permitted in the C-1 district shall conform to the following design standards:

- (1) No building or structure shall exceed 3,200 square feet per floor.
- (2) No off-street parking area shall contain more than ten parking spaces.
- (3) Site plans must provide facilities for pedestrian and bicycle shoppers.
- (4) No C-1 use shall be located in a neighborhood, which permits parking on both sides of the street unless off-street loading space is provided.
- (5) Off-street parking shall be provided as specified in article IX.
- (6) Buffers shall be provided as specified in article X.

(i) *C-1—Other regulations.* The headings below contain provisions applicable to the C-1 Neighborhood Commercial Zoning District:

*Chapter
Number*

Fire CodesChapter 29

Manufactured and Mobile HomesChapter 38

Solid WasteChapter 47

Traffic and VehiclesChapter 56

Building RegulationsChapter 62

EnvironmentChapter 65

Soil Erosion and Sedimentation ControlChapter 65

Stormwater ManagementChapter 65

Stream Buffer ProtectionChapter 65

Flood Damage PreventionChapter 68

Land Development RegulationsChapter 71

LandscapingChapter 74

SubdivisionsChapter 77

ZoningChapter 80

Overlay DistrictsChapter 80

Home OccupationChapter 80

FencingChapter 80

Off-Street ParkingChapter 80

Use PermitsChapter 80

Non-ConformingChapter 80

AppealsChapter 80

SignsChapter 80

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1) ; Ord. No. 2022-230 , § 1, 3-28-2022)

Sec. 80-84. C-2—General Commercial Zoning District.

- (a) *C-2—Intent.* Regulations set forth in this section are the C-2 General Commercial Zoning District regulations. Article IV should be consulted to determine uses and minimum standards for uses allowed by administrative permit or use permit. The C-2 general commercial district is to serve the retail and commercial needs of the regional community.
- (b) *C-2—Use regulations.* Within the C-2 district, land and structures shall be used in accordance with the standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by use permit shall be prohibited.
- (c) *C-2—Permitted uses.* Structures and land may be used for only the following purposes:
 - (1) Office and institutional services and similar uses, including:
 - a. Accident and health insurance carriers.
 - b. Adjustment and collection services.
 - c. Accounting, auditing, and bookkeeping services.
 - d. Advertising agencies.
 - e. Ambulance and emergency medical services.
 - f. Architectural services.
 - g. Bands, orchestras, actors, and other entertainers and entertainment groups.
 - h. Banking and financial institutions.
 - i. Business associations and consulting services.
 - j. Commercial art, photography and graphic design.
 - k. Communication services.
 - l. Computer repair, programming services and stores.
 - m. Employment agencies.
 - n. Engineering services.
 - o. Health services such as offices and clinics of doctor of medicine, dentists, doctors of osteopathy, chiropractors, optometrists, podiatrists, and other miscellaneous health practitioners.
 - p. Individual and family social services.
 - q. Job training and vocational rehabilitation services.
 - r. Libraries and museums.

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- s. Labor unions and similar labor organizations.
 - t. Libraries and museums.
 - u. offices.
 - v. Public relations services.
 - w. Surveying services.
 - x. Tax return preparation services.
 - y. Title abstract offices.
 - z. Travel agencies and tour operators.
- (2) Retail services and similar uses, including:
- a. Armature rewinding shops.
 - b. Auto and home supply stores.
 - c. Automotive glass replacement shops.
 - d. Drapery, curtain, and upholstery stores.
 - e. Electrical and electronic repair shops.
 - f. Furniture stores.
 - g. Heating and air-conditioning services.
 - h. Home furnishing stores.
 - i. Household appliance stores.
 - j. Liquor stores.
 - k. Musical instrument stores.
 - l. Outdoor advertising services.
 - m. Optical stores.
 - n. Pet shops and pet supply stores; pet grooming (no overnight stay).
 - o. Photocopying and duplicating services.
 - p. Plumbing services.
 - q. Refrigeration and air-conditioning service and repair shops.
 - r. Retail stores or shops.
 - s. Security systems services.
 - t. Tinsmithing shop associated with retail sales.
 - u. Truck rental and leasing.
 - v. Watch, clock, and jewelry repair.
 - w. Welding repair.
- (3) Recreational and similar uses, including:
- a. Amusement and recreation services.

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- b. Batting cage.
 - c. Bowling centers.
 - d. Gymnasiums.
 - e. Membership sports and recreation clubs.
 - f. Billiards.
 - g. Recreational vehicle dealers.
 - h. Professional sports clubs and promoters.
 - i. Skating rink.
 - j. Utility trailer and recreational vehicle rental.
- (4) Other uses, including:
- a. Apartments, above or behind commercial and office uses in the same building.
 - b. Assembly halls.
 - c. Automatic merchandising machine operators.
 - d. Automobile dealers (new and/or used).
 - e. Automotive exhaust system repair shops.
 - f. Automotive parking lots, automotive specialty shops, garages, and general automobile repair except painting, body repair and overhaul of major components, parking lots, parking garages/decks.
 - g. Automotive transmission repair shops.
 - h. Automobile, boats, motorcycle dealers (new and/or used).
 - i. Building cleaning and maintenance services.
 - j. Car wash.
 - k. Cleaning services.
 - l. Disinfecting and pest control services.
 - m. Equipment rental and leasing (except heavy construction equipment).
 - n. Film studios and services allied to film production.
 - o. Restaurants and eating establishments.
 - p. Funeral services and homes.
 - q. Garden machinery and equipment.
 - r. Gasoline service stations (except truck stops).
 - s. Grocery stores.
 - t. Health club/spa.
 - u. Bus transportation and other transit services.
 - v. Local bus charter service; bus charter services.
 - w. Lumber and other building materials dealers.

- x. Masonry, stone setting, and other stonework.
- y. Medical equipment rental and leasing.
- z. Recycling centers, collecting.
- aa. Rooming and boarding houses.
- bb. School buses and services.
- cc. Security brokers, dealers, and flotation companies.
- dd. Security and commodity exchanges, investment advice, and services allied with the exchange of securities or commodities.
- ee. Theaters, except drive-in motion picture theatres.
- ff. Hotels, provided that no guest room shall have direct access to the exterior of the building except through a main or central lobby; that the main or central lobby must have an area of at least 700 square feet; and that the main or central lobby must have a management employee on duty 24 hours per day and seven days per week.
- gg. Banking and financial establishments such as federal reserve banks; central reserve depository institutions; national commercial banks; state commercial banks; commercial banks, not elsewhere classified; savings institutions (federally and not federally chartered); credit unions (federally and not federally chartered); branches and agencies of foreign banks; foreign trade and international banking institutions; non-deposit trust facilities; and functions related to depository banking.

(d) *C-2—Accessory uses and structures.*

- (1) Accessory uses and structures incidental to any permitted use.
- (2) Minimum accessory structure requirements: Accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard.
- (3) Other use: Accessory structures shall not be located in the minimum front yard.
- (4) For sale, for rent, or for lease signs in accordance with the sign regulations of this section.
- (5) Temporary storage pods are intended for a limited period of time and not for permanent storage.

(e) *C-2—Conditional uses.*

| <i>Uses Subject to an Administrative Permit:</i> | <i>Subject to the requirements of Article IV—Administrative Permit Requirements:</i> |
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| Administrative Permit Uses: | See sections 80-174 through 80-195 |
| (1) Alternative antenna support structure to exceed the district height. | See section 80-175. Allowable districts: C-2, M-1 and M-2 with standards. |
| (2) Amateur radio antenna to exceed the district height. | See section 80-176. Allowable districts: All. |
| (3) Antenna, tower, and associated structures (radio broadcasting, t.v. broadcasting, microwave broadcasting, etc.), to exceed the district height. | See section 80-177. Allowable districts: O&I, C-2, DTMU, M-1 and M-2 (see use permit, for use in residential and the AG district). |
| (4) Club. | See section 80-178. Allowable districts: O&I, C-1, C-2. |
| (5) Event, special indoor/outdoor (less than 75 persons). | See section 80-179. Allowable districts: O&I, C-1, C-2, DTMU, M-1, M-2, P&O, AG and residential districts in |

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| | conjunction with an institutional use, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like. |
| (6) Farmers market. | See section 80-179.1. Allowable districts: O&I, DTMU, C-1, C-2, M-1, M-2, and P&O. Allowable in AG and residentially zoned districts only when the property is occupied by a church, school, lodge/retreat, farm, plant nursery, etc., existing as a conforming or a lawful non-conforming nonresidential use. The issuance of this permit does not constitute an expansion or extension of a nonconforming use. |
| (7) Golf course. | See section 80-180. Allowable districts: All. |
| (8) Home occupations. | See section 80-138. Allowable districts: All residential districts. |
| (9) Parking, off-site and shared. | See section 80-181. Allowable districts: O&I, DTMU, C-1, C-2. |
| <ul style="list-style-type: none"> Whenever parking as required in article IX cannot be accomplished, shared parking in accordance with article IX may be approved via an administrative permit provided: <ul style="list-style-type: none"> If the off-site parking is committed for a specified period of time, the duration of the administrative permit shall be limited to the period of time stipulated therein. No more than 20 percent of the total parking requirement may be provided off-site via an administrative permit. The property must be located no more than 300 feet from the principal use with pedestrian access provided between the sites as may be required by the department of planning and zoning. | |
| (10) Recreational court, private. | See section 80-183. Allowable districts: C-1, C-2 with standards. |
| (11) Recreational court, public. | See section 80-183. Allowable districts: O&I, C-1, C-2, M-1, M-2, and P&O with standards. |
| (12) Revival tent. | See section 80-186. Allowable districts: O&I, C-1, C-2, and P&O with standards. In AG or R districts, a revival tent may be placed only on property occupied by an existing building used as a place of worship. |
| (13) Roadside produce stands. | See section 80-190. Allowable districts: C-1, C-2, and accessory to institutional uses, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like. |
| (14) Roadside vending. | See section 80-190. Allowable districts: C-1, C-2 and accessory to institutional uses, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like. |
| (15) Seasonal business use. | See section 80-190. Allowable districts: C-1, C-2, M-1 and M-2. Allowable in AG and residentially zoned districts only when the property is occupied by a church, school, lodge/retreat, farm, plant nursery, etc., existing as a conforming or a lawful nonconforming nonresidential use. The issuance of |

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| | this permit does not constitute an expansion or extension of a nonconforming use. |
| (16) Swimming pool, private. | See section 80-190. Allowable districts: All except C-1, C-2. |
| (17) Swimming pool, public. | See section 80-191. Allowable districts: O&I, C-1, C-2, and P&O. |
| (18) Temporary classroom. | See section 80-192. Allowable districts: All. |
| (19) Temporary structures. | See section 80-193. Allowable districts: All, except emission inspection stations shall be permitted only in non-residential districts except AG. |
| (20) Utility substations (telephone, electric, or gas, etc.). | See section 80-194. Allowable districts: All with standards. |
| (21) Veterinary clinic/hospital or kennel. | See section 80-195. Allowable districts: C-2 and M-1 with standards. |
| Uses Subject to a Use Permit: | Subject to the requirements of Article IV—Use Permit Requirements: |
| Use Permit Uses | See Sections 80-196 through 80-239 |
| (1) Agricultural-related activities. | See section 80-197. Allowable districts: All with standards. |
| (2) Amateur radio antenna to exceed the administrative height. | See section 80-198. Allowable districts: All with standards. |
| (3) Amphitheaters. | See section 80-199. Allowable districts: AG, O&I, C-1, C-2. |
| (4) Antenna tower, and associated structure (radio, t.v., microwave broadcasting, etc.), to exceed the district height. | See section 80-200. Allowable districts: Residential districts, AG (see same heading in section 80-174, for other non-residential districts). |
| (5) Bed and breakfast. | See section 80-201. Allowable districts: C-1, C-2, and DTMU with standards. |
| (6) Cemetery and/or mausoleum (human or pet). | See section 80-202. Allowable districts: All except AG with standards. |
| (7) Child day care center. | See section 80-208. Allowable districts: R-1, R-2, R-3, O&I, and P&O with standards. |
| (8) Commercial amusement, outdoor. | See section 80-204. Allowable districts: C-1, M-1, M-2 with standards. |
| (9) Composting. | See section 80-205. Allowable districts: C-2 with standards. |
| (10) Convalescent center/nursing home/hospice. | See section 80-206. Allowable districts: R-2, R-3, R-4, C-1, C-2, and M-1 with standards. |
| (11) Country inn. | See section 80-207. Allowable districts: C-1, and C-2 with standards. |
| (12) Driving range (not associated with a golf course). | See section 80-209. Allowable districts: O&I, C-1, C-2 and M-1 with standards. |
| (13) Event, special indoor/outdoor (more than 75 persons). | See section 80-179. Allowable districts: O&I, C-1, C-2, DTM, M-1, M-2, P&O, AG and residential districts in conjunction with an institutional use, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like. |
| (14) Kennel or outside animal facilities. | See section 80-219. Allowable districts: C-2 with standards. |

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| (15) Massage therapy establishments. | See section 80-238 for locational standards. |
| (16) Mobile food truck. | See section 80-237. Allowable districts: O&I, C-1, C-2, DTMU, M-1, M-2, and P&O. |
| (17) Places of worship. | See section 80-203. Allowable districts: All. |
| (18) Personal care home/assisted living. | See section 80-224. Allowable districts: C-1, C-2, O&I. |
| (19) Portable sawmills. | See section 80-225. Allowable districts: All. |
| (20) Recreational fields. | See section 80-227. Allowable districts: All. |
| (21) School, private or special. | See section 80-230. Allowable districts: All. |
| (22) Small group home/shelter (18 and older). | See section 80-211. Allowable districts: 24-hour care R-2, R-3, R-4, C-1, C-2, and M-1 with standards. |
| (23) Medium group home/shelter (18 and older). | See section 80-212. Allowable districts: 24-hour care R-3, R-4, C-1, C-2, and M-1 with standards. |
| (24) Large group home/shelter (18 and older). | See section 80-213. Allowable districts: 24-hour care R-4, C-1, C-2, and M-1 with standards. |
| (25) Congregate group home/shelter (18 and older). | See section 80-214. Allowable districts: 24-hour care C-1, C-2, and M-1 with standards. |
| (26) Small group home (17 and younger). | See section 80-215. Allowable districts: 24-hour care R-2, R-3, R-4, C-1, C-2, and M-1 with standards. |
| (27) Medium group home (17 and younger). | See section 80-216. Allowable districts: 24-hour care R-3, R-4, C-1, C-2, and M-1 with standards. |
| (28) Large group residence (17 and younger). | See section 80-217. Allowable districts: 24-hour care R-4, C-1, C-2, and M-1 with standards. |
| (29) Congregate group home (17 and younger). | See section 80-218. Allowable districts: 24-hour care C-1, C-2, and M-1 with standards. |
| (30) Colleges, universities and trade schools, private. | See section 80-230. Allowable districts: C-1, C-2, DTMU, M-1, M-2, and O&I. |
| (31) Landscaping business, plant nursery, or garden center with indoor retail component. | See section 80-221. Allowable districts: C-1, C-2, and DTMU with standards. |
| (32) Self-storage/mini. | See section 80-231. Allowable districts: C-2 with standards. |
| (33) Self-storage/multi. | See section 80-232. Allowable districts: C-1, and C-2 with standards. |
| (34) Senior housing. | See section 80-233. Allowable districts: All except M-1, M-2. |
| (35) Skywalks. | See section 80-234. Allowable districts: AG, O&I, C-1, C-2. |
| (36) Stadium (off-site) associated with a private school. | See section 80-235. Allowable districts: All. |
| (37) Swimming pool, private. | See section 80-190. Allowable districts: All except C-1, C-2. |
| (38) Temporary classroom. | See section 80-192. Allowable districts: All. |
| (39) Utility substations (telephone, electric, or gas, etc.). | See section 80-194. Allowable districts: All. |

- (f) *C-2—Development standards.* Unless otherwise provided in this chapter, uses permitted in the C-2 zoning district shall conform to the following standards:

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| Minimum front yard setback | 35 feet |
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| Minimum side yard setback | None |
| Minimum rear yard setback | 15 feet |
| Note: All C-2 uses abutting a residential district must maintain a side and rear yard of 25 feet with a minimum ten-foot landscaped buffer as specified in article X, or undisturbed natural buffer. No storage of equipment or vehicle parking is permitted in the side yard and/or rear yard. | |
| Minimum lot area | ½ acre (21,780 square feet) |
| Minimum width of lot frontage or width at building line | 100 feet |
| All vehicle parking areas which abut a residential district shall be concealed using a ten-foot planted buffer or opaque screen. | |

- (1) A small box discount retail store must be separated from another small box discount retail store by a minimum distance of 1,500 feet. The required separation distance must be measured in a straight route from the nearest point on the lot line of the property occupied by a small box discount retail store to the nearest point on a lot line of the other property occupied by a small box discount retail store. This subsection (1) shall not apply to the rebuilding and/or enlargement of an existing small box discount retail store. For the purposes of this subsection, rebuilding and/or enlargement shall mean partial or complete demolition of an existing structure and submittal of a building permit application within six months from the demolition of the existing structure. Failure to obtain a building permit shall require a developer and/or landowner to follow the development requirements for a small box discount retail store.

(g) *C-2—Building height and form.*

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| Maximum height | 48 feet |
| Maximum lot coverage a. Including accessory structures. | 50 percent |

(h) *C-2—Design standards.* Unless otherwise provided in this chapter, uses permitted in the C-2 district shall conform to the following design standards:

- (1) All uses must be located on a collector street or larger.
- (2) All outside storage of materials and equipment must be completely screened from public view from adjacent properties and streets by an opaque screening device.
- (3) Site design must permit on-site maneuvering of all vehicles; no backing from the street shall be permitted.
- (4) Off-street parking shall be provided as specified in article IX.
- (5) Buffers shall be provided as specified in article X.

(i) *C-2—Other regulations.* The headings below contain provisions applicable to the C-2 General Commercial Zoning District:

*Chapter
Number*

Fire CodesChapter 29

Manufactured and Mobile HomesChapter 38

Solid WasteChapter 47
Traffic and VehiclesChapter 56
Building RegulationsChapter 62
EnvironmentChapter 65
Soil Erosion and Sedimentation ControlChapter 65
Stormwater ManagementChapter 65
Stream Buffer ProtectionChapter 65
Flood Damage PreventionChapter 68
Land Development RegulationsChapter 71
LandscapingChapter 74
SubdivisionsChapter 77
ZoningChapter 80
Overlay DistrictsChapter 80
Home OccupationChapter 80
FencingChapter 80
Off-Street ParkingChapter 80
Use PermitsChapter 80
Non-ConformingChapter 80
AppealsChapter 80
SignsChapter 80
(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1) ; Ord. No. 2022-230 , § 1, 3-28-2022)

Sec. 80-85. M-1—Light Industrial Zoning District.

- (a) *M-1—Intent.* Regulations set forth in this section are the M-1 Light Industrial Zoning District regulations. Article IV should be consulted to determine uses and minimum standards for uses allowed by administrative permit or use permit. The intent of this section, in establishing the M-1 district, is to provide areas within the city for the manufacture, storage, sale and distribution of goods and the conduct of related commercial and industrial activities.
- (b) *M-1—Use regulations.* Within the M-1 district, land and structures shall be used in accordance with the standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by use permit shall be prohibited.
- (c) *M-1—Permitted uses.* Any permitted use, provided that all manufacturing, processing, assembly and/or disassembly operations and all storage operations associated with such uses not specifically identified below shall be housed entirely within an enclosed building or buildings. All outside storage shall be enclosed by an opaque fence meeting the district height regulations.

Structures and land may be used for only the following purposes:

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- (1) Agriculture and forestry.
 - (2) Ambulance and emergency radical services.
 - (3) Animal hospitals, kennels (boarding and breeding) and veterinary clinics.
 - a. All structures shall be located and activities conducted at 100 feet from any property zoned for residential purposes.
 - b. All animals shall be housed within an enclosed building and adequate sound and odor control shall be maintained.
 - (4) Animal grooming shops.
 - a. All structures shall be located and activities conducted at least 100 feet from any property zoned for residential purposes.
 - (5) Automobile and truck sales (including retail parts sales and/or tire store).
 - a. Such use shall not be permitted within 50 feet of any property used for a school, park, playground or hospital.
 - b. All activities shall be carried on entirely within an enclosed building.
 - c. Such use shall not be established on a lot which is adjacent to or directly across the street from any single-family residential district.
 - d. All outdoor storage must be in the rear of the principal structure and enclosed by an opaque fence no less than eight feet in height.
 - (6) Automobile, trailer and boat sales/service.
 - a. Minimum one-acre lot size.
 - b. All vehicles shall be set back at least ten feet from the street right-of-way line.
 - c. Such use shall be located at least 50 feet from any properties zoned for residential purposes.
 - d. A solid fence or wall no less than eight feet in height shall be maintained to provide a visual screening between the residential and commercial properties.
 - (7) Automobile repair (including paint and body).
 - a. Such use shall not be permitted within 50 feet of any property used for a school, park, playground or hospital.
 - b. All activities shall be carried on entirely within an enclosed building.
 - c. Such use shall not be established on a lot which is adjacent to or directly across the street from any single-family residential district.
 - d. All outdoor storage must be in the rear of the principal structure and enclosed by an opaque fence no less than eight feet in height.
 - (8) Automobile service station.
 - a. All gasoline pumps, tanks and other service facilities shall be set back at least 20 feet from all property lines.
 - b. Canopies over fuel islands shall not encroach within 15 feet of any property line.
 - c. Minor automobile repair shall be allowed in conjunction with such use provided all such activities shall take place within an enclosed building.

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- d. No outside storage or engine/body dismantling is allowed.
 - e. All gasoline service stations shall be set back at least 1,000 feet from another gasoline service station on the same side of a street right-of-way as measured from property line to property line.
- (9) Automobile towing.
- a. All outside storage must be in rear of the principal structure and enclosed by opaque fence no less than eight feet in height.
- (10) Carnival, video, horseshow, shooting or athletic event.
- (11) Car maintenance facilities such as brake repair, installation of tires, tune-up shops, oil change services, emission stations and the like.
- a. All activities shall take place within an enclosed building.
 - b. No outside storage or engine/body dismantling is allowed.
- (12) Carwashes.
- (13) Commercial greenhouses or plant nursery.
- (14) Commercial recreation and entertainment facilities.
- (15) Cultural facilities. Art galleries, museums, legitimate theaters, libraries, and other uses similar in character to those listed.
- (16) Drive-in movie theater.
- a. The theater screen and all buildings shall be set back at least 50 feet from any property line.
 - b. Central loudspeakers are prohibited.
 - c. The theater screen shall not be visible from an interstate or arterial roadway.
- (17) Dwellings, residence for watchmen or caretaker employed on premises.
- (18) Eating establishments, including restaurants, drive-in restaurants and cafeterias.
- (19) Electric supply store.
- (20) Electric transformer station, gas regulator station and telephone exchange.
- (21) Farm equipment sales.
- (22) Fuel and ice dealers, manufacturers and wholesalers.
- (23) Food processing plants not to include slaughterhouses.
- (24) Home appliance repair and related service.
- (25) Jewelry repair.
- (26) Laundry and dry-cleaning pickup stations. Linen and diaper services, garment pressing, alteration and repair.
- (27) Light assembly and fabrication. No activity which produces liquid effluent, odor, fumes or dust which can be detected beyond the walls of the building is permitted.
- (28) Liquefied petroleum gas (bottled gas) dealers.
- (29) Lumber, hardware and other building material establishments.

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- a. All outdoor storage must be in the rear of the principal structure and enclosed by opaque fence no less than eight feet in height.
- (30) Manufacturing, wholesaling, repairing, compounding, assembly, processing, preparation, packaging of treatment articles, and the transportation of foods (smoking, curing and canning), components, products, clothing, machines and appliances and the like, where character of operations, emissions and by-products do not create adverse effects beyond the boundaries of the property.
- (31) Newspaper publishing facilities.
- (32) Noncommercial club or lodge.
- (33) Office.
- (34) Paint, glass and wallpaper stores.
- (35) Parks and places of amusement, recreation and assembly, including but not limited to golf courses, golf driving ranges, miniature golf courses and tennis courts.
- (36) Photoengraving, typesetting, electrotyping and stereotyping.
- (37) Plumbing and heating equipment dealers.
- (38) Printing, publishing and reproducing establishments. Bookbinding and related work.
- (39) Public buildings and public recreation facilities.
- (40) Radio and television broadcasting stations.
- (41) Railroad car classification yards and train truck yards.
- (42) Railroad stations for freight.
- (43) Research and experimental testing laboratories including medical and dental laboratories.
- (44) Retail/commercial.
- a. A small box discount retail store must be separated from another small box discount retail store by a minimum distance of 1,500 feet. The required separation distance must be measured in a straight route from the nearest point on the lot line of the property occupied by a small box discount retail store to the nearest point on a lot line of the other property occupied by a small box discount retail store. This subsection (1) shall not apply to the rebuilding and/or enlargement of an existing small box discount retail store. For the purposes of this subsection, rebuilding and/or enlargement shall mean partial or complete demolition of an existing structure and submittal of a building permit application within six months from the demolition of the existing structure. Failure to obtain a building permit shall require a developer and/or landowner to follow the development requirements for a small box discount retail store.
- (45) Self-storage mini-warehouse facilities.
- (46) Taxi stands and dispatching agencies.
- (47) Truck terminals/truck stops.
- (48) Warehousing and storage.
- (49) Wholesale sales offices.
- (50) Wholesale trade and distribution establishments and warehousing facilities, including offices.
- (d) *M-1—Accessory uses.*
- (1) *Accessory uses and structures.*

- a. Accessory uses and structures incidental to any permitted use.
 - b. Minimum accessory structure requirements: Accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard.
 - c. Other use: Accessory structures shall not be located in the minimum front yard.
 - d. For sale, for rent, or for lease signs in accordance with the sign regulations of this section.
 - e. Temporary storage pods are intended for a limited period of time and not for permanent storage.
- (2) *Accessory uses and structures incidental to any legal permitted use, provided:*
- a. Retail sales and services must be conducted and accessed wholly within the building(s) housing the use to which the activities are accessory.

(e) *M-1—Conditional uses.*

| <i>Uses Subject to an Administrative Permit:</i> | <i>Subject to the requirements of Article IV—Administrative Permit Requirements:</i> |
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| Administrative Permit Uses: | See sections 80-174 through 80-195 |
| (1) Alternative antenna support structure to exceed the district height. | See section 80-175. Allowable districts: C-2, M-1 and M-2 with standards. |
| (2) Amateur radio antenna to exceed the district height. | See section 80-176. Allowable districts: All. |
| (3) Antenna, tower, and associated structures (radio broadcasting, t.v. broadcasting, microwave broadcasting, etc.), to exceed the district height. | See section 80-177. Allowable districts: O&I, C-2, DTMU, M-1 and M-2 (see use permit, for use in residential and the AG district). |
| (4) Event, special indoor/outdoor (less than 75 persons). | See section 80-179. Allowable districts: O&I, C-1, C-2, DTMU, M-1, M-2, P&O, AG and residential districts in conjunction with an institutional use, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like. |
| (5) Farmers market. | See section 80-179.1. Allowable districts: O&I, DTMU, C-1, C-2, M-1, M-2, and P&O. Allowable in AG and residentially zoned districts only when the property is occupied by a church, school, lodge/retreat, farm, plant nursery, etc., existing as a conforming or a lawful non-conforming nonresidential use. The issuance of this permit does not constitute an expansion or extension of a nonconforming use. |
| (6) Golf course. | See section 80-180. Allowable districts: All. |
| (7) Home occupations. | See section 80-138. Allowable districts: All residential districts. |
| (8) Recreational court, public. | See section 80-183. Allowable districts: O&I, C-1, C-2, M-1, M-2, and P&O with standards. |
| (9) Seasonal business use. | See section 80-190. Allowable districts: C-1, C-2, M-1 and M-2. Allowable in AG and residentially zoned districts only when the property is occupied by a church, school, lodge/retreat, farm, plant nursery, etc., existing as a conforming or a lawful nonconforming nonresidential use. The issuance of |

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| | this permit does not constitute an expansion or extension of a nonconforming use. |
| (10) Swimming pool, private. | See section 80-190. Allowable districts: All except C-1, C-2. |
| (11) Temporary classroom. | See section 80-192. Allowable districts: All. |
| (12) Temporary structures. | See section 80-193. Allowable districts: All, except emission inspection stations shall be permitted only in non-residential districts and except AG. |
| (13) Utility substations (telephone, electric, or gas, etc.). | See section 80-194. Allowable districts: All with standards. |
| (14) Veterinary clinic/hospital or kennel. | See section 80-195. Allowable districts: C-2 and M-1 with standards. |
| Uses Subject to a Use Permit: | Subject to the requirements of Article IV—Use Permit Requirements: |
| Use Permit Uses | See Sections 80-196 through 80-239 |
| (1) Agricultural-related activities. | See section 80-197. Allowable districts: All with standards. |
| (2) Amateur radio antenna to exceed the administrative height. | See section 80-198. Allowable districts: All with standards. |
| (3) Antenna tower, and associated structure (radio, t.v., microwave broadcasting, etc.), to exceed the district height. | See section 80-200. Allowable districts: Residential districts, AG (see same heading in section 80-174, for other non-residential districts). |
| (4) Cemetery and/or mausoleum (human or pet). | See section 80-202. Allowable districts: All except AG with standards. |
| (5) Commercial amusement, outdoor. | See section 80-204. Allowable districts: C-1, M-1, and M-2 with standards. |
| (6) Convalescent center/nursing home/hospice. | See section 80-206. Allowable districts: R-2, R-3, R-4, C-1, C-2, and M-1 with standards. |
| (7) Country inn. | See section 80-207. Allowable districts: C-1, and C-2 with standards. |
| (8) Driving range (not associated with a golf course). | See section 80-209. Allowable districts: O&I, C-1, C-2 and M-1 with standards. |
| (9) Event, special indoor/outdoor (more than 75 persons). | See section 80-179. Allowable districts: O&I, C-1, C-2, DTM, M-1, M-2, P&O, AG and residential districts in conjunction with an institutional use, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like. |
| (10) Lodge, retreat and/or campground. | See section 80-222. Allowable districts: AG, M-1 and M-2 with standards. |
| (11) Massage therapy establishments. | See section 80-238 for locational standards. |
| (12) Mobile food truck. | See section 80-237. Allowable districts: O&I, C-1, C-2, DTMU, M-1, M-2, and P&O. |
| (13) Places of worship. | See section 80-203. Allowable districts: All. |
| (14) Portable sawmills. | See section 80-225. Allowable districts: All. |
| (15) Recreational fields. | See section 80-227. Allowable districts: All. |
| (16) School, private or special. | See section 80-230. Allowable districts: All. |
| (17) Small group home/shelter (18 and older). | See section 80-211. Allowable districts: 24-hour care R-2, R-3, R-4, C-1, C-2, and M-1 with standards. |

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| (18) Medium group home/shelter (18 and older). | See section 80-212. Allowable districts: 24-hour care R-3, R-4, C-1, C-2, and M-1 with standards. |
| (19) Large group home/shelter (18 and older). | See section 80-213. Allowable districts: 24-hour care R-4, C-1, C-2, and M-1 with standards. |
| (20) Congregate group home/shelter (18 and older). | See section 80-214. Allowable districts: 24-hour care C-1, C-2, and M-1 with standards. |
| (21) Small group home (17 and younger). | See section 80-215. Allowable districts: 24-hour care R-2, R-3, R-4, C-1, C-2, and M-1 with standards. |
| (22) Medium group home (17 and younger). | See section 80-216. Allowable districts: 24-hour care R-3, R-4, C-1, C-2, and M-1 with standards. |
| (23) Large group residence (17 and younger). | See section 80-217. Allowable districts: 24-hour care R-4, C-1, C-2, and M-1 with standards. |
| (24) Congregate group home (17 and younger). | See section 80-218. Allowable districts: 24-hour care C-1, C-2, and M-1 with standards. |
| (25) . Colleges, universities and trade schools, private. | See section 80-230. Allowable districts: C-1, C-2, DTMU, M-1, M-2, and O&I. |
| (26) Stadium (off-site) associated with a private school. | See section 80-235. Allowable districts: All. |
| (27) Swimming pool, private. | See section 80-190. Allowable districts: All except C-1, C-2. |
| (28) Temporary classroom. | See section 80-192. Allowable districts: All. |
| (29) Truck terminals/truck stops. | See section 80-239. Allowable districts: M-1 and M-2 with standards. |
| (30) Utility substations (telephone, electric, or gas, etc.). | See section 80-194. Allowable districts: All. |

- (f) *M-1—Development standards.* Unless otherwise provided in this chapter, uses permitted in the M-1 zoning district shall conform to the following standards:

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| Minimum front yard setback | 35 feet |
| Minimum side yard setback | 20 feet |
| Minimum rear yard setback | 30 feet |
| Note: All M-1 uses abutting a residential district must maintain a side and rear yard of 50 feet. | |
| Minimum lot area | 1 acre (43,560 square feet) |
| Minimum width of lot frontage or width at building line | 100 feet |

- (g) *M-1—Building height and form.*

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| Maximum height (unless approved by the fire marshal) | 48 feet |
| Maximum lot coverage en;a. Including accessory structures. | 60 percent |

- (h) *M-1—Design standards.* Unless otherwise provided in this chapter, uses permitted in the M-1 district shall conform to the following design standards:

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- (1) All uses must be located on a collector street or within an industrial park served by a collector.
 - (2) All outside storage of materials and equipment must be completely screened from public view from adjacent properties and streets by an opaque screening device.
 - (3) Site design must permit on-site maneuvering of all vehicles; no backing to or from the street shall be permitted.
 - (4) No use shall be permitted which produces an objectionable or offensive odor at such concentrations as to be readily perceptible at any point along the lot line of the property on which the use is located.
 - (5) The site shall be designed to accommodate adequate queuing and stacking of trucks on-site.
 - (6) Off-street parking shall be provided as specified in article IX.
 - (7) Buffers shall be provided as specified in article X.
- (i) *M-1—Other regulations.* The headings below contain provisions applicable to the M-1 Light Industrial Zoning District:

*Chapter
Number*

Fire CodesChapter 29
Manufactured and Mobile HomesChapter 38
Solid WasteChapter 47
Traffic and VehiclesChapter 56
Building RegulationsChapter 62
EnvironmentChapter 65
Soil Erosion and Sedimentation ControlChapter 65
Stormwater ManagementChapter 65
Stream Buffer ProtectionChapter 65
Flood Damage PreventionChapter 68
Land Development RegulationsChapter 71
LandscapingChapter 74
SubdivisionsChapter 77
ZoningChapter 80
Overlay DistrictsChapter 80
Home OccupationChapter 80
FencingChapter 80
Off-Street ParkingChapter 80
Use PermitsChapter 80
Non-ConformingChapter 80
AppealsChapter 80
SignsChapter 80

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. No. 2014-12, § 1, 6-9-2014; Ord. No. 2016-08, § 1(Exh. A), 7-25-2016; Ord. of 10-28-2019(1) ; Ord. No. 2022-230 , § 1, 3-28-2022)

Sec. 80-86. M-2—Heavy Industrial Zoning District.

- (a) *M-2—Intent.* Regulations set forth in this section are the M-2 Heavy Industrial Zoning District regulations. Article IV should be consulted to determine uses and minimum standards for uses allowed by administrative permit or use permit. The M-2 district is intended to provide suitable areas for major manufacturing and storage and large amounts of land. Typical heavy industrial uses include manufacturing, chemical manufacturing and storage, petrochemical refining and storage, mining and other land uses which may affect the environment. These districts should have access to major streets and utilities and discourage uses which are incompatible.
- (b) *M-2—Use regulations.* Within the M-2 district, land and structures shall be used in accordance with the standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by use permit shall be prohibited.
- (c) *M-2—Permitted uses.* Any permitted use, provided that all manufacturing, processing, assembly and/or disassembly operations and all storage operations associated with such uses not specifically identified below shall be housed entirely within an enclosed building or buildings. All outside storage shall be enclosed by an opaque fence meeting the district height regulations.

Structures and land may be used for only the following purposes:

- (1) Any use permitted in the M-1 light industrial district.
- (2) Basic wood processing including sawmills, planing mills, veneering and laminating of wood.
- (3) Battery manufacture.
- (4) Blast furnace.
- (5) Boiler works.
- (6) Cement products manufacture and production of ready-mix concrete.
- (7) Cooperage and bottling works.
- (8) Dry cleaning plants.
 - a. Such use shall be at least 300 feet from any property zoned or used for residential properties.
 - b. All applicable state, federal and local codes must be complied with.
- (9) Enameling, galvanizing and electroplating.
- (10) Exterminating facilities.
- (11) Heavy construction contractors.
- (12) Heavy repair services and trade shops.
 - a. Such use shall not be permitted within 50 feet of any property used for a school, park, playground or hospital.
 - b. All activities shall be carried on entirely within an enclosed building.
 - c. Such use shall not be established on a lot which is adjacent to or directly across the street from any single-family residential district.

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- d. All outdoor storage must be in the rear of the principal structure and enclosed by an opaque fence no less than eight feet in height.

(13) Iron or steel foundry or fabrication plant for heavy castings.

(14) Manufacturing of:

- a. Acetylene gas.
- b. Acid.
- c. Asphalt.
- d. Bleaching powder.
- e. Brick.
- f. Cement.
- g. Chlorine gas.
- h. Coal tar.
- i. Fertilizers.
- j. Glue.
- k. Gypsum board.
- l. Linoleum.
- m. Mineral dye.
- n. Oil.
- o. Oilcloth.
- p. Paint.
- q. Paper.
- r. Paper pulp.
- s. Patent leather.
- t. Petroleum products.
- u. Pottery.
- v. Shellac.
- w. Terra cotta.
- x. Tile.
- y. Turpentine.
- z. Varnish.
- aa. Yeast.

(15) Laundry and/or dry-cleaning plant distribution center (not including processing, fabrication or manufacturing).

(16) Outdoor advertising services include: Construction, repair, and maintenance of outdoor advertising signs.

- (17) Removal or extraction of dirt, sand and soil.
- (18) Repair services and trade shops, including sheet metal, upholstering, electrical, plumbing, carpentry, sign painting and other similar activities.
- (19) Storage of fuels, oils, gases and other combustible materials.
- (20) Tar distillation.
- (21) Tire retreading and recapping.
- (22) Truck terminals/truck stops, subject to a use permit.
 - a. The lot upon which the truck stop is located, including all structures and parking spaces, must be a minimum of five acres.
 - b. No such use is allowed within 5,000 feet in any direction from an existing similar use.
 - c. On-site security shall be provided by the owner or operator of the truck stop 24 hours a day, seven days a week.
 - d. No long-term storage of trailers or trucks shall be allowed on the lot.
 - e. No overnight or sleeping facilities shall be provided on the lot.

(d) *M-2—Accessory uses.*

(1) *Accessory uses and structures.*

- a. Accessory uses and structures incidental to any permitted use.
- b. Minimum accessory structure requirements: Accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard.
- c. Other use: Accessory structures shall not be located in the minimum front yard.
- d. For sale, for rent, or for lease signs in accordance with the sign regulations of this section.
- e. Temporary storage pods are intended for a limited period of time and not for permanent storage.

(2) *Accessory uses and structures incidental to any legal permitted use, provided:*

- a. Retail sales and services must be conducted and accessed wholly within the building(s) housing the use to which the activities are accessory.

(e) *M-2—Conditional uses.*

| <i>Uses Subject to an Administrative Permit:</i> | <i>Subject to the requirements of Article IV—Administrative Permit Requirements:</i> |
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| <i>Administrative Permit Uses:</i> | <i>See sections 80-174 through 80-195</i> |
| (1) Alternative antenna support structure to exceed the district height. | See section 80-175. Allowable districts: C-2, M-1 and M-2 with standards. |
| (2) Amateur radio antenna to exceed the district height. | See section 80-176. Allowable districts: All. |
| (3) Antenna, tower, and associated structures (radio broadcasting, t.v. broadcasting, microwave broadcasting, etc.), to exceed the district height. | See section 80-177. Allowable districts: O&I, C-2, DTMU, M-1 and M-2 (see use permit, for use in residential and the AG district). |
| (4) Event, special indoor/outdoor (less than 75 persons). | See section 80-179. Allowable districts: O&I, C-1, C-2, DTMU, M-1, M-2, P&O, AG and residential districts in |

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| | conjunction with an institutional use, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like. |
| (5) Farmers market | See section 80-179.1. Allowable districts: O&I, DTMU, C-1, C-2, M-1, M-2, and P&O. Allowable in AG and residentially zoned districts only when the property is occupied by a church, school, lodge/retreat, farm, plant nursery, etc., existing as a conforming or a lawful non-conforming nonresidential use. The issuance of this permit does not constitute an expansion or extension of a nonconforming use. |
| (6) Golf course. | See section 80-180. Allowable districts: All. |
| (7) Home occupations. | See section 80-138. Allowable districts: All residential districts. |
| (8) Recreational court, public. | See section 80-183. Allowable districts: O&I, C-1, C-2, M-1, M-2, and P&O with standards. |
| (9) Seasonal business use. | See section 80-190. Allowable districts: C-1, C-2, M-1 and M-2. Allowable in AG and residentially zoned districts only when the property is occupied by a church, school, lodge/retreat, farm, plant nursery, etc., existing as a conforming or a lawful nonconforming nonresidential use. The issuance of this permit does not constitute an expansion or extension of a nonconforming use. |
| (10) Swimming pool, private. | See section 80-190. Allowable districts: All except C-1, C-2. |
| (11) Temporary classroom. | See section 80-192. Allowable districts: All. |
| (12) Temporary structures. | See section 80-193. Allowable districts: All, except emission inspection stations shall be permitted only in non-residential districts and except AG. |
| (13) Utility substations (telephone, electric, or gas, etc.). | See section 80-194. Allowable districts: All with standards. |
| Uses Subject to a Use Permit: | Subject to the requirements of Article IV—Use Permit Requirements: |
| Use Permit Uses | See Sections 80-196 through 80-239 |
| (1) Agricultural-related activities. | See section 80-197. Allowable districts: All with standards. |
| (2) Amateur radio antenna to exceed the administrative height. | See section 80-198. Allowable districts: All with standards. |
| (3) Antenna tower, and associated structure (radio, t.v., microwave broadcasting, etc.), to exceed the district height. | See section 80-200. Allowable districts: Residential districts, AG (see same heading in section 80-174, for other non-residential districts). |
| (4) Cemetery and/or mausoleum (human or pet). | See section 80-202. Allowable districts: All except AG with standards. |
| (5) Commercial amusement, outdoor. | See section 80-204. Allowable districts: C-1, M-1, and M-2 with standards. |
| (6) Event, special indoor/outdoor (more than 75 persons). | See section 80-179. Allowable districts: O&I, C-1, C-2, DTM, M-1, M-2, P&O, AG and residential districts in conjunction with an institutional use, such as a place |

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| | of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like. |
| (7) Landfill, solid waste disposal. | See section 80-220. Allowable districts: M-2 with standards. |
| (8) Lodge, retreat and/or campground. | See section 80-222. Allowable districts: AG, M-1, and M-2 with standards. |
| (9) Massage therapy establishments. | See section 80-238 for locational standards. |
| (10) Mobile food truck. | See section 80-237. Allowable districts: O&I, C-1, C-2, DTMU, M-1, M-2, and P&O. |
| (11) Places of worship. | See section 80-203. Allowable districts: All. |
| (12) Portable sawmills. | See section 80-225. Allowable districts: All. |
| (13) Private correctional facility/prison. | See section 80-226. Allowable districts: M-2 with standards. |
| (14) Recreational fields. | See section 80-227. Allowable districts: All. |
| (15) Recycling center, processing. | See section 80-228. Allowable districts: M-2 with standards. |
| (16) Salvage, storage, and/or junk facility. | See section 80-229. Allowable districts: M-2. |
| (17) School, private or special. | See section 80-230. Allowable districts: All. |
| (18) Colleges, universities and trade schools, private. | See section 80-230. Allowable districts: C-1, C-2, DTMU, M-1, M-2, O&I, and P&O. |
| (19) Stadium (off-site) associated with a private school. | See section 80-235. Allowable districts: All. |
| (20) Temporary classroom. | See section 80-192. Allowable districts: All. |
| (21) Transfer station, solid waste. | See section 80-236. Allowable districts: M-2. |
| (22) Truck terminals/truck stops. | See section 80-239. Allowable districts: M-1 and M-2 with standards. |
| (23) Utility substations (telephone, electric, or gas, etc.). | See section 80-194. Allowable districts: All. |

- (f) *M-2—Development standards.* Unless otherwise provided in this chapter, uses permitted in the M-2 zoning district shall conform to the following standards:

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| Minimum front yard setback | 40 feet |
| Minimum side yard setback | 20 feet |
| Minimum rear yard setback | 30 feet |
| Note: All M-2 uses abutting a residential district must maintain a side and rear yard of 50 feet. | |
| Minimum lot area | 2 acres (87,120 square feet) |
| Minimum width of lot frontage or width at building line | 30 feet |

- (g) *M-2—Building height and form.*

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| Maximum height (unless approved by the fire marshal) | 48 feet |
| Maximum lot coverage a. Including accessory structures. | 60 percent |

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- (h) *M-2—Design standards.* Unless otherwise provided in this chapter, uses permitted in the M-2 district shall conform to the following design standards:
- (1) All uses must be located on a collector street or within an industrial park served by a collector.
 - (2) All outside storage of materials and equipment must be completely screened from public view from adjacent properties and streets by an opaque screening device.
 - (3) Site design must permit on-site maneuvering of all vehicles; no backing to or from the street shall be permitted.
 - (4) Loading docks must be located to the rear of the building unless the loading area is completely screened from the street.
 - (5) No use shall be permitted which produces an objectionable or offensive odor at such concentrations as to be readily perceptible at any point along the lot line of the property on which the use is located.
 - (6) The site should be designed to accommodate adequate queuing and stacking of trucks on-site.
 - (7) Off-street parking shall be provided as specified in article IX.
 - (8) Buffers shall be provided as specified in article X.
- (i) *M-2—Other regulations.* The headings below contain provisions applicable to the M-2 Heavy Industrial Zoning District:

*Chapter
Number*

Fire CodesChapter 29
Manufactured and Mobile HomesChapter 38
Solid WasteChapter 47
Traffic and VehiclesChapter 56
Building RegulationsChapter 62
EnvironmentChapter 65
Soil Erosion and Sedimentation ControlChapter 65
Stormwater ManagementChapter 65
Stream Buffer ProtectionChapter 65
Flood Damage PreventionChapter 68
Land Development RegulationsChapter 71
LandscapingChapter 74
SubdivisionsChapter 77
ZoningChapter 80
Overlay DistrictsChapter 80
Home OccupationChapter 80
FencingChapter 80
Off-Street ParkingChapter 80

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SignsChapter 80

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-87. PD—Planned Development Zoning District.

- (a) *PD—Intent.* The PD Planned Development Zoning District is defined and is mandated as land areas and projects containing a combination of three or more of the following uses: Single-family residential, multi-family residential, commercial, office, institutional, industrial, and conservation. The PD district is intended to:
- (1) Encourage the development of large tracts of land as planned communities.
 - (2) Encourage flexible and creative concepts in site planning.
 - (3) Preserve the natural amenities of the land by encouraging scenic and functional open areas.
 - (4) Provide for an efficient use of land.
 - (5) Provide a stable residential environment compatible with surrounding residential areas.
 - (6) Protect neighboring properties by requiring larger peripheral lots adjacent to larger lot developments.
- (b) *PD—Use regulations.* Within the PD district, land and structures shall be used in accordance with the standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by use permit shall be prohibited.
- (c) *PD—Permitted uses.* All uses in the R-1, R-2, R-3, R-4, R-CT, RM-12, RM-36, O&I, P&O, C-1, and C-2 are permitted as provided in those respective districts.
- (d) *PD—Accessory uses and structures.* A structure or land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation. Retail and service uses, and clubs accessory to recreation facilities are allowed subject to the following conditions:
- a. Accessory retail and service uses shall be located wholly within a building with a majority of the floor area designed for recreation uses. No outdoor advertising is allowed.
 - b. Temporary storage pods are intended for a limited period of time and not for permanent storage.
- (e) *PD—Development plan.* The development plan shall be the zoning control document for features depicted graphically. The site plan requirement applicable to rezoning requests shall be adhered to for PD rezoning requests. A site plan shall become the development plan if the request to rezone is approved without changes or additions. If the approval by the city differs in any way from what is depicted on the site plan submitted for the purpose of seeking rezoning, a revised plan must be certified by the planning and zoning department before development related permits may be issued. A site plan or development plan shall not substitute for plans which are required as a prerequisite for applying for development related permits. The location of all use areas shall be shown on the development plan, and location on the ground shall be as shown on the development plan.

- (f) *PD—Development standards.* Unless otherwise provided in this chapter, uses permitted in the PD zoning district shall conform to the following standards:

| | |
|---|----------------------------|
| Minimum lot area per unit | 6,000 square feet |
| Minimum land area per unit | As specified in conditions |
| Minimum PD size | Five contiguous acres |
| Residential Density: Residential developments shall not exceed allowable densities for similar development as contained in the residential zoning classifications of this section. Residential project density shall be calculated by considering only land designated for residential development together with associated and adjacent common open space and recreation areas. | |
| a. Width of lot frontage | As specified in conditions |
| b. Minimum heated floor area per unit | As specified in conditions |
| c. Minimum setbacks: | |
| 1. Single-family <u>detached and attached</u> lots: | |
| a. Minimum front yard: As specified in conditions. | |
| b. Minimum side yard: As specified in conditions. | |
| c. Minimum rear yard: As specified in conditions. | |

- (g) *PD—Minimum accessory structure requirements.*

Single-family and two-family uses:

- Accessory structures may be located within the side or rear yards subject to minimum yard setbacks.

- (h) *PD—Building height and form.*

| | |
|---|---------|
| a. Maximum height (unless approved by the fire marshal) | 48 feet |
| b. Minimum building separation. All building separations shall be as specified by the International Code Council. | |

- (i) *PD—Other minimum standards.*

- (1) Common outdoor area consisting of not less than 550 square feet per unit shall be provided for recreation in all developments of 15 or more acres.
- (2) Land area proposed for open space or recreation shall be allocated among the use areas in proportion to the ratio of a neighborhood population to the total PD population so that acreage devoted to open space is reasonably accessible to all residents.
- (3) Multi-family uses shall not be located along the perimeter except adjacent to or across a street from an existing multi-family or more intense use.
- (4) Agreements, covenants, declarations, and other contracts which govern the use, maintenance, and protection of a PD development among its owner's areas shall be part of the official final plat.
- (5) Multi-family units shall not exceed 25 percent of the total number of dwelling units in a PD.

-
- (6) Minimum common outdoor area. Twenty-five percent of the total site area shall be common outdoor area.
 - (7) Pedestrian connectivity. Walkways shall form a logical, safe, and convenient system for pedestrian access to all dwelling units, appropriate facilities within the development, and principle off site pedestrian destinations. All pedestrian facilities shall conform to the provisions of the Americans with Disabilities Act.
 - (8) Intermodal transportation. The development plan shall provide for vehicular, bicycle and pedestrian circulation within the PD district. Routes shall be designed to connect to existing or future routes adjoining the PD district.

(j) *PD—Other regulations.* The headings below may contain provisions applicable to the PD Planned Development Zoning District:

*Chapter
Number*

Fire CodesChapter 29

Manufactured and Mobile HomesChapter 38

Solid WasteChapter 47

Traffic and VehiclesChapter 56

Building RegulationsChapter 62

EnvironmentChapter 65

Soil Erosion and Sedimentation ControlChapter 65

Stormwater ManagementChapter 65

Stream Buffer ProtectionChapter 65

Flood Damage PreventionChapter 68

Land Development RegulationsChapter 71

LandscapingChapter 74

SubdivisionsChapter 77

ZoningChapter 80

Overlay DistrictsChapter 80

Home OccupationChapter 80

FencingChapter 80

Off-Street ParkingChapter 80

Use PermitsChapter 80

Non-ConformingChapter 80

AppealsChapter 80

SignsChapter 80

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-87.1. P&O Parks and Open Space Zoning District.

- (a) *P&O—Intent.* The purpose of the P&O Parks and Open Space Zoning District is to promote the development of public parks and open space service facilities in areas where they will be accessible to the public but not improperly encroach into residential areas or unduly contribute to traffic congestion in surrounding neighborhoods. Examples of parks and open space districts are publicly owned buildings, facilities and lands; and churches and church complexes.
- (b) *P&O—Use regulations.* Within the P&O district, land and structures shall be used in accordance with the standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by use permit shall be prohibited.
- (c) *P&O—Permitted uses.* Structures and land may be used for only the following purposes:
 - (1) Agriculture, forestry, or horticulture.
 - (2) Building, facility, or land for the distribution of utility service.
 - (3) Building, facility, or land for non-commercial park, recreation or open space purposes.
 - (4) Building, facility, or land for stormwater management purposes.
 - (5) Cemetery.
 - (6) Child day care center.
 - (7) Church or other legitimate place of worship, including a one-family dwelling for a minister.
 - (8) Event, special indoor/outdoor.
 - (9) Farmers market.
 - (10) Mobile food truck.
 - (11) Parks and other recreational and open spaces.
 - (12) Publicly owned building, facility, or land.
 - (13) Recreational court, public.
 - (14) Revival tent.
 - (15) Swimming pool, public.
 - (16) Wildlife refuge or nature preserve, including a one-family dwelling for a caretaker.
- (d) *P&O—Accessory uses.*
 - (1) *Accessory uses and structures.*
 - a. Accessory uses and structures incidental to any permitted use.
 - b. Accessory uses, buildings, and structures incidental to and in support of the above permitted uses, but not including living facilities except as specified above. For example, accessory uses, buildings and structures for a church or other legitimate place of worship would include, but not be limited to, family and domestic counseling services, after school day care, substance abuse group meetings, and use of a building or buildings other than the worship center itself for educational purposes, church administrative functions or indoor athletic activities, so long as the uses, buildings, or structures are actually owned by the church, and that any use is actually conducted by the church.

- c. Minimum accessory structure requirements: Accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard.
 - d. Other use: Accessory structures shall not be located in the minimum front yard.
 - e. For sale, for rent, or for lease signs in accordance with the sign regulations of this section.
 - f. Temporary storage pods are intended for a limited period of time and not for permanent storage.
- (2) *Accessory uses and structures incidental to any legal permitted use, provided:*
- a. Retail sales and services must be conducted and accessed wholly within the building(s) housing the use to which the activities are accessory.

(e) *P&O—Conditional uses.*

| Uses Subject to an Administrative Permit: | Subject to the requirements of Article IV—Administrative Permit Requirements: |
|---|--|
| Administrative Permit Uses: | See sections 80-174 through 80-195 |
| (1) Amateur radio antenna to exceed the district height. | See section 80-176. Allowable districts: All. |
| (2) Event, special indoor/outdoor (less than 75 persons). | See section 80-179. Allowable districts: O&I, C-1, C-2, DTMU, M-1, M-2, P&O, AG and residential districts in conjunction with an institutional use, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like. |
| (3) Farmers market | See section 80-179.1. Allowable districts: O&I, DTMU, C-1, C-2, M-1, M-2, and P&O. Allowable in AG and residentially zoned districts only when the property is occupied by a church, school, lodge/retreat, farm, plant nursery, etc., existing as a conforming or a lawful non-conforming nonresidential use. The issuance of this permit does not constitute an expansion or extension of a nonconforming use. |
| (4) Golf course. | See section 80-180. Allowable districts: All. |
| (5) Home occupations. | See section 80-138. Allowable districts: All residential districts. |
| (6) Recreational court, public. | See section 80-183. Allowable districts: O&I, C-1, C-2, M-1, M-2, and P&O with standards. |
| (7) Seasonal business use. | See section 80-190. Allowable districts: C-1, C-2, M-1, and M-2. Allowable in AG and residentially zoned districts only when the property is occupied by a church, school, lodge/retreat, farm, plant nursery, etc., existing as a conforming or a lawful nonconforming nonresidential use. The issuance of this permit does not constitute an expansion or extension of a nonconforming use. |
| (8) Swimming pool, private. | See section 80-190. Allowable districts: All except C-1, C-2. |
| (9) Temporary classroom. | See section 80-192. Allowable districts: All. |

| | |
|---|---|
| (10) Temporary structures. | See section 80-193. Allowable districts: All, except emission inspection stations shall be permitted only in non-residential districts and except AG. |
| (11) Utility substations (telephone, electric, or gas, etc.). | See section 80-194. Allowable districts: All with standards. |
| Uses Subject to a Use Permit: | Subject to the requirements of Article IV—Use Permit Requirements: |
| Use Permit Uses | See Sections 80-196 through 80-239 |
| (1) Agricultural-related activities. | See section 80-197. Allowable districts: All with standards. |
| (2) Amateur radio antenna to exceed the administrative height. | See section 80-198. Allowable districts: All with standards. |
| (3) Antenna tower, and associated structure (radio, t.v., microwave broadcasting, etc.), to exceed the district height. | See section 80-200. Allowable districts: Residential districts, AG (see same heading in section 80-174, for other non-residential districts). |
| (4) Cemetery and/or mausoleum (human or pet). | See section 80-202. Allowable districts: All except AG with standards. |
| (5) Commercial amusement, outdoor. | See section 80-204. Allowable districts: C-1, M-1, M-2, and P&O with standards. |
| (6) Event, special indoor/outdoor (more than 75 persons). | See section 80-179. Allowable districts: O&I, C-1, C-2, DTM, M-1, M-2, P&O, AG and residential districts in conjunction with an institutional use, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like. |
| (7) Lodge, retreat and/or campground. | See section 80-222. Allowable districts: AG, M-1, and M-2 with standards. |
| (8) Massage therapy establishments. | See section 80-238 for locational standards. |
| (9) Mobile food truck. | See section 80-237. Allowable districts: O&I, C-1, C-2, DTMU, M-1, M-2, and P&O. |
| (10) Places of worship. | See section 80-203. Allowable districts: All. |
| (11) Portable sawmills. | See section 80-225. Allowable districts: All. |
| (12) Recreational fields. | See section 80-227. Allowable districts: All. |
| (13) School, private or special. | See section 80-230. Allowable districts: All. |
| (14) Colleges, universities and trade schools, private. | See section 80-230. Allowable districts: C-1, C-2, DTMU, M-1, M-2, and O&I. |
| (15) Stadium (off-site) associated with a private school. | See section 80-235. Allowable districts: All. |
| (16) Temporary classroom. | See section 80-192. Allowable districts: All. |
| (17) Utility substations (telephone, electric, or gas, etc.). | See section 80-194. Allowable districts: All. |

- (f) *P&O—Development standards.* Unless otherwise provided in this chapter, uses permitted in the P&O zoning district shall conform to the following standards:

| | |
|----------------------------|---------|
| Minimum front yard setback | 50 feet |
| Minimum side yard setback | 20 feet |
| Minimum rear yard setback | 30 feet |

| | |
|--|--------------------------------|
| Note: All P&O uses minimum front, side and rear yards shall provide 25-foot landscaping for buildings and parking. | |
| Minimum lot area | 1 acre (43,560 square feet) |
| Minimum width of lot frontage or width at building line | 100 feet |

(g) *P&O—Building height and form.*

| | |
|--|------------|
| Maximum height (unless approved by the fire marshal) | 48 feet |
| Maximum lot coverage a. Including accessory structures. | 50 percent |

(h) *P&O—Design standards.* Unless otherwise provided in this chapter, uses permitted in the P&O district shall conform to the following design standards:

- (1) All outside storage of materials and equipment must be completely screened from public view from adjacent properties and streets by an opaque screening device.
- (2) Loading docks must be located to the rear of the building unless the loading area is completely screened from the street.
- (3) Site plans for any development must be prepared by a professional site planner, architect, civil engineer, or landscape architect.
- (4) Architectural plans and specifications for any structure must be prepared by a professional architect or civil engineer.
- (5) Landscape plans are required for all developed sites, and they must be prepared by a professional landscape architect.
- (6) Off-street parking shall be provided as specified in article IX.
- (7) Buffers shall be provided as specified in article X.

(i) *P&O—Other regulations.* The headings below may contain provisions applicable to the P&O Parks and Open Space Zoning District:

*Chapter
Number*

Fire CodesChapter 29

Manufactured and Mobile HomesChapter 38

Solid WasteChapter 47

Traffic and VehiclesChapter 56

Building RegulationsChapter 62

EnvironmentChapter 65

Soil Erosion and Sedimentation ControlChapter 65

Stormwater ManagementChapter 65

Stream Buffer ProtectionChapter 65

Flood Damage PreventionChapter 68

Land Development RegulationsChapter 71

LandscapingChapter 74

SubdivisionsChapter 77

ZoningChapter 80

Overlay DistrictsChapter 80

Home OccupationChapter 80

FencingChapter 80

Off-Street ParkingChapter 80

Use PermitsChapter 80

Non-ConformingChapter 80

AppealsChapter 80

SignsChapter 80

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-88. Reserved.

Editor's note(s)—An ordinance adopted Oct. 28, 2019 repealed § 80-88, which pertained to the PS Public Service District and derived from Ord. No. 2012-04, § 1(Exh. A), adopted June 11, 2012.

Sec. 80-89. Highway 29 Overlay Zoning District.

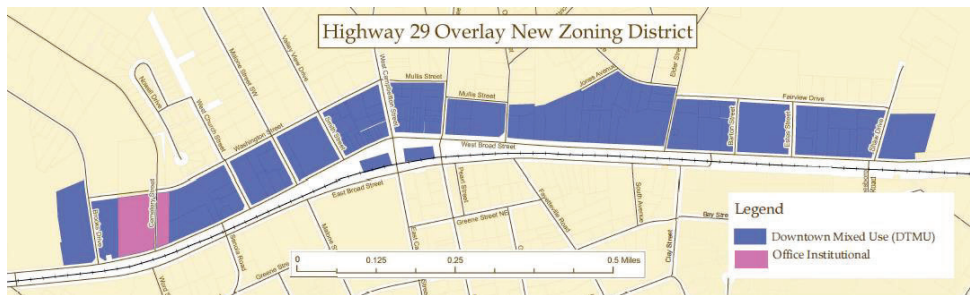
- (a) *Scope.* This article establishes standards and procedures that apply to any development, use, alteration, height, density, parking, common space, and building that lies, in whole or in part, within the Fairburn U.S. Highway 29 Overlay Zoning District, hereinafter referred to as the Fairburn overlay district. The Fairburn overlay district is based upon the urban design and development guidelines included in the downtown city livable centers initiative (LCI) study.

The LCI study calls for a community that incorporates higher density development in the downtown city area while providing a mix of commercial, office, recreation, and housing options. Also included in the LCI's goals is the improved mobility on the major corridors.

- (b) *Applicability.* This article applies to:

- (1) Every application for a building permit where one of the following conditions exist:
 - a. Changes resulting in complete demolition of a primary structure.
 - b. An increase in building footprint of 20 percent or more.
 - c. An increase in building square footage of 50 percent or more. The signage standards within this article apply to:
 1. Every sign permit application for the installation of a new sign.

The procedures, standards, and criteria herein apply only to that portion of the subject property within the boundaries of the Fairburn overlay district. Below are the boundaries of the Highway 29 Overlay Zoning District.



Wherever the underlying zoning regulations are in conflict with the provisions of this overlay district, the regulations of this overlay district shall apply.

Non-conforming uses created by the adoption of the Fairburn overlay district shall be administered as per article V.

Appeals, exceptions and variances shall be administered as per article VI.

(c) *Purpose and intent.* The purpose and intent of establishing the Fairburn overlay district is as follows:

- (1) To promote the development of a more dynamic, mixed-use district of appropriate scale and magnitude in the downtown city area.
- (2) To build on the character that is uniquely Fairburn to have a thriving, compact historic downtown.
- (3) To balance the rights of private property owners with the city's desire to guide future development.
- (4) To ensure that new structures and developments are consistent with the vision and recommendations of the downtown city LCI plan (completed in 2009) with significant community involvement and input.
- (5) To design and arrange structures, buildings, and common spaces to create an inviting, walkable, human-scale environment.
- (6) To provide for connectivity of streets and communities and reduce the dependence on automobile use by increasing the ease of movement and opportunities for alternative modes of travel.
- (7) To ensure a proportional relationship of surrounding buildings with respect to the general spacing of structures, building mass and scale, and street frontage by using techniques to achieve compatibility, such as:
 - a. Use of consistent setbacks from property lines;
 - b. Development of consistent sidewalks and a more active, interesting pedestrian environment;
 - c. Use of landscaping and lighting to unify district buildings and define space;
 - d. Use of compatible building materials to promote a design and building aesthetic compatible with the desired urban character; and
 - e. To implement the policies and objectives of the comprehensive plan and the zoning ordinance of the city within the Fairburn overlay district.

(d) *Definitions.*

Boarding and breeding kennels. Establishments where dogs or cats are boarded for compensation or where dogs or cats are bred or raised for sale purposes.

Extended stay motels. Any building containing six or more guest rooms intended or designed to be used, or which are used, rented, or hired out to be occupied, or which are occupied for sleeping purposes for guests and contain kitchen facilities for food preparation including but not limited to such facilities as refrigerators, stoves, and ovens.

Heavy repair shop and trade shop. Shops where lathes, presses, grinders, shapers, and other wood- and metal-working machines are used such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing, heating, and electrical repair shops; and overhaul shops.

Liquor stores. Any business selling general alcoholic beverages, also known as sale of distilled spirits or hard liquor, for off-premises consumption. Liquor store does not include a business selling only beer and/or wine for off-premises consumption.

Live-work units. Buildings or spaces within buildings that are used jointly for commercial and residential purposes where the residential use of the space is secondary or accessory to the primary use as a place of work.

Mixed-use. A building or groups of buildings under one ownership designed to encourage a diversity of compatible land uses, which include a mixture of two or more of the following uses: Retail, office and/or service, and residential.

Multi-family residential. A building or set of buildings containing a group of dwelling units on a common lot containing separate living units for four or more families, having separate or joint entrances, and including apartments and condominiums. These are specifically distinguished from units defined as single-family attached dwellings (townhouses). ~~A dwelling or group of dwellings on one lot, containing separate living units for three or more families, having separate or joint entrances, and including apartments, townhomes, flats and condominiums.~~

Salvage yards/junk yards. A parcel of land on which wastes or used secondhand materials are bought, sold, exchanged, stored, processed, or handled. Materials include but are not limited to: Scrap iron and other ferrous metals, paper; rags, rubber tires, bottles, discarded goods, machinery, or two or more inoperable motor vehicles.

Self-storage. A building or group of buildings divided into separate compartments used to meet the temporary storage needs of small businesses, apartment dwellers, and other residential uses.

Sexually oriented business. See chapter 5, section 5 of part I.

Small box discount retail stores. A retail store with a floor area less than 15,000 square feet that primarily offers for sale an assortment of physical goods, products, or merchandise directly to the consumer, including food or beverages for off-premises consumption, household products, personal grooming and health products, and other consumer goods, with the majority of items being offered for sale at lower than the typical market price. Small box discount retail stores shall not include the following: Pharmacy drug store or a convenience store attached to or collocated with a gas station.

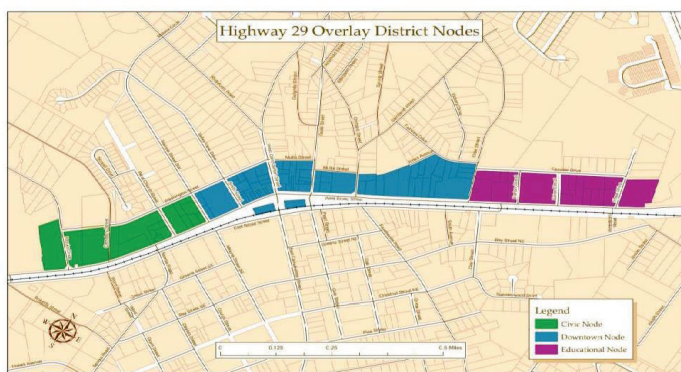
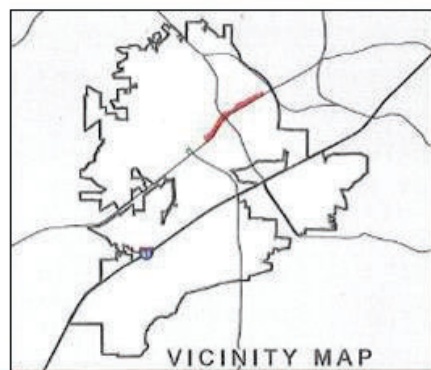
Title and pawn shops. An establishment that engages, in whole or in part, in the business of loaning money on the security of pledges of personal property, or deposits or conditional sales of personal property, or the purchase or sale of personal property.

- (e) *District boundaries and map.* The boundaries and development categories of the Fairburn overlay district shall be established by a zoning map amendment adopted pursuant to this chapter which amendment shall be incorporated herein and made a part of this article. This map shall be incorporated by reference and shall be known as the official U.S. Highway 29 overlay district map.

The Fairburn overlay district shall be divided into three development categories:

- (1) *Educational node.* The intent of the educational node is to act as a gateway into the city from the north. Various educational institutions are collocated here to offer opportunities for shared facilities and infrastructure. A flexible mix of land uses is desired to better facilitate service commercial and residential uses in this area catering to the campus community as well as nearby residents.
- (2) *Downtown node.* The intent of the downtown node is to preserve the historic commercial heart of the city while encouraging a mixture of retail, entertainment, commercial, office and residential uses.
- (3) *Civic node.* The intent of the civic node is to be gateway into the downtown area from the south. It is expected that several of the civic uses currently spread throughout the city will eventually relocate to this node, creating an area of strong civic presence for the city.

The city director of planning or designee shall have the final authority to determine whether any property is located within the boundaries of the Fairburn overlay district.



- (f) *Principal uses.* The following principal uses of land and structures shall be authorized within the Fairburn overlay district:
- (1) The Fairburn overlay district development may consist of any authorized use or combination of principal uses as authorized in the section below.

-
- (2) Sites may contain a mixture of uses. A single use category (commercial, residential, office/institutional, or civic) should occupy no more than 70 percent of the gross square footage of total building construction approved for the project.
 - (3) In buildings with a mixture of residential and non-residential uses, non-residential uses must occupy the ground floor facing the public street.
 - (4) For principal uses not to exceed a certain square footage per use, this applies to each use (or business) within a structure, not the structure itself.

Principal uses authorized in each node are:

- (1) *Educational node.*
 - a. Live-work units.
 - b. Multi-family residential units.
 - c. Institutional uses.
 - d. Governmental uses.
 - e. Mixed-use with ground floor retail, office and/or service, and residential and/or office located on upper stories.
 - f. Office uses—not to exceed 25,000 square feet per use.
 - g. Retail uses—not to exceed 45,000 square feet per use.
 - h. Food service establishments.
 - i. Professional service.
- (2) *Downtown node.*
 - a. Live-work units.
 - b. Multi-family residential units.
 - c. Mixed-use with ground floor retail, office and/or service, and residential and/or office located on upper stories.
 - d. Governmental uses.
 - e. Office uses—Not to exceed 25,000 square feet per use.
 - f. Retail uses—Not to exceed 45,000 square feet per use.
 - g. Food service establishments.
 - h. Professional service.
- (3) *Civic node.*
 - a. Live-work units.
 - b. Multi-family residential units.
 - c. Institutional uses.
 - d. Governmental uses.
 - e. Mixed-use with ground floor retail, office and/or service, and residential and/or office located on upper stories shall be allowed.

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- f. Office uses—not to exceed 25,000 square feet per use.
 - g. Retail uses—not to exceed 45,000 square feet per use.
 - h. Food service establishments.
 - i. Professional service.

Live-work units, which consist of buildings used jointly as dwellings and non-residential (work) purposes that are both permitted in the Fairburn overlay district. Live-work units shall meet all of the following standards:

- (1) Work uses shall be compatible with residential uses and shall not produce or create noise, smoke, vibrations, smells, electrical interferences, or fire hazards that would unreasonably interfere with residential uses. Permitted uses are:
 - a. Accounting office;
 - b. Planning, engineering, or architectural office;
 - c. Financial services office;
 - d. Insurance office;
 - e. Legal office;
 - f. Counseling office;
 - g. Real estate office;
 - h. Information processing uses;
 - i. Tutorial/educational services;
 - j. Fine arts studios and/or galleries;
 - k. Photography studios;
 - l. Consulting services;
 - m. Food service establishments; and
 - n. Beauty salons.
- (2) The maximum number of employees on the premises shall be five, in addition to the occupants of the residential space.
- (3) The unit shall not accommodate more than seven customers/clients at a time.
- (4) The minimum size of the live-work unit shall be 1,200 square feet with at least one-third of the unit designated for residential space.

The following principal uses of land and structures shall be prohibited within the Fairburn overlay district:

- (1) Boarding and breeding kennels.
- (2) Storage yard for damaged or confiscated automobiles.
- (3) Tire re-treading and recapping.
- (4) Sexually oriented businesses. See chapter 5, section 5 of part I.
- (5) Automotive repair shops.
- (6) Extended stay motels.
- (7) New and used cars sales.

- (8) Title and pawn shops.
- (9) Liquor stores.
- (10) Night clubs.
- (11) Salvage yards/junk yards.
- (12) Self-service car wash and detailing.
- (13) Self-storage.
- (14) Fuel stations.
- (15) Heavy repair and trade shops.
- (16) Small box discount retail stores.

(g) *Development standards.* The following requirements shall apply to all structures in the Fairburn overlay district:

(1) *General site design requirements.*

- a. For nonresidential uses, the primary ground floor entrance to all buildings shall be clearly visible from the street, shall face the street, and shall be unlocked during operating business hours.
- b. Decorative fencing, where applicable, shall only be made of brick, stone, wood, wrought iron or similar material. Fencing in the front yard of any property shall not be higher than four feet. Fencing to the rear or side of a building shall not be higher than six feet.
- c. No barbed wire, razor wire, chain-link fence or similar elements shall be visible from any public plaza, ground level or sidewalk level outdoor dining area or public right-of-way.
- d. Gates and security arms shall be prohibited from crossing any public street or sidewalk.
- e. All structures shall provide for underground utility access and connections, including pad-mounted transformers, at the rear of the building.

(2) *Building setbacks and height.*

- a. The following requirements apply to all developments:

| | Building Setbacks | Building Height |
|------------------|-------------------|-----------------|
| Educational Node | 0—20 feet | 1—4 stories |
| Downtown Node | 0—10 feet | 1—4 stories |
| Civic Node | 0—10 feet | 1—4 stories |

- b. Single story buildings must include building features such as parapet walls or other appropriate architectural elements in order to achieve a minimum height of 16 feet.
- c. Single story buildings must be designed and constructed so as to allow additional stories.
- d. Side setbacks for parcels shall be determined by the underlying zoning.
- e. Parking structures that do not exceed 35 feet in height are allowed by right in this district.

Those exceeding 48 feet in height are subject to a conditional use permit per city zoning ordinance. All parking structures must be designed with materials and architectural features consistent with surrounding buildings.

(3) *Lot coverage and lot size.*

- a. Building setbacks and side setbacks standards of this article shall determine lot coverage. No minimum lot coverage or lot size standards from any other article or section shall apply to parcels within the Fairburn overlay district.

(4) *Development standards for live-work units.*

- a. All off-street parking shall be hidden behind or within individual units. Garages may not face the public street. Properties that were formerly single-family homes are exempt from this requirement.
- b. The front entrance to each unit shall be at grade opening directly onto the public sidewalk or a public space adjacent to the public sidewalk.

(5) *Development standards for commercial and mixed-use buildings.*

- a. Ground-floor commercial and retail uses shall have entrances at grade opening directly onto the public sidewalk or a public space adjacent to the public sidewalk.
- b. Canopies over retail and commercial entrances and/or windows shall be mounted a minimum of eight feet above the sidewalk.
- c. The size of leased commercial space shall vary within each development to allow for diversity of tenants. Individual commercial units shall not exceed the limits established in section 80-92.06.
- d. A minimum of 75 percent of the ground-floor façade of mixed-use and commercial buildings shall be clear and un-tinted, transparent glass. Single use developments and those uses where such window area is impractical or unfeasible are excluded from this minimum requirement.
- e. Pedestrian access shall be provided from all parking areas to the building entrance.

(6) *Development standards for multi-family and townhome buildings.*

- a. Ground-floor residential units that face the street shall have entrances with a stoop or porch between the sidewalk and the building façade no less than two feet above grade. A sidewalk shall connect all ground floor entrances to the public sidewalk.
- b. Setbacks for multifamily and townhome buildings shall contain only steps, front porches or stoops, balconies, or landscaping. Mechanical equipment and other building service items may not be located within the setback area between the public sidewalk and building.

(7) *Parking.*

- a. Required parking may be provided through a combination of off-street, on-street, or shared parking, provided that all required parking is located within 1,200 feet by travel route of the principal entrance of buildings which it is intended to serve. The minimum number of required parking spaces shall be as provided in section 80-336. These requirements do not apply to district parking areas provided by the city.
- b. All off-street parking, including surface lots and parking decks, shall be located behind or beside buildings. No parking shall be located between the sidewalk and the building face.
- c. Each development which provides automobile parking facilities shall provide bicycle parking facilities in adjacent parking structures, parking lots, the adjoining sidewalk or setback area. Nonresidential developments shall provide bicycle parking at a ratio of one bicycle parking space for every 20 vehicular spaces. Multifamily residential developments shall provide bicycle parking facilities at a minimum ratio of one bicycle parking space for every five multifamily units. No

development shall have fewer than three bicycle parking spaces nor be required to exceed a maximum of 50 bicycle parking spaces.

- d. Off-street parking shall be screened from view from any public street by buildings and/or landscaping. Off-street parking may not be located between the sidewalk and the building face.
- e. Any portion of a parking deck that is adjacent to a public street shall be screened with retail on the ground floor. Any upper stories of a parking deck that are visible from a public street shall be clad with materials to reflect the design of the primary structure which it serves.
- f. No parking area may be used for the sale, repair, dismantling, service, or long-term storage of any vehicles or equipment.
- g. Curb cuts:
 - 1. The consolidation of curb cuts shall be encouraged where possible and new curb cuts shall be discouraged whenever appropriate, considering safe traffic flow, the objectives of this district, and access points needed for the proper functioning of the use.
 - 2. Location and spacing of curb cuts shall, at a minimum, meet the requirements of the state department of transportation driveway and encroachment control manual.
- h. Shared parking is encouraged in accordance with article VI, Administrative permits and use permits, section 80-181, Parking, off-site and shared.

- (h) *Architectural regulations.* In order to maintain a consistent character and accent the historic nature of the city's commercial core, the following architectural regulations shall apply to all uses and structures within the Fairburn overlay district:

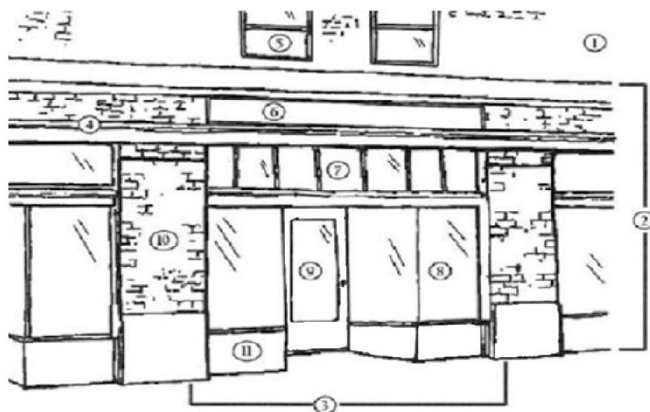
New construction and renovations shall:

- (1) Maintain the original character of the façade of historic building.
- (2) Conform to the architectural character of the national register structures of the downtown area.
- (3) Reinforce the established horizontal lines of façades on the block. Restore or recreate the historic horizontal alignment of architectural features such as cornices, windowsills and parapets.



Reinforcing established horizontal lines through windows and cornices helps maintain continuity of storefronts

- (4) Construct 75 percent of the width of the front façade of the building at the ground level as fenestration (windows, doors, etc.).
- (5) Maintain the original size, shape, and design of the storefront opening. Large ground floor windows shall be maintained. Doors shall use painted frames; unfinished aluminum or stainless-steel frames are not permitted. Window and door frames may be metal with anodized or painted finish or varnished or painted wood. Residential type of opaque and paneled doors shall not be permitted.
- (6) Maintain traditional recessed storefront entrances where they exist.
- (7) Provide uninterrupted wall widths of not more than 60 feet.
- (8) Incorporate storefront design widths that change at least every 40 feet.



| | |
|-----------------------|------------------------|
| 1. Upper Façade | 6. Signboard |
| 2. Lower Façade | 7. Transom |
| 3. Storefront | 8. Display Window |
| 4. Cornice | 9. Entrance |
| 5. Upper Floor Window | 10. Pier |
| | 11. Bulkhead/Kickplate |

- (9) Maintain and/or restore kickplate below storefront windows where appropriate. Appropriate kickplate materials include painted wood, glazed tile, painted metal in muted tones or metal matte bronze finish.
- (10) Preserve primary façade elements (see graphic above) and high-quality building materials. If the original façade has been concealed, it shall be uncovered. If portions of the original building material must be replaced, duplicate the material used or use a similar material to the original. Use of "barn" wood or other boarded surfaces which are inconsistent with the original building design shall not be permitted. All building façades visible from the public street shall consist of wood, stone, brick or stucco.
- (11) Preserve and restore original ornamentation and details of the façade using photographic and other evidence.

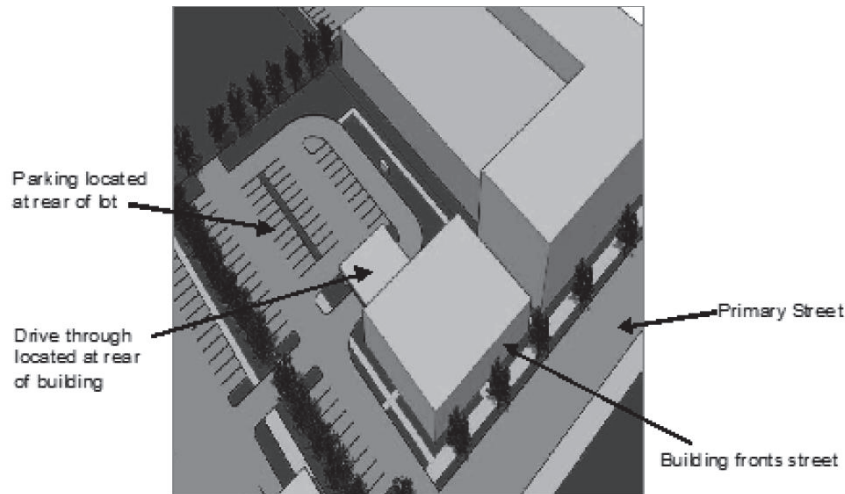


Sample paint color palette for overlay district area

- (12) Preserve the size and shape of upper story windows along street facing façades. Reopen any blocked upper story windows. Maintain the original spacing of windows. Window arrangements not in keeping with the city's historic character, such as gang windows, are not permitted.
- (13) Not make use of aluminum tube-type windows along any street facing façades. Solid vinyl windows are only permitted as long as the window has a minimum frame depth of 4½ inches, is a color other than pure white, and is fabricated to fit the original window opening size. Vinyl clad wood windows may be permitted as long as they are not pure white in color.
- (14) Preserve the original transom, if it exists. The transom shall be clear glass or shall be used for a sign or decorative panel.
- (15) Maintain and repair the original door or replace with a door of similar design and materials. Standard aluminum and glass commercial doors are permitted but the frames shall be painted in dark colors.

Replacement doors shall be commercial type doors and shall not be of residential proportions or design.

- (16) Incorporate a building color scheme which visually links the building with others in the area. The colors chosen should relate to the established masonry tones within the downtown area. If brick or masonry is exposed, it shall not be painted. Existing buildings of painted brick shall be repainted and paint removal is not permitted unless approved under the Secretary of the Interior standards for rehabilitation of historic buildings.
- (17) Shall include exterior surfaces, when painted and visible from the public street, are done so in earth tones or colors consistent with the historic character of the city.
 - a. The following shall only be recommendations to follow to develop appropriate building color palettes. Three colors are sufficient to highlight any façade:
 - 1. *Base color:* Is that on the upper walls and piers flanking the storefront. This shall be natural masonry or painted to look as natural as possible.
 - 2. *Major trim:* Is the color that defines the decorative elements of the building, tying together the upper façade trim and the storefront. The trim color should complement the base color. Major trim elements include the building cornice, storefront cornice, window frames, sills and hoods, and storefront frame, columns, and bulkheads (kickplate).
 - 3. *Minor trim:* Should enhance the color scheme established by the base and major trim. Often a darker shade of the major trim is used to highlight the window sashes, doors, and selective cornice and bulkhead details.
- (18) Not include roof materials made of reflective surfaces, when visible from the public right-of-way.
- (19) Not make use of security bars and steel roll down doors or curtains which are visible from the public street.
- (20) Incorporate, when necessary, service bays for lanes of drive through restaurants designed so that the openings are not visible from a public street.



Sample design of drive-through restaurant. Building fronts the street and drive-through is located at the rear. Graphic is included for illustrative purposes only.

- (21) Not include temporary awnings.
- (22) Include, where appropriate, fabric, canvas, or metal standing-seam awnings. All other building materials must be of durable quality and shall be compatible with materials used in adjoining buildings.
 - a. *Landscaping requirements.* The following landscaping regulations shall apply to all uses within the Fairburn overlay district. Any development incorporating a mix of uses shall require the submittal of a landscape plan for approval, which shall include the following elements:
 1. A continuous landscape strip of not less than five feet in width shall be constructed along all public streets. The landscape strip in the front yard shall be planted with a row of street trees of at least three and one-half inches in caliper measured from three feet above finished ground level and planted not less than 30 feet on center.
 2. Ground cover shall also be provided in accordance with this section in order to protect tree roots and to prevent erosion. Ground cover shall consist of evergreen shrubs and groundcover plant material mulched with pine bark mulch, or other similar landscaping material to include mulch made from recycled materials.
 3. No tree shall be planted closer than two feet from the street or sidewalk, and no closer than five feet from a fire hydrant, sign post, streetlight standard, utility pole, or similar structure. The property owner shall investigate all conflicts with utilities prior to planting. The landscape plan submitted to city staff must identify all existing and/or proposed underground and overhead utilities.
 4. All parking lots within the Fairburn overlay district shall be bounded by a ten-foot landscape strip along all outside edges. Of the remaining parking lot area, a minimum of ten percent shall be devoted to landscape islands.

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5. The following is a partial list of acceptable trees that can be planted along streets in the city. Trees and all other plantings shall be maintained in accordance with section 80-369.

- (i) October glory red maple.
- (ii) Sunset maple.
- (iii) Nuttall oak (*Quercus nuttalli*).
- (iv) Shumard oak (*Quercus shumardii*).
- (v) Willow oak.
- (vi) Zelkova serrata.
- (vii) Ginkgo (*Ginkgo biloba*).
- (viii) Trident maple (*Acer buergerianum*).
- (ix) Allee lacebark elm (*Ulmus parvifolia* emer (II).
- (x) Chalkbark Maple (*Acer leucoderme*).
- (xi) Georgia Oak (*Quercus falcata*).

6. Street trees shall be installed in a minimum planting area of four feet by eight feet. Tree-planting areas shall provide porous drainage systems that allow for drainage of the planting area.
7. All street trees and other trees and all ground cover required by this article shall be maintained in a healthy condition, and any trees or ground cover which die shall be replaced within the earliest possible planting season. Maintenance of all trees in this district shall comply with state department of transportation landscape standards (available at <http://mydocs.dot.ga.gov/info/gdotpubs/Publications/6755-9.pdf>).

(j) *Sidewalks.*

- (1) A public sidewalk shall be constructed along all public street frontages contiguous to all properties within the Fairburn overlay district. This sidewalk shall measure a minimum width of ten feet in the downtown node, and six feet in all other areas of the Fairburn overlay district.
- (2) Safe and convenient pedestrian pathways shall be provided from public sidewalks to each structure entrance, including pedestrian access routes to parking decks, through parking lots and between adjacent buildings within the same development. All such pathways shall be concrete and a minimum width of six feet.
- (3) When installed, benches, trash receptacles, and bike racks shall be placed adjacent to the sidewalk zone on all streets.

(k) *Common space requirements.*

- (1) A minimum of ten percent of the total lot area shall be designated as common space for each new mixed-use development. Common space areas may be transferred from one parcel to another within overall developments that remain under unified control of a single property owner or group of owners; but, must demonstrate interconnectedness of public areas.
- (2) Common spaces shall be at grade and surrounded by a mix of uses directly accessible from a public sidewalk and building entrances.

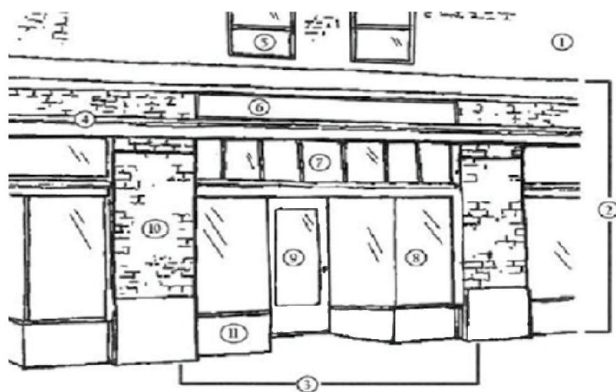
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- (3) Common space that is provided as part of a new development shall include connectivity to any existing or planned nearby public amenity, including, but not limited to, trail networks, greenspace or park facility.
 - (4) Common spaces may include any combination of the following: planted areas, fountains, parks, plazas, trails and paths, hardscape elements related to sidewalks and plazas, and similar features which are located on private property and accessible to the general public. On-street parking shall be permitted to count toward the ten percent common space requirement.
 - (5) Private courtyards and other private outdoor amenities may be located at the interior of the block, behind buildings or on rooftops. Private courtyards and outdoor amenities shall not be counted toward the ten percent common space requirement.
 - (6) All common space shall be fully implemented prior to issuance of a certificate of occupancy for the primary development.
 - (7) Each applicant shall present as a part of the application for a building permit within the Fairburn overlay district a legal mechanism under which all land to be used for public space purposes shall be maintained and protected. Such legal mechanism may include deed restrictions, property owner associations, common areas held in common ownership or control, maintenance easements, or other legal mechanisms, provided that said legal mechanism shall be approved by the city attorney as assuring each of the following mandatory requirements:
 - a. That all subsequent property owners within said Fairburn overlay district be placed on notice of this development restriction through the deed records of the city;
 - b. That all public space held in common will be properly maintained and insured with no liability or maintenance responsibilities accruing to the city;
 - c. That a legal mechanism exists for notice of deficiencies in maintenance of the public space held in common, correction of these deficiencies, and assessment and liens against the properties for the cost of the correction of these deficiencies by a third-party or the city;
 - d. When an applicant for a Fairburn overlay district chooses to utilize a property owners association in order to comply with the requirements of the subsection above, the applicant, in addition to meeting all of said requirements, shall provide for all of the following:
 1. Mandatory and automatic membership in the property owner's association as a requirement of property ownership;
 2. A fair and uniform method of assessment for dues, maintenance and related costs;
 3. Where appropriate, party wall maintenance and restoration in the event of damage or destruction; and
 4. Continued maintenance of public space held in common and liability through the use of liens or other means in the case of default.

(l) *Screening.*

- (1) All dumpsters shall be enclosed with a wall of equal or greater height on three sides, the material of which shall be similar to the material on the outside of the main building.
- (2) Dumpsters shall not be visible from the public street and shall be fenced or screened so as not to be visible from any adjoining residential district.
- (3) Loading docks shall not be located on the front of any building.

- (4) Loading dock entrances for non-residential uses shall be screened so that loading docks and related activity are not visible from the public right-of-way.
- (5) Loading and dumping activities located within 150 feet of a single-family residential property shall only be permitted to undertake said activities during normal business hours (7:00 a.m.—9:00 p.m.).
- (6) All service areas shall be screened from view from the street with buildings, landscaping, or decorative fencing.
- (7) Accessory mechanical systems and features including air and heating systems, solar collectors, satellite dishes, and telecommunications equipment shall not be visible from the public right-of-way.
- (8) Chain-link fences shall not be visible from the public right-of-way, except those temporary uses specifically permitted by city code.

(m) *Signage.* Unless otherwise noted in this subsection, the standards and procedures in article XII shall apply for all signs located within the Fairburn overlay district.



Permitted sign types: Proper placement and relationship to façade elements

Subject to review, approval and permitting, the following sign types shall be permitted in the Fairburn overlay district:

- (1) A-frame sandwich board sign.
- (2) Awning sign.
- (3) Monument sign.
- (4) Projecting sign.
- (5) Wall sign or signboard sign.
- (6) Storefront display window sign.

The following sign types shall be prohibited in the Fairburn overlay district:

- (1) Animated, flashing, rotating or blinking sign—with the exception of traditional barber pole.

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- (2) Changeable copy sign (electronic or otherwise), with the exception of signs communicating only the time and/or temperature (see chapter 80, article 12).
 - (3) Feather flag sign.
 - (4) Pole/pylon sign.

The following materials shall be permitted to be used for signs in the Fairburn overlay district:

- (1) Brick or stone, as foundation for monument sign.
- (2) Canvas, for awning sign.
- (3) Metal, powder coated or painted.
- (4) Wood.

(n) *Outdoor dining.*

- (1) Decks or patios located on private property are not regulated or prohibited by this section.
- (2) Restaurants may place tables outside their place of business. These tables must be placed adjacent to the front wall (and side wall, if applicable) of the building.
- (3) Tables must not extend beyond the side property line of the restaurant or encroach upon the side building line of adjacent businesses.
- (4) Dining tables must not be wider than three feet in diameter.
- (5) A minimum of five feet of clear pedestrian access must be maintained on all sidewalks.
- (6) Access to public stairways shall not be blocked. Tables and chairs must not interfere with any utilities or other facilities such as telephone poles, fire hydrants, signs, mailboxes, and benches located on the sidewalk or in the public right-of-way.
- (7) Tables and chairs must not impinge on any required clear distances for maneuvering around entrances or exits. The outdoor dining area shall be accessible to disabled patrons and employees.
- (8) Umbrellas must be of quality construction and must be designed to be secure during windy conditions. No portion of the umbrella may be lower than seven feet above the sidewalk.

(o) *Lighting.*

- (1) Street and pedestrian lights shall alternate along all sidewalks every 30 feet.
- (2) All parking areas, walkways, vehicle entrances and service/loading areas shall provide area lighting sufficient to achieve a minimum of 1.5 footcandles of light as measured at grade or ground level and shall have a minimum ratio of the average to the minimum of 4:1 or less, and shall have a minimum vertical illuminance of 0.5 footcandles.
- (3) Lighting fixtures in parking areas shall be located to assure adequate light levels without displacing planned trees. Light fixture placement shall be shown on landscape plans.
- (4) Lighting fixture height, style, design and illumination levels shall be compatible with the building design and height and shall consider safety, function and aesthetics. Lighting fixtures installed along sidewalks shall be of pedestrian scale and shall not exceed 20 feet in height.



**Lighting fixtures help make an area safer
and easier to navigate for pedestrians and driver alike.**

- (5) Lighting may be used to illuminate buildings, landscaped medians/islands and grounds for safety purposes and to enhance appearance. The visual effects of such lighting shall be subtle.
- (6) Lighting attached to building exteriors to reflect upon building exteriors shall be consistent with the architectural style of the building.
- (7) Security lighting shall be shielded and shall focus on the side or rear entry door.
- (8) Specialty lighting on outdoor patios, terraces, walkways, and trees may be used to encourage nighttime use by pedestrians.
- (9) All outdoor lighting shall use full cut-off fixtures or IDA-approved fixture and be subject to review and approval during the site planning phase of the project.

(p) *Outdoor display.*

- (1) *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:

Access zone means that portion of the public sidewalk reserved for continuous unobstructed pedestrian traffic and ingress/egress to businesses and structures lining the public rights-of-way.

Amenity zone means that portion of public sidewalk for siting of municipal streetscape elements; such as street trees, street lights, benches, trash cans, sign posts, ashtrays, etc.; approved outside dining areas (as permitted by section 80-89, Highway 29 Overlay Zoning District); and designated special events or vending locations (as permitted by article IV, Administrative permits and use permits).

Appearance zone means that portion of the sidewalk as approved for downtown beautification or business enhancement, including planters and benches, product display, ashtrays, signs (as permitted by article XII, Sign regulations), and tables and chairs.

City means the City of Fairburn.

Director of planning means the city zoning administrator.

Obstacle means any object or item whether situated upon or hanging over the right-of-way, including but not limited to noticeable changes in grade or paving materials.

Outdoor display means the outdoor display of products actively available for rent or sale within the principle business facility. This definition does not include products in shipping boxes, crates, on pallets, or other shipping containers, or any construction equipment which shall be considered outdoor storage.

Public property means property owned, leased, or maintained by the city including but not limited to streets, byways or rights-of-way, sidewalks, parking lots, lots of record with or without structures, parks, and easements.

Sidewalk means that portion of the right-of-way improved for use by pedestrians located between the curb line or the edge of an improved roadway and the adjacent property line.

2. *Use of public property.*

- a. *Purpose of the public sidewalk.* Use of the public sidewalk for any purpose other than as a pedestrian right-of-way is a privilege, which the city may grant or deny to insure the primary purpose of the public rights-of-way for travel and to maintain the efficiency of the pedestrian path for both safety and convenience.
 1. To provide for pedestrian clearance, an access zone shall be reserved at all times for continuous, unobstructed pedestrian traffic along the public sidewalk. This reserved zone shall be a minimum of five feet in width as measured from the edge of the sidewalk closest to the street, running parallel to the roadway and as straight as possible, and not encroached upon even if this precludes other uses of the public sidewalk. Where less than five feet exists, all of the right-of-way shall be reserved for pedestrian clearance. A minimum of seven feet height clearance above grade for the access zone shall also remain unobstructed.
 2. To provide for ingress/egress to businesses and structures lining the public rights-of-way, there shall also be reserved clear passages between the access zone and the curb. These passages shall be a minimum of five feet in width and perpendicular to the roadway and as direct as possible. In addition to corner passages at street intersections, each side of a city block shall have a minimum of two said passages spaced at least 50 feet apart as well as passages located at each property line.
- b. *Use of the appearance zone.* Wherever wide sidewalks exist within the Highway 29 Overlay Zoning District as provided by the current zoning ordinance, the city may designate an appearance zone and grant or deny the privilege of limited use of the zone to abutting businesses for downtown beautification or business enhancement, in accordance with the provisions of this article.
 1. The appearance zone shall only be used for incidental or accessory purposes by an abutting business with a current business license; any use of the area by others shall constitute a type of vending or special event that must obtain proper permits through article IV, Administrative permits and use permits.
 2. The appearance zone for a business shall not exceed the width of the front wall of the abutting business nor extend onto the public sidewalk beyond a depth of 24 inches from the front wall of the business or the maximum depth remaining after observance of the access zone. For corner properties, the sidewalk area adjacent to the side wall of the business may also be considered for the establishment of an appearance zone.
 3. Placement of beautification or enhancement items. Planters, benches, and ashtrays deemed compatible in design and materials may be allowed in the appearance zone provided that these items are kept clean, attractive, sanitary, and in a structurally sound condition at all times. Vegetation must be maintained in a healthy and attractive condition

at all times. No hanging baskets or artificial vegetation displays are permitted. All litter must be removed promptly, including cigarette butts.

4. If the director of planning determines any object to be non-compliant with this section, said object is subject to immediate removal by the business.
- c. *Placement of merchandise for display, sale, and advertisement limited.* It shall be unlawful to place, for purposes of display, for the sale or advertisement of any property or merchandise whatsoever, upon the public sidewalks or parking spaces/lots of the city except as provided herein.
 1. In accordance with subsections 80-89(p)(2)a. and b. above, wherever wide sidewalks exist within the Highway 29 Overlay Zoning District as provided by the current zoning ordinance, the appearance zone may also be utilized for product display provided:
 - (i) Placement of merchandise occurs only during business hours and all merchandise is removed at the close of business each day.
 - (ii) To reduce the added risk of product tipping into the access zone, no merchandise shall exceed or be stacked to exceed six feet in height and no shelving units that exceed four feet in height may be used. Tables may be used as long as they fit within the appearance zone.
 - (iii) To reduce the added risk of product rolling into the access zone, all wheels shall be locked or chocked.
 - (iv) To reduce the added risk of product falling into the access zone, no merchandise shall be hung on the building or suspended from the building's awnings or canopies.
 - (v) No signs other than those signs as permitted within the official zoning ordinance, article XII, shall be used on public property; labels less than one-inch square shall not constitute signage.
 - (vi) All merchandise must be the merchandise of the business. The appearance zone for a specific business shall be used solely by that business for the display of its merchandise and shall not be leased, sold, or gifted to a third party for their use.
 - (vii) The business owner is responsible for ensuring that the merchandise and displays in the appearance zone are clean, well-kept and secure. The business owner is responsible for ensuring that the merchandise and displays will not cause harm to any pedestrians walking in the access zone.
 2. If the director of planning determines any display, or portion thereof, to be non-compliant with this section, said display is subject to immediate removal. After the director of planning has determined that such display is non-compliant, he shall initiate proceedings to cause the removal. The director of planning shall prepare and issue a letter of determination to the owner of record and parties of interest of the building. The letter of determination shall contain, but not be limited to, the following information:
 - (i) The street address of the building, structure or premises.
 - (ii) A statement indicating the display of merchandise is non-compliant with this section and must be removed or brought into compliance within 24 hours or, that the city has determined, for any reason, that the display must be completely removed within 24 hours, that the owner or occupant may file an

appeal to the planning and zoning commission pursuant to section 80-255. Secondary variance/interpretation, and failure to appeal in the time specified will constitute a waiver of all rights to such appeal.

- (iii) A statement advising that if the display is not removed or brought into compliance within the time specified, and an appeal is not filed, the director of planning may cause code enforcement to remove the display and all costs incurred will be charged against the business owner or the owner of record and the total cost to the city for removing the display shall be a special lien against the property and shall be placed upon the tax records of the city.
 - 3. The letter of determination and all attachments thereto shall be served upon the business owner, owner of record, and any parties of interest designated in the initial application either personally or by certified mail, postage prepaid, return receipt requested. If addresses are not available on any person required to be served the letter of determination, the letter of determination addressed to such person shall be mailed to the address of the building or structure involved in the proceedings. Failure of the director of planning to serve any person herein required to be served other than the owner of record shall not invalidate any proceedings hereunder nor shall it relieve any other person served from any obligation imposed on him. Service by certified mail as herein described shall be effective on the date the letter of determination was received as indicated on the return receipt. Proof of service of the letter of determination shall be by written declaration indicating the date, time and manner in which service was made and signed by the person served on by the return receipt.
 - 4. In addition, should the owner of record or interested parties give cause to receive a letter of determination for more than two offenses for the same violation during a period of 12 consecutive months, code enforcement may issue a citation to the owner of record or interested parties to appear before the municipal court of the city and there shall be no appeal for the third or subsequent offense occurring during a period of 12 consecutive months. The fines and penalties are as provided in subsection 5. below, however, the minimum fine for such additional citation shall not be less than \$150.00 and each subsequent citation within a twelve-month period shall be subject to an amount double the previously assessed fine up to \$1,000.00.
 - 5. It shall be unlawful and a violation of this section to place merchandise or property, for purposes of display, sale or advertisement, upon any designated off-street parking associated with each business or upon any public parking space of the city.
- d. *Permit approval procedure and requirements.*
- 1. An application for a permit to have outdoor display with the application fee as established by the city council shall be filed with the director of planning prior to any use or placement of any item upon public property.
 - 2. The permit will be valid for one year.
 - 3. Use of the appearance zone shall be in accordance with this section.
 - 4. The director of planning at his reasonable discretion may require removal for any reason. Failure to remove items and cease use of public property shall result in the removal of such item(s) by the director of planning. The business shall be responsible for all expenses incurred by the city for the removal and storage of such items.
 - 5. Except for actions arising out of the city's sole negligence, the business agrees to indemnify, defend, and hold harmless the city and all its officers, officials, representatives,

agents, and employees, from any and all claims, liability, damages, or causes of action which may arise out of the businesses' or licensee's use of the appearance zone. The business is responsible for repair of any damage to public property or pedestrians caused by their use of the appearance zone.

- e. *Compliance with subsection (p), outside display.* All businesses will be required to come into compliance with this subsection within 30 days after its adoption by mayor and city council.
- (3) *Exceptions.* The provisions of this subsection (p), outside display, shall not be applicable to any licensed utility company doing business in the city; nor to the state highway department; nor to the water, sewage, gas and fire departments of the city; nor to any governmental agency.
- (4) *Placement of printed advertising matter limited.*
 - a. It shall be unlawful for any person distributing or causing to be distributed, circulars, handbills, papers or other printed advertising matter through the city, to throw into or place in any yard or mailbox, such items; said items may only be handed to an employee of a place of business. Only one of the items which such person may be distributing shall be placed in each business. It shall be unlawful for any person distributing or causing to be distributed circulars, or receiving such handbills, papers or other printed advertising through the city, to throw or scatter such materials upon any public property in the city.
 - b. It shall be unlawful for any person to paste, print, nail, tack or otherwise fasten any card, banner, handbill, sign, poster, advertisement or notice of any kind, or cause such an action to be done, on or upon any public property within the city, or upon any utility facility in a public right-of-way, or upon any private property without the written consent of the owner of such property.
 - c. No person other than the owner or driver shall deposit any advertising matter in any motor vehicle or stick or otherwise fasten any advertising matter on any part of any motor vehicle.
- 5. *Penalty for violation of this subsection (p), outdoor display.* Except as otherwise provided, any person violating the provisions of this subsection (p), outdoor display, shall, upon conviction, be punished by a fine not exceeding \$1,000.00 or by imprisonment not exceeding six months, or by a combination of such punishments. Each day any violation of any provision of this Code or of any such ordinance, resolution, rule, regulation or order shall continue shall constitute a separate offense. Code enforcement, or its designee, will issue citations for violations of this article to appear before the municipal court in the city. This article does not apply to special events or any type of vendor who obtains proper permits through article IV, Administrative permits and use permits.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. No. 2013-28, § 1, 10-28-2013; Ord. No. 2014-03, § 1, 2-24-2014; Ord. No. 2014-04, § 1, 2-29-2014; Ord. No. 2015-15, § 1(Exh. A), 7-27-2015; Ord. No. 2015-28, § 1(Exh. A), 12-14-2015; Ord. of 10-28-2019(1) ; Ord. No. 2022-231 , § 1, 3-28-2022)

Sec. 80-90. Georgia Highway 74 Overlay Zoning District.

- (a) *Scope.* The regulations set forth in this section or set forth elsewhere in this chapter when referring to this section are the regulations of the Georgia Highway 74 Overlay Zoning District.
- (b) *Findings and intent.*
 - (1) Georgia Highway 74, which serves as the southern gateway to the city is expected to continue experiencing rapid growth in residential, commercial, and industrial construction. Development of well over 1,000 acres of raw land is being driven by proximity to Atlanta and Hartsfield International Airport, as well as access to the interstate system.

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- (2) The regulations set forth in this section are intended to ensure attractive developments which are complimentary and will promote a mix of uses rather than the undesirable commercial sprawl which has plagued many communities and threatened the very character that attracted such development interests. These standards will reinforce and implement a land use plan that features residential, office, personal services, hospitality uses, and retail commercial uses along Georgia Highway 74.
- (3) To this end, it is the city's goal to protect the aesthetics of the community, provide for safe travel through, and access to the area and safeguard the welfare of its residents, while encouraging development along the Georgia Highway 74 corridor.
- (c) *Boundary.* This district is intended as an overlay district regulating and allowing the establishment of uses within the configuration of the allowable Georgia Highway 74 Overlay Zoning District boundaries. Said boundary shall include any properties or portions thereof, located within 1,000 feet of the Georgia Highway 74 right-of-way, as it presently exists or may exist in the future. The underlying district shall continue as permitted uses. Standards set out in this section for site development and architectural design shall control over any underlying district regulations.
- (d) *Prohibited uses.* The following principal uses of land and structures shall be prohibited within the Georgia Highway 74 Overlay Zoning District:
- (1) Storage yard for damaged or confiscated automobiles.
 - (2) Tire re-treading and recapping.
 - (3) Sexually oriented businesses. (See chapter 5, section 5 of part I, [of this Code.])
 - (4) Heavy repair shop and trade shop.
 - (5) Extended stay residential facilities, or other similar accommodations.
 - (6) Title and pawn shops.
 - (7) Night clubs.
 - (8) Salvage/storage/junk facility.
 - (9) Self storage facilities.
 - (10) Small box discount retail stores.
- (e) *Site development standards.* In order to establish and maintain the Georgia Highway 74 Overlay Zoning District as a quality area which will preserve the investments of all land owners and developers, as well as encourage both commercial and residential development within the city, all development within the Georgia Highway 74 Overlay Zoning District must comply with the following standards:
- (1) The following schedule shall control land development as specified:
 - a. Retail and commercial services developments shall provide a landscaped buffer with a minimum horizontal dimension of 35 feet adjacent to the Highway 74 right-of-way. A buffer with a minimum horizontal dimension of 75 feet shall be provided where such developments are proposed adjacent to property developed as, or planned as, office use. A 100-foot buffer shall be provided on retail and commercial services developments which adjoin property developed as, or planned as, residential use.
 - b. Office development shall provide a landscaped buffer with a minimum horizontal dimension of 45 feet adjacent to the Georgia Highway 74 right-of-way. A buffer with a minimum horizontal dimension of 40 feet shall be provided on office developments which adjoin property developed as, or planned as, residential use.

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- c. Residential development shall provide a landscaped buffer with a minimum horizontal dimension of 45 feet adjacent to the Georgia Highway 74 right-of-way. Such buffers shall conform to the standards of section 80-335 and shall provide berms designed to achieve topographic variation.
- (2) The following schedule shall control building setbacks for all commercial construction:
 - a. Front yard setback: 50 feet, 50 feet from each street right-of-way for corner lots.
 - b. Side yard setback: 20 feet.
 - c. Rear yard setback: 30 feet.
 - (3) Off-street parking and loading shall be subject to the following:
 - a. All retail and commercial uses shall provide a parking ratio of one space for every 200 square feet of enclosed retail floor area available to the public. One parking space shall be provided for every 1,000 square feet of floor area used for storage, assembly, warehousing or other purpose, provided that such areas are not available to the public. Such uses shall provide 4½ parking spaces per 1,000 square feet to enclosed retail floor area available to the public, provided the establishments served by the parking spaces comprise a unified shopping center. All such off-street parking areas shall conform to the landscape standards provided in article IX of this chapter unless exceeded herein.
 - b. No loading areas shall be permitted between buildings and the Georgia Highway 74.
 - (4) Site utilities serving the site shall be placed underground.
 - (5) All development shall conform to section 80-372, Open space reservation.
 - (6) Developers are encouraged to create secondary road networks through a system of density (lot coverage or building height) bonuses. Lot coverage ratios, inclusive of the building footprint and pavement for parking and driveways, shall not exceed 75 percent. Pavement comprising internal street networks shall be exempted provided such street networks channel traffic between developments along Georgia Highway 74 and are not directly linked to Georgia Highway 74.
 - (7) Secondary road networks which provide a landscaped boulevard and are linked to adjoining properties shall entitle the property owner to a lot coverage bonus of ten percent.
 - (8) Access to Georgia Highway 74 shall be limited to one driveway per existing parcel. A lot coverage bonus of ten percent shall be granted for consolidation of driveways currently permitted by state department of transportation.
 - (9) Preservation of natural features shall encompass pedestrian amenities linked to adjoining properties. All development shall provide sidewalks linked to such amenities as well as adjoining properties.
 - (10) On Georgia Highway 74, no new gasoline service stations shall be permitted within 1,000 feet of any other gasoline service station. All measurement of distances shall be along a straight route from the nearest point on any property line to the nearest point on any property line used as a gasoline service station. New gasoline service stations shall be located at a signalized intersection. This subsection (10) shall not apply to the rebuilding and/or enlargement of an existing gasoline service station. For the purposes of this subsection, rebuilding and/or enlargement shall mean partial or complete demolition of an existing structure and submittal of a building permit application within six months from the demolition of the existing structure. Failure to obtain a building permit shall require a developer and/or landowner to follow the development requirements for a new gasoline service station.
 - (11) On Georgia Highway 74, no new drive-through fast food restaurants shall be permitted within 1,500 feet of any other drive-through fast food restaurant, except where the gross floor area of a restaurant exceeds 4,000 square feet and at least 50 percent of the gross floor area is designated for a dining

area. All measurement of distances shall be along a straight route from the nearest point on any property line to the nearest point on any property line used as a drive-through fast food restaurant. This subsection (11) shall not apply to the rebuilding and/or enlargement of an existing stand-alone drive-through fast food restaurant. For the purposes of this subsection, rebuilding and/or enlargement shall mean partial or complete demolition of an existing structure and submittal of a building permit application within six months from the demolition of the existing structure. Failure to obtain a building permit shall require a developer and/or landowner to follow the development requirements for a new drive-through fast food restaurant.

(f) *Architectural design standards.* In addition to the site development standards set forth in subsection (d) of this section, all construction within the Georgia Highway 74 Overlay Zoning District must comply with the following standards:

(1) The following specifications shall control the use of building materials:

a. Exterior wall materials shall consist of one or a combination of the following materials:

1. Brick or autoclaved concrete substructure.
2. Stone with either a weathered face or polished, fluted or broken face. No quarry faced stone shall be used.
3. Masonry stucco on concrete.
4. Concrete masonry. Units shall be those generally described by the national concrete masonry association as "customized architectural concrete masonry units" or shall be "split-faced" block with marble aggregate. No exposed concrete block shall be permitted on the exterior of any building within the sight line of a public street. Other exterior walls may be painted concrete block.
5. Wood.
6. Glass in combination with metal or similar, durable architectural materials.
7. Limited use of standing seam metal is permitted in combination with the above materials.

b. Inappropriate exterior materials and architectural elements. The following materials and elements are considered incompatible and inappropriate for primary and accessory structures and are prohibited:

1. Plywood, cinderblock, unfinished poured concrete, unfaced concrete block and plastic or metal not closely resembling painted wood clapboard.
2. Partial (less than three sides) mansard roofs, flat roofs (including a minimum pitch less than four in 12) without a pediment, long unarticulated roofs.
3. Long, unarticulated or blank façades.
4. Incongruity of architectural details or color contrasts resulting in a clearly disturbing appearance.
5. Unscreened chain link or woven metal fences.
6. Use of reflective materials as the main building material or texture.
7. Use of highly reflective glass.
8. The use of exterior insulating finish system (EIFS), also identified by such manufacturer names as "Drivit," synthetic stucco and building materials.

(2) The following guidelines shall control the architectural character:

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- a. All front façades of the principal structure shall face and be parallel to the public right-of-way and consist of all brick construction. All windows, storefront, and fenestrations shall not be secured by way of burglar bars, steel roll-down shutters/curtains or obtrusive security products visible from a public right-of-way.
 - b. Side and rear elevations of all office buildings and restaurants shall be majority brick or stone construction and substantially consistent with the front building elevation. Exterior building façades shall provide visual relief every 80 to 120 feet via setbacks, parapet breaks or other architectural element. Canopies installed on the façade shall provide visual relief through a canopy break every 40 feet. All windows, storefront, and fenestrations shall not be secured by way of burglar bars, steel roll-down shutters/curtains or obtrusive security products visible from a public right-of-way.
 - c. All new construction on each lot shall be representative of a single architectural style. Combining different elements or styles on a single lot shall not be permitted in the Georgia Highway 74 Overlay Zoning District.
 - d. The form and pitch of the roof of new construction shall be substantially proportional to the chosen architectural style.
 - e. The height, scale, massing and fenestration of new construction shall be substantially proportional to the chosen architectural style.
- (3) Roof-mounted equipment. Roof-mounted equipment shall be located and/or screened to minimize visibility from public streets and surrounding properties.
- (4) Development shall be subject to architectural and site plan review. Applications for new construction, exterior alterations and expansion of existing structures shall be accompanied by scaled plans prepared by an architect, engineer or other appropriate professional. Such plans shall clearly depict the following:
- a. Building elevations through color rendering.
 - b. Proposed colors, materials and textures.
 - c. Location of all utility installations, including rooftop units.
 - d. Property signs, including location, size, height, color and material.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. No. 2013-01, § 1, 2-11-2013; Ord. No. 2016-08, § 1(Exh. A), 7-25-2016; Ord. No. 18-TA-001(Amend.), § 1, 5-14-2018; Ord. of 10-28-2019(1) ; Ord. No. 2022-232 , § 1, 3-28-2022; Ord. No. 2022-233 , § 1, 3-28-2022)

Sec. 80-91. Reserved.

Editor's note(s)—An ordinance adopted Oct. 28, 2019 amended and renumbered § 80-91 which pertained to the RM-36 Multifamily Residential District. Please see § 80-79.2 for current provisions relating to this district.

Sec. 80-92. RR Railroad Zoning District.

- (a) *RR district scope and intent.* Regulations set forth in this section are the RR Railroad Zoning District regulations. Article IV should be consulted to determine uses and minimum standards for uses allowed by administrative permit or use permit. The RR Railroad Zoning District is to provide a zoning designation for all railroad rights-of-way and railroad owned and controlled property in order to facilitate railroad activities while preserving and protecting non-railroad owned and controlled property.

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- (b) *Use regulations.* Within the RR Railroad Zoning District, land and structures shall be used in accordance with the standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by use permit shall be prohibited.
- (c) *Permitted uses.* Structures and land may be used for only the following purposes:
- (1) Railroad infrastructure and associated required signage, utility infrastructure and easements and transportation infrastructure;
 - (2) Buildings such as depots, intermodals facilities, and transfer stations related to railroad operation;
 - (3) Off-street parking; and
 - (4) General commercial transport of persons, chattels and other items.

(Ord. No. Z2013-04, § 1(exh. A), 4-22-2013; Ord. of 10-28-2019(1))

Secs. 80-93—80-110. Reserved.

DIVISION 3. SPECIAL DISTRICTS

Sec. 80-111. Water resource districts.

- (a) *Purpose.* The establishment of water resource districts define minimum development standards and criteria, which well afford reasonable protection of environmentally sensitive natural resources found throughout the city. Based on the findings of the city comprehensive plan, it has been determined the wise management of these resources is essential to maintaining the health, safety, general welfare, and economic well-being of the public.

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

Aquifer means any stratum or zone of rock beneath the surface of the earth capable of containing or producing water from a well.

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

Corridor means all land within the buffer areas established adjacent to reservoirs or perennial streams within a water supply watershed and within other setback areas specified in this chapter.

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

Hazardous waste means any solid waste, by reason of its toxic, caustic, corrosive, abrasive, or otherwise injurious properties, may be detrimental to the health of any person handling or otherwise coming into contact with such material or substance. The U.S. Environmental Protection Agency has developed a list of hazardous wastes based upon corrosivity, reactivity, and toxicity.

Impervious surface means a manmade structure or surface that prevents the infiltration of stormwater into the ground below the structure or surface. Examples are buildings, roads driveways, parking lots, decks, swimming pools, or patios.

Perennial stream means a stream that flows throughout the whole year as indicated on a USGS quad map.

Pollution susceptibility means the relative vulnerability of an aquifer to being polluted from spills, discharges, leaks, impoundments, applications of chemicals, injections and other human activities in the recharge area.

Pollution susceptibility maps means maps of relative vulnerability to pollution prepared by the department of natural resources using the DRASTIC methodology pollution susceptibility maps categorize the land areas of the state into areas having high, medium, and low groundwater pollution potential.

Recharge area means any portion of the earth's surface, where water infiltrates into the ground to replenish an aquifer.

Regulated activity means any activity which will, or which may reasonably be expected to result in the discharge of dredged or fill material into waters of the United States, excepting those activities exempted in section 404 of the Federal Clean Water Act.

River/stream bank means the rising ground, bordering a river or a stream, which serves to confine the water to the natural channel during the normal course of flow.

Significant recharge area means those areas mapped by the department of natural resources in Hydrologic Atlas 18, 1998 edition. Mapping of recharge areas is based on outcrop area, lithology, soil type, thickness, slope density of lithology contracts geologic structure, presence of karts, and potententionmetric surfaces. Significant recharge areas are as follows in the various geologic provinces of the state:

- (1) In the Piedmont and in the Blue Ridge, rocks have little primary porosity, with most groundwater being stored in the overlying soils.
- (2) The significant recharge areas are those with thicker soils.
- (3) Field mapping indicates thick soils in the Piedmont and Blue Ridge are characterized by a density of two or more geologic contracts per four square miles (source: 1976 1:500,000 Geologic Map of Georgia) and slopes lower than eight percent.

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

Utility means public or private water or sewer piping systems, water or sewer pumping stations, electric power lines, fuel pipelines, telephone lines, roads, driveways, bridges, river/lake access facilities, stormwater systems and railroads or other utilities identified by a local government.

Water resource district means a map overlay, which imposes a set of requirements in addition to those of the underlying zoning district.

Water supply watershed means the area of land upstream of a governmentally owned public drinking water intake.

Wetlands means those areas inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. The ecological parameters for designating wetlands include hydric soils, hydrological vegetation and hydrological conditions involving a temporary or permanent source of water or cause soil saturation.

(c) *Types of water resource districts.*

- (1) The water resource districts shall include the following:
 - a. Groundwater recharge area district;
 - b. Wetlands district; and
 - c. Water supply watershed district.

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- (2) The boundaries of these water resource districts are shown on a set of maps designated as "overlay district" and are included as part of the official zoning map, which is on file with the city clerk's office.
- (d) *Groundwater recharge area district.*
- (1) *Description.* Recharge areas are vulnerable to urban development activities as well as agricultural activities. Pesticides, herbicides sprayed on crops, animal waste, and septic tank effluents contribute to a deterioration in the groundwater quality and can threaten the health of residents relying on well water. Development usually means an increase in the amount of land covered with impervious surfaces. Paving land in recharge areas can alter or impair the recharge characteristics thereby decreasing groundwater supplies.
- (2) *Purpose.* The purpose of the groundwater recharge area district is to establish criteria to protect significant groundwater recharge areas from pollution by spills, discharges, leaks, impoundments, application of chemicals, injections and other development pressures.
- (3) *District limits.* The groundwater recharge area protection map is delineated according to the state department of natural resources' Significant Recharge Areas, Hydrological Atlas 18, 1989 edition, and the state department of natural resources' Pollution Susceptibility Map, Hydrological Atlas 20, 1992 edition. Standards for this district shall comply with the DNR rule 391-3-16-.02, Criteria for the Protection of Groundwater Recharge Areas.
- (e) *Criteria in significant recharge areas.*
- (1) *Secondary containment for storage tanks.* New aboveground chemical or petroleum storage tanks, having a minimum volume of 660 gallons, shall have secondary containment for 110 percent of the volume of such tanks or 110 percent of the volume of the largest tank in a cluster of tanks. Such tanks used for agricultural purposes are exempt, provided they comply with all federal requirements.
- (2) *New agricultural waste impoundment sites.*
- a. All new agricultural waste impoundment sites shall be lined if they are within:
1. A high pollution susceptibility area.
 2. A medium pollution susceptibility area and exceed 15-acre feet;
 3. A low pollution susceptibility area and exceed 50 feet.
- b. Construction standards. As a minimum, the liner shall be constructed of compacted clay having a thickness of one-foot and vertical hydraulic conductivity of less than five by ten⁷ cm/sec or other criteria established by the Natural Resources Conservation Service. The average size of existing agricultural waste impoundments in the state is about 15-acre feet; sheep-foot rollers or pans with heavy rubber tires, which are normal equipment for most state moving contractors, should be able to compact clay to the recommended vertical hydraulic conductivity.
- (3) *Minimum lot sizes for new homes served by septic tank/drain field systems.* New homes served by septic tank/drain fields systems shall be on lots having the minimum size limitations as follows, based on application of table MT-1 of the DHR manual (hereinafter DHR table MT-1). The minimums set forth in table MT-1 may be increased further based on consideration of other factors (set forth in sections A-F) of the DHR manual.
- a. One hundred fifty percent of the subdivision minimum lot size calculated based on application of DHR table MT-1 if they are within a high pollution susceptibility area;
- b. One hundred twenty-five percent of the subdivision minimum lot size calculated based on application of DHR table MT-1 if they are within a medium pollution susceptibility area; and

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- c. One hundred ten percent of the subdivision minimum lot size calculated based on application of DHR table MT-1 if they are within a low pollution susceptibility area.
- (4) *Minimum land requirements for septic tank/drain field systems serving new mobile home parks.* New mobile home parks served by septic tank/drain fields systems shall have lots or spaces having the minimum size limitations as follows, based on application of table MT-2 of the DHR manual (hereinafter "DHR table MT-2"). The minimums set forth in table MT-1 may be increased further based on consideration of other factors (set forth in sections A-F) of the DHR manual.
- a. One hundred fifty percent of the subdivision minimum lot or space size calculated based on application of DHR table MT-1 if they are within a high pollution susceptibility area;
- b. One hundred twenty-five percent of the subdivision minimum lot or space size calculated based on application of DHR table MT-1 if they are within a medium pollution susceptibility area; and
- c. One hundred ten percent of the subdivision minimum lot or space size calculated based on application of DHR table MT-1 if they are within a low pollution susceptibility area.
- d. Minimum lot sizes for multifamily development located within a high pollution susceptibility groundwater recharge area.
- (5) *Minimum lot sizes for multifamily developments located within a high pollution susceptibility groundwater recharge area.* All multifamily development located within a high pollution susceptibility groundwater recharge area shall be required to have the following minimum lot sizes:
- a. For multifamily structures where individual on-site sewerage systems are installed in conjunction with public water systems, 10,890 square feet per unit; and
- b. Where individual on-site sewerage systems are installed in conjunction with individual water system, 21,780 square feet per unit.

The county health department shall approve all multifamily developments. If there are conflicts between provisions of these regulations, the stricter shall apply.

- (6) *Minimum lot size for on-site sewerage systems.* Notwithstanding any provision of this Code to the contrary, any lot to be serviced by an on-site sewerage system that is not within a high, medium, or low pollution susceptibility area as identified on Hydrological Atlas 20, shall have a minimum lot size of 21,780 square feet. Any lot of record approved prior to the adoption of this chapter shall be exempted from the minimum lot size requirements established in this chapter.
- (7) *Approval required for septic tank installation.* No construction shall proceed on a building or mobile home to be served by a septic tank unless the county health department first approves the proposed septic tank installation as meeting the minimum lot requirements as set forth in this chapter.
- (8) *Spill prevention requirements for new facilities handling hazardous materials.* New facilities which handle hazardous materials of the types listed in section 312 of the Resource Conservation and Recovery Act of 1976, excluding underground storage tanks, in amounts of 10,000 pounds or more on any one day, shall perform either operations on impervious surfaces and in conformance with any applicable feral spill prevision requirements and any local fire code requirements.
- (9) *Prohibited uses in groundwater recharge areas.* In the groundwater recharge areas, the following shall not be permitted:
- a. New sanitary landfills not having synthetic liners and leachate collection systems.
- b. New land disposal of hazardous wastes.
- c. Any new facility permitted or to be permitted to treat, store or dispose of hazardous waste to perform such operations on an impermeable pad having a spill and leak collection system.

(10) *Land disposal of hazardous waste prohibited.*

- a. No new wastewater treatment basins without an impermeable liner shall be constructed in areas having high pollution susceptibility; and
- b. No permanent stormwater infiltration basins shall be constructed in areas having high pollution susceptibility.

(f) Wetland districts.

- (1) *Description.* The wetlands within the city are indispensable and fragile natural resources with significant development constraints due to flooding, erosion, and soil limitations. In their natural state, wetlands serve man and nature. They provide habitat areas for fish, wildlife and vegetation; water quality maintenance and pollution control, flood control; natural resource education; scientific study, and recreational opportunities.
- (2) *Purpose.* The purpose of this district is to promote the wise use of wetlands and protect them from alterations which will significantly affect or reduce the primary functions for water quality, floodplain and erosion control, groundwater recharge, aesthetic natural area, and wildlife habitat areas.
- (3) *District limits.* these regulations shall apply to all lands within wetlands located within the city. The wetland district overlay map, adopted as part of this chapter by reference, shows the general location of wetlands, according to the 1987 National Wetlands Inventory, and should be consulted by persons considering activities in or near wetlands before engaging in a regulated activity. The standards for this district shall comply with Department of Natural Resources Rule 391-3-16-.03, Criteria for Wetlands Protection.
 - a. The wetlands district overlay map does not necessarily represent the boundaries of jurisdictional wetlands within the city and cannot serve as a substitute for a delineation of wetland boundaries by the U.S. Army Corps of Engineers, as required by section 404 of the Clean Water Act, as amended.
 - b. No local government action under the local ordinance relieves the landowner from federal or state permitting requirements.
- (4) *Development permit required.* No regulated activity will be permitted within the wetlands protection district without written permission or a permit from the city. If the project is of a type that may result in a disturbance of wetlands and is located within 50 feet of a wetlands protection district boundary, as determined by the city using the generalized wetlands map, a U.S. Army Corps of Engineers determination shall be required. If the Corps determine that wetlands are present on the proposed development site, the locate permit or permission will not be granted until a section 404 permit or letter of permission is issued.
- (5) *Permitted uses.* The following uses are permitted by right within the wetland district to the extent they are not prohibited by any other ordinance or law and provided they do not require structures, grading, fill draining or dredging:
 - a. Forestry practices applied in accordance with best management practices approved by the state forestry commission. Section 404 does not require permits for normal, ongoing silvicultural activities. However, section 404 does list some required road construction best management practice that must be followed in order to qualify for such an exemption which includes the following:
 1. Conservation or preservation of soil, water, vegetation, fish or other wildlife, provided the conservation or preservation does not affect waters of the state or of the United States in such a way that would require an individual 404 permit;

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2. Outdoor passive recreational activities, including fishing, bird watching, hiking, boating, horseback riding and canoeing;
 3. Natural water quality treatment or purifications; and
 4. Normal agriculture activities including the planting and harvesting of crops and pasturing of livestock. Such activities shall be subject to best management practices approved by the state department of agriculture.

(6) *Prohibited uses.* The following uses are prohibited in a wetland district:

- a. Receiving areas for toxic or hazardous waste or other contaminants.
- b. Hazardous or sanitary landfills.

(g) *Water supply watershed district.*

- (1) *Description.* In order to provide for the health, safety, and welfare of the public and a healthy economic climate within the city and surrounding communities, it is essential that the quality of public drinking water be assured. The ability of natural systems to filter stormwater runoff can be threatened by unrestricted urban and suburban development. Land disturbing activities associated with development can increase erosion and sedimentation that threatens the storage capacity of reservoirs. In addition, stormwater runoff, particularly from impervious surfaces, can introduce toxicants, nutrients, and sediment into drinking water supplies, making water treatment more complicated, expensive and rendering water resources unusable. Industrial land uses that involve the manufacturer, use, transport and storage of hazardous or toxic waste materials result in the potential risk of contamination of nearby drinking water supplies.
- (2) *Purpose.* The purpose of the water supply watershed protection overlay regulations is to establish measures to protect the quality and quantity of the present and future water supply for the city which will minimize the transport of pollutants and sediment to the water supply, and maintain the yield of the water supply watersheds.
- (3) *District limits.* The protected water supply watershed districts are hereby designated, and shall comprise the land areas which drain to the water supply intake and the public water supply reservoirs. The boundaries of these districts are defined by the ridgelines of the respective watersheds and the boundary of a radius seven miles upstream of the respective public water supply and water supply reservoirs. These districts shall be further delineated and defined on the water supply watershed district overlay map of the city's official zoning district map, which is hereby incorporated and made a part of this chapter by reference. The standards of this district shall comply with department of natural resources rule 391-3-16-.01, Criteria for the Protection of the Water Supply Watersheds and the Reservoir Management Plan adopted by the city.
 - a. Line Creek is a small water supply watershed. An intake for the City of Newnan is located on this creek and does not contain a reservoir.
 - b. White Water Creek is a small water supply watershed. An intake for the City of Newnan is located on this creek and does not contain a reservoir.
- (4) *Permitted uses.* Uses which were lawful on May 9, 2000, shall be allowed to continue as lawful land uses until such time as the use is abandoned. All uses, except those uses set forth in subsection (g)(5) of this section, allowed in the underlying zoning districts as established by this section are permitted in the water supply watershed district, subject to the following standards:
 - a. *Natural buffer requirements.*
 1. Within a seven-mile radius upstream of all public water intakes and water supply reservoirs a natural buffer 100 feet wide shall be maintained on both sides of all perennial stream

corridors as measured from the stream banks. Similarly, within the water supply watershed but outside the seven-mile radius, a natural buffer of 50 feet shall be maintained on both sides of all perennial stream corridors as measured from the stream banks.

2. A natural buffer shall be maintained for a distance of 150 feet from the boundary of any existing or future water supply reservoir.

b. *Impervious surface requirements.*

1. No more than 25 percent of the total land area within a designated water supply watershed district may be covered by impervious surface;
2. Within a seven-mile radius upstream of all public water intakes, no impervious surface shall be constructed within a 150-foot setback area on both sides of all perennial stream corridors as measured from the stream banks;
3. Outside a seven-mile radius upstream of all public water intakes and water supply reservoirs, no impervious surface shall be constructed within a 75-foot setback area on both sides of all perennial stream corridors as measured from the stream banks; and
4. New facilities which handle hazardous materials of the types listed in section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and amounts of 10,000 pounds on any one day or more, shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements or the requirements of the fire code.

c. *Exemptions.* The following uses are exempt from the stream corridor buffer and setback requirements if they meet the stipulated conditions:

1. *Utilities.*

- (i) Utilities shall be located as far as reasonably possible from the stream bank and shall not impair the quality of the drinking water system; and
- (ii) Utilities shall be installed and maintained without changing the integrity of the buffer and setback areas as much as possible.

2. *Forestry and agricultural activities.*

- (i) Agricultural activities involving the planting and harvesting of crops are exempted, if they conform to the best management practices established by the state department of agriculture and USDA; and
- (ii) Silvicultural activities must conform to the best management practices established by the state forestry commission.

(5) *Prohibited uses within the water supply watershed district overlay.*

- a. All sanitary landfills with or without synthetic liners and leachate collection systems.
- b. All hazardous waste, treatment or disposal facilities.
- c. Septic tanks and septic tank drain fields are prohibited within the 150-foot setback area on both sides of all perennial streams as measured from the stream banks within a seven-mile radius upstream of all public water intakes and water supply reservoirs.
- d. Septic tanks and septic tank drain fields are prohibited within 75-foot setback area on both sides of all perennial streams as measured from the stream banks outside of the seven-mile radius upstream of all public water intakes and water supply reservoirs.

(Ord. No. 2008-10Z, exh. A, § 4.22, 8-25-2008; Ord. of 10-28-2019(1))

Sec. 80-111.1. Bear Creek water supply watershed ordinance.

(a) *Watershed protection areas.* Watershed protection areas are hereby identified, classified, and regulated for the purpose of insuring the preservation and improvement of water quality and for complying with laws of the State of Georgia. The following definitions shall be utilized in the administration of this section, the Bear Creek Water Supply Watershed Ordinance.

(b) *Definitions.*

Corridor. All land within the buffer areas and other setback areas.

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

Large water supply watershed. A watershed area which is greater than 100 square miles as defined by the Georgia Department of Natural Resources Environmental Protection Division.

Buffer. Buffer means a natural or enhanced vegetated area with no or limited minor land disturbances, such as trails and picnic areas.

Natural buffer. A portion of a parcel which shall be set aside to provide a separation between the use(s) on the parcel and adjoining parcels or uses or a stream through the use of natural vegetation, replanting, and supplemental plantings. Vegetation within a natural buffer area shall not be disturbed except for approved access and utility crossings. For lakes and/or reservoirs, the natural buffer shall be measured from the normal pool elevation. For streams and/or creeks, the natural buffer shall be measured from the stream bank.

Natural vegetation. Undisturbed, maintenance-free, self-perpetuating stand of vegetation comprised of indigenous shrubs, flowers, wild grasses and trees.

Nitrification field. A nitrification field shall be defined as any system for the on-site disposal of wastewater.

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

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

Small water supply watershed. A watershed area which is less than 100 square miles as defined by the Georgia Department of Natural Resources Environmental Protection Division.

State water. Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the state which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation. For purposes of this section, the city engineer shall make state water determinations. Recorded drainage easements and ditches/swells used for conveying wet weather flows (i.e., no base flow) shall not be considered state waters.

Stream bank. The confining cut of a stream channel usually identified as the point where the normal stream flow has wrested the vegetation. For non-trout waters, the normal stream flow is any stream flow that consists solely of base flow or consists of both base flow and direct runoff during any period of the year. Base flow results from groundwater that enters the stream channel through the soil. This includes spring flows into streams. Direct runoff is the water entering stream channels promptly after rainfalls or snow melts.

Tributaries and streams. Tributaries and streams, whether named or unnamed, that continuously flow to major water supply streams.

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(Supp. No. 21, Update 3)

Utility. A public or private water or sewer piping system, water or sewer pumping station, electric power line, fuel pipeline, telephone line, road, driveway, bridge, river/lake access facility, storm water system and/or railroad.

Water supply reservoir. A governmentally owned impoundment of water for the primary purpose of providing water to one (1) or more governmentally owned public drinking water systems. This excludes the multipurpose reservoirs owned by the Army Corps of Engineers.

Water supply watershed. The area of land upstream of a governmentally owned public drinking water intake.

(c) *Grandfathered provisions.* This section shall not apply to the following activities:

- (1) Work consisting of the repair or maintenance of any lawful use of land that is zoned and approved for such use on or before the effective date of the ordinance from which this section derives.
- (2) Existing development and on-going land disturbance activities including but not limited to existing agriculture, silviculture, landscaping, gardening and lawn maintenance, except that new development or land disturbance activities on such properties will be subject to all applicable buffer requirements.
- (3) Any land development activity that is under construction, fully approved for development, scheduled for permit approval or has been submitted for approval as of the effective date of the ordinance from which this section derives.
- (4) Land development activity that has not been submitted for approval, but that is part of a larger master development plan, such as for an office park or other phased development that has been previously approved within two years of the effective date of the ordinance from which this section derives.

(d) *Exemptions.* The following specific activities are exempt from this section. Exemption of these activities does not constitute an exemption for any other activity proposed on a property.

- (1) Utility lines paralleling the creek provided that:
 - a. The utilities to be located in the buffer or setback areas cannot feasibly be located outside these areas; and
 - b. The utilities are located as far from the stream bank as reasonably possible; and
 - c. The installation and maintenance of the utilities are such to protect the integrity of the buffer and setback areas as best as reasonably possible; and
 - d. The utilities do not impair the quality of the drinking water stream.
- (2) Within an easement of any utility existing at the time the ordinance from which this section derives takes effect or approved under the terms of this section, land disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures.
- (3) Emergency work necessary to preserve life or property; provided however, when emergency work is performed under this section, the person performing it shall report such work to the (review and permitting authority) on the next business day after commencement of the work. Within ten days thereafter, the person shall apply for a permit and perform such work within such time period as may be determined by the (review and permitting authority) to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area.
- (4) Forestry and silviculture activities on land that is zoned for forestry, silvicultural or agricultural uses and that are not incidental to other land development activity provided that:
 - a. The activity is consistent with best management practices established by the Georgia Forestry Commission or the Georgia Department of Agriculture; and

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- b. The activity does not impair the quality of the drinking water stream.
 - (5) Mining activities are subject to prior approval by the Department of Natural Resources under the Surface Mining Act.
 - (6) Conservation easements. Land subject to a perpetual conservation easement at least as restrictive as the provisions of this section.
 - (e) *Application to watersheds.* The following large and small water supply watersheds, designated major water supply streams, named tributaries, minor unnamed streams, and state waters located in and out of the large and small water supply watersheds shall be governed by this article.
 - (1) Large water supply watersheds:
 - a. Chattahoochee River Basin.
 - b. Flint River Basin.
 - (2) Small water supply watersheds:
 - a. Bear Creek Basin.
 - b. Cedar Creek.
 - c. Line Creek (Flint).
 - d. Whitewater Creek (Flint).
 - (3) Designated major water supply streams:
 - a. Bear Creek.
 - b. Chattahoochee River.
 - c. Cedar Creek.
 - d. Line Creek (Flint).
 - e. Whitewater Creek (Flint).
 - (4) Tributaries to water supply streams:
 - a. Bear Creek.
 - b. Little Bear Creek.
 - c. Shoal Creek (Flint).
 - (5) Any and all minor unnamed streams which are indicated as perennial on the 1963 (photo revised 1982) U.S.G.S. quad sheets.
 - (6) State waters.
 - (f) *Restrictions.*
 - (1) *Large water supply watersheds.*
 - a. The corridors of all perennial streams in a large water supply watersheds tributary to a governmentally owned public drinking water supply reservoir within a seven-mile radius of the reservoir boundary are protected by the following criteria:
 - 1. A natural vegetated buffer shall be maintained for a distance of 100 feet on both sides of the stream as measured from the stream banks. No chemical treatment such as herbicides, pesticides, fertilizers or paint is permitted within the natural vegetated buffer.

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2. Vegetation within a natural buffer area shall not be disturbed except for approved access and utility crossings.
 3. No impervious surface shall be constructed within a 150-foot setback area on both sides of the stream as measured from the stream banks.
 4. Septic tanks and septic tank drainfields are prohibited within a 150-foot setback area on both sides of the stream as measured from the stream banks.
 5. No sewage treatment facility, dumping, discharging, releasing, spraying, distributing of any toxic or other harmful products is allowed onto the land within the natural buffer.
 6. Pervious hiking trails and picnic areas will be allowed within the natural buffer and setback. Any land disturbance activities are subject to the approval of Fairburn.
- b. The following restrictions shall apply specifically to large water supply watersheds as identified in the article:
1. New facilities located within seven miles of a water supply intake or water supply reservoir, which handle hazardous materials of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) in amounts of 10,000 pounds on any one day or more, shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements or requirements of the standard fire code.

(2) *Small water supply watershed.*

- a. The perennial stream corridors of a small water supply watershed within a seven-mile radius upstream of a governmentally owned public drinking water supply intake or water supply reservoir are protected by the following criteria:
1. Minimum natural buffer—150 feet as measured from the normal pool elevation or the natural buffer shall be considered the 100-year flood plain elevation, whichever is greater.
 2. Minimum setback for all structures, nitrification fields, and impervious surfaces—150 feet as measured from the normal pool elevation of a reservoir.
 3. A natural buffer shall be maintained of a distance of 100 feet on both sides of the stream as measured from the stream banks. No chemical treatment such as herbicides, pesticides, fertilizers or paint is permitted within the natural vegetated buffer.
 4. Vegetation within a natural buffer area shall not be disturbed except for approved access and utility crossings.
 5. No impervious surface shall be constructed within a 150-foot setback area on both sides of the stream as measured from the stream banks.
 6. Septic tanks and septic tank drainfields are prohibited in the setback area of subsection 80-111.1(f)(2)a.3 above.
 7. No sewage treatment facility, dumping, discharging, releasing, spraying, distributing of any toxic or other harmful products is allowed onto the land within the natural buffer.
 8. Pervious hiking trails and picnic areas will be allowed within the natural buffer and setback. Any land disturbance activities are subject to the approval of the city council.
- b. The perennial stream corridors within a small water supply watershed and outside a seven-mile radius upstream of a governmentally owned public drinking water supply intake or water supply reservoir are protected by the following criteria:

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1. A natural buffer shall be maintained for a distance of 50 feet on both sides of the stream as measured from the stream banks.
 2. Vegetation within a natural buffer area shall not be disturbed except for approved access and utility crossings.
 3. No impervious surface shall be constructed within a 75-foot setback area on both sides of the stream as measured from the stream banks.
 4. Septic tanks and septic tanks drainfields are prohibited in the 75-foot setback area on both sides of the stream as measured from the stream banks.
 5. No sewage treatment facility, dumping, discharging, releasing, spraying, distributing of any toxic or other harmful products is allowed onto the land within the natural buffer.
 6. Pervious hiking trails and picnic areas will be allowed within the natural buffer and setback. Any land disturbance activities are subject to the approval of the city council.
- c. The following criteria apply at all locations in a small water supply watershed.
1. New hazardous waste treatment or disposal facilities are prohibited.
 2. The impervious surface area, including all public and private structures, utilities, or facilities, of the entire water supply watershed shall be limited to 25 percent, or existing use, whichever is greater.
 3. Facilities located within seven miles of a water supply intake or water supply reservoir, which handle hazardous materials of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) in amounts of 10,000 pounds on any one day or more, shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements or requirements of the standard fire code.

(Ord. No. Z2013-05, § 1(exh. A), 4-22-2013; Ord. of 10-28-2019(1))

Sec. 80-112. Reserved.

Editor's note(s)—An ordinance adopted Oct. 28, 2019 repealed § 80-112 which pertained to the PS Public Service District, and derived from Ord. No. 2008-10Z, exh. A, § 4.24, adopted Aug. 25, 2008.

Secs. 80-113—80-137. Reserved.

ARTICLE III. HOME OCCUPATION²

Sec. 80-138. Home occupations.

- (a) A home occupation is permitted as an accessory use of a dwelling unit in residential zoning districts and its operation and employees are limited to members of the resident family only or one member of the resident

²Editor's note(s)—Ord. No. 2012-04, § 1, adopted June 11, 2012, repealed ch. 80, art. III, §§ 80-138—80-149 and added a new ch. 80, art. III, § 80-138. Former ch. 80, art. III, pertained to application of district regulations and was derived from Ord. No. 2008-10Z, Exh. A, §§ 6.01—6.12, adopted August 25, 2008.

family and one non-resident. For purposes of this article only, "resident" is defined as any person who is a member of the family residing in the dwelling unit, takes substantially all of his overnight lodging at the dwelling unit, stores substantially all his personal belongings in the dwelling unit, and uses the address of the premises as his address for legal purposes such as voter registration, and payment of personal property taxes.

- (b) Purpose. The purpose of the home occupation regulations and performance standards are:
- (1) To establish criteria for operation of home occupations in dwelling units within the residential districts;
 - (2) To permit and regulate the conduct of home occupations as an accessory use in a dwelling unit, whether owner or renter-occupied;
 - (3) To ensure that such home occupations are compatible with, and do not have a deleterious effect on, adjacent and nearby residential properties and uses;
 - (4) To ensure that public and private services such as streets, sewers, water or utility systems are not burdened by the home occupation to the extent that usage exceeds that normally associated with residential use;
 - (5) To allow residents of the community to use their residences as places to enhance or fulfill personal economic goals under certain specified standards, conditions and criteria;
 - (6) To enable the fair and consistent enforcement of these home occupation regulations; and
 - (7) To promote and protect the public health, safety and general welfare.
- (c) The following are limitations on home occupations:
- (1) The smaller of 25 percent or 500 square feet of the gross floor area of a dwelling unit may be used for activities devoted to the home occupation. Use of the dwelling unit as a home occupation shall clearly be incidental and subordinate to its use for residential purposes.
 - (2) Accessory buildings and structures may not be used for the home occupation.
 - (3) There shall be no signs identifying the home occupation, nor shall there be any storage, display or activity associated with the home occupation visible outside the structure. Products, samples, or merchandise associated with the home occupation may be stored within the area of the dwelling unit designated for the home occupation, as specified in subsection (a).
 - (4) No product, sample, or merchandise shall be sold, nor shall marketing based on samples be accomplished, in the dwelling unit. Sales by telephone of merchandise, products, or samples to be distributed from another location are permitted.
 - (5) Said uses are excluded: Auto repair or similar operations, restaurants, keeping of animals, funeral homes, retail or wholesale shops, motel type establishments, taxi services, or any other occupation found incompatible with the intent of this resolution.
 - (6) Resident participants in a home occupation must have the appropriate occupational registration and licensing, including business licenses.
 - (7) No home occupation shall generate traffic, sound, smell, vibration, light, or dust that is offensive. No traffic shall be generated in greater volumes than would normally be expected in the neighborhood.
 - (8) No more than two clients or patrons are allowed on the premises at the same time in conjunction with the home occupation. Individual instruction on a one-on-one basis shall be permitted. No assembly or group instruction in connection with the home occupation shall be permitted (except for persons in care at a family day care home, as defined in section 80-4).
 - (9) Vehicles kept on site in association with the home occupation shall be used by residents only.

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- (10) No delivery or pick-up services, including courier services, which would occur at a frequency of more than once daily, are permitted. The transporting of goods by truck is prohibited. Incoming vehicles related to the home occupation shall be parked off-street within the confines of the residential driveway or other on-site permitted parking.
 - (11) Home occupations must exclude the use of instruments, machinery, equipment, or processes that create sound, noise, vibration, glare, fumes or odors that are detectable to the normal senses beyond the dwelling unit. Any equipment or process which creates visual or audible interference in any radio or television receiver or causes fluctuation in electrical line voltage off the premises, is prohibited.
 - (12) Family day care homes are prohibited within multifamily dwelling units.
 - (13) Family day care homes shall provide outdoor play areas as required by state law, but such areas shall be limited to side or rear yards outside the minimum yard area, and shall not occupy any yard adjoining a street.
 - (14) Family day care homes shall be located at least 1,000 feet in all directions from any other family day care home operated as a home occupation.
 - (15) An individual who is required to register pursuant to O.C.G.A. § 42-1-12 et al. (Georgia Sexual Offender Registration Statutes) shall not reside, be employed, volunteer, or loiter within 1,000 feet of any family day care home. Such distance shall be determined by measuring from the outer boundary of the property on which the individual resides to the outer boundary of the property of the family day care home.
 - (16) Family day care home hours of operation shall be limited to Monday through Saturday from 6:00 a.m. to 7:00 p.m.
 - (17) Family day care home operators shall have a current, certified copy of the operator's state family day care home registration which shall be filed with the business license application and renewals.
 - (18) No home occupation shall be operated so as to create or cause a nuisance.
 - (19) No more than two home occupations shall be permitted in a single dwelling unit. When two home occupations are in a single dwelling unit, the smaller of 25 percent or 750 square feet of the gross floor area of a dwelling unit may be used for activities devoted to the home occupations.
 - (20) A sexually oriented business, as defined in chapter 5, Sexually oriented businesses, shall not be permitted to be conducted as a home occupation.
 - (21) When there is one permitted home occupation in a dwelling unit, no more than two residents or one resident and one non-resident shall be engaged in such home occupation(s). When there are two permitted home occupations in a dwelling unit, no more than one resident shall be engaged in each home occupation.
 - (22) Day care centers are not home occupations and are regulated by article IV administrative permits and use permits.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Secs. 80-139—80-166. Reserved.

ARTICLE IV. ADMINISTRATIVE PERMITS AND USE PERMITS³

Sec. 80-167. Scope and intent.

This article specifies uses which are not classified as permitted uses in zoning districts, and are therefore, only allowed through the approval of an administrative permit or a use permit. The standards, which apply to each use, are enumerated and must be met in order for an application to be granted.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-168. Application and approval.

- (a) Uses allowable with an administrative permit and the minimum standards for such uses are listed in section 80-170.
- (b) Uses allowable with a use permit and the minimum standards for such uses are listed in section 80-171.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-169. Application of regulations.

Uses enumerated herein may be authorized by an administrative permit or use permit, as specified. The regulations contained in this article shall not apply to any permitted use in any zoning district.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-170. Administrative permits.

Any use authorized by an administrative permit shall be approved and permitted by the director of planning whenever the proposed use complies fully with the requirements of the subject property's zoning district and standards as set forth in 80-170. Each requested use for which an administrative permit is required shall be assigned an administrative permit number and charged a fee. Said permit shall be posted on site prior to commencement of use. Variances to administrative permit standards may be requested by application to the planning and zoning commission. In certain cases, the director of public works with respect to roadway, water, sewer and/or other infrastructure improvements, and rights-of-way dedications, which must be met, imposes conditions.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

³Editor's note(s)—Ord. No. 2012-04, § 1, adopted June 11, 2012, repealed ch. 80, art. IV, §§ 80-167—80-171 and added a new ch. 80, art. IV, §§ 80-167—80-236. Former ch. 80, art. IV, pertained to conditional uses and was derived from Ord. No. 2008-10Z, Exh. A, §§ 5.01(A)—(E), adopted August 25, 2008.

Sec. 80-171. Use permits.

- (a) Any use authorized by a use permit may be approved by the city council in accordance with standards enumerated under each use (section 80-172) provided:
- (1) The subject use is allowable in the subject property's zoning district.
 - (2) The standards for the use permit as specified in article IV can be met, as well as use permit considerations pursuant to section 80-172.
 - (3) A public ~~hearing~~meeting has been held in relation to the use permit before the planning and zoning commission and a public hearing before the city council in conformance with the notice standards outlined in article VIII, section 80-299. Public hearings are not required for planning and zoning commission to make recommendations to the mayor and city council.
 - (4) Recommendations have been received from the department of planning and zoning and the planning and zoning commission.
 - (5) Conditions imposed with respect to right-of-way dedication and roadway, water, sewer and/or other infrastructure improvements are met.
- (b) ~~a.~~ Applications. Use permit requests shall require a separate application when included with a petition for rezoning. Each requested use for which a use permit is required shall be charged a standard use permit fee and assigned a use permit number which will be listed on the petition for rezoning in section 80-299. A public hearing notice and evaluation shall be provided in accordance with article VIII for each requested use permit. Each request shall be voted on separately, and each use permit request submitted as part of a rezoning petition shall be treated independently in the minutes of the city council meeting.
- ~~(c) b.~~ Expiration. All use permits shall expire within three years from the date of approval by the city council or as otherwise conditioned unless a land disturbance permit, building permit, business license or certificate of occupancy has been issued. Requests for extensions shall be made in accordance with the standards for extensions contained in article VIII. The director of planning shall approval requests for extensions.
- ~~(d)(c)~~ c. Re-application. The same or substantially similar petition for a use permit which has been denied by the city council shall not be resubmitted to the planning and zoning department for a period of six months from the date of the denial.
- ~~(e)(d)~~ d. Variances. Variances to use permit standards contained in section 80-250 for receiving a use permit may be considered by the city council concurrently with a use permit petition if submitted with such petition. Such a variance request shall not require a separate variance application, but shall be assigned a variance number, charged a standard variance fee and be listed on the use permit petition as a concurrent variance in accordance with article VI, section 80-256, Appeals.
- ~~(f)(e)~~ (e) Accessory uses. Structures and land may be used for uses customarily incidental to any approved use.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-172. Use permit considerations.

In the interest of the public health, safety and welfare, the city council may exercise limited discretion in evaluating the site proposed for a use which requires a use permit. In exercising such discretion pertaining to the subject use, the city council shall consider each of the following:

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- (1) Whether the proposed use is consistent with the comprehensive land use plan adopted by the city council;
 - (2) Compatibility with land uses and zoning districts in the vicinity of the property for which the use permit is proposed;
 - (3) Whether the proposed use may violate local, state and/or federal statutes, ordinances or regulations governing land development;
 - (4) The effect of the proposed use on traffic flow, vehicular and pedestrian, along adjoining streets;
 - (5) The location and number of off-street parking spaces;
 - (6) The amount and location of open space;
 - (7) Protective screening;
 - (8) Hours and manner of operation;
 - (9) Outdoor lighting; and
 - (10) Ingress and egress to the property.

In granting such permits, conditions may be attached as are deemed necessary in the particular case for the protection or benefit of neighbors to ameliorate the effects of the proposed development/use.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-173. Additional restrictions.

Any use that may be authorized by an administrative permit or use permit shall comply with all other city regulations, zoning district regulations, conditions of zoning approval and other regulations contained herein. All buffers required shall have a ten-foot improvement setback in accordance with the tree protection and landscaping ordinance. The reduction of said setback shall be subject to the approval of the department of planning and zoning in accordance with article VI, Appeals. Whenever a standard contained in this section is in conflict with another provision of this article, the more restrictive provision shall prevail.

Unless otherwise specified, standards, conditions and stipulations attached to a use permit by the city council shall supersede conflicting zoning conditions approved on the same site.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-174. Administrative permits.

[See sections 80-174—80-195.]

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-174.1. Minimum administrative permit standards.

[Reserved.]

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-175. Alternative antenna support structure district height.

Intent. Pursuant to section 704(a) of the Federal Telecommunications Policy Act of 1996, it is not the intent of this section to prohibit or have the effect of prohibiting the provision of personal wireless services in the city. It is the intent of this section to address the aesthetic effect of telecommunication facilities on our landscapes, our citizens' demands for these services, and the needs of service providers.

(a) *Allowable districts:* C-2, M-1 and M-2.

(b) *Standards:*

- (1) Alternative structures are not allowed as an accessory to a single-family use or as a principal use in a single-family district.
- (2) Alternative structures must be set back a distance equal to the height of the structure adjacent to residential and/or the AG zoned property unless said structure is proposed to be located on an existing building.
- (3) Above ground equipment shelters shall be surrounded by a minimum ten-foot wide landscape strip planted to buffer standards unless the director of planning determines that existing plant materials are adequate.
- (4) Roof top antennas and associated structures shall not project more than ten feet above roof line.
- (5) Height shall not exceed 150 feet measured from the finished grade of the base structure.
- (6) The alternative structure shall comply with applicable state and local statutes and ordinances, including, but not limited to, building and safety codes. Alternative structures which have become unsafe or dilapidated shall be repaired or removed pursuant to applicable state and local statutes and ordinances.
- (7) Facilities shall not be artificially lighted except to assure human safety or as required by the Federal Aviation Administration (FAA).
- (8) Communication towers shall be designed and constructed to ensure that the structural failure or collapse of the tower will not create a safety hazard to adjoining properties, according to applicable federal standards which may be amended from time to time.
- (9) Telecommunications facilities shall not be used for advertising purposes and shall not contain any signs for the purpose of advertising.
- (10) Any telecommunications facility may co-locate on any existing tower, pole or other structure as long as there is no increase in height to the existing facility.
- (11) A telecommunication facility that ceases operation for a period of 12 consecutive months shall be determined to have terminated and shall be removed within 90 days of termination at the property owner's expense. It shall be the duty of both the property owner and the tower owner to notify the city in writing of any intent to abandon the use of the tower.
- (12) An application for a telecommunications facility shall be submitted in accordance with the department's plan review submittal requirements.
- (13) An application for a telecommunication facility shall include a certification from a registered engineer that the structure will meet the applicable design standards for wind loads.
- (14) Communications facilities shall not be located in 100-year flood plain or delineated wetlands.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

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(Supp. No. 21, Update 3)

Editor's note(s)—An ordinance adopted Oct. 28, 2019 changed the title of § 80-175 from alternative antenna support structure to exceed the district height to alternative antenna support structure district height.

Sec. 80-176. Amateur radio antenna district height.

Intent. It is the intent of this article to regulate the placement of amateur towers in a manner that does not impose on public health, safety, or general welfare. The following regulations on design, location, placement, and height limits of antennas in residential districts implements Fairburn's governmental interests in land planning, aesthetics and public safety by requiring the following standards:

- (a) *Allowable districts:* All.
- (b) *Standards:*
 - (1) Antennas shall be located in the rear yard.
 - (2) The maximum height shall be 90 feet. Any request to exceed the maximum height shall require a use permit.
 - (3) All antennas shall be set back from all property lines one-third the height of the antenna or the district setback requirements, whichever is greater. The antenna must be located a distance equal to or greater than the antenna height from the nearest residential dwelling, excluding the owner's primary dwelling or structure.
 - (4) Antennas shall not be lighted.
 - (5) All antennas must be constructed with an anti-climbing device.
 - (6) Antennas shall be painted in a neutral color identical or closely compatible with surroundings.
 - (7) All guy wires must be anchored on site and outside of right-of-way.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Editor's note(s)—An ordinance adopted October 28, 2019 changed the title of § 80-176 from amateur radio antenna to exceed the district height to amateur radio antenna district height.

Sec. 80-177. Antenna, tower, and associated structures (radio broadcasting, t.v. broadcasting, microwave broadcasting, etc.), district height.

Intent. Pursuant to section 704(a) of the Federal Telecommunications Policy Act of 1996, it is not the intent of this section to prohibit or have the effect of prohibiting the provision of personal wireless services in Fairburn. It is the intent of this section to address the aesthetic effect of telecommunication facilities on our landscapes, our citizens' demands for these services, and the needs of service providers.

The following regulations on design, location, placement, and height limits of antennas implement the city's governmental interest in land planning, aesthetics and public safety by requiring the following administrative permit standards:

- (1) *Allowable districts:* C-2, DTMU O&I, M-1 and M-2 (see use permit, for use in residential and the AG district.)
- (2) *Standards:*
 - a. Tower/accessory structures must be set back a distance equal to the height of the tower adjacent to residential and/or AG zoned property.

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- b. Cables and structures designed to anchor the tower shall be set back at least ten feet from all property lines.
 - c. Tower and/or associated facilities shall be enclosed by fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device.
 - d. A minimum ten-foot wide landscape strip planted to buffer standards shall be required around the facility exterior to any fence or wall unless the director of planning determines that existing plant materials are adequate.
 - e. Height shall not exceed 200 feet measured from the finished grade of the base structure.
 - f. The tower shall comply with applicable state and local statutes and ordinances, including, but not limited to, building and safety codes. Towers which have become unsafe or dilapidated shall be repaired or removed pursuant to applicable state and local statutes and ordinances.
 - g. Facilities shall not be artificially lighted except to assure human safety or as required by the Federal Aviation Administration (FAA).
 - h. Communication towers shall be designed and constructed to ensure that the structural failure or collapse of the tower will not create a safety hazard to adjoining properties, according to applicable federal standards which may be amended from time to time.
 - i. Telecommunications facilities shall not be used for advertising purposes and shall not contain any signs for the purpose of advertising.
 - j. Any telecommunications facility may co-locate on any existing tower, pole or other structure as long as there is no increase in height to the existing facility.
 - k. A commercial telecommunication facility that ceases operation for a period of 12 consecutive months shall be determined to have terminated and shall be removed within 90 days of termination at the property owner's expense. It shall be the duty of both the property owner and the tower owner to notify the city in writing of any intent to abandon the use of the tower.
 - l. Communication facilities not requiring FAA painting/markings shall have either a galvanized finish or [be] painted a dull blue, gray, or black finish.
 - m. An application for a telecommunications facility shall be submitted in accordance with the department's plan review submittal requirements.
 - n. An application for a telecommunication facility shall include a certification from a registered engineer that the structure will meet the applicable design standards for wind loads.
 - o. Communications facilities shall not be located in 100-year flood plain or delineated wetlands.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Editor's note(s)—An ordinance adopted Oct. 28, 2019 changed the title of § 80-177 from antenna, tower, and associated structure (radio broadcasting, t.v. broadcasting, microwave broadcasting, etc.) to exceed the district height to antenna, tower, and associated structures (radio broadcasting, t.v. broadcasting, microwave broadcasting, etc.), district height.

Sec. 80-178. Club.

- (a) *Allowable districts:* O&I, C-1, C-2, M-1 and M-2.
- (b) *Standards:*

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- (1) All buildings and accessory uses other than parking shall be located at least 50 feet from all property lines of any residential district and/or the AG district used for single family.
 - (2) Permitted curb cut access shall not be from a local street.
 - (3) Outdoor facilities within 200 feet of any residential district or dwelling shall limit the hours of operation from 8:00 a.m. to 11:00 p.m.
 - (4) Outdoor recreational facilities shall be set back a minimum of 100 feet from all property lines of any residential district and/or AG district used for single family, except as otherwise permitted with an administrative permit for a recreational court or swimming pool.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-179. Event, special indoor/outdoor.

As applicable, special events are subject to the requirements of other city of departments, such as the fire department, the police department, tent permits, pyrotechnics permits, food service permits, etc.

- (a) *Allowable districts:* AG, O&I, C-1, C-2, DTMU, M-1, M-2, P&O and residential districts in conjunction with an institutional use, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like.
- (b) *Standards:*
 - (1) No administrative permits shall be effective for more than 14 consecutive days for a single event on the same property. An application for said permit shall be made no less than 14 days prior to the event. Said permit must be posted on site such that it is visible from the street. There is no limit to the number of permits an applicant may obtain per year; however, an applicant shall only be granted a permit for one event at a time.
 - (2) The hours of operation shall be limited to 8:00 a.m. to 8:00 p.m., Sunday through Thursday and 8:00 a.m. to 11:00 p.m., Friday through Saturday.
 - (3) Two copies of a drawing, to scale and no larger in size than 11 inches by 17 inches, with dimensions (distances in feet) of the activity's location from the site's property lines and other minimum distance requirements as specified by this section shall be submitted to the department of planning and zoning for approval. Said drawing shall also depict the north arrow, curb cuts and traffic patterns.
 - (4) The applicant shall provide a notarized written authorization statement of the property owner or lease holder of the subject site to the department of planning and zoning. A 24-hour contact number of the property owner or lease holder shall be provided along with the permit application.
 - (5) The entire property shall comply with the zoning district's setback requirements.
 - (6) No temporary sanitary facility or trash receptacle may be located within 100 feet of a property line of any residential use.
 - (7) No tent, table or other temporary structure shall be located within 250 feet of a single family detached residential structure except within the C-1 district. Tents less than 5,000 square feet do not require a building permit; tents equal to or greater than 5,000 square feet require structural plan review and a building permit. All tents are subject to the approval of the fire department.
 - (8) Sales from vehicles are prohibited, except mobile food trucks in compliance with the requirements of section 80-237 will be permitted:

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- (9) The entire property shall comply with Fairburn's parking requirements.
 - (10) No equipment, vehicle, display or sales activity shall block access to a public facility such as a telephone booth, mailbox, parking meter, fire hydrant, fire alarm box, traffic control box, drainage structure, driveway or other access point.
 - (11) A sound level of 65 dBA shall not be exceeded at adjacent property lines of any residential use.
 - (12) Signage shall be in accordance with article XII, Sign regulations.
 - (13) Events with less than 75 persons are subject to the review and approval of an administrative permit by the director of planning; events with more than 75 persons are subject to the review and approval of a use permit by city council.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-179.1. Farmers market.

- (a) *Allowable districts:* O&I, DTMU, C-1, C-2, M-1, M-2, and P&O. Allowable in AG and residentially zoned districts only when the property is occupied by a church, school, lodge/retreat, farm, plant nursery, etc., existing as a conforming or a lawful non-conforming nonresidential use. The issuance of this permit does not constitute an expansion or extension of a nonconforming use.
- (b) *Definition.* "Farmers market" shall be defined as a multi-stall market at which farmers and/or producers sell agricultural products, artisan edibles, and hand-made crafts and goods directly to the general public at a central or fixed location.
- (c) *Standards:*
 - (1) The property on which the farmers market is permitted must be located at least 1,500 feet from another farmers market which offers the same or similar merchandise as that of the farmers market.
 - (2) Two copies of a drawing, no larger in size than 11 inches by 17 inches, with dimensions (distances in feet) of the activity's location from the site's property lines and other minimum distance requirements as specified by this section shall be submitted to the department of planning and zoning for approval. Said drawing shall also depict north arrow, curb cuts and traffic patterns.
 - (3) The applicant shall provide a notarized written authorization statement of the property owner and lease holder of the subject site to the department of planning and zoning. A 24-hour contact number of the property owner and lease holder shall be provided along with permit application.
 - (4) Any display or sales activity shall not be located within a required landscape strip or buffer, right-of-way. Said displays shall also maintain a minimum setback of ten feet from any internal drive or permitted curb cut.
 - (5) The property on which the farmers market is permitted must be located at least 1,500 feet from a permanent business or another vendor which offers the same or similar merchandise as that of the vendor. Vendor shall provide names of all established businesses which sell similar or the same merchandise within 1,500 feet of the proposed vendor site.
 - (6) A parking plan shall be submitted and reviewed by the department of planning and zoning for approval. A minimum of two parking spaces per vendor shall be required.
 - (7) No temporary sanitary facility or trash receptacle may be located within 100 feet of a property line of a residential use.
 - (8) No tent shall be larger than ten feet by ten feet. All tents must comply with all city fire and building codes.

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- (9) The hours of operation shall be limited to 8:00 a.m. to 8:00 p.m., Sunday through Thursday and 8:00 a.m. to 11:00 p.m., Friday through Saturday.
 - (10) No equipment, vehicle, display or sales activity shall block access to a public facility such as a mail box, parking meter, fire hydrant, fire alarm box, traffic control box, driveway or other access point.
 - (11) A sound level of 65 dBA shall not be exceeded at adjacent property lines of any residential use.
 - (12) A 35-foot temporary sign shall be permitted during hours of operation. Any additional signage shall be in accordance article XII, Sign regulations.
 - (13) All vendors participating in the farmers market shall comply with the sanitary rules and regulations of the Fulton County and state health departments. All food must be properly displayed, fresh and grown and/or prepared in accordance with all local, state and federal regulations.
 - (14) All products must be grown or otherwise produced by the vendor. "Vendor" shall be defined as the producer, of goods sold and shall include the spouse, siblings, children, parents, apprentices, volunteers and employees of the applicant who assist in the cultivation, production and/or sale of goods produced at the address listed on the application.
 - (15) No administrative permits shall be effective for more than one year for a single event on the same property. An application for said permit shall be made no less than 14 days prior to the event. Said permit must be posted on site such that it is visible from the street. An applicant shall only be granted a permit for one event at a time.
 - (16) The city shall have the authority to revoke said permit for any violations of this Code.

(Ord. No. 2015-09, § 1, 7-27-2015; Ord. of 10-28-2019(1))

Sec. 80-180. Golf course.

(a) *Allowable districts:* All.

(b) *Standards:*

- (1) A minimum 100-foot setback for all buildings and parking areas shall be provided adjacent to any residential district and/or AG district used for single family.
- (2) Driving range, tees, greens and fairways shall be required to have a 100-foot setback from minor, arterial, and major collector roads.
- (3) Permitted curb cut access shall be from a major thoroughfare unless shown on the approved preliminary plat of a single-family subdivision.
- (4) When located outside a golf course/subdivision development, a minimum 50-foot wide buffer and a ten-foot improvement setback shall be provided adjacent to all buildings and parking areas when said facilities are located adjacent to any residential district and/or the AG district used for single family.
- (5) A minimum 25-foot buffer and a ten-foot improvement setback shall be provided adjoining any residential district and/or the AG district used for single family located outside the golf course development or any associated development.
- (6) When located adjacent to any residential district and/or the AG district used for single family, the hours of operation shall be limited to 8:00 a.m. to 11:00 p.m.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-181. Parking, off-site and shared.

Whenever parking as required in article IX cannot be accomplished, shared parking in accordance with article IX may be approved via an administrative permit provided:

- (a) *Allowable districts:* O&I, C-1, C-2.
- (b) *Standards:*
 - (1) If the off-site parking is committed for a specified period of time, the duration of the administrative permit shall be limited to the period of time stipulated therein.
 - (2) No more than 20 percent of the total parking requirement may be provided off-site via an administrative permit.
 - (3) The property must be located no more than 300 feet from the principal use with pedestrian access provided between the sites as may be required by the department of planning and zoning.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-182. Recreational court, private.

- (a) *Required districts:* All districts except C-1, C-2.
- (b) *Standards:*
 - (1) *Detached dwellings.* Recreational courts serving single-family detached dwellings shall be located inside or rear yards but shall not be located within a minimum yard.
 - (2) *Multi-family.* Recreational courts, accessory structures, and fencing shall be located a minimum of 100 feet from any residential building, adjoining property line or street.
 - (3) *Neighborhood.* Recreational courts serving a neighborhood must be located within the limits of the underlying zoning.
 - a. Use of the recreational courts shall be limited to residents and guests of the neighborhood in which they are located.
 - b. Recreational courts, accessory structures, fencing, and parking shall be located a minimum of 100 feet from all adjoining property lines.
 - c. Landscape strips and buffer requirements shall be as specified by the tree protection and landscaping ordinance.
 - d. A maximum four-square-foot sign identifying the future use of the property for a recreational court shall be posted adjoining the lot's frontage until a certificate of occupancy is issued for the facility.
 - e. Sources of exterior illumination shall be directed away from adjoining residences and shall not exceed 1.2-footcandles along an adjoining residential property line. Outdoor lighting of recreation facilities in or adjoining residential districts or uses shall be allowed only between dusk and 11:00 p.m.
 - f. A maximum continuous sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at property lines adjacent to single family residential uses.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-183. Recreational courts, public.

Recreational courts operated as a club (except those serving residential developments), or courts operated as a business are defined herein as public courts.

- (a) *Allowable districts:* O&I, C-1, C-2, M-1, M-2, and P&O.
- (b) *Standards:*
 - (1) Recreational courts, accessory structures, fencing, and parking shall be located a minimum of 100 feet from all property lines which abut single family residential uses. Adjacent to all other zonings and uses, the district setback requirements shall apply.
 - (2) Landscape strips and buffer requirements shall be as specified by the tree protection and landscaping ordinance.
 - (3) Sources of exterior illumination shall be directed away from adjoining residences and shall not exceed 1.2-footcandles along an adjoining residential property line. Outdoor lighting of recreation facilities in or adjoining residential districts or uses shall be used only between dusk and 11:00 p.m.
 - (4) A maximum continuous sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at property lines of adjacent residential districts and/or the AG district used for single family.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-184. Relocated residential structure.

- (a) *Allowable districts:* R-1, R-2, R-3, R-4, and R-CT, RM-12.
- (b) *Standards:*
 - (1) The applicant shall include the following with the application for the administrative permit:
 - a. The address from which the structure is being relocated.
 - b. A photograph of the structure prior to its relocation.
 - c. The total heated floor area of both the existing structure and the renovated structure.
 - (2) The location of the structure and the heated floor area of the structure shall be in compliance with the minimum standards of the zoning district and/or conditions of zoning.
 - (3) The residential structure shall be affixed to a permanent foundation within six months of the date of the house moving permit, and the certificate of occupancy shall not be issued until such improvements are completed.
 - (4) All standards of this section (except subsection (b)(2)) and other applicable regulations shall be met within one-year from the date of this permit issuance.
 - (5) A house moving permit shall be obtained from the department of planning and zoning in conjunction with this administrative permit.
 - (6) A building permit for the repair and construction of said structure shall be obtained within 30 days of the issuance of the administrative permit.

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- (7) The exterior of the structure shall be brought into compliance with the city building regulations within six months of the issuance of this administrative permit.
 - (8) Prior to occupancy, a certificate of occupancy must be obtained from the department of planning and zoning.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-185. Residential loft dwelling.

(a) *Allowable district:* DTMU.

(b) *Standards:*

- (1) A permit may be granted in combination with any permitted use, provided the dwelling is located above the first floor, the dwelling has direct access to the street or other public area, the dwelling has at least 800 square feet of useable floor area, and the dwelling meets all requirements of the fire code.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-186. Revival tent.

(a) *Allowable districts:* O&I, C-1, C-2 and P&O. In the AG (Agricultural) or a residential district, a revival tent may be placed only on property occupied by an existing building used as a place of worship.

(b) *Standards:*

- (1) A permit may be granted a maximum of 14 days in a calendar year.
- (2) The revival tent or any area used for assembly shall be located at least 200 feet from a property line of any residential district and/or the AG district used for single family.
- (3) No temporary, sanitary facility or trash receptacle may be located within 200 feet of an existing dwelling, and no tent shall be located within 250 feet of an existing dwelling.
- (4) Provide one parking space per four seats.
- (5) A drawing to scale shall accompany the application and shall accurately depict the number of seats and the standards of this section.
- (6) The hours of operation shall be no earlier than 8:00 a.m. or later than 11:00 p.m.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-187. Roadside produce stands.

(a) *Allowable districts:* C-1, C-2, and accessory to institutional uses, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like.

(b) *Standards:*

- (1) No more than four administrative permits shall be granted per year and no single permit shall be effective for more than 30 consecutive days; however, two or more permits, not to exceed four, may be combined for a duration of 60 days, 90 days or a maximum of 120 days. An application for said permit(s) shall be made no less than 14 days prior to the event. Said permit must be posted on site such that it is visible from the street.

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- (2) The hours of operation shall be 8:00 a.m. to 8:00 p.m.
 - (3) Two copies of a drawing, no larger in size than 11 inches by 17 inches, with dimensions (distances in feet) of the activity's location from the site's property lines and other minimum distance requirements as specified by this section shall be submitted to the department of planning and zoning for approval. Said drawing shall also depict north arrow, curb cuts and traffic patterns.
 - (4) The applicant shall provide a notarized written authorization statement of the property owner or lease holder of the subject site to the department of planning and zoning. A 24-hour contact number of the property owner or lease holder shall be provided along with permit application.
 - (5) The property on which the applicant is permitted must be located at least 1,500 feet from a permanent business or another vendor which offers the same or similar merchandise as that of the applicant. The applicant shall provide names of all established businesses which sell similar or the same merchandise within 1,500 feet of the proposed vendor site.
 - (6) Any activity or structure shall maintain a minimum 20-foot setback from the right-of-way and not be located within a required landscape strip or buffer. Said activity or structure shall also maintain a minimum setback of ten feet from any internal drive or permitted curb cut.
 - (7) A minimum of six parking spaces shall be provided for the exclusive use of the roadside produce stand and shall not occupy the minimum required parking spaces for any other use on site.
 - (8) No temporary sanitary facility or trash receptacle may be located within 100 feet of a property line of a residential use.
 - (9) No tent, table is allowed. All vending shall be conducted from a pushcarts/vending cart.
 - (10) All pushcarts/vending carts must fit within an area four feet in width, not including protective overhang, by eight feet in length, not including trailer hitch, and eight feet in height.
 - (11) All pushcarts/vending carts must meet all county health department regulations.
 - (12) No vending station or any item related to the operation of a vending business shall be leaned against or hung from any building or any other structure, including but not limited to, lampposts, parking meters, mailboxes, traffic signal stations, fire hydrants, trees, tree boxes, benches, bus shelters or traffic barriers.
 - (13) All items related to the operation of a vending business shall be kept either on, in or under a vending station. No such items shall be stored or placed upon any public space adjacent to the vending stand, pushcart or station.
 - (14) No equipment, vehicle, display or sales activity shall block access to a public facility such as a telephone booth, mailbox, parking meter, fire hydrant, fire alarm box, traffic control box, driveway or other access point.
 - (15) A sound level of 65 dBA shall not be exceeded at adjacent property lines of any residential use.
 - (16) Signage advertising the vending operation is prohibited.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-188. Roadside vending.

- (a) *Allowable districts:* C-1, C-2 and accessory to institutional uses, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like.
- (b) *Standards:*

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- (1) No more than two administrative permits shall be granted per year and no permit shall be effective for more than nine consecutive days. An application for said permit shall be made no less than 14 days prior to the event. Said permit must be posted on site such that it is visible from the street.
 - (2) The hours of operation shall be 8:00 a.m. to 8:00 p.m.
 - (3) Two copies of a drawing, no larger in size than 11 inches by 17 inches, with dimensions (distances in feet) of the activity's location from the site's property lines and other minimum distance requirements as specified by this section shall be submitted to the department of planning and zoning for approval. Said drawing shall also depict north arrow, curb cuts and traffic patterns.
 - (4) The applicant shall provide a notarized written authorization statement of the property owner or lease holder of the subject site to the department of planning and zoning. A 24-hour contact number of the property owner or lease holder shall be provided along with permit application.
 - (5) The property on which the applicant is permitted must be located at least 1,500 feet from a permanent business or another vendor which offers the same or similar merchandise as that of the applicant. The applicant shall provide names of all established businesses which sell similar or the same merchandise within 1,500 feet of the proposed vendor site.
 - (6) Any vending displays or activity shall maintain a minimum 20-foot setback from the right-of-way and not be located within a required landscape strip or buffer. Said displays or activities shall also maintain a minimum setback of ten feet from any internal drive or permitted curb cut.
 - (7) A minimum of six parking spaces shall be provided adjacent to the vending area for the exclusive use of the roadside vending and shall not occupy the minimum required parking spaces for any other use on site.
 - (8) No temporary sanitary facility or trash receptacle may be located within 100 feet of a property line of a residential use.
 - (9) No pushcarts/vending cart shall be located within 250 feet of a residential structure. Tents and tarps are prohibited. Sales from vehicles are prohibited.
 - (10) No tent, table is allowed. All vending shall be conducted from a pushcarts/vending cart.
 - (11) All pushcarts/vending carts must fit within an area four feet in width, not including protective overhang, by eight feet in length, not including trailer hitch, and eight feet in height.
 - (12) All pushcarts/vending carts must meet all county health department regulations.
 - (13) No vending station or any item related to the operation of a vending business shall be leaned against or hung from any building or any other structure, including but not limited to, lampposts, parking meters, mailboxes, traffic signal stations, fire hydrants, trees, tree boxes, benches, bus shelters or traffic barriers.
 - (14) All items related to the operation of a vending business shall be kept either on, in or under a vending station. No such items shall be stored or placed upon any public space adjacent to the vending stand, pushcart or station.
 - (15) No equipment, vehicle, display or sales activity shall block access to a public facility such as a telephone booth, mailbox, parking meter, fire hydrant, fire alarm box, traffic control box, driveway or other access point.
 - (16) A sound level of 65 dBA shall not be exceeded at adjacent property lines of any residential use.
 - (17) Signage advertising the vending operation is prohibited.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

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Sec. 80-189. Seasonal business use.

- (a) *Allowable districts:* C-1, C-2, M-1 and M-2. Allowable in AG and residentially zoned districts only when the property is occupied by a church, school, lodge/retreat, farm, plant nursery, etc., existing as a conforming or a lawful non-conforming nonresidential use. The issuance of this permit does not constitute an expansion or extension of a nonconforming use.
- (b) *Standards:*
- (1) An administrative permit shall not be issued for the same seasonal business use more than once in any calendar year. Said seasonal business use must correlate to a calendar holiday or event. Said permit shall not exceed a total of 30 consecutive days for each use. Said permit must be posted on site such that it is visible from the street. An application for said permit shall be made no less than 14 days prior to the event. Example: One permit may be issued for the sale of Christmas trees for a maximum of 30 consecutive days. A second permit may be issued for the sale of pumpkins for a maximum of 30 consecutive days.
 - (2) The hours of operation shall be 8:00 a.m. to 8:00 p.m., Sunday through Thursday and 8:00 a.m. to 11:00 p.m., Friday through Saturday.
 - (3) Two copies of a drawing, no larger in size than 11 inches by 17 inches, with dimensions (distances in feet) of the activity's location from the site's property lines and other minimum distance requirements as specified by this section shall be submitted to the department of planning and zoning for approval. Said drawing shall also depict north arrow, curb cuts and traffic patterns.
 - (4) The applicant shall provide a notarized written authorization statement of the property owner or lease holder of the subject site to the department of planning and zoning. A 24-hour contact number of the property owner or lease holder shall be provided along with permit application.
 - (5) The property on which the roadside vendor is permitted must be located at least 1,500 feet from a permanent business or another vendor which offers the same or similar merchandise as that of the vendor. Vendor shall provide names of all established businesses which sell similar or the same merchandise within 1,500 feet of the proposed vendor site.
 - (6) Any display or sales activity shall maintain a minimum 20-foot setback from the right-of-way and shall not be located within a required landscape strip or buffer. Said displays shall also maintain a minimum setback of ten feet from any internal drive or permitted curb cut.
 - (7) A minimum of six parking spaces shall be provided for the exclusive use of the seasonal business and shall not occupy the minimum required parking spaces for any other use on site.
 - (8) No temporary sanitary facility or trash receptacle may be located within 100 feet of a property line of a residential use.
 - (9) No tent, table or other temporary structure shall be located within 100 feet of a residential structure. Sales from vehicles are prohibited. Tents less than 5,000 square feet do not require a building permit; tents equal to or greater than 5,000 square feet require structural plan review and a building permit. All tents are subject to the approval of the fire department.
 - (10) No equipment, vehicle, display or sales activity shall block access to a public facility such as a telephone booth, mailbox, parking meter, fire hydrant, fire alarm box, traffic control box, driveway or other access point.
 - (11) A sound level of 65 dBA shall not be exceeded at adjacent property lines of any residential use.
 - (12) Signage shall be in accordance article XII, Sign regulations.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-190. Swimming pool, private.

- (a) *Allowable districts:* All districts except C-1, C-2.
- (b) *Standards:* All swimming pools shall be completely surrounded by an enclosure. Such enclosure shall be a fence, wall, or building, to prevent access to the pool by unsupervised children and/or animals. The enclosure shall be an effective fence or wall not less than five feet high with self-closing, positive-latching gates provided on the outer side of the deck area. The enclosure entrance shall be locked when the pool is not open for use and all surrounding objects or structures must have a separation of five feet from the enclosure to provide an unclimbable space. The enclosure shall be in place prior to pool completion. Materials and construction shall comply with the regulations administered by the county health department.
- (1) *Detached dwellings.* Swimming pools shall be allowed inside and rear yards of single-family dwellings in any district and may also be allowed at the back of the house on a double frontage single family residential lot as approved by the department. Pools, pool equipment, and their decks must be a minimum of ten feet from all property lines, except that when perimeter setbacks are required, for example in CUP zoned districts, pools, pool equipment, and decks cannot be located in perimeter setbacks.
- (2) *Neighborhood.* Swimming pools serving a neighborhood must be located within the limits of the underlying zoning.
- a. Use of swimming pools shall be limited to residents and guests of the neighborhood in which they are located.
 - b. Pools, pool equipment, and decks must be located at least 100 feet from all adjoining property lines.
 - c. Landscape strips and buffer requirements shall be as specified by the tree protection and landscaping ordinance.
 - d. A maximum four-square-foot sign identifying the future use of the property for a swimming pool shall be posted adjoining the lot's frontage until a certificate of occupancy is issued for the facility.
 - e. Sources of exterior illumination shall be directed away from adjoining residences and shall not exceed 1.2 footcandles along an adjoining residential property line. Outdoor lighting of recreation facilities in or adjoining residential districts or uses shall be allowed only between dusk and 11:00 p.m.
 - f. A maximum continuous sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at property lines adjacent to single family residential uses.
- (3) *Multi-family.* Swimming pools, pool equipment, accessory structures, and fencing shall be located a minimum of 100 feet from any residential building, adjoining property line or street.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-191. Swimming pool, public.

Pools operated as a club (except clubs serving residential developments) or pools operated as a business are defined herein as public pools.

(a) *Allowable districts:* O&I, C-1, C-2 and P&O.

(b) *Standards:*

- (1) Pools, pool equipment, decks, and parking shall be located a minimum of 100 feet from all property lines which abut single family residential uses. Adjacent to all other zonings and uses, the district setback requirements shall be provided.
- (2) Landscape strips and buffer requirements shall be as specified by the tree protection and landscaping ordinance.
- (3) Sources of exterior illumination shall be directed away from adjoining residences and shall not exceed 1.2 footcandles along an adjoining residential property line. Outdoor lighting of recreation facilities in or adjoining residential districts or uses shall be allowed only between dusk and 11:00 p.m.
- (4) A maximum continuous sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at property lines adjacent to single family residential uses.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-192. Temporary classroom.

(a) *Allowable districts:* All.

(b) *Standards:*

- (1) The structure must be constructed for use as a temporary classroom and certified as such by the department of planning and zoning.
- (2) The principal use must exist prior to the issuance of the permit.
- (3) The temporary classroom shall not be used to increase the capacity or enrollment as conditioned by zoning, or as limited by other use permit conditions.
- (4) An administrative permit for a temporary classroom shall expire three years from the date of approval at which time the structure shall be removed unless a new administrative permit is obtained within 30 days of the expiration date.
- (5) The structure shall not be located within any principal building setbacks or within any required landscape strips or buffers.
- (6) Two copies of a drawing showing dimensions shall accompany the application and shall accurately depict the proposed location of temporary structures, the traffic patterns and curb cuts and compliance with this section and all other applicable standards of this chapter.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-193. Temporary structures.

(a) *Allowable districts:* All, except emission inspection stations shall be permitted only in non-residential districts except AG.

(b) *Standards:*

- (1) Temporary structures (whether tents, site-built, mobile or manufactured structures) utilized for construction offices, ticket booths, security guard shelters, storage structures in association with

construction, emission inspection stations, portable toilets and other similar uses may be permitted by the planning and zoning department in any district.

- (2) Temporary structures shall be located outside of any required buffers and landscape areas, and shall maintain the principal building setback of the district except portable toilets must maintain a 200-foot setback from existing dwelling(s).
- (3) Temporary structures must be removed prior to the issuance of a certificate of occupancy or within five days of completion of the temporary event or activity for which the structure was approved.
- (4) Temporary structures used in conjunction with other permitted administrative and use permits shall not be required to obtain a separate administrative permit.
- (5) An administrative permit for a temporary structure shall expire three years from the date of approval at which time the structure shall be removed unless a new administrative permit is obtained within 30 days of the expiration date.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-194. Utility substations (telephone, electric, or gas, etc.).

(a) *Allowable districts:* All.

(b) *Standards:*

- (1) Utility substations measuring less than 35 square feet and less than five feet in height from finished grade are exempt from these regulations.
- (2) All substation structures shall be contained within the boundaries of the subject parcel and meet the minimum development standards of the district unless otherwise required in this article section.
- (3) Minimum setback of all utility structures from a residential structure shall be:
 - a. Electric—200 feet.
 - b. Gas and telephone—the applicable minimum setback for the district in which located.
- (4) A minimum ten-foot wide landscape strip planted to buffer standards shall be required around the perimeter of all utility sites except along lines where buffers are required.
- (5) For electric substations, provide a minimum 50-foot wide replanted or natural buffer adjacent to the property lines of any residential district and/or the AG district used for single family.
- (6) Interior to landscape strips or buffers that do not accomplish 100 percent visual screening as defined in the tree protection and landscaping ordinance, provide an eight-foot high opaque fence or, masonry wall, a minimum four-foot high landscaped earthen berm, a vegetative screen or some combination thereof, subject to the approval of the planning and zoning department.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-195. Veterinary clinic/hospital or kennel.

(a) *Allowable districts:* C-2, M-1.

(b) *Standards:*

- (1) All of the activities directly associated with animal treatment shall occur entirely within a completely enclosed soundproof structure.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-196. Use permits.

[Reserved—See section 80-196—80-239]

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-196.1. Minimum use permit standards.

[Reserved.]

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-197. Agricultural-related activities.

Intent. It is the intent of this section to allow certain agricultural-related activities with a use permit in compliance with the development standards below to preserve the nature of agricultural areas. Such uses shall include, but not be limited to, petting zoo, educational tours, dude ranches, picnicking, pay fishing and community gardens.

(a) *Allowable district:* All.

(b) *Standards:*

- (1) Minimum lot size shall be five acres.
- (2) Permitted curb cut access shall not be from a local street.
- (3) Food services may be provided.
- (4) A minimum of 100-foot setback is required from all property lines for activity areas, including parking.
- (5) All structures housing animals shall be set back a minimum of 100 feet from all property lines.
- (6) All parking and access areas must be of an all-weather surface per article IX.
- (7) A maximum continuous sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at property lines of adjacent residential districts and/or AG districts used for single family.
- (8) Hours of operation shall commence no earlier than 6:00 a.m. and cease by 11:00 p.m.
- (9) If located adjacent to any residential district or an AG district used for single family, the minimum buffers and landscape strips required for the O&I district as specified in the tree protection and landscaping ordinance shall be required.
- (10) Sanitary facilities or trash receptacles shall be located a minimum of 100 feet from a property line of any residential district and/or AG district used for single family.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-198. Amateur radio antenna to exceed the administrative height.

Permit height. See also administrative permit 80-174.

Intent. It is the intent of this section to regulate the placement of amateur radio towers in a manner that does not impose on public health, safety, general welfare.

The following regulations on design, location, placement, and height limits of antennas in residential districts implements the city's governmental interest in land planning, aesthetics and public safety by requiring the following use permit standards:

- (a) *Allowable districts:* All.
- (b) *Standards:*
 - (1) Antennas shall be located in the rear yard.
 - (2) The request of a height of 90 feet shall be accompanied by a written justification of its intent by the licensee. Under no circumstances shall an antenna exceed 200 feet in height.
 - (3) All antennas shall be set back from the property line one-third the height of the antenna or the district setback requirements, whichever is greater. However, the antenna must be located a distance equal to or greater than the antenna height from the nearest residential dwelling, excluding the primary dwelling or structure which is located on the same lot as the antenna.
 - (4) Antennas shall not be lighted.
 - (5) All antennas must be constructed with an anti-climbing device.
 - (6) Antennas shall be painted in a neutral color identical or closely compatible with surroundings.
 - (7) All guy wires must be anchored on site and outside of right-of-way.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-199. Amphitheaters.

- (a) *Allowable districts:* AG, O&I, C-1 and C-2.
- (b) *Standards:*
 - (1) Lot area shall be a minimum of ten acres.
 - (2) The stage shall be located a minimum of 600 feet from adjacent properties zoned for residential use and/or the AG districts used for single family.
 - (3) Permitted curb cut access shall be only from an arterial street.
 - (4) A minimum 100-foot buffer and ten-foot improvement setback shall be provided adjacent to residential districts, property zoned for residential use zoning or development or AG districts when used for single family.
 - (5) A minimum 50-foot buffer and ten-foot improvement setback shall be provided adjacent to non-residential districts zoning or development.
 - (6) A maximum continuous sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at the property lines of adjacent residential districts and/or AG districts used for single family.
 - (7) Eight-foot high fencing shall be provided adjacent to properties zoned for residential use or AG districts used for single family.
 - (8) The hours of operation of the facility shall be limited to 8:00 a.m. to 11:00 p.m. when adjacent to properties zoned for residential use and/or AG districts used for single-family.

Sec. 80-200. Antenna tower, and associated structure (radio, t.v., microwave broadcasting, etc.), to exceed the district height.

Intent. Pursuant to Section 704(a) of the Federal Telecommunications Policy Act of 1996, it is not the intent of this section to prohibit or have the effect of prohibiting the provision of personal wireless services in Fairburn. It is the intent of this section to address the aesthetic effect of telecommunication facilities on our landscapes, our citizens' demands for these services, and the needs of service providers.

The following regulations on design, location, placement, and height limits of antennas in residential and AG zoned districts implements the city's governmental interest in land planning, aesthetics and public safety by requiring the following use permit standards:

- (a) *Allowable districts:* Residential districts, AG (See same heading in section 80-174, for other non-residential districts.)
- (b) *Standards:*
 - (1) Towers must be set back a distance equal to one and one-half times the height of the tower adjacent to residential and/or AG zoned property.
 - (2) Height shall not exceed 200 feet from existing grade.
 - (3) Tower and associated facilities shall be enclosed by fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device.
 - (4) A minimum ten-foot landscape strip planted to buffer standards shall be required surrounding the facility exterior to the required fence unless the director of planning and zoning determines that existing plant materials are adequate.
 - (5) Antennas or towers shall not have lights unless required by federal or state law.
 - (6) Towers shall not be located within one-half mile from any existing telecommunication tower above the district height, excluding alternative structures.
 - (7) The tower shall comply with applicable state and local statutes and ordinances, including, but not limited to, building and safety codes. Towers which have become unsafe or dilapidated shall be repaired or removed pursuant to applicable state and local statutes and ordinances.
 - (8) Facilities shall not be artificially lighted except to assure human safety or as required by the Federal Aviation Administration (FAA).
 - (9) Communication towers shall be designed and constructed to ensure that the structural failure or collapse of the tower will not create a safety hazard to adjoining properties, according to applicable federal standards which may be amended from time to time.
 - (10) Telecommunications facilities shall not be used for advertising purposes and shall not contain any signs for the purpose of advertising.
 - (11) Any telecommunications facility may co-locate on any existing tower, pole or other structure as long as there is no increase in height to the existing facility.
 - (12) A commercial telecommunication facility that ceases operation for a period of 12 consecutive months shall be determined to have terminated and shall be removed within 90 days of termination at the property owner's expense. It shall be the duty of both the property owner and the tower owner to notify the county in writing of any intent to abandon the use of the tower.

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- (13) Communication facilities not requiring FAA painting/marketing shall have either a galvanized finish or [be] painted a dull blue, gray, or black finish or shall be screened through fencing and landscaping.
 - (14) An application for a telecommunications facility shall be submitted in accordance with the department's plan review submittal requirements.
 - (15) An application for a telecommunication facility shall include a certification from a registered engineer that the structure will meet the applicable design standards for wind loads.
 - (16) Communications facilities shall not be located in 100-year flood plain or delineated wetlands.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-201. Bed and breakfast.

- (a) *Allowable districts:* AG, R-1, R-2, R-3, R-4, C-1, C-2, DTMU.
- (b) *Standards:*
 - (1) A minimum of two guest rooms and a maximum of five guest rooms are permitted.
 - (2) No parking in the minimum front yard.
 - (3) The bed and breakfast shall be owner-occupied.
 - (4) Permitted curb cut access shall be from a local street.
 - (5) The minimum landscape and buffer areas shall be required as specified in chapter 74, Tree protection and landscape for the AG agricultural district.
 - (6) Parking requirements shall be the same as hotel/motel as specified in article IX.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-202. Cemetery and/or mausoleum (human or pet).

- (a) *Allowable districts:* All districts except AG.
- (b) *Standards:*
 - (1) Permitted curb cut access shall be only from a major thoroughfare, unless in conjunction with a place of worship.
 - (2) No building shall be located within 50 feet of a residential district and/or the AG district used for single family.
 - (3) All structures, including graves, shall be inside and meet the minimum yard setbacks or ten feet, whichever is greater.
 - (4) If located adjacent to a single-family dwelling district and/or AG district used for single family, the minimum buffers and landscape strips required for the O&I district as specified in chapter 74 shall be required.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-203. Church, temple or place of worship.

(a) *Allowable districts:* All.

(b) *Standards:*

- (1) All buildings and use areas/structures other than parking and pedestrian walkways shall be located at least 100 feet from any adjoining residential district and/or the AG district used for single family.
- (2) No parking shall be located within the minimum front yard setback.
- (3) Any associated day care centers, private schools, recreational fields or other uses requiring a use permit or administrative permit shall be allowed only under a separate approved use permit or administrative permit for each use.
- (4) The minimum buffers and landscape strips required for the O&I zoning district as specified in tree protection and landscaping ordinance, shall be required.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-204. Commercial amusement, outdoor.

Including, but not limited to amusement parks, velodromes, bungee jumping parks, skateboard parks, ski slopes, batting cages, miniature golf, drive-in theaters, etc. (See also section 80-209, driving ranges.)

(a) *Allowable districts:* C-1, M-1, M-2, and P&O.

(b) *Standards:*

1. Permitted curb cut access shall be derived only from arterial streets.
2. A minimum 100-foot buffer and ten-foot improvement setback shall be provided adjacent to residential districts and/or the AG district used for single family.
3. A minimum 50-foot buffer and ten-foot improvement setback shall be provided adjacent to non-residential zoning or development districts.
4. A maximum continuous sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at property lines of adjacent residential districts and/or the AG districts used for single family.
5. Eight-foot high fencing shall be provided adjacent to any residential district and/or the AG district when used for single family and interior to any required landscape strips or buffers.
6. The hours of operation of the facility shall be limited to 8:00 a.m. to 11:00 p.m. adjacent to residential districts and/or the AG when used for single family.
7. All recreational structures and activities shall maintain a minimum setback of 100 feet from any public right-of-way.
8. The height limits of the zoning district shall apply to all recreational structures unless a use permit to exceed the height is granted.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-205. Composting.

(a) *Allowable district:* C-2.

(b) *Standards:*

- (1) Lot area shall be a minimum of five acres.
- (2) Permitted curb cut access shall be derived from an arterial or major collector.
- (3) The hours of operation shall be between the hours of 7:00 a.m. to 6:00 p.m.
- (4) All operations shall maintain a minimum setback of 100 feet from all property lines.
- (5) The minimum buffers required are as specified for the M-1 district. (See the tree protection and landscaping ordinance.)
- (6) On-site traffic shall be limited to an all-weather surfaced area.
- (7) Stored materials shall be contained in such a manner as to prevent the blowing of any materials onto any surrounding property or roadway.
- (8) The composting facility shall obtain all necessary permits from the department of natural resources, environmental protection division.
- (9) A maximum continuous sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at property lines of adjacent residential districts and/or the AG districts used for single family.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-206. Convalescent center/nursing home/hospice.

(a) *Allowable districts:* AG, R-2, R-3, R-4, C-1, C-2, O&I, M-1.

(b) *Standards:*

- (1) Facilities shall be for five persons or more.
- (2) Permitted curb cut access shall be from a local arterial or a major collector.
- (3) Provide the minimum landscape strips and buffers as required for the O&I zoning district as specified in tree protection and landscaping.
- (4) Provide a 50-foot building setback from all single family.
- (5) No parking allowed within the minimum front yard setback.
- (6) Rooms or suites of rooms may be designed with separate kitchen facilities.
- (7) Facility shall comply with applicable local, state, and federal regulations.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-207. Country inn.

(a) *Allowable districts:* C-1, C-2.

(b) *Standards:*

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- (1) Lot area shall be a minimum of five acres.
 - (2) A minimum of six guest rooms and a maximum of 30 rooms are permitted. (See section 80-201, bed and breakfast, for less than six guest rooms.)
 - (3) The country inn shall be owner occupied.
 - (4) Permitted curb cut access shall be from a local road or higher road classification.
 - (5) The establishment may provide meal services to guests.
 - (6) Parking shall not be permitted within the minimum front yard setback.
 - (7) The minimum landscape strip and buffer requirements for the O&I district as specified in the tree protection and landscaping ordinance shall be required.
 - (8) Parking requirements shall be the same as hotel/motel as specified in article IX, off-street parking, loading and landscape requirements.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-208. Child day care center.

Allowed as a permitted use in AG, R-1, R-2, R-3, O&I and P&O districts.

- (a) *Allowable districts:* May be allowed in single family districts in conjunction with an institutional use such as a church, temple, place of worship, school or a hospital.
- (b) *Standards:*
 - (1) Facility shall be for three or more children under the age of 18, excluding staff.
 - (2) In residential districts (R-1, R-2, R-3, O&I and P&O) child day care centers shall be located a minimum of 500 feet from each other as measured from respective property lines.
 - (3) Copies of applicable local, state, and federal permits shall be provided to the department of planning and zoning prior to the issuance of a certificate of occupancy and business license
 - (4) Provide minimum landscape strips, buffers and improvement setbacks as specified for the O&I district in the tree protection and landscaping ordinance.
 - (5) Provide a minimum six-foot high opaque fence interior to any required landscape strips and/or buffers around the periphery of the yard used for the play area.
 - (6) Play areas shall be located within the rear or side yards.
 - (7) The hours of operation shall be limited to Monday through Friday from 6:00 a.m. to 7:00 p.m.
 - (8) No parking allowed in the minimum front yard setback.
 - (9) Driveway design shall permit vehicles to exit the property in a forward direction.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-209. Driving range (not associated with a golf course).

- (a) *Allowable districts:* O&I, C-1, C-2, and M-1.
- (b) *Standards:*
 - (1) Lot area shall be a minimum of ten acres.

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- (2) Permitted curb cut access shall be from a major collector or arterial.
 - (3) Loudspeakers/paging systems are prohibited adjacent to residential districts and districts used for single family.
 - (4) The hours of operation shall be limited to 8:00 a.m. to 11:00 p.m. adjacent to residential districts and/or AG districts used for single family.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-210. Festivals or events, outdoor/indoor.

See section 80-179, event, special indoor/outdoor.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. No. 2014-11, § 1, 6-9-2014)

Sec. 80-211. Small group home/shelter (18 and older).

- (a) *Allowable districts:* AG, R-2, R-3, R-4, C-1, C-2, O&I and M-1.
- (b) *Standards:*
 - (1) Facility shall be for two or three unrelated adults.
 - (2) Parking shall comply with the requirements of article IX for dwellings.
 - (3) The minimum landscape strips and buffers required for the O&I district as specified in the tree protection and landscaping ordinance shall be provided.
 - (4) Copies of applicable local, state, and federal permits shall be provided to the department of planning and zoning prior to the issuance of a certificate of occupancy and business license.
 - (5) Parking shall not be permitted within the minimum front yard.
 - (6) Facility shall not be located closer than 1,320 feet to the nearest property line of another group residence.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-212. Medium group home/shelter (18 and older).

- (a) *Allowable districts:* AG, R-3, R-4, C-1, C-2, O&I, and M-1.
- (b) *Standards:*
 - (1) Facility shall be for four to six unrelated adults.
 - (2) Parking shall comply with the requirements of article IX for dwellings.
 - (3) The minimum landscape strips and buffers required for the O&I district as specified in the tree protection and landscaping ordinance shall be provided.
 - (4) Copies of applicable local, state, and federal permits shall be provided to the department of planning and zoning prior to the issuance of a certificate of occupancy and business license.
 - (5) Parking shall not be permitted within the minimum front yard.

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- (6) Facility shall not be located closer than 1,320 feet to the nearest property line of another group residence.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-213. Large group home/shelter (18 and older).

- (a) *Allowable districts:* AG, R-4, C-1, C-2, O&I and M-1.

- (b) *Standards:*

- (1) Facility shall be for seven to 15 unrelated adults.
- (2) Parking shall comply with the requirements of article IX for dwellings.
- (3) The minimum landscape strips and buffers required for the O&I district, as specified in the tree protection and landscaping ordinance, shall be provided.
- (4) Copies of applicable local, state, and federal permits shall be provided to the department of planning and zoning prior to the issuance of a certificate of occupancy and business license.
- (5) Parking shall not be permitted within the minimum front yard.
- (6) Facility shall not be located closer than 1,320 feet to the nearest property line of another group residence.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-214. Congregate group home/shelter (18 and older).

- (a) *Allowable districts:* AG, C-1, C-2, O&I and M-1.

- (b) *Standards:*

- (1) Facility shall be for 16 or more unrelated adults.
- (2) Parking shall comply with the requirements of article IX for dwellings.
- (3) The minimum landscape strips and buffers required for the O&I district as specified in the tree protection and landscaping ordinance shall be provided.
- (4) Copies of applicable local, state, and federal permits shall be provided to the department of planning and zoning prior to the issuance of a certificate of occupancy and business license.
- (5) Parking shall not be permitted within the minimum front yard.
- (6) Facility shall not be located closer than 1,320 feet to the nearest property line of another group residence.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-215. Small group home (17 and younger).

- (a) *Allowable districts:* AG, R-2, R-3, R-4, C-1, C-2, O&I, and M-1.

- (b) *Standards:*

- (1) Facility shall be for two but not more than three unrelated children.

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- (2) Parking shall comply with the requirements of article IX for dwellings.
 - (3) The minimum landscape strips and buffers required for the O&I district as specified in the tree protection and landscaping ordinance shall be provided.
 - (4) Copies of applicable local, state, and federal permits shall be provided to the department of planning and zoning prior to the issuance of a certificate of occupancy and business license.
 - (5) Parking shall not be permitted within the minimum front yard.
 - (6) Facility shall not be located closer than 1,320 feet to the nearest property line of another group residence.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-216. Medium group home (17 and younger).

(a) *Allowable districts:* R-3, R-4, C-1, C-2, O&I, and M-1.

(b) *Standards:*

- (1) Facility shall be for four but not more than six unrelated children.
- (2) Parking shall comply with the requirements of article IX for dwellings.
- (3) The minimum landscape strips and buffers required for the O&I district as specified in the tree protection and landscaping ordinance shall be provided.
- (4) Copies of applicable local, state, and federal permits shall be provided to the department of planning and zoning prior to the issuance of a certificate of occupancy and business license.
- (5) Parking shall not be permitted within the minimum front yard.
- (6) Facility shall not be located closer than 1,320 feet to the nearest property line of another group residence.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-217. Large group residence (17 and younger).

(a) *Allowable districts:* AG, R-4, C-1, C-2, O&I and M-1.

(b) *Standards:*

- (1) Facility shall be for seven but not more than 15 unrelated children.
- (2) Parking shall comply with the requirements of article IX for dwellings.
- (3) The minimum landscape strips and buffers required for the O&I district as specified in tree protection and landscaping ordinance shall be provided.
- (4) Copies of applicable local, state, and federal permits shall be provided to the department of planning and zoning prior to the issuance of a certificate of occupancy and business license.
- (5) Parking shall not be permitted within the minimum front yard.
- (6) Facility shall not be located closer than 1,320 feet to the nearest property line of another group residence.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-218. Congregate group home (17 and younger).

- (a) *Allowable districts:* AG, C-1, C-2, O&I and M-1.
- (b) *Standards:*
 - (1) Facility shall be for 16 or more unrelated children.
 - (2) Parking shall comply with the requirements of article IX for dwellings.
 - (3) The minimum landscape strips and buffers required for the O&I district as specified in tree protection and landscaping ordinance shall be provided.
 - (4) Copies of applicable local, state, and federal permits shall be provided to the department of planning and zoning prior to the issuance of a certificate of occupancy and business license.
 - (5) Parking shall not be permitted within the minimum front yard.
 - (6) Facility shall not be located closer than 1,320 feet to the nearest property line of another group residence.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-219. Kennel or outside animal facilities.

- (a) *Allowable districts:* C-2.
- (b) *Standards:*
 - (1) Minimum one-acre lot size is required.
 - (2) Buildings and runs, sun areas, exercise yards, patios or facilities other than parking shall be located at least 100 feet from all property lines and 200 feet from any single-family district and/or the AG district used for single-family.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-220. Landfill, solid waste disposal.

- (a) *Allowable district:* M-2.
- (b) *Standards:*
 - (1) No access shall be allowed from local streets.
 - (2) Access streets shall be paved and shall be able to withstand maximum load limits established by the state as approved by the director of public works.
 - (3) No portion of a new landfill shall be located within a three-mile radius of the property lines of an existing landfill.
 - (4) The waste disposal boundary of a landfill shall be located at least 500 feet from all property lines, except adjacent to M-1 (light industrial) and M-2 (heavy industrial) zoned districts.
 - (5) A minimum 200-foot buffer and ten-foot improvement setback shall be required along all property lines except public rights-of-way.

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- (6) A minimum 50-foot buffer and ten-foot improvement setback shall be required along all public rights-of-way.
 - (7) A minimum six-foot high solid fence or wall shall be located on property lines or interior to the required buffers and improvement setbacks.
 - (8) Limit hours of operation from 6:00 a.m. to 6:00 p.m., Monday through Saturday.
 - (9) The owner shall provide the director of planning a current copy of all applicable permits from the state department of natural resource upon application for a land disturbance permit.
 - (10) Vehicles shall be allowed into a landfill site only if waste is covered to prevent blowing of material from the vehicle.
 - (11) No portion of a new or expanded landfill shall be located within a one-mile radius of the property lines of a residentially zoned or used property.
 - (12) An expanded landfill shall not include any expanded use within the parcel boundaries of an existing site or location.
 - (13) The landfill shall be sited and operated in accordance with the Rules of Georgia, Department of Natural Resources, Environmental Protection Division, Chapter 391-3-4 Solid Waste Management, O.C.G.A. § 12-8-20 Georgia Comprehensive Solid Waste Management Plan, and 40 CFR Part 258 (Subtitle D of RCRA).

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-221. Landscaping business, plant nursery, or garden center with indoor retail component.

- (a) *Allowable districts:* C-1, C-2, and DTMU.
- (b) *Standards:*
 - (1) No access shall be allowed from local streets.
 - (2) No parking is permitted in the minimum front yard.
 - (3) All use areas/structures other than parking and pedestrian walkways shall be located at least 50 feet from any adjoining residential district or AG (agricultural) district.
 - (4) Limit hours of operation from 6:00 a.m. to 11:00 p.m.
 - (5) The minimum buffers and landscape strips required for the O&I (office-institutional) zoning district as specified in the tree protection and landscaping ordinance shall be required.
 - (6) Structure(s) for retail sales shall be limited to 1,000 total gross square feet.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-222. Lodge, retreat and/or campground.

Facilities to include lodging and food service for social, educational and/or recreational purposes.

- (a) *Allowable districts:* AG, M-1, and M-2.
- (b) *Standards:*
 - (1) Minimum lot size shall be ten acres.

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- (2) Permitted curb cut access shall not be derived from a local street.
 - (3) A minimum 100-foot wide buffer and ten-foot improvement setback are required adjacent to residential districts, AG districts used for single family and adjoining a public street.
 - (4) A minimum 50-foot wide buffer and ten-foot improvement district are required adjacent to all other non-residential districts.
 - (5) Length of the stay for all but permanent staff shall not exceed 30 consecutive days.
 - (6) Sanitary facilities or trash receptacles shall be located a minimum of 200 feet from any residential district and/or the AG district when used for single family.
 - (7) A maximum continuous sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at property lines of adjacent residential districts and/or the AG district used for single family.
 - (8) Recreational facilities associated with the use shall be for staff and guests only.
 - (9) One parking space per lodging unit or five per 1,000 square feet of floor area, whichever is greater.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-223. Medical related lodging.

(a) *Allowable district:* M-1.

(b) *Standards:*

- (1) Total number of bedrooms or units shall not exceed 20, including staff facilities.
- (2) Rooms or suites of rooms may be designed with separate kitchen facilities.
- (3) Lodging facility shall be located within one-mile of a hospital or inpatient clinic.
- (4) Facilities located in a R-CT district must have frontage on streets with classifications higher than local streets.
- (5) If located adjacent to a single-family district and/or the AG district used for single family, the minimum buffers and landscape strips required for the O&I district as specified in the tree protection and landscaping ordinance shall be required.
- (6) Off-street parking requirements shall be one per living unit plus one per nonresident employee. Parking is not allowed in the front yard setback.
- (7) Signs shall not exceed four square feet in area and four feet in height.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-224. Personal care home/assisted living.

(a) *Allowable districts:* AG, C-1, C-2, O&I and DTMU.

(b) *Standards:*

- (1) Facilities shall be for two persons or more.

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- (2) Permitted curb cut access shall be from an arterial or a major collector. Permitted curb cut access may be allowed from a minor collector if within 1,000 feet of the property line of an institutional use.
 - (3) Provide a 50-foot building setback from single family districts and/or the AG districts when used for single family.
 - (4) No parking allowed in the minimum front yard setback.
 - (5) The minimum parking spaces provided shall be in conformance with health care facilities per article IX, section 80-336.
 - (6) Provide landscape strips and buffers as required in the O&I district as specified in the tree protection and landscaping ordinance.
 - (7) Rooms or suites of rooms may be designed with separate kitchen facilities.
 - (8) Facility shall comply with all applicable local, state, and federal regulations, and provide applicable permits to the department of planning and zoning prior to the issuance of a certificate of occupancy.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-225. Portable sawmills.

(a) *Allowable districts:* All.

(b) *Standards:*

- (1) The operation shall be temporary; the duration of such use shall not exceed six months;
- (2) Only timber harvested from the property on which the sawmill is located shall be processed;
- (3) All operations associated with portable sawmills, including the cutting, sawing and planing of logs or boards, and the loading, unloading and storage of any wood materials shall be set back a minimum of 200 feet from any property boundary. Such uses shall be set back a minimum of 500 feet from any abutting residential property.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-226. Private correctional facility/prison.

(a) *Allowable district:* M-2.

(b) *Standards:*

- (1) Minimum lot size: 100 acres.
- (2) All boundary lines of the property included within the application must be located at least 500 feet from the properties listed below:
 - a. The property line of R-1, R-2, R-3, R-4, and AG zoned property or property conditioned or used for residential purposes.
 - b. The property line of any public recreational facilities, public or private institutional uses, including but not limited to churches, schools, universities, colleges, trade-schools, libraries, day care centers and other training facilities when minors are the primary patrons.
- (3) All boundary lines of the property included within the application must be located at least ten miles from all property lines of any other correctional facility.

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- (4) Submit, with the application for a use permit, a certified boundary survey of the site and the use of adjoining properties. If any of the uses or zoning districts referenced in subsection (2)a. and b. and are located within 500 feet of the boundary lines of the subject property, and/or a correctional facility is located within ten miles of the boundary line of the subject property, they must be identified by map as part of the use permit application.
 - (5) A minimum 200-foot wide buffer and ten-foot improvement setback shall be provided adjacent to any property zoned other than I-1 and I-2 and from any property used for residential purposes.
 - (6) A minimum 100-foot wide buffer and ten-foot improvement setback shall be provided adjacent to property zoned M-1 and/or M-2.
 - (7) Permitted curb cut access shall be from a major thoroughfare.
 - (8) Parking spaces shall be in accordance with article IX, section 80-336.
 - (9) Fencing shall be in accordance with American Correction Institute standards and located interior to required buffers and improvement setbacks.
 - (10) Lighting shall be in accordance with American Correction Institute standards and the lighting standards set forth in this chapter. The more restrictive standards shall apply.
 - (11) Facility shall comply with all applicable local, state, and federal regulations, and applicable permits shall be provided to the department of planning and zoning prior to the issuance of a certificate of occupancy.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-227. Recreational fields.

Including but not limited to soccer, softball, baseball, polo, football, cricket, etc.

(a) *Allowable districts:* All.

(b) *Standards:*

- (1) Permitted curb cut access shall not be from a local street.
- (2) A minimum 50-foot buffer and ten-foot improvement setback shall be provided adjacent to residential districts and/or the AG districts used for single family.
- (3) Loudspeakers/paging systems are prohibited adjacent to residentially used property.
- (4) The hours of operation shall be limited to daylight hours when said facility is located adjacent to residential districts and/or the AG districts used for single family.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-228. Recycling center, processing.

(a) *Allowable district:* M-2.

(b) *Standards:*

- (1) Limit hours of operation from 7:00 a.m. to 8:00 p.m. Monday through Saturday.
- (2) No portion of a new recycling facility shall be located within a three-mile radius of the property lines of an existing recycling facility.

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- (3) A minimum 200-foot buffer and ten-foot improvement setback shall be required along all property lines except public rights-of-way.
 - (4) A minimum 50-foot buffer and ten-foot improvement setback shall be required along all public rights-of-way.
 - (5) All recyclable materials shall be stored in containers with no stockpiling outside the containers.
 - (6) Collection, storage containers, or receptacles shall not be allowed in minimum yards. Storage shall be screened with a six-foot high, solid wall or fence, including access gates.
 - (7) The processing of recyclable materials must be done within an enclosed building.
 - (8) Driveways shall be designed so vehicles will exit the facility in a forward direction.
 - (9) A maximum continuous sound level of 65 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at property lines of adjacent residential districts and/or the AG districts used for single family.
 - (10) The recycling center shall comply with regulations administered by the county department of health.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-228.1. Rehabilitation centers.

(a) *Allowable district:* M-1.

(b) *Standards:*

- (1) Usage of such facility shall be restricted to the supervised rehabilitation of substance abusers.
- (2) Parking shall comply with the requirements of article IX for dwellings.
- (3) The minimum landscape strips and buffers required for the O&I district as specified in the tree protection and landscaping ordinance shall be provided.
- (4) Copies of applicable local, state and federal permits shall be provided to the department of planning and zoning prior to the issuance of a certificate of occupancy and business license.
- (5) Parking shall not be permitted within the minimum front yard.
- (6) No such facility shall be located within 2,000 feet of any other group residence/shelter, personal care home/assisted living facility, and medical related lodging or rehabilitation center.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-229. Salvage, storage, and/or junk facility.

(a) *Allowable district:* M-2.

(b) *Standards:*

- (1) No portion of a new salvage, storage, and/or junk facility shall be located within a three-mile radius of the property lines of an existing salvage, storage, and/or junk facility.
- (2) A minimum 200-foot buffer and ten-foot improvement setback shall be required along all property lines except public rights-of-way.

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- (3) A minimum 50-foot buffer and ten-foot improvement setback shall be required along all public rights-of-way.
 - (4) All facilities shall be screened from view from adjacent properties and roadways with a minimum six-foot high, solid fence or wall, as approved by the department of planning and zoning, except for approved access crossings and utility easements. Said fence or wall shall be located interior to any required buffer or landscape strip.
 - (5) Vehicles and other materials shall not be stacked so that they are visible from any adjacent properties.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-230. School, private or special.

(a) *Allowable districts:* All.

(b) *Standards:*

- (1) Minimum lot area shall be one acre.
- (2) If located adjacent to a single-family dwelling district and/or AG district used for single family, the minimum landscape strips, buffers, and improvement setbacks required for the O&I district as specified in the tree protection and landscaping ordinance shall be required.
- (3) Buildings and refuse areas shall not be located within 100 feet of a residential district and/or AG district used for single family.
- (4) Active outdoor recreation areas shall not be located within 100 feet of an adjoining residential district or use. Recreational fields, such as playing fields, that are accessory to the school do not require a separate use permit.
- (5) Day care facilities in association with the school do not require a separate use permit.
- (6) Parking areas shall not be located within 50 feet of any residential district and/or AG district used for single family.
- (7) Student drop-off and vehicular turn-around facilities shall be provided on the site so that vehicles may re-enter the public street in a forward manner.
- (8) Permitted curb cut access shall not be from a local street.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-230A. Colleges, universities and trade schools, private.

(a) *Allowable districts:* C-1, C-2, DTMU, M-1, M-2, and O&I.

(b) *Standards:*

- (1) All standards set forth in the Southern, Western, Northwest, North Central, New England or Middle States Association of Colleges and Schools shall be met, if applicable. All standards and certifications required for trade schools shall be met, if applicable.
- (2) The minimum landscape strips, buffers, improvement setbacks and other development regulations shall be as specified in each district.
- (3) Active outdoor recreation areas shall not be located within 100 feet of an adjoining residential district or use. Recreational fields, such as playing fields, food preparation and service, athletic facilities,

stadiums, residence halls/dormitories, and any limited retail activities that are accessory to the college, university or trade school do not require a separate use permit.

- (4) Day care facilities in association with the college, university or trade school shall be allowed and do not require a separate use permit pursuant to section 80-208; however, the college, university or trade school must notify the department of planning and zoning that such use will be on the property, and shall provide copies of all applicable local, state, and federal permits to the department of planning and zoning prior to the issuance of a certificate of occupancy and business license.
- (5) Off-street parking requirements set forth in section 80-337 shall be complied with.
- (6) The college, university or trade school shall have at least one curb cut access to an arterial or collector street.
- (7) For private or special schools, see section 80-230.

(Ord. No. 2014-13, § 1, 6-9-2014; Ord. of 10-28-2019(1))

Sec. 80-231. Self storage/mini.

(a) *Allowable district:* C-2.

(b) *Standards:*

- (1) At least 75 percent of the total on-site storage space shall be contained in individual enclosed stalls containing no more than 500 square feet each and being no more than ten feet high.
- (2) No activities other than the dead storage or transfer of nonvolatile goods, or leasing of storage space are permitted. Prohibited uses include but are not limited to miscellaneous sales; fabrication or repair of vehicles, equipment or other goods; transfer-storage business based on site; residential uses (other than the resident manager's apartment), or any use which creates a nuisance due to noise, odor, dust, light or electrical interference.
- (3) An on-site manager or resident manager shall be required and shall be responsible for the operation of the facility in conformance with conditions of approval. A resident manager's apartment is included in the use permit.
- (4) Provide a minimum six-foot high, 100 percent opaque solid wooden fence or masonry wall along the entire length (except for approved access crossings) of all property lines. Said fence/wall shall be located outside of any public right-of-way and interior to any required landscape strips or buffers.
- (5) A new or expanded self-storage facility shall be located a minimum of 1,500 feet from the boundary of any other self-storage facility (mini or multi).

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-232. Self storage/multi.

(a) *Allowable districts:* C-1, and C-2.

(b) *Standards:*

- (1) No outside storage shall be allowed, including vehicle leasing.
- (2) All buildings shall have windows or architectural treatments that appear as windows.

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- (3) No activities other than the dead storage or transfer of nonvolatile goods or leasing of storage space are permitted. Prohibited uses include but are not limited to miscellaneous sales; fabrication or repair of vehicles, equipment or other goods; transfer-storage business based on site; residential uses (other than the resident manager's apartment), or any use which creates a nuisance due to noise, odor, dust, light or electrical interference.
 - (4) Permitted curb cut access shall not be from a local street.
 - (5) A new or expanded self-storage facility shall be located a minimum of 1,500 feet from the boundary of any other self-storage facility (mini or multi).

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-233. Senior housing.

- (a) *Allowable districts:* A use permit shall be required in any district in which the use is allowed. The use is allowed in all districts except M-1 and M-2.
- (b) *Standards:* In circumstances where conflict exists between overlay guidelines and this section or resolution:
 - (i) overlay guidelines will generally supersede general ordinance and/or resolutions; (ii) if the issue is specifically excluded in the Overlay, the ordinance and/or resolution will apply; (iii) if the issue is addressed in both documents, the more restrictive will apply.
- (1) Building height shall be in accordance with the underlying zoning.
- (2) Dwelling units for seniors shall be exempted from any part of this section which restricts density.
- (3) No more than 15 dwelling units per acre shall be allowed in a single-family development. No more than 20 dwelling units per acre shall be allowed in a multi-family development.
- (4) No dwelling unit shall contain more than two bedrooms.
- (5) Multi-family dwelling units shall have a minimum of 600 square feet of gross floor area. Single family dwelling units shall have a minimum of 800 square feet of gross floor area.
- (6) A 50-foot principal building setback shall be provided for attached dwelling units adjacent to single family residential districts and/or the AG district. Accessory structures may be located in the rear and side yards only but shall not be located in a minimum yard.
- 7. Parking spaces shall be calculated as 1.4 spaces per dwelling unit.
- (8) No parking shall be allowed in the minimum front yard setback.
- (9) Senior facilities must be served by public water and sewer.
- (10) Landscape strips and buffers shall be provided as specified in the O&I district in the tree protection and landscaping ordinance.
- (11) The property shall be deed restricted to senior housing except as provided for by fair housing laws.
- (12) Facility shall comply with all applicable local, state, and federal regulations and copies of any applicable permits shall be provided to the department of planning and zoning prior to the issuance of a certificate of occupancy.
- (13) Projects are encouraged to incorporate easy living and applicable accessibility standards (as administered and copyrighted by a coalition of state citizens including AARP of Georgia, Atlanta Regional Commission, Concrete Change, Georgia Department of Community Affairs, Governor's Council on Developmental Disabilities, Home Builders Association of Georgia, Shepherd Center and the Statewide Independent Living Council of Georgia).

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(Supp. No. 21, Update 3)

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- (14) Housing shall have at least 80 percent of the occupied dwelling units occupied by at least one person who is 55 years of age or older which shall be verified by the property owner in a manner deemed acceptable pursuant to policies and procedures adopted by the director of planning.

- (15) All units shall be owner-occupied.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-234. Skywalks.

- (a) *Allowable districts:* AG, O&I, C-1, C-2.

- (b) *Standards:*

- (1) A minimum vertical clearance of 16 feet above all streets, and a minimum vertical clearance of 16 feet above the walkway shall be provided.
- (2) Ample space for the free flow of pedestrians with a 12-foot minimum walkway width shall be provided.
- (3) Prior to issuance of a building permit, a bridge agreement shall be filed with the department of planning and zoning as a condition of approval. The department of planning and zoning shall be responsible for the interpretation and application of the conditions set forth above and no building permit shall be issued by the department of planning and zoning except upon written approval of the department of public works.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-235. Stadium (offsite) associated with a private school.

- (a) *Allowable districts:* All.

- (b) *Standards:*

- (1) Vehicular access is prohibited from a local street.
- (2) A minimum 200-foot buffer and ten-foot improvement setback shall be provided along all property lines adjacent to residential and AG zoned properties.
- (3) The hours of operation shall be limited to 8:00 a.m. to 11:00 p.m. adjacent to residential and AG zoned properties.
- (4) A 100-foot setback along any public right-of-way is required for all structures and activities.
- (5) The height limit of the zoning district shall apply to all structures unless a use permit to exceed the district minimum height is approved.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-236. Transfer station, solid waste.

- (a) *Allowable District:* M-2.

- (b) *Standards:*

- (1) No access shall be allowed from local streets.

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- (2) Access streets shall be paved and shall be able to withstand maximum load limits established by the state as approved by the director of public works.
 - (3) No portion of a new transfer station shall be located within a three-mile radius of the property lines of an existing transfer station.
 - (4) A minimum 200-foot buffer and ten-foot improvement setback shall be required along all property lines except public rights-of-way.
 - (5) A minimum 50-foot buffer and ten-foot improvement setback shall be required along all public rights-of-way.
 - (6) A minimum six-foot high solid fence or wall shall be located on property lines or interior to the required buffers and improvement setbacks.
 - (7) Limit hours of operation from 6:00 a.m. to 6:00 p.m., Monday through Saturday.
 - (8) The owner shall provide the director of planning a current copy of all applicable permits from the state upon application for a land disturbance permit.
 - (9) No portion of a new or expanded solid waste transfer station shall be located within a one-mile radius of the property lines of a residentially zoned or used property. An expanded solid waste transfer station shall not include any expanded use within the parcel boundaries of an existing site or location.
 - (10) Transfer stations shall be sited and operated in accordance with state regulations 3891-3-4.06 Permit by Rule for Collection, Transportation, Processing, and Disposal, O.C.G.A § 12-8-20 Georgia Comprehensive Solid Waste Management Act, Fulton County Solid Waste Management Plan, and Waste Transfer Stations: A Manual for Decision-Making (EPA 530-R-02-002, June 2002).

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-237. Mobile food truck.

- (a) *Allowable districts:* O-1, C-1, C-2, DTMU, M-1, M-2, P&O and accessory to institutional uses, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like.
- (b) *Standards.*
 - (1) Mobile food trucks must meet all Fulton County Health Department regulations.
 - (2) Mobile food trucks shall not conduct business or operate under this article in the public right-of-way.
 - (3) Mobile food trucks shall not conduct business or operate within 20 feet of fire lanes, fire hydrants or fire connections.
 - (4) The allowable dimensions of a mobile food truck (including all attachments, except hinged canopies that open to reveal food serving areas) shall be up to 30 feet long, 13 feet tall, and eight feet wide.
 - (5) The use permit shall be valid for a period of one-year after issuance and applicable to the approved site only.
 - (6) The hours of operation shall be between the hours of 7:00 a.m. to 8:00 p.m., Sunday through Thursday and between the hours of 7:00 a.m. to 10:00 p.m., Friday through Saturday.
 - (7) Mobile food trucks shall not operate on any private property without the prior, written consent of the property owner(s). The applicant shall provide a notarized permission statement of the property owner(s) as they appear on the current tax records of the City of Fairburn. If the current ownership has recently changed and does not match the city record, the applicant may provide a copy of the new

deed as proof of ownership. A 24-hour contact number of the property owner(s) shall be provided along with permit application.

- (8) All mobile food trucks shall be located a minimum of 200 feet from any eating establishment and 100 feet (as measured from the closest point of the vehicle to the building corner of the restaurant or store) from any retail store that sell food unless both the property owner(s) (as they appear on the current tax records of the City of Fairburn or if the current ownership has recently changed and does not match the record the applicant may provide a copy of the new deed as proof of ownership) and lease holder(s) of said eating establishment/retail store grant written notarized permission for the mobile food truck to be located closer than this minimum setback.
- (9) No mobile food trucks shall be located within 250 feet of a residential structure.
- (10) Tents and tarps are prohibited. All services shall be conducted from the mobile food truck.
- (11) Any activity or structure shall maintain a minimum 20-foot setback from the right-of-way and not be located within a required landscape strip or buffer. Said activity or structure shall also maintain a minimum setback of ten feet from any internal drive or permitted curb cut.
- (12) A minimum of six parking spaces shall be provided adjacent to the vending area for the exclusive use of the mobile food truck and shall not occupy the minimum required parking spaces for any other use on site.
- (13) Mobile food trucks shall be required to park on paved surfaces.
- (14) After hours parking of the mobile food truck shall comply with article IX, Off-street parking, loading, and landscaping requirements, of the Fairburn zoning ordinance.
- (15) Two copies of a scale drawing, no larger in size than 11 inches by 17 inches, with dimensions (distances in feet) of the mobile food truck's location from the site's property lines and other minimum distance requirements as specified by this article shall be submitted to the department of planning and zoning for approval with the use permit application. Said drawing shall also depict north arrow, parking area, table/chair/canopy areas, queuing areas, and trash and recycling receptacles, as applicable, curb-cuts and traffic patterns.
- (16) Mobile food trucks are responsible for the proper disposal of waste and trash associated with the operation. Mobile food trucks shall remove all generated waste and trash from their approved location at the end of each day or as needed to maintain the public health and safety. No liquid waste or grease is to be disposed of in tree pits, storm drains, sanitary sewers, onto the sidewalks, streets or other public or private space. A written waste management plan indicating plans for waste handling, sanitation, litter collection/prevention, recycling, and daily cleanup procedures shall be submitted with the use permit application.
- (17) Mobile food trucks shall not emit sounds, outcry, speaker, amplifier or announcements.
- (18) Mobile food trucks shall maintain and display plainly all current city, Fulton County, State of Georgia, and federal licenses and shall follow all laws of the state and county health departments, or any other applicable laws.
- (19) Mobile food trucks conducting cooking operations shall obtain a fire inspection from the fire marshal or designee prior to operating its business.
- (20) The permit under which a mobile food truck is operating shall be firmly attached and visible on the food truck at all times.
- (21) Any condition of zoning or provision of the Fairburn zoning ordinance that prohibits a mobile food truck use on a property shall supersede this section.

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- (22) Mobile food trucks and any accessory items shall not be left unattended or stored for any period of time on the permitted site when vending is not taking place or during restricted hours of operation.
 - (23) No item(s) related to the operation of the mobile food truck shall be leaned against or hung from any building or any other structure, including but not limited to, lampposts, parking meters, mailboxes, traffic signal stations, fire hydrants, trees, tree boxes, benches, bus shelters or traffic barriers.
 - (24) All items related to the operation of the mobile food truck shall be kept either on or in the mobile food truck. No such items shall be stored or placed upon any public space adjacent to the mobile food truck.
 - (25) Mobile food trucks must have an adequate supply of fresh water (through the means of an on-truck freshwater tank) to maintain the operation of the food service in a safe and sanitary manner.
 - (26) No equipment, vehicle, display or sales activity shall block access to a public facility such as a telephone booth, mailbox, parking meter, fire hydrant, fire alarm box, traffic control box, driveway or other access point.
 - (27) Signs advertising the mobile food truck are prohibited, except for vehicle signs in compliance with the requirements set forth in article XII, Sign regulations, sections 80-426 through 80-438. Flyers, coupons, and paper handouts of any kind are also prohibited.
 - (28) No temporary sanitary facility or trash receptacle may be located within 100 feet of a property line of a residential use.

(Ord. No. 2013-09, § 1(Exh. A), 6-10-2013; Ord. No. 2013-21, § 1(Exh. A), 9-9-2013; Ord. of 10-28-2019(1))

Sec. 80-238. Massage therapy establishments.

- (a) *Location standards:* No massage therapy establishment shall be located:
 - (1) Within 2,000 feet of interstate highway right-of-way.
 - (2) Within any zoning category other than general commercial (C-2), historic downtown commercial district and downtown commercial districts (DTMU) as defined in article II, division 2 of this chapter.
 - (3) The measurement of distances for purposes of this section shall be from property line to property line along the shortest possible straight-line distance, regardless of any customary or common route or path of travel, i.e. "as the crow flies." The term "parcel of land" means any quantity of land capable of being described by location and boundary, designated and used or to be used as a unit.

(Ord. No. 2013-35, § 1, 12-9-2013; Ord. No. 2014-14, § 1, 6-9-2014; Ord. of 10-28-2019(1))

Sec. 80-239. Truck terminals/truck stops.

- (a) *Allowable districts:* M-1, M-2.
- (b) *Standards:*
 - (1) The lot upon which the truck stop is located, including all structures and parking spaces, must be a minimum of five acres.
 - (2) No such use is allowed within 5,000 feet in any direction from an existing similar use.
 - (3) On-site security shall be provided by the owner or operator of the truck stop 24 hours a day, seven days a week.
 - (4) No long-term storage of trailers or trucks shall be allowed on the lot.

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- (5) No overnight or sleeping facilities shall be provided on the lot.

(Ord. of 10-28-2019(1))

Secs. 80-240—80-242. Reserved.

ARTICLE V. NONCONFORMING LOTS, USES, AND STRUCTURES⁴

Sec. 80-243. Nonconforming lots, uses, and structures.

Within the zoning districts established by this article there may exist lots, structures, and uses of both land and structures which were lawful before the ordinance from which this section is derived was adopted or subsequently amended, but which would be prohibited, regulated, or restricted under the terms of this article as adopted or subsequently amended. It is the intent of this article to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this article that nonconformities shall not be enlarged upon, extended or expanded, nor be used as grounds for adding other structures or uses prohibited in the same district.

Nonconforming lots, uses, and structures may continue in their nonconforming status with the following limitations and/or requirements:

- (1) *Nonconforming lot.* A single, lawful lot-of-record which does not meet the requirements of this article for area or dimensions, or both, may be used for the buildings and accessory buildings necessary to carry out permitted uses subject to the following provisions:
 - a. Parking space requirements as provided for in article IX are met; and
 - b. Such lot does not adjoin another vacant lot(s) or portion of a lot in the same ownership.
 - c. If two or more adjoining lots or portions of lots in single ownership do not meet the requirements established for lot width, frontage or area, the property involved shall be treated as one lot, and no portion of said lot shall be used or sold in a manner which diminishes compliance with this article.
 - d. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of the ordinance from which this article is derived, notwithstanding limitations imposed by other provisions of this chapter only so long as it is used for a single-family residence. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through the action of the planning and zoning commission.

⁴Editor's note(s)—Ord. No. 2012-04, § 1, adopted June 11, 2012, repealed ch. 80, art. V, §§ 80-196—80-204 and added § 80-243. Former ch. 80, art. V, pertained to nonconforming uses and was derived from Ord. No. 2008-10Z, Exh. A, §§ 7.01—7.09, adopted August 25, 2008.

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- (2) *Nonconforming uses of land.* When a use of land is nonconforming pursuant to the provisions of this article, such use may continue as long as it remains otherwise lawful and complies with the following provisions:
- a. No nonconforming use shall be enlarged, increased or extended to occupy a greater area of land than that which was occupied at the time the use became nonconforming;
 - b. No nonconforming use shall be moved in whole or in part to any other portion of the lot not occupied by such use at the time the use became nonconforming; and
 - c. If any nonconforming use of land ceases for a period of six months or more, any subsequent use of such land shall comply with this article.
- (3) *Nonconforming use of structures.* If a lawful use of structure, or of a structure and lot in combination, exists at the effective date of adoption of the ordinance from which this section is derived or its subsequent amendment that would not be allowed under provisions of this article as adopted or amended, to avoid undue hardship, the lawful but nonconforming use may be continued so long as it complies with other regulations, subject to the following conditions:
- a. Such nonconforming use:
 1. Shall not be changed to another nonconforming use.
 2. Shall not be reestablished after its removal from the property or its discontinuance for one year or more, or unless the premises are under a continuing lease but are unoccupied by the nonconforming use, regardless of the intent of the owner or occupier to resume the nonconforming use.
 3. Shall not be extended to occupy a greater area of land.
 4. Shall not be extended to occupy a greater area of a building or structure unless such additional area of the building or structure existed at the time of the passage or amendment of the ordinance from which this section is derived and was clearly designed to house the same use as the nonconforming use occupying the other portion of the building or structure.
 - b. If an existing use was lawfully established in a zoning district that is subsequently amended to require a use permit approval for such use, pursuant to article IV administrative permits and use permits, the existing use shall not be subject to the provisions of this subsection.
 - c. Any intended but not yet existing nonconforming use for which a vested right was acquired prior to the adoption of the ordinance from which this section is derived or the adoption of an amendment to it shall be prohibited unless such intended nonconforming use for which a vested right was acquired is actually commenced within one-year of the adoption of the ordinance from which this section is derived or the adoption of an amendment to it, regardless of the intent or expectation to commence or abandon such nonconforming use.
- (4) *Nonconforming structures.* When a lawful structure exists on the effective date of adoption or amendment of the ordinance from which this section is derived or its amendments that could not be built under the terms of this article because of restrictions on building area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may continue and remain as long as it complies with all other zoning regulations, subject to the following conditions:
- a. No structure may be enlarged or altered in a way which increases its nonconformity; but any structure or portion may be altered to decrease its nonconformity.
 - b. Any structure which is moved, for any reason and for any distance whatever, shall conform to the regulations for the district in which it is located.

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- c. Destruction by any means of more than 50 percent of the appraised valuation of the structure shall require that the structure be reconstructed in conformity with the provisions of this article. The "appraised valuation" is the value of the structure prior to such destruction or damage having occurred and shall be the appraised value established by the county tax assessor.
 - d. Destruction by any means of 50 percent or less of the appraised valuation of the structure shall not require that the structure be reconstructed in conformity with the provisions of this article. However, if a building permit to reconstruct the structure is not obtained within 12 months from its destruction, the structure shall be reconstructed in conformity with the provisions of this article.
 - e. Accessory structures. Nonconforming, accessory structures shall be subject to the same provisions as govern the primary structure to which they are an accessory.
 - f. Telecommunications facilities.
 - 1. All telecommunication facilities existing on the effective date of the ordinance from which this section is derived shall be allowed to continue to be used as they presently exist.
 - 2. Routine maintenance (including modifications to accommodate the co-location of an additional user or users) shall be permitted on existing telecommunication facilities.
 - 3. Replacement of antennas on a structure with different antennas shall be considered routine maintenance so long as the replacement antenna(s) does not increase the height of any existing structure.
- (5) *Rezoning which results in nonconforming structures.* When a property containing lawful structures is rezoned, the following shall apply:
- a. The approval of the rezoning by the city council shall automatically adjust minimum/maximum yards to the extent necessary for existing structures to comply.
 - b. All new construction, expansions, or additions shall comply with the minimum yard requirements of the new district.
 - c. Buffers and landscape areas shall be established by conditions of zoning which shall have precedence over the district standards contained in chapter 74.
 - d. Destruction or removal of buildings which preexisted rezoning shall reinstate the development standards of the then applicable district provisions of this section.
- (6) *Exemptions due to state or city action.* Whenever a lot becomes nonconforming as a result of land acquisition by the city or state, building permits shall be granted for new construction provided the proposed structure complies with all but lot area requirements, and setback requirements shall be reduced without requirement for a variance to the extent of the width of the acquired property. Whenever a structure becomes nonconforming as a result of city or state action other than an amendment to this article, the use of the structure may continue and the structure may be replaced as though no nonconformity exists if, subsequent to such action, the structure is destroyed.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

ARTICLE VI. APPEALS⁵

Sec. 80-244. Purpose.

The purpose of this article is to establish procedures for appealing the strict application of regulations and conditions contained herein and conditions of zoning when those regulations impose a hardship on the development of the property, and to provide for interpretation of the text of this article and the official zoning map. Appeals are authorized herein to be considered by various bodies and individuals depending on the type of appeal and its relationship to applications for use permits or rezonings.

Variances apply to the development standards and district standards per this chapter. Modifications apply to the approved conditions of zoning or use permits.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-245. Decision making authority.

The following are the powers and jurisdictions of the various decision makers and administrative bodies.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-246. City council.

The city council shall have the following powers and duties under the provisions of this section:

- (1) To hear and decide applications for re-zonings, use permits, and modifications pursuant to article VI.
- (2) To hear and decide applications for concurrent variances in conjunction with applications for rezonings, use permits, and/or zoning modifications pursuant to article VI.
- (3) To initiate a modification of approved zoning conditions.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-247. Planning and zoning commission.

The planning and zoning commission shall have the following powers and duties under the provisions of this section:

- (1) To hear and decide appeals from the interpretation of any of the provisions of this section by the director of planning in accordance with section 80-248;

⁵Editor's note(s)—Ord. No. 2012-04, § 1, adopted June 11, 2012, repealed ch. 80, art. VI, §§ 80-232—80-236 and added a new ch. 80, art. VI, §§ 80-244—80-278. Former ch. 80, art. VI, pertained to appeals, exceptions, and variances and was derived from Ord. No. 2008-10Z, Exh. A, §§ 8.01—8-05, adopted August 25, 2008.

- (2) To hear and decide appeals when it is alleged that there is an error in any order, requirement, decision, or determination made by the director of planning in the enforcement of this article, ~~and~~
- (3) To hear and decide appeals from a permitting or procedural decision of the director of planning regarding minor or administrative variance requests.
- (4) To hear and recommend approval or denial of re-zonings, use permits, ~~and~~ pursuant to article VI.
- (5) To hear and defer an application for re-zonings, and use permits pursuant to article VI, ~~a deferral may not exceed 90 days.~~

(6) Other duties as outlined in this Chapter.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Commented [RK2]: The deferral period is 30 days elsewhere. Removing so they don't conflict.

Commented [RK3]: This is a catch all since plats and variances aren't listed here.

Sec. 80-248. Director of planning.

The director of planning shall have the following jurisdiction, powers and duties under the provisions of this section:

- (1) To determine the type of appeal application or land use process the property owner/agent is required to apply for.
- (2) To consider and decide on minor variances to minimum yard requirements, not to exceed ten percent of such requirement, as long as property owners with standing do not object.
- (3) To consider and decide on administrative minor variances of no more than one foot.
- (4) To consider and decide on administrative variances.
- (5) To consider and decide on administrative modifications to conditions of zoning.
- (6) To interpret the provisions of the zoning ordinance related to the following:
 - a. Inconsistent, vague or obscure language;
 - b. Provisions which are in conflict or are confusing; and
 - c. Conflicting or redundant procedural requirements; and
- (7) To establish procedural requirements for review of appeal applications.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-249. Limitation on authority.

The authority and jurisdiction of boards and individuals as provided herein shall be limited as outlined in the following. In exercising this jurisdiction, each hearing board or individual shall have authority to determine whether it has jurisdiction.

- (1) There shall be no variances to permitted uses or accessory uses as specified in the zoning district regulations, administrative/use permit or zoning conditions.
- (2) There shall be no variances to the minimum lot frontage on a street as required in designated zoning districts of the zoning ordinance.
- (3) There shall be no modification to increase the density or change the use approved under the rezoning case except to allow for the development of a planned development.

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(Supp. No. 21, Update 3)

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- (4) There shall be no modification to revise a site plan that, as determined by the director of planning, results in a significant change in the approved concept. Such a site plan revision shall require rezoning pursuant to article VIII.
 - (5) There shall be no relief or variance from the standards of article VI or article VIII.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-250. Variances.

A variance is a request for relief from the provisions of this chapter. There are four types of variance applications. The type of variance necessary shall be determined by the director of planning. The different types of appeals are listed below and described in the following sections:

- (1) Primary variance.
- (2) Minor variance/administrative minor variance.
- (3) Secondary variance/interpretation.
- (4) Concurrent variance.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-251. Variance considerations.

Variances may be considered in all districts. Primary variances and concurrent variances shall only be granted upon showing that:

- (1) Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of this chapter; or
- (2) The application of the particular provision of this chapter to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its lot size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public; or
- (3) Conditions resulting from existing foliage or structures bring about a hardship whereby a sign meeting minimum letter size, square footage and height requirements cannot be read from an adjoining public road.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-252. Administrative minor variance.

The director of planning may grant an administrative minor variance up to one foot from any minimum yard requirement.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-253. Minor variance.

The director of planning may grant minor variances to minimum yard requirements, not to exceed ten percent of such requirement, as long as no objection has been submitted in writing to the director of planning. The

applicant must notify the immediately adjacent property owners via e-mail and/or certified mail. Staff must be copied on all email notifications. An appeal to a minor variance decision must be filed as a secondary variance request.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-254. Primary variance.

A request for a variance from any zoning ordinance provision that is not being handled as a minor, administrative minor or concurrent variance and shall be heard and decided by the planning and zoning commission in accordance with article VI.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-255. Secondary variance/interpretation.

The planning and zoning commission shall consider appeals of [administrative](#) variance decisions and interpretations made by the director of planning authorized to grant a variance request or interpretation. This type of appeal is considered a secondary variance.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-256. Concurrent variances.

The city council may consider a concurrent variance from any standards of this chapter which shall be filed simultaneously with rezoning, use permit, or zoning modification requests on the same property based on the conceptual plan submitted with the petition for the same agenda. The planning and zoning commission shall also hear and make recommendations on concurrent variances filed with rezonings or use permit applications. The city council shall consider such concurrent variance requests in accordance with the standards set forth in section 80-251. Public notification shall be in accordance with sections 80-273 and 80-291.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-257. Limitations on concurrent variances.

- (a) The city council may only consider variance requests as part of, or in conjunction with, a rezoning, use permit, or modification application.
- (b) If an application for a variance to the planning and zoning commission duplicates a concurrent variance request denied by the city council, such an application shall not be accepted by the director of planning prior to the expiration of six months from the date of the city council's denial of the concurrent variance request. A variance request to the planning and zoning commission cannot be considered simultaneously with the same concurrent variance request pending before the city council.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-258. Application for concurrent variances.

Applications for a concurrent variance shall be submitted to the director of planning in accordance with the advertised filing deadlines for the city council meetings. A regular variance fee shall be charged, and the application shall comply with all advertising and notification requirements specified in article VIII, amendments to

zoning code and map. One notice sign may serve for both the rezoning, use permit, zoning modification, and concurrent variance request as long as the sign is marked to indicate all actions which are pending.

The variance case file number ~~for each concurrent variance requested~~ shall be included on the rezoning petition.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-259. Modifications.

A modification is a request for relief from the conditions of zoning or use permit when a site development proposal does not comply with approved conditions. There are two different types of modifications which are listed below and described in the following sections:

- (1) Administrative modification;
- (2) Zoning modification.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-260. Application for modification.

A request to modify a condition of zoning or use permit may be initiated by the property owner, the planning and zoning commission, or the city council. Applications shall be submitted to the director of planning in accordance with the deadline schedule adopted by the city council. A modification application shall include a legal description of the property for which the modification is requested and a written explanation of the circumstances upon which the requested change of condition is based including the reason why development or use of the property, as approved, cannot be accomplished without the modification of a condition. Applicants shall submit a revised site plan illustrating the requested modification. The type of modification necessary is determined by the director of planning.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-261. Administrative modification.

An administrative modification application may be filed if the director of planning determines that the modification request is not prohibited by section 80-249, limitation on authority and, will constitute only a technical change and does not involve significant public interest, or public interest has been addressed by letters expressing no objections from property owner(s) with standing and/or neighborhood associations. The director of planning shall review and approve administrative modifications.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-262. Appeal of an administrative modification decision.

If an applicant wishes to appeal the decision of the director of planning regarding an administrative modification, or if it is determined by the director of planning that a request will involve a matter of public interest, the applicant must file a separate application requesting a zoning modification on forms available from the director of planning. [These shall be processed as secondary variances/interpretations in accordance with this article.](#)

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-263. Zoning modification.

A zoning modification application shall be filed if an approved zoning condition cannot be met and it is determined by the director that the application involves significant public interest and is in compliance with section 80-249, limitation on authority. The zoning modification request shall be presented to the city council for consideration in a public hearing.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-264. General procedures.

This section contains basic steps common to all variances and modifications.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-265. Applications.

All applications for variances, interpretations, and modifications shall be filed with the director of planning on forms available in the department. The type of application process necessary to accomplish the change requested by the applicant shall be determined by the director of planning. The zoning administrator shall transmit the petition and all documents constituting the record to the appropriate hearing body or individual.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-266. Standing.

Standing refers to a party or parties allowed to initiate a request for variances or modifications which are limited to the following:

- (1) *Modification petition.* A request for a modification may be initiated by the property owner or its agent, the planning commission or the city council;
- (2) *Variance petition.* A request for a variance may be initiated by the property owner of subject property or its agent;
- (3) *Secondary variance petition.* A request for a secondary variance appeal may be initiated by the property owner of the subject property or its agent, or the owner of other real property within 300 feet of the boundaries of the subject property; and
- (4) *Interpretation petition.* A request for an interpretation of a decision of the director of planning may be requested by any individual.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-267. Filing deadlines.

- (a) Applications for variances, interpretations and modifications shall be submitted in accordance with the advertised filing deadlines, depending on the type of petition in accordance with section 80-273.
- (b) Concurrent variance applications shall be filed in accordance with the filing deadline for the parent petition of either a use permit, rezoning, or zoning modification request in accordance with article VI.

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- (c) The director of planning has the discretion to extend the filing deadline by two days for all applications except administrative minor and minor variance applications. A letter from the applicant explaining the delay in filing shall be submitted prior to the close of the filing deadline.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-268. Withdrawal of application.

- (a) An application may be withdrawn by the applicant in writing at any time before the public hearing notice advertisement is published and/or the notice of the hearing is posted on the property.
- (b) Applications which do not require a public hearing may be withdrawn at any time before notification of a decision is mailed.
- (c) Once the public hearing has been properly advertised, the request for withdrawal of the application must be placed on the public hearing agenda and the appropriate decision-making body shall act on the withdrawal request.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-269. Fees.

At the time of application, applicants shall pay fees as established by the city council. Fees paid are not refundable except where the zoning administrator determines that an application was accepted in error, or the fee paid exceeded the amount due, in which case the amount of the overpayment will be refunded to the applicant.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-270. Legal action stayed.

The filing of an appeal authorized by this article shall operate as a stay of any enforcement proceedings by the city until final decision on the appeal. No city council or planning and zoning commission action shall be taken on any property which is the subject of any litigation pending in state or federal court wherein the city or its agents or officials are parties.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-271. Public hearing.

A public hearing shall be conducted by the stated hearing body of each appeal application before taking action thereon except those authorized to be considered administratively. The schedule of public hearings and deadlines for the filing of an appeal shall be established by the city council.

Public hearings are not required for administrative variances, minor variances, administrative minor variances and administrative modifications; however, notification in accordance with subsection 80-273(b) is required.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-272. Evaluations and reports.

The hearing body shall have before it, at the time of hearing, a report from the director of planning which shall summarize the hardship or justification reported by the applicant as related to the application and background information for variances, modifications, and interpretations, and any other information requested by the hearing body. The hearing body shall, hear, analyze, consider, and make a written report of its decision in accordance with section 80-275, notice of decisions.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-273. Public notification.

(a) For those applications requiring a public hearing (only a hearing before the body that renders final decisions on primary variances, secondary variances, concurrent variances, and zoning modifications is required; recommending bodies do not require public hearings), the director of planning shall:

- (1) Publish notice of the public hearing in a newspaper of general circulation at least 15 days, but no more than 45 days prior to the public hearing at which an application will be heard. The published notice shall contain the time, place, and purpose of the hearing and the location of the property, if applicable (secondary variances may not always be property-specific). Re-notification is not required when a petition is deferred by the city council or the planning and zoning commission.
- (2) The applicant or agent shall post a sign as issued by the planning and zoning department in a conspicuous location on each public street frontage of the subject site, at least 15 days, but not more than 45 days, prior to the public hearing at which an application will be heard.

The sign shall be mounted and posted as specified by the planning and zoning department. Property that is not posted on the 30th day before the scheduled hearing date will be administratively removed from the agenda. The sign will remain posted on-site until final action by the appropriate hearing body is taken.

~~When the planning and zoning commission defers a petition, the applicant is required to post an updated sign with new hearing dates 20 days prior to the next scheduled hearing date.~~ When a petition advertised for a public hearing is deferred, ~~the city council defers a petition~~, an updated sign is not required.

The posted sign shall contain the date, time, place, and purpose of the hearing.

For zoning modifications, all notices shall contain all of the items listed in the previous sentence, the location of the property, the current and proposed zoning districts (if applicable), the zoning and/or use permit case number to be modified and the condition number(s) to be modified.

The posting of a sign is not required when a secondary variance is not requested by the property owner or owner's representative.

- ~~(3)-~~ Notice of the public hearing shall be postmarked 15 days prior to the hearing date and shall be given by regular mail to all property owners within 1,050 feet of the boundaries of the property who appear on the current tax records of the city as retrieved by the city's geographic information system. When a petition advertised for a public hearing is deferred, updated mailed notices are not required. ~~Renotification is not required when a petition is deferred by the city council or the planning and zoning commission.~~

The mailing of public notices is not required when a secondary variance is sought by an individual other than the property owner.

Commented [RK4]: Not part of ZPL changes, but something that has been desired by Council

(4) Additional notice. Mailed notice shall be made via USPS at least 15 days but not more than 45 days before the date of the public hearing to the following:

- a. Owner(s) of record on the current tax records of the city as retrieved by the city's geographic information system;
- b. The appellant (for appeals); and
- c. The original applicant (for appeals, if the appellant was not the original applicant).

(b) For those applications not requiring a public hearing, notification shall be provided as follows:

- (1) *Administrative variance.* The owners of property adjacent and contiguous across the right-of-way of the subject site shall be notified via a letter of notification.
- (2) *Minor variance.* The owners of property adjacent and contiguous across the right-of-way of the subject site shall be notified via a letter of notification.
- (3) *Administrative modification.* The director of planning shall determine what notification, if any, is reasonable on a case by case basis.
- (4) *Administrative minor variance.* No written notification.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-274. Planning and zoning commission decision on secondary variances/interpretations.

The planning and zoning commission may take the following actions pursuant to a secondary variance and/or an interpretation appeal:

- (1) Affirm an order, requirement, or decision, wholly or partly.
- (2) Reverse an order, requirement, or decision, wholly or partly.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-275. Notice of decisions.

Written notice of all decisions shall be placed in the official case file and a letter shall be forwarded to the applicant by regular mail within ten working days from the date of the decision by the following authority:

- (1) The director of planning shall provide written notification of the planning and zoning commission's decisions;
- (2) The director of planning shall, with respect to minor variances, administrative variances, and administrative modifications provide written notification of such decisions. The approval of a building permit shall constitute notice of approval for an administrative minor variance; and
- (3) The clerk to the city council shall, with respect to zoning modifications and concurrent variances, provide written notification of the city council's decisions.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Commented [RK5]: ZPL just requires for quasi-judicial decisions, but I've extended it to all hearings in this draft for consistency.

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Sec. 80-276. Reconsideration of denied application.

If a variance or modification application is denied by an authorized department director, city council, or the planning and zoning commission, an application for the same variance or modification item shall not be considered until:

- (1) At least six months has elapsed from the date of the decision; or
- (2) New information pertinent to the subject, not previously considered, is submitted by the petitioner and the six-month period is exhausted; or waived by the hearing body.
- (3) If an application is denied by the director of planning, the applicant may appeal the decision to the appropriate hearing body depending on the type of petition.

This provision is not intended to supersede provisions of article VIII and/or article IV as related to decisions regarding rezonings and/or use permits.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Commented [RK6]: I interpret modifications to be rezonings that can't be waived below the 6-month period per ZPL.

Sec. 80-277. Time limitation on appeals to superior court.

- (a) The decision of the planning and zoning commission to grant or deny variances is a final decision; therefore, any appeal of such a decision shall be pursued by application for ~~writ of certiorari/petition for review~~ petition for review filed with the superior court of the county within 30 days of the date of the decision in accordance with O.C.G.A. § 36-66-1 et seq and as provided for in Chapter 4, Title 5 of the Official Code of Georgia Annotated. Application for writ of certiorari, and any other initial filings with the superior court shall be served upon the named defendants/respondents in accordance with O.C.G.A. § 5-4-1 et seq.
- (b) ~~Upon filing such an appeal, the clerk of superior court shall give immediate notice thereof to the director of planning, and within 30 days from the date of such notice, the director of planning shall cause to be filed with the clerk of superior court a certified copy of the proceedings and the decision of the planning and zoning commission.~~
- (b) Appeals of decisions (secondary variances/interpretation) of the director of planning, or the director of public works shall be brought within 30 days from the date of the decision to the planning and zoning commission.
- (c) Authority to accept service. The planning and zoning director shall be authorized, without additional board or agency action, to accept service and/or to approve or issue any form or certificate necessary to perfect the petition described in the Georgia Zoning Procedures Law, O.C.G.A. § 36-66-1 et seq., for review of lower judicatory bodies and upon whom service of such petition may be effected or accepted on behalf of the lower judicatory board or agency, during normal business hours, at the City of Fairburn City Hall.

Commented [RK7]: Combo of HB 1405 and HB 916 appeal proceedings

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-278. Expiration of variance.

If not used, a variance shall be valid only for a period of 36 months from the date it is granted. Extensions may be sought under the provisions of article VIII, amendments to zoning code and map.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Commented [RK8]: Recommend this be stricken, as variances should run with the land.

ARTICLE VII. PLANNING AND ZONING COMMISSION⁶

Sec. 80-279. Established; duties.

Pursuant to the constitution and laws of the state, the city council established a planning and zoning commission. The duly appointed planning and zoning commission shall carry out all of the duties imposed upon it by the laws of the state of and by ordinances of the city.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-280. Composition and design of planning and zoning commission.

- (a) *Members.* The planning and zoning commission shall be composed of seven members, who are residents of the city. The city mayor shall nominate members to council who shall approve said nominees by a majority vote.
- (b) *Terms.* The term of office of the members of the planning and zoning commission shall be four years or until their successors are appointed. The four-year terms shall be staggered.
- (c) *Vacancies.* Resignations from the planning and zoning commission must be submitted in writing to the secretary of the planning and zoning commission. The city mayor and council, upon receiving the written basis and after a public [meeting/hearing](#), shall remove members of the planning and zoning commission for just cause, including, but not limited to:
 - (1) Failure to attend three consecutive, regular voting meetings of the planning and zoning commission;
 - (2) Failure to maintain permanent residence within the jurisdiction of the city; or
 - (3) Violation of planning and zoning commission bylaws or rules of procedure.

Vacancies caused by resignation or for other reasons shall be filled for the unexpired term in the same manner as for a full term.

- (d) *Eligibility.* Members of the planning and zoning commission must be residents of the city. Members may not be employed by the city. Members of the planning and zoning commission may not serve as elected officials of the city. Appointments to the planning and zoning commission shall be made from all segments of the community without permitting any special interest group to gain control of the commission.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-281. Officers; rules of procedures and bylaws; records.

Elections for officers will occur at the planning and zoning commission's first regular voting meeting of the city's fiscal year.

⁶Editor's note(s)—Ord. No. 2012-04, § 1, adopted June 11, 2012, repealed ch. 80, art. VII, §§ 80-266—80-271 and added a new ch. 80, art. VII, §§ 80-266—80-294. Former ch. 80, art. VI, pertained to similar material and was derived from Ord. No. 2008-10Z, Exh. A, §§ 11.01—11.06, adopted August 25, 2008.

- (1) Chair. The planning and zoning commission shall elect one of its members as chair, who will serve for one year or until a successor is elected. The chair shall direct the secretary to prepare the agenda for each meeting.
- (2) Vice chair. The planning and zoning commission shall elect one of its members as vice chair, who will serve for one year or until a successor is elected. The vice chair shall serve as acting chair of the planning and zoning commission in the absence of the chair. Upon the resignation or disqualification of the chair, the vice chair shall assume the position of chair for the remainder of the unexpired term.
- (3) If neither the chair nor the vice chair is present for a meeting, then the planning and zoning commission shall elect on the record at such meeting, a member who is present to serve as temporary acting chair for that meeting only.
- (4) Secretary. The director of planning or lawful designee shall serve as the planning and zoning commission's secretary. The secretary shall keep minutes of proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall keep records of evidence, examination and official actions, all of which shall be filed and shall be a public record.
- (5) The planning and zoning commission shall make its own bylaws and rules of procedure and shall determine its time of meeting. All meetings of the planning and zoning commission at which official action shall be taken shall be open to the public and all records of the planning and zoning commission shall be public records and shall be kept in the custody of the city clerk.
- (6) The planning and zoning commission shall hold one public hearing prior to making a decision for any petition for which they have authority to take final action. For all other decisions which result in a recommendation to the mayor and city council, only a public meeting is required at the planning and zoning commission meeting. The public hearing required by O.C.G.A. § 36-66-1 et seq. for those petitions shall be held at a mayor and city council meeting.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-282. Quorum.

To constitute a quorum for the transaction of business, there shall be required to be present at any meeting of the planning and zoning commission at least four members.

Decisions of the planning and zoning commission. The decisions of the planning and zoning commission shall be by majority vote of the members present and voting, a quorum being present. In the event of a member's abstention based on a conflict of interest or other disqualification, the abstention shall count as if that member were absent and the number of persons necessary for a majority shall be reduced accordingly without affecting the quorum. The chair of the planning and zoning commission will vote only in the instance of a tie vote. Recommendations to the mayor and council shall be for the approval, approval with conditions, or denial of an application. Final decisions on applications or matters before the planning and zoning commission, such as appeals heard by the planning and zoning commission, shall be approved, approved with conditions, tabled, or denied.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-283. Procedures of meetings.

- (a) Meetings of the planning and zoning commission shall be held at the call of the chair and at such other times as the planning and zoning commission may determine. All meetings of the planning and zoning commission shall be open to the public. However, members of the public shall not address the planning and zoning

Commented [RK9]: Not sure if this is the best location for this, but I just want to make it explicit when a hearing is required before planning and zoning commission.

commission until invited to do so by the chair. Regular meetings of the planning and zoning commission shall be held monthly. Called meetings may be held, as needed, following provisions in the bylaws section: V(B).

(b) The regular planning and zoning commission meeting schedule is as follows, unless otherwise announced:

| | |
|----------|---------------------------|
| Date | 1st Tuesday of each month |
| Time | 7:00 p.m. |
| Location | City Hall |

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-284. Maintenance of land use map.

The planning and zoning commission shall maintain in current condition a future land use map which shall be updated every five years and submitted to the city council at a specially called meeting for its consideration.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-285. Transmittal of commission results to mayor and council.

Every recommendation of the planning and zoning commission to the mayor and council of the city shall be transmitted to the mayor and council, along with a complete file related to such action, in time for the next regularly scheduled meeting of the mayor and council.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-286. Director of planning and ~~zoning city engineer~~ to attend meetings.

It shall be the duty of the director of planning and ~~zoning director the city engineer~~ to attend, or have representatives from their offices to attend, all meetings of the planning and zoning commission.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-287. Planning and zoning commission powers and duties.

The planning and zoning commission shall have the following powers and duties in the administration of this chapter.

- (1) *Review and recommendation on proposed zoning amendments.* To review all proposed amendments to the zoning ordinance text or map, and to make recommendations thereon to city council.
- (2) *Administrative review.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the director of planning in the enforcement of this chapter. Requests for administrative review shall be filed in writing and transmitted to the planning and zoning commission on forms and in the manner provided by the director of planning.
- (3) *Variances.* To hear and decide applications for primary variance requests.
- (4) *Variances.* To authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, fully demonstrated on the basis of facts presented by the appellant, that literal enforcement of the provisions of the regulations will result in great practical difficulties or unnecessary hardship provided that the spirit of

the this chapter shall be observed, the rights and interests of other property owners or tenants are protected, public safety and welfare are secured, and substantial justice is done. Such variances may be granted in individual cases of great practical difficulties or unnecessary hardship only upon a specific finding, of the planning and zoning commission of at least one of the following conditions exists:

- a. Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of this chapter; or
- b. The application of the particular provision of this chapter to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape or topography, would create an unnecessary hardship for the owner while causing no detriment to the public; or
- c. Conditions resulting from existing foliage or structures bring about a hardship whereby a sign meeting minimum letter size, square footage and height requirements cannot be read from an adjoining public road.

Applications for variances shall be submitted in accordance with the advertised filing deadlines, depending in accordance with subsection 80-269(4).

- (5) *Reconsideration of denied or rejected variance application.* Any application for variance request may not be reconsidered for a period of 12 months after it has been rejected or denied by the planning and zoning commission, unless by court order or pursuant to a settlement of litigation approved by the city council.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-288. Action on requests for administrative review and variances.

Powers and duties.

- (1) In exercising its powers, the planning and zoning commission, in conformity with the provisions of this article may reverse or affirm, wholly or in part, or may modify the order, requirements, decisions or determination of the director of planning and may issue, or direct the issuance of a permit.
- (2) Application or appeal to the planning and zoning commission for relief may be made by any person aggrieved by any decision of the director of planning or other city official, based on this article;
 - a. Every appeal for administrative review, use permit, or variance shall be filed on forms and in the manner prescribed by the director of planning within 30 days of the decision or determination by the director of planning or other city official that provides the basis for such appeal.
 - b. An application form, provided by the director of planning and completed by the applicant, together with all papers constituting the record upon which the action appealed from was taken shall forthwith be transmitted via the director of planning and the planning and zoning commission.
 - c. All requests for administrative review or for variances shall be accompanied by other information required by this chapter, plus a written legal description of the land area which is the subject of the proposed administrative review, use permit or variance, and a current boundary survey of the land area made by a registered land surveyor as specified in and in conformity with the provisions of article VI.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-289. Owner's authorization.

Every application for administrative review or variance shall be accompanied by authorization by the owner for the application to be made by the applicant.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-290. Fee for administrative reviews, use permits and variance applications.

When an appeal for an administrative review or an application for a use permit or for a variance is made, the appellant or applicant shall pay a fee to the city to cover and defray administrative and processing costs. The amount of such fee shall be as set forth in the fee schedule available in the planning and zoning department.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-291. Public hearings on appeals.

The planning and zoning commission shall fix a reasonable time for holding public hearings on applications, appeals or other matters referred to it and give at least 15 days, but no more than 45 days, public notice thereof in a newspaper of general circulation, and decide same within a reasonable time frame. Upon a hearing, any party may appear in person, by agent, or by attorney. The dates of such hearings shall be set forth in the hearing schedule available in the planning and zoning department.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-292. Stay of proceedings.

An application or appeal for relief filed with the planning and zoning commission stays all legal proceedings in furtherance of the action appealed from, unless the director of planning certifies to the planning and zoning commission after the notice of appeals shall have been filed with him or her that, by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by restraining order which may be granted by planning and zoning commission or by court of record on application, on notice to the official from whom the appeal is taken and on due cause shown.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-293. Explanation of decisions.

On all appeals, applications and other matters brought before it, the planning and zoning commission shall inform all the parties involved of its decision and the reasons, therefore.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-294. Appeals.

(a) Authority to file. Any person aggrieved by a final decision may seek review in accordance with the appeals proceedings in O.C.G.A. § 36-66-1 et seq.

(b) A person is considered aggrieved for purposes of this Section only if the person or their

Commented [RK10]: The existing structure of this code necessitates some duplication of these subsections. Another set of eyes not as ingrained in the minutia would be helpful to make sure it's all internally consistent and applies to all the actions it needs to apply to.

property was the subject of the action appealed from, or the person has a substantial interest in the action being appealed that is in danger of suffering special damage or injury not common to all property owners similarly situated.

(c) Application filing. Appeals of final quasi-judicial decisions, as categorized by Georgia law, shall be by way of a ~~writ of certiorari/petition for review~~ petition for review as provided for in Chapter 4, Title 5 of the Official Code of Georgia Annotated to the Fulton County Superior Court, with the ~~writ of certiorari/petition for review~~ petition for review obtained within 30 days of the decision, and following the statutory procedures to obtain the ~~writ of certiorari/petition for review~~. All other final decisions shall be appealed to the Fulton County Superior Court within 30 days of the date of the decision and in accordance with the procedures established by Georgia law.

(d) Authority to accept service. The planning and development director shall be authorized, without additional board or agency action, to accept service and/or to approve or issue any form or certificate necessary to perfect the petition described in the Georgia Zoning Procedures Law, O.C.G.A. § 36-66-1 et seq., for review of lower judicatory bodies and upon whom service of such petition may be effected or accepted on behalf of the lower judicatory board or agency, during normal business hours, at the City of Fairburn City Hall.

Any person or persons severally or jointly aggrieved by any decision of the planning and zoning commission may present an appeal to the superior court of the county. Such an appeal to the superior court shall be by writ of certiorari and filed within 30 days from the date of the decision of the planning and zoning commission. Upon failure to file the appeal within 30 days, the decision of the planning and zoning commission shall be final.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

ARTICLE VIII. AMENDMENTS TO ZONING CODE AND MAP⁷

Sec. 80-295. Requirements for amendments.

Whenever the public necessity, convenience, general welfare or good zoning practice justify such action, and after consideration by the city planning and zoning commission, the mayor and council of the city may, by ordinance, amend the regulations set forth in this chapter and may change the zoning districts as established on the official map of the city.

(Ord. No. 2008-10Z, exh. A, § 12.01, 8-25-2008)

Sec. 80-296. Application for or initiation of an amendment.

A proposed amendment to a zoning district or zoning text may be initiated by the city planning and zoning commission, the mayor and council of the city or by an application filed with the clerk of the city of one or more owners of property within the area proposed for a zoning amendment. However, a property owner shall not initiate action for a zoning amendment affecting the same parcel more often than once every 12 months, except where the council has approved an ordinance to waive the 12-month waiting period between the filing of applications affecting the same parcel of property. This provision shall not be construed as impairing the right of the planning and zoning commission or the council to propose an amendment at any time on their own initiative. A property owner, with the consent of the planning and zoning commission, may voluntarily withdraw such owner's

⁷Editor's note(s)—At the request of the city, and for the sake of clarity, ch. 80, art. VIII, §§ 80-291—80-296 were renumbered as §§ 80-295—80-300.

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application or a proposed change of district one time prior to action on the application by the planning and zoning commission. Such withdrawn application shall not be deemed to be initiation of an application for zoning amendment with respect to the parcel of land involved. Any communication purporting to be an application for an amendment shall be regarded as mere notice to seek relief until it is made in the form required. Upon receipt of any such communication, the interested parties shall be supplied with the proper forms for presenting applications.

(Ord. No. 2008-10Z, exh. A, § 12.02, 8-25-2008)

Sec. 80-297. Fee to be paid by applicant.

Before action is taken on any application of an owner, or owners, or an agent thereof, of property within the area proposed for a zoning amendment as provided by this article, the applicant shall deposit with the clerk of the city a fee to cover the approximate cost of the procedure. Prior to action by the planning and zoning commission, the required fee may be refunded on request of the applicant; thereafter the fee shall not be refunded.

(Ord. No. 2008-10Z, exh. A, § 12.03, 8-25-2008)

Sec. 80-298. Report by planning and zoning commission.

No amendment shall be made or become effective until the same shall have been proposed by or be first submitted for review by the city planning and zoning commission. The commission shall transmit its report upon the proposed amendment to the mayor and council within 30 days following the commission meeting at which it was considered. Upon receipt of this report or at the expiration of the 30-day period, the mayor and council of the city may proceed to set a public hearing and consider the such amendment.

(Ord. No. 2008-10Z, exh. A, § 12.04, 8-25-2008)

Sec. 80-299. Public hearing and action by mayor and council.

(a) *Notice requirements.*

- (1) Before adopting any amendment to the city official zoning map or text of this chapter, the mayor and council shall hold a public hearing thereon, official notice of which shall be given in a newspaper of general circulation in the city, at least 15 days, but not more than 45 days, prior to the hearing.
- (2) The newspaper notice of the public hearing shall include the time, place and purpose of the hearing. Such notice shall include the location of the property, the present zoning classification and the proposed zoning classification, for amendments involving a change to the zoning classification of a parcel of land.

(3) Property owner notice. Mailed notice shall be made via USPS to the owner(s) of record on the current tax records of the city as retrieved by the city's geographic information system, at least 30 days but not more than 45 days before the date of the public hearing.

- (4) Whenever a proposed amendment to this chapter, initiated by a party other than the city, involves changing the zoning classification of property from one type of zone to another, the mayor and council shall have a sign posted in a conspicuous place on the property not less than 15 days prior to the date of the public hearing. Such posted sign shall contain information as to the proposed zoning change and the date, time and place of the public hearing. Proposed zoning ordinance amendments and proposed

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revisions to the official zoning map initiated by the city shall not require the posting of signs on affected property; unless the proposed revision includes five or fewer parcels of land.

- (54) The public hearing by the mayor and council may be continued to the next regular meeting date and for additional meeting dates without further legal notice as good planning practices dictate, and the mayor and council deem necessary. The date posted on any official sign advertising the hearing may be changed to reflect the continued hearing date.

(6) When any of the following actions are proposed, reference the Georgia Zoning Procedures Law, O.C.G.A. § 36-66-1 et seq., for additional hearing notice requirements:

- a. City-initiated rezoning and/or text amendment to revise a zoning classification related to single-family residential uses of property so as to authorize multifamily uses of property pursuant to such classification or definitions, or to grant blanket permission, under certain or all circumstances, for property owners to deviate from the existing zoning requirements of a single-family residential zoning; or
- b. Zoning decisions which relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for the treatment of drug dependency. See O.C.G.A. § 36-66-4(f); or
- c. Zoning for property to be annexed into a municipality. See O.C.G.A. § 36-66-4(d).

- (b) *Policies and procedures for calling and conducting public hearings on zoning.*

- (1) The term "zoning," when used in this subsection, shall mean:

- a. A legislative act representing a legislative judgment as to how the land within a city should be utilized and where the lines of demarcation between the several use districts should be drawn.
- b. An exercise of local government's police power wherein the local government attempts to balance the interest of promoting the public health, safety, morality or general welfare against the property owner's right to the unrestricted use of his property.

c. As defined by state law O.C.G.A. § 36-66-1 et seq.

- (2) The basic issue to be decided in any zoning hearing is whether a zoning regulation and/or classification bears a reasonable relationship to the public health, safety, morality or general welfare and, therefore, may be justified.

- (3) Public hearing procedures shall be as follows:

- a. The mayor and council have mandated that prior to any amendment of the city's zoning ordinance (text or map), the mayor and council will hold a public hearing thereon. Notice of such hearing shall be as provided in subsection (a) of this section.
- b. All hearings shall be conducted by the mayor and council, with the mayor presiding. The mayor shall indicate that a public hearing has been called for consideration of a zoning amendment. The mayor and council shall consider each application on an individual basis.
- c. At the public hearing, the mayor shall ask for a show of hands of those persons who are in support of the application. The applicant and those persons wishing to appear in support of the application shall have not less than ten minutes to present positions in support of the application, provided that if the number of persons wishing to appear in support of the application is in excess of that which may reasonably be heard, the mayor may request that a spokesman for the group be chosen so that the entire presentation of the positions of those in support of the application shall not exceed 30 minutes.

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- d. After the comments and concerns of those in favor of the zoning amendment have been heard, the mayor will ask for a show of hands of those persons in opposition to the application. Those persons wishing to appear in opposition to the application shall have not less than ten minutes to present positions in opposition of the application, provided however that if the number of persons wishing to appear in opposition to the application is in excess of that which may reasonably be heard, the mayor may request that a spokesman for the group be chosen so that the entire presentation of the positions of those in opposition to the application shall not exceed 30 minutes.
 - e. After comments and concerns of the public have been heard, the mayor and council may request a report from officers or agents of the city.
 - f. The applicant for the zoning amendment shall be allowed up to five minutes for rebuttal and final comment.
 - g. After the above procedures have been completed, the mayor will indicate that the public hearing is formally closed.

(4) When any of the following actions are proposed, reference the Georgia Zoning Procedures Law, O.C.G.A. § 36-66-1 et seq., for additional hearing procedural requirements:

- a. City-initiated rezoning and/or text amendment to revise a zoning classification related to single-family residential uses of property so as to authorize multifamily uses of property pursuant to such classification or definitions, or to grant blanket permission, under certain or all circumstances, for property owners to deviate from the existing zoning requirements of a single-family residential zoning; or
- b. Zoning decisions which relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for the treatment of drug dependency. See O.C.G.A. § 36-66-4(f); or
- c. Zoning for property to be annexed into a municipality. See O.C.G.A. § 36-66-4(d).

(54) The mayor and council shall take the following actions following the public hearing:

- a. The mayor and council will take action to approve or deny the proposed zoning amendment. The decision of the council is by a majority of the council members present. The mayor will vote only in case of a tie vote. In such case, the mayor votes in order to resolve the question. The vote will be taken in public and announced to those present.
- b. If the zoning decision of the mayor and council is for the rezoning of property and the amendment to the zoning ordinance to accomplish the rezoning is denied by the mayor and council, then the same property owner or his authorized agent or representative may not again apply for rezoning on the same property until the expiration of at least 12 months immediately following the denial of the rezoning by the mayor and council, except; provided, however, that unless otherwise provided by state law, the council may approve an ordinance to waive the 12 month waiting period between the denial of an application and the filing of a new application affecting the same parcel of property. This provision shall not be construed as impairing the right of the planning and zoning commission or the council to propose an amendment at any time on their own initiative unless otherwise precluded from doing so under state law.

(Ord. No. 2008-10Z, exh. A, § 12.05, 8-25-2008; Ord. of 10-28-2019(1))

Sec. 80-300. Standards governing the exercise of zoning powers.

- (a) In ruling upon any application for a zoning map amendment, or any other zoning decision, the mayor and council shall act in the best interest of the health, safety, morals and general welfare of the city. In doing so, they will consider one or more of the following standards of review which are relevant to the application:
- (1) Whether the proposal is consistent and/or compatible with the city's plans, goals and objectives reflected in the city's comprehensive plan.
 - (2) How the proposal impacts the purposes of the overall zoning scheme, and whether the proposed change furthers the purposes of these zoning regulations. Applications for zoning amendments that do not contain specific site plans carry a rebuttable presumption that the proposed change shall adversely affect the zoning scheme.
 - (3) How the proposal impacts the character of the zoning district, the particular piece of property, neighborhoods, or the community.
 - (4) Whether the proposal creates an isolated district unrelated to adjacent properties and nearby districts.
 - (5) How the proposal impacts the aesthetic character of existing and future uses of the property and the surrounding area.
 - (6) Whether the proposal is consistent with adjacent development densities and the density patterns reflected in the comprehensive plan.
 - (7) How the proposal impacts the public health, safety, and general welfare.
 - (8) How the proposal impacts water, sewerage, other public facilities, or public services, and how the proposed amendment impacts expenditures of public funds.
 - (9) How the proposal impacts traffic safety and congestion.
 - (10) How the proposal impacts environmental conditions, including, but not limited to, drainage, soil erosion and sedimentation, flooding, air quality, water quality and quantity.
 - (11) How the proposal impacts the provision of adequate light and air.
 - (12) How the proposal impacts the value of adjacent property.
 - (13) Whether there are substantial reasons why the property cannot be used in accordance with existing regulations.
 - (14) Preservation of the integrity of residential neighborhoods shall carry greater weight than other factors. Where property fronts on a major thoroughfare and also adjoins an established residential neighborhood, the factor of preservation of the residential area shall carry greater weight.
- (b) After hearing evidence at the zoning hearing, the mayor and council shall apply the evidence to the standards of review in making their decision. The mayor and council are not required to consider every criterion in the standards of review. The applicant carries the burden of proof that the proposed zoning map amendment promotes the public health, safety, morality or general welfare.
- (c) If the mayor and council determine from the evidence presented that the applicant has shown that the proposed zoning map amendment promotes the health, safety, morals or general welfare under the standards of review, then the application shall be granted, subject to those reasonable conditions that may be imposed by the mayor and council. Otherwise, such applications shall be denied.
- (d) In ruling upon any petition in which the petitioner has brought a challenge to the existing zoning classification, the mayor and council shall follow these general lines of inquiry:

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- (1) The existing uses and zoning of the subject and surrounding property.
 - (2) The extent to which property values may be diminished by the particular zoning restrictions.
 - (3) The extent to which the reduction of property values, if any, promotes the health, safety, morals or general welfare of the public.
 - (4) The relative gain to the public, as compared to the hardship, if any, imposed upon the individual property owner.
 - (5) The suitability of subject property for development purposes as presently zoned.
 - (6) The length of time the property, if vacant, has been vacant as zoned, considered in the context of land development in the vicinity of the property.
- (e) The existing zoning classification shall be presumed to be valid; it shall be the responsibility of the applicant to present evidence to rebut this presumption.
- (f) If the mayor and council determine, from the evidence presented, that the existing zoning classification is unduly burdensome to the applicant and is not offset by consideration of the public's health, safety, morals, and general welfare, and consideration of the integrity of this chapter and of the official zoning map, the mayor and council may impose any appropriate zoning classification, including allowable conditions, which might be consistent with the considerations outlined in subsection (a) of this section.

(Ord. No. 2008-10Z, exh. A, § 12.06, 8-25-2008; Ord. of 10-28-2019(1))

Secs. 80-301—80-325. Reserved.

ARTICLE IX. OFF-STREET PARKING, LOADING AND LANDSCAPE REQUIREMENTS

Sec. 80-326. Purpose.

These standards are intended to provide the reasonable provision of future off-street parking within the city, to restrict temporary storage of vehicles and recreational vehicles in residential districts; to alleviate any unnecessary traffic congestion which could result from on-street parking; and to encourage development and usage of off-street parking facilities.

(Ord. No. 2012-14, § 1, 12-10-2012)

Sec. 80-327. Off-street parking access and dimensions.

- (a) Any development providing off-street parking areas as an accessory use to a principal use shall ensure that a minimum of 75 percent of the total number of spaces are full-size and that a maximum of 25 percent are compact-size. Requirements for parking space dimensions are as follows:

| Minimum Full-Size Parking Space Dimensions | | |
|--|----------------|-----------------|
| Type of Space | Width of Space | Length of Space |
| Parallel to curb up to 29 degree angle | 8.5 feet | 22 feet |
| Angle of 30 degrees up to 60 degrees | 9 feet | 18 feet |
| Angle of 61 degrees up to 90 degrees | 10 feet | 18 feet |

| Minimum Compact-Size Parking Space Dimensions | | |
|---|----------------|-----------------|
| Type of Space | Width of Space | Length of Space |
| Parallel to curb up to 29 degree angle | 8 feet | 19 feet |
| Angle of 30 degrees up to 60 degrees | 8.5 feet | 15 feet |
| Angle of 61 degrees up to 90 degrees | 9 feet | 15 feet |

- (b) All parking facilities shall provide adequate interior passageways, drives, and maneuvering areas, as determined by the city engineer, to permit access to each parking space and to connect each space to a public street.

(Ord. No. 2008-10Z, exh. A, § 13.01, 8-25-2008; Ord. No. 2012-14, § 1, 12-10-2012)

Sec. 80-328. Handicapped parking provisions.

Parking spaces for the handicapped shall be required. Existing uses providing off-street parking shall have 12 months from date of adoption of the ordinance from which this section is derived to comply with handicapped parking requirements. New uses providing off-street parking shall incorporate handicapped spaces into the design of parking facilities.

Handicapped spaces shall be provided in accordance with the following scale:

Table 208.2 Parking Spaces

| Total Number of Parking Spaces Provided in Parking Facility | Minimum Number of Required Accessible Parking Spaces |
|---|--|
| 1 to 25 | 1 |
| 26 to 50 | 2 |
| 51 to 75 | 3 |
| 76 to 100 | 4 |
| 101 to 150 | 5 |
| 151 to 200 | 6 |
| 201 to 300 | 7 |
| 301 to 400 | 8 |
| 401 to 500 | 9 |
| 501 to 1,000 | 2 percent of total |
| 1,001 and over | 20, plus 1 for each 100, or fraction thereof, over 1,000 |

- (1) *Locations.* Accessible parking spaces serving a particular building shall be located on the shortest accessible route from parking to an accessible entrance. In parking facilities that do not serve a particular building, or buildings with multiple entrances, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.
- (2) *Dimensions.* Accessible parking spaces shall be at least nine feet wide with a minimum five-foot-wide access aisle. For van spaces, the width of the parking space shall be at least 11 feet wide with a minimum five-foot-wide access aisle. Parking access aisles shall be part of an accessible route to the building or facility entrance; two accessible parking spaces may share a common access aisle.
- (3) *Signs.* Accessible parking spaces shall be designated as reserved by a sign complying with chapter 7, section 703.7.2.1 of the 2010 ADA Standards which shows the symbol of accessibility. Such signs shall be located so that they cannot be obscured by a vehicle parked in that space.

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(Supp. No. 21, Update 3)

(Ord. No. 2008-10Z, exh. A, § 13.02, 8-25-2008; Ord. No. 2012-14, § 1, 12-10-2012)

Sec. 80-329. Location.

In the event required off-street vehicle parking cannot be reasonably accommodated on the same property on which the principal, building, structure or use is conducted, an administrative permit for off-site parking may be considered in accordance with the provisions of article IV.

(Ord. No. 2008-10Z, exh. A, § 13.03, 8-25-2008; Ord. No. 2012-14, § 1, 12-10-2012)

Sec. 80-330. Joint use of required off-street parking spaces.

The standards for shared parking may be utilized for any of the combinations of uses shown below on any number of properties when approval is reflected in the conditions of zoning for each such property. Similar provisions are provided under off-site and shared parking requirements in the use permits article for those uses which were not zoned concurrently or as part of a multiple use project. The conditions of zoning or use permit, as applicable, establish the limits of parking requirements among uses and properties, and the city shall not require any contractual relationship among property owners.

The standards for determining parking requirements in a multiple use development are:

- (1) Determine the minimum amount of parking required for each separate use.
- (2) Multiply each parking requirement by the corresponding percentage for each of the time periods given below.
- (3) Calculate the column total parking requirement for each time period.
- (4) The largest column total is the shared parking requirement.

| | Weekdays | | Weekends | | Nighttime |
|----------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|
| | 6:00 a.m.— 5:00 p.m. | 5:00 p.m.— 1:00 a.m. | 6:00 a.m.— 5:00 p.m. | 5:00 p.m.— 1:00 a.m. | 1:00 a.m.— 6:00 a.m. |
| Office | 100% | 10% | 10% | 5% | 5% |
| Retail | 60% | 90% | 100% | 70% | 5% |
| Hotel | 75% | 100% | 75% | 100% | 75% |
| Restaurant | 50% | 100% | 100% | 100% | 10% |
| Entertainment/recreational | 40% | 100% | 80% | 100% | 10% |
| Church | 50% | 50% | 100% | 100% | 10% |

EXAMPLE:

Properties proposed for individual uses would require the following number of parking spaces:

| | |
|---------------|------------|
| Office | 300 spaces |
| Retail | 280 spaces |
| Entertainment | 100 spaces |
| Total | 680 spaces |

Properties proposed for multiple uses under the provisions for shared parking would require the following number of parking spaces:

| | Weekdays | | Weekends | | Nighttime |
|---------------------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|
| | 6:00 a.m.— 5:00 p.m. | 5:00 p.m.— 1:00 a.m. | 6:00 a.m.— 5:00 p.m. | 5:00 p.m.— 1:00 a.m. | 1:00 a.m.— 6:00 a.m. |
| Office | 300 | 30 | | 15 | |
| Retail | 168 | 252 | 280 | 196 | 14 |
| Hotel | | | | | |
| Restaurant/entertainment/recreational | 40 | 100 | 80 | 100 | 10 |
| Total | 508 | 382 | 390 | 311 | 39 |

Thus, 508 spaces would be needed for this development, a reduction of 172 spaces or 25 percent.

(Ord. No. 2008-10Z, exh. A, § 13.04, 8-25-2008; Ord. No. 2012-14, § 1, 12-10-2012)

Sec. 80-331. Size and location of off-street loading spaces.

Each off-street loading space shall be a minimum of 15 feet in width and 60 feet in length and shall provide a vertical height clearance of 14 feet. The mayor and city council may reduce these requirements upon demonstration in specific instances that a particular loading space will be used exclusively by vehicles that may be accommodated by a loading space of smaller dimensions. In no case shall such a reduction result in a loading space of dimensions less than 12 feet in width and 45 feet in length. All required off-street loading spaces shall be located on the same lot as the building or use they are designed to serve, or on an adjacent lot, in those instances where joint use of a loading space with the use occupying that lot has been approved by the mayor and city council.

(Ord. No. 2008-10Z, exh. A, § 13.05, 8-25-2008; Ord. No. 2012-14, § 1, 12-10-2012)

Sec. 80-332. Setbacks from property lines.

Off-street parking and loading spaces, as well as all drives and maneuvering areas, shall be located a minimum of five feet from all property lines. Where those spaces and areas about off-street parking and loading spaces and drives and maneuvering areas, no such setback shall be required.

(Ord. No. 2008-10Z, exh. A, § 13.06, 8-25-2008; Ord. No. 2012-14, § 1, 12-10-2012)

Sec. 80-333. Off-street parking for drive-in establishments.

There shall be no drive-in establishment in which customers are served while located on a public right-of-way. Drive-in establishments which serve customers occupying automobiles parked off a public right-of-way shall provide adequate parking on the premises.

(Ord. No. 2008-10Z, exh. A, § 13.07, 8-25-2008; Ord. No. 2012-14, § 1, 12-10-2012)

Sec. 80-334. Continuing obligation to provide off-street parking facilities.

The provision of off-street parking and loading space applicable to new development, or necessitated by alterations to existing development, as required in this article shall be a continuing obligation of the owner of the real estate on which any such structure is located, so long as the structure is in existence and its use requiring vehicle parking or loading facilities continues. It shall be unlawful for an owner of any structure affected by this

article to discontinue, change, or eliminate, or to cause the discontinuance of or change the required vehicle parking or loading space apart from discontinuance, sale, or transfer of the structure, without establishing alternate vehicle parking or loading space in compliance with this article. It shall also be unlawful for any person to use that structure without providing vehicle parking or loading space in conformance to this article.

(Ord. No. 2008-10Z, exh. A, § 13.08, 8-25-2008; Ord. No. 2012-14, § 1, 12-10-2012)

Sec. 80-335. Use of off-street parking areas.

No off-street parking area may be used for the sale, repair, and dismantling, servicing, or long-term storage of any vehicle or equipment unless permitted by the zoning district in which the area is located.

(Ord. No. 2008-10Z, exh. A, § 13.09, 8-25-2008; Ord. No. 2012-14, § 1, 12-10-2012)

Sec. 80-336. Landscape requirements for vehicle use areas.

- (a) *Intent.* The intent of this section is to create areas for landscaping and natural plant growth for developments on which off-street parking, open lot sales, displays and service areas are provided. The objective is to improve and protect the development's appearance, environmental quality and property values, thereby promoting public health, safety and welfare.
- (b) *Review procedures.* All developments, except single-family and two-family developments, are subject to the following review procedures:
 - (1) *Permit requirements.* No building, grading, site development or tree removal permit shall be issued until approval of the required landscape plan has been granted.
 - (2) *Landscape requirements.* All vehicle use areas subject to these regulations shall provide and maintain the following perimeter and interior landscaped areas:
 - a. *Perimeter landscape areas.* All vehicle use areas shall provide a perimeter landscape area with no horizontal dimension less than five feet. All perimeter landscape areas shall provide a minimum of one tree for every 250 square feet of landscape area or fraction thereof.
 - 1. Perimeter landscape areas abutting a public street right-of-way shall have a minimum dimension of ten feet from the right-of-way line to the vehicular use area. All areas of public roadway right-of-way shall be grassed. The vision clearance at corners requirements of this chapter shall also be met.
 - b. *Interior landscape areas.* An area or combination of areas equal to ten percent of the total vehicle use area, exclusive of perimeter landscape areas, shall be dedicated to interior landscaping. All interior landscape areas shall have a minimum horizontal dimension of ten feet. A minimum of one tree for every 250 square feet or fraction thereof of interior landscape area shall be provided. For any parking area that is designed for more than ten vehicles, the plan must provide for landscaped islands and/or peninsulas at least ten feet in width so that no more than 12 adjacent parking spaces exist without a landscaped separation.
 - c. *Modifications to landscaping requirements.*
 - 1. In cases where proposed innovative designs, landscape techniques and site amenities are demonstrated which address the intent of this article, the strict requirements of this section may be waived by the planning and zoning commission.
 - 2. In cases where healthy plant materials exist, the requirements of subsections (b)(2)a. and (b)(2)b. may be adjusted to allow credit for the preservation of such existing plant

materials. The planning and zoning commission shall ensure that the intent of this section is met and may approve any such adjustments.

3. *Landscape installation requirements.* All landscaping shall be installed in accordance with sound planting practices.
- (i) *Plant materials.* All plant materials shall be of a species known for its ability to withstand harsh parking lot conditions.
 - A. *Trees.* All understory trees shall attain an average crown spread exceeding 15 feet at maturity. All canopy trees shall attain an average crown spread exceeding 30 feet at maturity. All tree species shall be capable of surviving the pruning of all limbs to a height of five feet and shall have a minimum of five feet clear trunk upon installation.
 - B. *Shrubs.* All shrubs to be planted in perimeter and interior landscape areas shall be a minimum of one-foot in height at the time of planting. All shrubs to be planted in perimeter and interior landscape areas shall be permanently maintained at a maximum height of three feet.
 - C. *Lawn grasses and groundcovers.* Grassed areas shall be sodded. Grass sod shall be clean and reasonably free of weeds and noxious pests or disease. Ground covers which present a finished appearance and reasonably complete coverage at the time of planting may be used.
 - D. *Existing plants.* Existing living plants to be retained shall be protected in accordance with chapter 74.
 - (ii) *Earthwork.* Earth berms shall be of variable height and slope (not to exceed 3h:1v). Swales and ponds shall be permitted for on-site retention of stormwater, provided these features are approved by the city engineer.
 - (iii) *Paving.* Paving (other than walks) shall not be permitted within required landscape areas. Landscape area calculations shall not include area given over to walks.
 - (iv) *Encroachment.* Landscape areas, walls, structures and walks shall be protected from vehicle parking encroachment by utilizing curbs, wheel stops, bollards or other acceptable devices. These devices shall be placed a minimum of 2½ feet from all landscape areas, walls, structures and walks.
 - (v) *Planting bed.* The planting beds for all landscape materials shall be free of weeds, debris, and noxious materials and shall be comprised of a healthy planting medium. Planting bed soil shall provide adequate support, drainage, and soil nutrients for the plants.
 - (vi) *Permanent maintenance.* The owner or his agent shall be responsible for permanently maintaining all landscaping in good condition to present a neat, healthy and litter-free condition. All landscape areas shall contain a sprinkler system or readily available water supply with a minimum of one water outlet within 50 feet of all plant materials. The owner shall immediately replace all plant materials that does not survive. The landscaping will be subject to inspection by the code enforcement officer who will ensure the integrity of the landscape plan.

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4. *Review of landscape plan.* The director of planning shall review all landscape plan submitted in conjunction with any proposed development and approve such plans, or approve the plans subject to any modification.
 5. *Certification of compliance.* All development sites shall be inspected for compliance to the approved landscape plan upon completion of all site development work. A certificate of compliance must be issued prior to a certificate of occupancy being issued for any related structures. In cases where occupancy of a related structure is proposed prior to completion of the required landscaping, a temporary certificate of occupancy may be issued provided the owner presents a financial guarantee in an amount equal to 110 percent of the total cost of the landscape improvements indicated on the approved landscape plan. Such financial guarantee must be in a form acceptable to the city attorney.

(Ord. No. 2008-10Z, exh. A, § 13.10, 8-25-2008; Ord. No. 2012-14, § 1, 12-10-2012; Ord. of 10-28-2019(1))

Sec. 80-337. Off-street parking requirements.

- (a) Unless explicitly exempted by this chapter, areas suitable for parking automobiles in off-street locations shall be required in all zoning districts for any permitted use. Such off-street parking areas shall have direct access to a street or drive open to public use and shall be provided and maintained in accordance with the requirements of this section. These requirements are intended to meet minimum needs. Every property owner must determine his actual needs and provide whatever spaces may be necessary beyond these minimums to remain in full compliance with the provisions of this chapter. Worker shift change peaking and projected growth must be considered when determining parking requirements.
- (b) Off-street parking, storage, standing and loading space shall be provided according to the following schedule:
 - (1) All residential development shall provide two spaces per dwelling unit. Parking or storage of such vehicles as RVs, boats, semi-tractors or school buses in the front yard shall be prohibited. In single-family residential zoning districts, parking in the front yard is allowed for each dwelling unit only within a hard-surfaced driveway (i.e., asphalt, concrete, gravel, or if approved by the city engineer, a turf-reinforced driveway). No parking shall be allowed in grass or lawn areas.
 - (2) Retail and commercial uses shall provide one space for each 200 square feet of enclosed commercial space which is available to the public.
 - (3) Office uses, including financial and banking institutions, shall provide one space for each 250 square feet of gross floor area.
 - (4) Hotels and motels shall provide one space for each guestroom, plus one space for every two employees, plus one space for every 200 square feet of commercial area available to the public.
 - (5) Restaurants, cafeterias, nightclubs, taverns, and similar establishments shall provide the larger of one space per 100 square feet of gross floor area or one space for every three seats for customers, plus one space for every two employees on the shift of greatest employment.
 - (6) One space shall be provided for the largest of every four seats or for each 25 square feet of floor area available for chairs in the largest assembly room in the auditoriums or stadiums of schools and public buildings, places of worship or other locations of public assembly.
 - (7) Homes for the aged, rest homes, and similar institutions shall provide one space for each resident or patient, plus one space for each employee.

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- (8) Hospitals, outpatient clinics, convalescent homes, nursing homes, and other health care facilities shall provide one space for every three beds, plus one for every two employees and one space for every staff or visiting doctor.
 - (9) Dental offices, doctor's offices, veterinary offices, clinics and similar operations shall provide, one space for each 300 square feet of gross floor area.
 - (10) Research laboratories shall provide one space for every 500 square feet of office area and one space for every 1,000 square feet of laboratory area.
 - (11) Colleges and trade and vocational schools shall provide the larger of eight spaces for each classroom or one space for every 200 square foot of classroom, plus one space for every two employees or administrative personnel.
 - (12) Public and private secondary schools shall provide the larger of ten spaces for each classroom or one space for every 35 square feet in largest assembly room, plus one space for every two employees or administrative personnel.
 - (13) Public and private elementary schools shall provide the larger of two spaces for each classroom or one space for every 35 square feet in largest assembly room, plus one space for every two employees or administrative personnel.
 - (14) Kindergarten, day care centers, and nursery schools shall provide one space for each employee, plus an area sufficient for the safe and convenient loading and unloading of students.
 - (15) Personal service establishments such as barbershops and hair salons shall provide one space for each 200 square feet of gross floor area, but not less than two spaces per employee.
 - (16) Convenience stores shall provide six spaces for each cash register.
 - (17) Automobile repair shops shall provide one space for each 150 square feet of gross floor area.
 - (18) Automobile dealers shall provide one space for each 250 square feet of gross floor area.
 - (19) Automobile service stations shall provide three spaces for each service bay, with a minimum of five spaces required.
 - (20) Self-service gasoline stations shall provide three spaces.
 - (21) One space shall be provided for the larger of every employee of the largest shift of any industrial use or similar establishment or one space for every 1,000 square feet of gross floor area devoted to factory production, plus one space for every 2,000 square feet of gross storage area and one space for each vehicle used directly in the conduct of the business. One space shall also be provided for every 100 square feet of floor space used for incidental accessory uses, e.g., administrative offices.
 - (22) One standard size parking space shall be provided for every 2,500 square feet of floor space used for warehousing or storage for the first 150,000 square feet, plus one space per 7,500 square feet for that portion over 150,000 square feet. One oversized space shall be provided for every 5,000 square feet of gross warehouse space for truck parking. Parking for office areas comprising less than ten percent of the total square footage of the building shall be included in this calculation. Office area over ten percent shall be calculated at the rate for office uses.
 - (23) Salvage, storage, or junkyards shall provide one space per employee, plus four spaces for each acre of yard.
 - (24) Wholesale establishments shall provide one space per employee, plus sufficient spaces to accommodate vehicles used in the conduct of the business.

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- (25) Mini warehouses shall provide one space per 5,000 square feet of gross storage area, plus one space for every employee.
 - (26) Recycling centers shall provide one space for each 200 square feet of floor area, plus one space for every 500 square feet of lot area.
 - (27) Lodges and fraternal or social organizations shall provide one space for each 100 square feet of gross floor area.
 - (28) Dance schools shall provide one space for each employee, plus one space for every 150 square feet of gross floor area plus an area adequate for the safe and convenient loading and unloading of students.
 - (29) Theaters, auditoriums, funeral homes, gymnasiums, stadiums and other places of assembly shall provide the larger of one space for each four fixed seats, one space for each 25 square feet of floor area available for chairs in the largest assembly room, or one space for every 150 square feet of gross floor area.
 - (30) Indoor recreation facilities, such as billiard halls, game rooms, video arcade, skating rinks, fitness centers, and private clubhouses shall provide one space for every four seats or for each 150 feet of commercial square footage available to the public.
 - (31) Bowling establishments shall provide two spaces for each lane, plus one space for each 200 square feet of commercial space available to the public.
 - (32) Golf courses, neighborhood recreation centers or similar uses shall provide one space for every 200 square feet of gross floor area, plus one space for every ten seats in an assembly area with fixed seats. All such uses shall provide a minimum of 20 spaces. Eighteen-hole golf courses shall provide a minimum of 40 spaces. Other outdoor recreational facilities shall provide parking according to the following schedule:
 - a. Tennis courts: Three spaces per court.
 - b. Basketball courts: Four spaces per court.
 - c. Playing fields: One space for every 2,000 square feet of field.
 - d. Driving ranges: Two spaces per tee.
 - e. Miniature golf: Twenty spaces per 18 holes.
 - f. Swimming pools: One for every 100 square feet of water surface area.
 - (33) Outdoor festivals shall provide two spaces for each 1,000 square feet of ground area available to the public.
 - (34) Riding stables shall provide one space for each employee and one space for every animal that can be accommodated in the stable.

(Ord. No. 2008-10Z, exh. A, § 13.11, 8-25-2008; Ord. No. 2012-14, § 1, 12-10-2012; Ord. No. 2015-11, § 1(Exh. A), 7-27-2015; Ord. of 10-28-2019(1))

Sec. 80-338. General requirements.

- (a) A reduction of no more than ten percent of the minimum number of off-street parking spaces required may be approved by the director of planning upon written request. In all instances, the minimum number of off-street parking spaces provided shall be equal to the number required to accommodate all normally anticipated customers, employees and other needs of the establishment.

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- (b) Off-street parking requirements for properties containing more than one use shall calculate the requirement for each use separately as provided in this section. The total of these calculated requirements shall constitute the parking requirement for that property.
 - (c) There shall be no requirement for off-street parking spaces in the central business district as defined by the DTMU historic downtown commercial district zoning designation.

(Ord. No. 2008-10Z, exh. A, § 13.12, 8-25-2008; Ord. No. 2012-14, § 1, 12-10-2012; Ord. of 10-28-2019(1))

Sec. 80-339. Off-street loading space.

- (a) One loading space shall be provided for each 10,000 square feet of building area. Loading spaces for specific use categories shall be provided according to the following schedule:

Retail and commercial businesses with more than 2,000 square feet of gross floor area, one space for every 25,000 square feet.

Industrial uses: One space for the first 25,000 square feet and according to the following thereafter:

- (1) 25,000 to 99,000 square feet: A total of two spaces;
 - (2) 100,000 to 159,999 square feet: A total of three spaces;
 - (3) 160,000 to 239,000 square feet: A total of four spaces;
 - (4) 240,000 to 349,999 square feet: A total of three spaces;
 - (5) For each additional 100,000 square feet or fraction thereof above 350,000 square feet, one additional loading space shall be required.
- (b) All uses, whether or not specified in this article, shall provide off-street loading areas sufficient to meet their requirements. Off-street loading requirements shall be met without using any portion of any public street right-of-way.

(Ord. No. 2008-10Z, exh. A, § 13.13, 8-25-2008; Ord. No. 2012-14, § 1, 12-10-2012)

Secs. 80-340—80-364. Reserved.

ARTICLE X. BUFFERS AND OPEN SPACE

Sec. 80-365. Definitions.

Buffer. A portion of a tract which is permanently set aside to provide a perceived or actual visual (or horizontal spatial) separation between the use on the tract and abutting tracts through the use of natural vegetation or other means including replanting or the provision of supplemental plantings or other visual screening elements or noise attenuation devices. Buffers shall remain undisturbed except as required to implement landscape enhancement.

Open space. A portion of a site which is permanently set aside for public or private use and will not be developed. The space may be used for passive or active recreation or may be reserved to protect or buffer natural areas. Open space may include wooded areas other than required landscape strips and buffers, pathways/walkways, fields and sensitive environmental areas such as wetlands, etc. Detention facilities and platted residential lots shall not be included in open space calculations.

(Ord. No. 2012-14, § 1, 12-10-2012)

Sec. 80-366. Purpose.

Buffers are intended to protect adjacent or other properties from potential nuisances associated with neighboring uses and to protect the public from unsightly views along public rights-of-way. Such nuisances may include dust, litter, odor, noise, glare, and unsightly buildings, uses or parking areas. They are further intended to preserve and enhance the aesthetic qualities, character, privacy, and land values of property within the city. Buffers may also be required by zoning conditions or other formal approvals.

(Ord. No. 2008-10Z, exh. A, § 14.01, 8-25-2008; Ord. No. 2012-14, § 1, 12-10-2012)

Sec. 80-367. Location.

Buffers shall be located along the common property lines between abutting zoning districts. Buffers shall be placed on the more intense zoning district and shall be required even if the abutting property is unimproved land. (Generally, industrially zoned districts are considered to allow more intense uses and single family residential less intense uses.) Property zoned R-CT, RM-12, RM-36, M-1 and M-2 shall have a 25 feet buffer along all public right-of-way. No buffer shall be located on, nor any portion thereof credited for, any portion of an existing public or private street right-of-way.

(Ord. No. 2008-10Z, exh. A, § 14.02, 8-25-2008; Ord. No. 2012-14, § 1, 12-10-2012, 10-28-2019; Ord. of 10-28-2019(1))

Sec. 80-368. Use of buffers.

A buffer may be used for passive recreation; however, no plant material may be removed from any required buffer, except as provided for in section 80-36980-370 associated with buffer maintenance.

(Ord. No. 2008-10Z, exh. A, § 14.03, 8-25-2008; Ord. No. 2012-14, § 1, 12-10-2012; Ord. of 10-28-2019(1))

Sec. 80-369. Buffers part of required yards.

Buffers may be established within the required front, side or rear yard and the dimension of the buffer shall be credited toward the required yard dimension. However, no land disturbing activity may occur in the buffer except as required to implement landscape enhancement.

(Ord. No. 2008-10Z, exh. A, § 14.04, 8-25-2008; Ord. No. 2012-14, § 1, 12-10-2012)

Sec. 80-370. Buffer maintenance.

- (a) Buffers are considered as permanent improvements and shall be permanently maintained in the same manner as buildings, parking facilities and utility structures. All plant material, fencing and earth berms depicted on the approved plans for any development shall be maintained or replaced to reflect the approved plans. Any degradation in the effectiveness of the approved buffer shall be considered a violation of this chapter.
- (b) Natural buffers comprised of existing plant materials shall be preserved during site construction, and conform to standards established for the district as provided herein. All such plants to be preserved shall be protected in accordance with chapter 74, Landscaping.

(Ord. No. 2008-10Z, exh. A, § 14.05, 8-25-2008; Ord. No. 2012-14, § 1, 12-10-2012; Ord. of 10-28-2019(1))

Sec. 80-371. Buffer standards.

Buffers shall afford the maximum level of buffering necessitated by the land uses adjoining the required buffer. All buffers shall provide complete visual obstruction of the adjoining property. If the buffer area cannot achieve this level of obstruction in its natural state, landscape enhancement shall be required. Visual obstruction shall occur through the use of existing or provided evergreen plant material having the ability through its varietal height, shape and/or density to obstruct visibility through the buffer area from ground level to a height of 12 feet. Buffers shall attain satisfactory achievement of complete visual obstruction within two years of planting. Any landscaping shall be in accordance with chapter 74, Landscaping.

Buffer requirements may be expanded where circumstances of topography or other factors render normal buffers ineffective.

(Ord. No. 2008-10Z, exh. A, § 14.06, 8-25-2008; Ord. No. 2012-14, § 1, 12-10-2012; Ord. of 10-28-2019(1))

Sec. 80-372. District buffer standards.

Minimum required buffer width by zoning district:

When R-CT, RM-12, RM-36 or O&I zoned properties abut a single-family residential district, DTMU zoned property; a 25 feet buffer shall be required.

When C-1, C-2, M-1, or M-2 zoned properties abut all other zoning districts; a 50 feet buffer shall be required.

(Ord. No. 2008-10Z, exh. A, § 14.07, 8-25-2008; Ord. No. 2012-14, § 1, 12-10-2012, 10-28-2019; Ord. of 10-28-2019(1))

Sec. 80-373. Open space reservation.

(a) Development projects which, by virtue of density or extent, have the potential to remove significant areas of open space from the natural environment shall reserve a minimum percentage of the project's land area as open space. The purpose of this reservation is two-fold:

- (1) The first purpose is related to the rural character of the city as a resource, which has attracted residents. As is true of many rural areas, intensive development tends to spoil much of the resource originally responsible for that growth. Therefore, in order to protect the city's quality living environments, all development of sites in R-CT, RM-12, RM-36, O&I, and P&O districts shall preserve open areas according to the following formula:
 - a. Projects which disturb areas of open space greater than one-acre shall retain a minimum of 30 percent of the gross site acreage in permanent open space.
 - b. Projects which disturb areas of open space greater than one-acre and provide a variety of site amenities, including but not limited to walking paths or trails, benches, lighting, picnic areas, and recreation facilities, shall retain a minimum of 20 percent of the gross site acreage in improved open space.
 - c. Projects which disturb areas of open space greater than one acre and provide site amenities consistent with the provisions of subsection (a)(1)b., and link those areas to similar areas on

adjoining property which currently exist or could reasonably be utilized as open space, shall retain a minimum of ten percent of the gross site acreage in improved open space.

(2) The second purpose of the open space reservation is related to the storm drainage pattern of the city. As a rural community, the city relies on surface runoff systems, and has no significant infrastructure in storm drainage. This system depends on a great deal of porous surfaces and open areas to function properly. The cost of construction of a storm drainage utility system is prohibitive. As a result, the city must protect its open areas and natural storm drainage system. This protection will be achieved through enforcement of the provisions of this section in all development projects proposed for R-CT, RM-12, RM-36, O&I, and P&O districts on sites greater than one acre.

- (b) Projects which alter the site's natural drainage system by grading an area greater than 50 percent of the gross acreage of the site, or by installing drainage structures requiring piping above 18 inches in diameter shall retain 30 percent of the gross acreage in open space.
- (c) Projects which preserve natural drainage swales and associated areas in permanent, natural settings shall retain 20 percent of the gross acreage in open space.
- (d) Projects which preserve natural drainage swales and associated areas in permanent, natural settings, and which are linked to natural drainage routes on adjoining properties, shall retain ten percent of the gross acreage in open space.
- (e) Acreage on development sites affected by this section encompassed by natural water features, floodplains or areas preserved as greenbelts or wetlands may be credited toward the open space reservation. The requirements of this section are, however, in addition to those required under article IX.
- (f) Required yard areas are not credited toward the open space reservation.

(Ord. No. 2008-10Z, exh. A, § 14.08, 8-25-2008; Ord. No. 2012-14, § 1, 12-10-2012; Ord. of 10-28-2019(1))

Secs. 80-374—80-402. Reserved.

ARTICLE XI. ADMINISTRATION AND ENFORCEMENT

Sec. 80-403. Director of planning—Responsible for administration of chapter.

The director of planning shall administer the provisions of this chapter.

(Ord. No. 2008-10Z, exh. A, § 15.01, 8-25-2008; Ord. of 10-28-2019(1))

Sec. 80-404. Same—Duties.

The director of planning shall report to the city administrator and shall be responsible for the following duties:

- (1) Ensure that all provisions of this chapter are properly enforced.
- (2) Review development and construction plans for compliance with this chapter.
- (3) Process applications required by this chapter.
- (4) Interpret the provisions of this chapter.
- (5) Ensure the public notices are properly posted.

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- (6) Maintain the records associated with the administration of this chapter.
 - (7) Provide staff assistance to the planning and zoning commission and city council on zoning matters.
 - (8) Perform such other duties as may be required to properly administer this chapter.

(Ord. No. 2008-10Z, exh. A, § 15.02, 8-25-2008; Ord. of 10-28-2019(1))

Sec. 80-405. Penalties.

Any person found violating the provisions of this chapter shall be subject to fines and penalties to be determined by the judge of the municipal court as provided in this Code, and each day's continuation of a violation shall be considered a separate offense.

(Ord. No. 2008-10Z, exh. A, § 15.03, 8-25-2008)

Sec. 80-406. Remedies.

If it is found that any property in the city is being used, or is proposed to be used, in violation of this chapter, the director of planning shall institute appropriate action to prevent such unlawful use or abate such violation.

(Ord. No. 2008-10Z, exh. A, § 15.04, 8-25-2008; Ord. of 10-28-2019(1))

Secs. 80-407—80-425. Reserved.

ARTICLE XII. SIGN REGULATIONS⁸

DIVISION 1. GENERALLY

Sec. 80-426. Short title.

This article shall hereafter be known and cited as the "sign ordinance".

(Ord. No. 2013-08, § 1(exh. A), 6-10-2013)

Sec. 80-427. Definitions.

- (a) For purposes of this chapter, certain words are hereby defined. Words used in the present tense shall include the future, the singular shall include the plural, and the plural shall include the singular. The word "shall" is mandatory and not discretionary. The word "person" includes a firm, corporation, association, trust or

⁸Editor's note(s)—Ord. No. 2013-08, § 1(exh. A), adopted June 10, 2013, repealed former Art. XII, §§ 80-426—80-444, in its entirety and enacted a new Art. XII. In order to facilitate the grouping of related subject matter the editor has created two divisions out of the provisions added by Ord. No. 2013-08 and renumbered sections accordingly. Former Art. XII pertained to similar subject matter and derived from Ord. No. 2008-10Z, exh. A, §§ 17.01—17.19, adopted Aug. 25, 2008.

partnership or other entity. The word "city" shall mean the City of Fairburn, Georgia. Any words not specifically defined herein shall be defined as stated in section 80-4 Definitions.

(b) Unless otherwise indicated, the following words and terms shall have the meaning ascribed herein:

Advertising device means any structure or device erected or intended for the purposes of displaying advertising or any object for attracting attention situated upon, above, or attached to real property.

Animated sign means any sign, or attention-getting device, with action, motion, changing colors or lighting, or having characteristics that require electrical or mechanical energy, including wind-activated elements such as spinners and aerial devices, to depict action or create a special effect or scene. An electronic or digital billboard/sign/message board is not an animated sign for purposes of this article. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not an animated or changeable copy sign for purposes of this article.

Architectural enhancement means the architectural embellishment of property, the placement of works of art, or special landscape treatments such as parks, plazas, fountains or atriums. Architectural enhancement may be an integral part of the building, situated outside the building, may be located near government facilities, or may be located in other public places where the City of Fairburn community will be benefited in the determination of the committee.

Area of sign. Only one face of a double-faced sign, as defined herein, bearing identical copy on each side shall be used in computing the area, otherwise both sides shall be used in computing area.

- (1) *Freestanding sign.* The area of a freestanding sign shall mean and shall be computed as the entire area within a continuous perimeter, enclosing the limits of all writing, representation, emblem, or any figure or similar character, together with any frame, other material, open space, or color forming an integral part of the display or used to differentiate such sign from the background upon which it is placed. The supports or structure upon which any sign is supported shall be included in determining the sign area whenever such supports are designed in such a manner as to form an integral part of the display; however, provided that the area of the frame shall not be included in computing the area when the frame is composed of stone or brick and provided the frame contains or has attached no copy, words, writing, letters, or advertisement, but may not be internally illuminated, and provided that the surface area of the frame that is parallel to the display of the sign is no greater than 100 percent of the area of the sign displayed.
- (2) *Wall sign/building sign.* The area of a wall sign shall mean and shall be computed using the smallest contiguous square, circle, rectangle, triangle, or combination thereof, that would encompass the external limits of the writing, representation, emblem, or other display, together with any material or color forming any integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed. When a wall sign is formed by placing individual letters, numbers, or figures on the wall, without a distinguishing background, the area shall be determined by a contiguous perimeter drawn around all letters, numbers, figures, trademark, or other symbols, enclosing the limits of writing. Any letters, numbers, figures, trademarks, or graphics separated by 36 inches or more shall be considered two separate signs.
- (3) *Monument sign.* The area of a monument sign shall mean and be computed as the entire area within a continuous perimeter enclosing the limits of writing, representation, emblem, or any figure or similar character, with any frame, other material, open space, or color forming an integral part of the display or used to differentiate such signs from the background upon which it is placed. The supports or structure upon which a monument sign shall be included in determining the sign area whenever such supports are designed in such a manner as to form an integral part of the display; provided, however, that the area of the frame shall not be included in computing the area of the sign when the frame is composed of stone or brick and provided the frame contains or has attached no copy, words, writing, letters, or advertisement, although one trademark, insignia, coat of arms, or other similar identifying

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mark may be affixed to the frame, but may not be internally illuminated, and provided that the surface area of the frame that is parallel to the display of the sign is no greater than 100 percent the area of the sign displayed; and provided that the monument sign is no higher than six feet.

- (4) *Three-dimensional sign.* The area of a three-dimensional sign shall be determined by a contiguous perimeter drawn around the three dimensional sign enclosing the limits of the three dimensional sign; said perimeter to be drawn around the vertical plane through the sign which creates the perimeter with the largest area. The three-dimensional sign shall be treated as a double sided sign for purposes of sign area; therefore, the area of the above described perimeter shall be doubled, which product shall be the area of the sign for purposes of this sign ordinance.

Awning means any sign, symbol, trademark or other message that is part of, or attached to a roof-like structure, made of canvas or other fabric, plastic or other structural protective cover over a door, entrance, or window of a building. Awning signs are prohibited, except see subsection 80-431(b)(7), Highway 29 overlay district signs.

Banner means a sign with or without characters, letters, illustrations, or ornamentation, applied to cloth, paper, plastic or fabric of any kind with only such material for backing, the same being characteristically mounted from temporary ground supports, hung or displayed against building surfaces or suspended in midair at both ends across streets, passageways, and other areas visible to the general public. See special temporary signs.

Beacon means any light with one or more beams directed into the atmosphere or directed at one or more points not on the same-zoned lot as the light source, and any light with one or more beams that rotate or move. Beacons are prohibited.

Bench sign means any sign attached to or painted upon a bench or other seat placed in the public view and meant to be for public use or viewing. Bench signs are prohibited.

Billboard means a sign which may be supported by a pole structure, with an area of more than 72 square feet but not more than 672 square feet, on parcels adjacent to I-85 as located within the city limits of Fairburn.

Building face projection means the façade area of a building, generally parallel to the street, excluding roofs, covered sidewalks, or façade areas which are perpendicular to the street. For applicants located in a planned center, the building face projection shall be that portion of the façade that the applicant occupies. For applicants located on a corner lot with entrances on the front and side of the building, the building face projection shall be both the front and side vertical façade area of the building, generally parallel to the street, excluding roofs, covered sidewalks, or façade areas which are perpendicular to the street.

Building line means a line established in general, parallel to the front street line, between which line and the street no part of a building shall project.

Building sign. See wall sign.

Canopy sign means a sign imposed or painted upon any permanent roof-like structure extending over a driveway, vehicle access area, or gas service station. Such signs may be mounted flush or suspended.

Changeable copy sign means a sign or portion thereof on which copy may be changed or rearranged manually in the field, or boards or backgrounds upon which changeable letters may be placed, without altering the face or the surface of the sign. A changeable copy sign message may be changed one time per day.

Designated agent means a person who is licensed as a real estate broker or salesperson by the State of Georgia, and who is contracted with the owner(s) of land to sell, lease or manage said land or parts thereof.

Double-faced sign means a sign which has two display areas against each other or where the interior angle formed by the display areas is 60 degrees or less, where one face is designed to be seen from one direction and the other face is designed to be seen from a different direction.

Driveway means a private road giving access from a public way to a house, garage, or other building on abutting grounds.

Electronic or digital billboard means a sign that incorporates a technology or method that allows for multiple messages on one structure without physically or mechanically replacing sign face or its components. Electronic or digital billboards generally take the form of large LED, LCD, plasma or other similar type panels, screens or displays, which function like giant TV screens, and show advertisements that change intermittently by computer controller, microprocessor controller or by remote control.

Electronic or digital sign/message board means a sign that incorporates a technology or method that allows for one or multiple messages on one structure without physically or mechanically replacing sign face or its components. Electronic or digital signs/message boards generally take the form of LED, LCD, plasma or other similar type panels, screens or displays, which function like TV screens, and show messages that change intermittently by computer controller, microprocessor controller or by remote control.

Entrance sign means any monument sign placed at the intersection of a public street and a private entryway into an apartment complex, or condominium complex.

Erect means to build, construct, attach, paint, hang, place, replace, suspend, or affix or fabricate a sign, which shall also include painting of wall sign or other graphics.

Exposed neon means neon tubing left uncovered or exposed to view on exterior of structure or a building. Exposed neon is prohibited.

Fall zone means an area equal to 133 percent of the height of the structure in every direction from the center of the support structure or pole at its base.

Feather flag sign means a sign in the shape of a feather or banana that is a part of, or attached to, a pole. Generally, feather flag signs are prohibited.

Flag means any fabric or bunting containing distinctive colors, patterns, or symbols that is part of or attached to a pole.

Flag sign means flag or flags on a pole, but does not include "feather flag" signs. Flag signs are exempt from permitting requirements.

Flashing sign means a sign, the illumination of which is not kept constant in intensity at all times when in use, and which exhibits marked changes in lighting effects, or displays visible movement achieved by electrical, electronic or mechanical means, or displays an optical illusion of movement by means of a design that presents a pattern capable of giving the illusion of motion or changing of copy, or with lights or illuminations that flash, move, rotate, scintillate, blink, flicker, or vary intensity or color. Illuminated signs shall not be considered as flashing signs. Flashing signs are prohibited except for authorized public safety uses.

Freestanding sign means a permanently ground-mounted, affixed sign that is not a monument sign, typically elevated by a pole, column, pylon, or other vertical support, which is wholly independent of a building for support.

Height of a freestanding sign or monument sign means the vertical distance from the base of the sign at normal grade to the top of the highest component of the sign. Normal grade shall be the predominant grade after construction, exclusive of any filling, berming, mounding or excavating for the purpose of locating or elevating the sign. Base shall be where the sign support meets, or should meet, the normal grade.

Illuminated sign, external means a sign illuminated by an external light source not mounted to the sign and directed toward such sign.

Illuminated sign, internal means a sign illuminated by an internal light source behind the sign face which conceals the light source. An electronic or digital sign/message board or billboard is not an internally illuminated sign for purposes of this article.

Landscape wall sign means a sign consisting of individual letters mounted on a screen or perimeter wall which may be attached or detached from a building, but which is architecturally integrated with the overall development.

Lot means a platted parcel of land which meets all requirements of the city, including zoning and subdivision requirements, for a legally developable lot for the zoning district in which it is located, meets all of the minimum size, dimension, road frontage and other requirements for a developable lot within its zoning district, and which may be developed or used for purposes consistent with those permitted within its zoning district.

Mobile sign means any sign which is mounted or designed for mounting on wheels, or which is mounted or designed for mounting on a towed vehicle. Mobile signs are prohibited.

Monument sign means a permanently affixed sign mounted directly upon the ground, not raised by vertical supports, and independent from any building or other structure. A monument sign may include individual letters, numbers, figures mounted on a surface composed of stone, brick, or other permanent structures. The supporting structure must rest on the ground.

Multiple frontage lots means those lots that have frontage on two or more public streets.

Neon means a lamp or tube filled with electrically charged gas thereby creating a light source. Neon is prohibited.

Neon accents means neon lighting around windows (inside or outside the window), building façades, rooflines, doors, signs, and other building structures, building projections or designs upon buildings. Neon accents are prohibited.

Non-residential zoning means a lot zoned for commercial, office, retail, professional, industrial, and institutional or government use, including PS and PD zoning. For purposes of this chapter those lots zoned for mixed residential and commercial use shall be considered "non-residential zoning."

Nonconforming sign means signs, which, on June 24, 1968, the effective date of the original sign ordinance, which were approved or legally erected under previous sign restrictions, and which became or have become nonconforming with respect to the requirements of the original sign ordinance or this chapter.

Obscene means obscene material as defined by O.C.G.A. § 16-12-80 and as may be amended or superseded or judicially interpreted from time to time.

Outparcel means a lot carved from a planned center which is in compliance with all city requirements and ordinances for legal stand-alone lot on which a freestanding building is constructed which building meets all city setback requirements.

Pennant and streamers mean any lightweight plastic, fabric, or material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind as a means of attracting attention. May also be several small flags connected to a single line. See spectacular signs. Pennants and streamers are prohibited.

Planned center, office, commercial, or industrial means a group of two or more retail stores, service establishments, offices, industrial buildings, or any other businesses, or combination thereof, consisting of individual buildings or units which are adjacent or abutting one another, and which are planned to serve the public, and which share common amenities or common area, sidewalks, parking areas or driveways, excepting outparcels.

Portable sign means any sign which is not permanently affixed or attached to the ground or other permanent structure, including, but not limited to, signs mounted, painted, attached to, or affixed on vehicles parked in such a manner as to serve the purpose of an advertising device, or not routinely parked at the immediate premises of the business or entity indicated, advertised or identified by said sign, unless said vehicle is used in the normal, day-to-day operations of the business. Portable sign also means signs designed to be transported, including, but not

limited to, signs designed to be transported by means of wheels; signs converted to A-frames or T-frames; menu and sandwich board signs; balloons used as signs; air and gas filled devices used as signs; and umbrellas used for advertising. Portable signs are prohibited, except for authorized public safety use and see subsection 80-431(b)(7), Highway 29 overlay district signs.

Principal building means a building in which the primary use of the lot on which the building is located is conducted.

Private drive means a privately maintained street, whose primary function is to provide access to three or fewer properties.

Public art or enhancement ("PAE") means architectural enhancement, special landscape treatment, works of art, or streetscape as defined in this section and are not "signs" as defined in this section.

Public view means within the natural visual range of an individual on a public street, private street, sidewalk, or parking lot adjacent to real property.

Roof integral sign means any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

Roof sign means any sign, graphic, or advertising device erected or maintained wholly or partially on or over the roof of a building. This requirement does not include those signs that may be mounted on parapets or mansards, which may extend above the roofline. Roof signs are prohibited.

Setback means the distance from the property line to the nearest part of the applicable building, structure, or sign, measured from the property line to that portion of the building, statutory or sign which is most proximate to such line.

Shopping center means a planned center.

Sidewalk, sandwich sign, or A-frame sign means a moveable sign not permanently secured or attached to the ground or surface upon which it is located. Sidewalk, sandwich and A-frame signs are prohibited, except see subsection 80-431(b)(7), Highway 29 overlay district signs.

Sign means any surface, frame, letter, figure, character, mark, plane, point, design, picture, stroke, stripe, reading matter, material, fabric, device, fixture, placard, structure, object, three dimensional object, or display which bears lettered, numbered, pictorial, or sculptured matter, designed to convey information visually, advertise, announce the purpose of, identify the purpose of a person or entity, to draw attention, or to communicate information of any kind to the public and which is exposed to public view (excluding those objects which qualify as "architectural enhancement" pursuant to the city's art and architectural advisory committee ordinance, Code sections 80-451 through 80-456. For the purpose of this chapter, the term "sign" shall not include those devices located entirely within a building or structure, unless such devices are considered window signs; additionally the term "sign" shall include all structural members used to erect or mount same, and any company colors, trademarks, service marks, brand names, logos, symbols, or roof shapes, which are generally used by the company in the design of its buildings, and are generally used, or identified, as trade styles or other identifying marks or symbols of the company's business.

Sign face means the part of a sign that is or can be used for display of message.

Special landscape treatment means landscaping that goes beyond the requirements of the City of Fairburn which enhances the aesthetic quality of the property as determined by the city's art and architectural advisory committee.

Special temporary sign means a temporary sign or banner for use during time allowed per section 80-431 of this chapter.

Spectacular sign or device means animated signs, feather flags, streamers, pennants, balloons and other air or gas filled devices, search lights, lasers, beacons, or other light projecting devices. Spectacular signs or devices are prohibited, except for balloons, see subsection 80-431(b)(7), Highway 29 overlay district signs.

Stake sign means any temporary sign supported by uprights which are placed into the ground, and not supported by or suspended from any building with signable area not greater than five square feet. Stake sign may not be more than five feet high to the top of the sign component, when placed and standing in ground. A stake sign may not be placed within the right-of-way.

Street, private means a street that is privately-owned and maintained, open for public use, whose predominant function is to provide mobility between uses rather than access and may be addressed for public safety purposes.

Street, public means a street that is publicly maintained, open for public use, whose predominant function is to provide mobility between uses rather than access and may be addressed for public safety purposes.

Street frontage means the length of any one property line of a premises, which property line abuts a legally accessible street right-of-way. For the purposes of determining yard requirements on corner lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under the zoning definition for yard.

Streetscape means equipment, such as lights, plant material or furniture, such as benches, are placed off the street to improve or enhance the appearance and usability of a street. Streetscape shall further mean structures, access, greenery, open space, and view. Streetscapes may be observed along a public street composed of natural and man-made components, buildings, paving, planting, and street hardware. Streetscapes shall also include paving materials, curves, landscaping, lighting, and street furniture.

Subdivision sign means a monument sign placed at the intersection of two public roads where one of the roads is the main thoroughfare into and out of a commercial or residential subdivision.

Swinging or projecting sign means a sign projecting perpendicularly more than six inches from the outside wall or walls of any building or supports upon which it is located.

Temporary sign means a sign of nonpermanent nature.

Tenant directional sign means a sign within a property zoned as a shopping center or planned center, and not designed or placed so as to be read from a public road. Such signs shall be uniform as to color, graphic style, size and color.

Tolling/tolled means to postpone or suspend the running of the time period it specifies.

Traffic instructional sign means a sign used to give direction or specific instruction to motorist or pedestrians upon or near roads, streets, parking, sidewalks, within public areas (privately or government owned) in which the public is generally invited to enter or transverse. (These areas are more specifically described in subsection 80-428(11). Such sign shall contain only instructional information related to vehicular and pedestrian traffic control. The size, shape, color, height, location and lettering of traffic instructional and control signs shall be substantially similar to that used by the Georgia Department of Transportation and the City of Fairburn. Traffic instructional sign is a traffic control device under the jurisdiction of the city's police chief.

Trailer sign. See: Mobile sign. Trailer signs/mobile signs are prohibited.

Unit means a portion of a planned center which by city ordinances and codes may be occupied by a single use or tenant, and which is segregated from other uses or tenants within the planned center by 360 degrees of vertical walls (may include doors and windows) and a floor and a ceiling, and which has a separate entrance to the outside.

Vehicle drive-through means any place or premises used for the sale, dispensing, or service of food, refreshments, or beverages to customers in automobiles, including those establishments where customers may eat or drink on the premises.

Vehicle sign means any sign painted, drawn or affixed to or on a vehicle including an automobile, truck or trailer.

Wall/building sign means a sign applied to or mounted to the wall or surface of a building or structure, the display surface of which does not project more than 15 inches from the outside face of the wall of such building or structure, and does not extend above the highest horizontal line of the wall. The vertical surface of a canopy is not a wall for purposes of this chapter.

Window sign means any type of sign located entirely within the interior of a building or structure, and placed inside, upon, or near a window or door, the letters, numbers, pictorial or sculptured matter of which is visible from the exterior of the premises or building.

Works of art means tangible objects in any medium produced according to aesthetic principles established by the committee, which include without limitation paintings, sculptures, engravings, carvings, frescos, mobiles, murals, collages, mosaics, statues, bas-reliefs, tapestries, photographs and drawings.

Zoned lot means a parcel of land in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and that can provide such yards and other open spaces as required by the zoning regulations.

(Ord. No. 2013-08, § 1(exh. A), 6-10-2013; Ord. No. 2014-23, § 1(exh. A), 11-10-2014; Ord. No. 2015-24, § 1(exh. A), 12-14-2015; Ord. No. 2015-27, § 1(exh. A), 12-14-2015; Ord. No. 2016-05, § 1(exh. A), 5-23-2016; Ord. of 10-28-2019(1))

Sec. 80-428. Purpose.

The mayor and council find that:

- (1) Proper regulation of signs is a necessary prerequisite to a peaceable, orderly, and safely designed business environment.
- (2) The purposes of these sign regulations are to encourage the effective use of signs as a means of communication in the city.
- (3) An improperly regulated sign environment imposes health and safety dangers to the public.
- (4) The result of effective sign regulation will be to lessen hazardous conditions, confusion, and visual clutter, caused by the proliferation, improper placement, illumination and excessive height and size of signs that compete for the attention of pedestrian and vehicular traffic, and impede vision of traffic, traffic controls signs, and devices.
- (5) Uncontrolled and unlimited signs may result in a roadside clutter that impedes the flow of information thereby defeating the purpose of signage, and that impedes the flow of information from traffic signs and signals thereby creating hazards to drivers and pedestrians.
- (6) Uncontrolled and unlimited signs degrade the aesthetic attractiveness of the natural and manmade attributes of the community and thereby undermine the economic value of tourism, visitation, and permanent economic growth.
- (7) Through proper regulation of signs, the attractiveness and economic well-being of the City of Fairburn will be enhanced as a place to live, work and conduct business.

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- (8) Signs provide an important medium through which individuals may convey a variety of noncommercial and commercial messages. However, left unregulated, signs can become a threat to public safety as well as a traffic hazard. Such signs may also constitute an aesthetic nuisance and be a detriment to property values and the city's public welfare. The mayor and council intend by enacting this article to:
- a. Balance the rights of individuals to convey their message through signs and the right of the public to be protected against the unrestricted proliferation of signs;
 - b. Further the objectives of the city's comprehensive plan;
 - c. Protect the public health, safety, welfare, and aesthetics of the city;
 - d. Reduce traffic and pedestrian hazards;
 - e. Improve pedestrian and traffic safety;
 - f. Maintain the historical image of the city;
 - g. Protect property values by minimizing the potentially adverse effects and visual blight caused by signs;
 - h. Promote economic development and growth;
 - i. Protect the public traveling along the highways from distractions, aesthetic desecration, and nuisances, all associated with the proliferation of signs in a concentrated area along the highway (Turner Communications Corp. v. Georgia Dept. of Transp., 139 Ga. App. 436, 228 S.E.2d 399 (1976)); and
 - j. Ensure the fair and consistent enforcement of sign regulations.
- (9) Further, the city has an obligation and a right to protect the rights of adjoining landowners to adequate light and air, to promote desirable living conditions and the sustained stability of neighborhoods, to protect property against blight and deprivation, and encourage the most appropriate use of land, buildings, and other structures throughout the city.
- (10) The city's intention in enacting sign legislation has never been directed at nor enforced against the content of the signs; but, has rather focused on the physical characteristics of the sign structures.
- (11) The city finds that some signage has a single targeted function and that identification of such signage by description is impossible without referring to its function. For instance, signs at the entrances to subdivisions of developments are for the purpose of providing guidance and to enable both the traveling public and public safety personnel responding to emergencies to quickly locate entrances for the purpose of either visitation or responding to emergency calls. While such signage is referenced based upon the function it serves within the context of this chapter, the provisions of this chapter are unrelated to the content of the speech provided and allow the maximum expressive potential to sign owners. The city further finds that holiday decorations are not signs, but rather seasonal ornamentation not controlled by this chapter.
- (12) Accordingly, in consideration of the city's rights and obligations to promote traffic safety, to preserve property values, to provide for the convenience and enjoyment of public travel, to eliminate annoyance to travelers, to attract tourists, residents and industry, to serve the public health, safety and morals, to advance the general prosperity of the community, and to serve the general welfare, the city hereby imposes the regulations contained in this article.
- (13) The city council finds that there is a compelling state interest in the city and state being able to safely regulate the speed, direction and flow of vehicular and pedestrian traffic in and around public roads, streets and sidewalks, and quasi-public roads, streets and sidewalks in private property where the general public, invited by the owner, routinely and customarily to enters, transverses, and parks by

vehicle and/or by foot. The city has a compelling state interest in the public safety and welfare of motorist and pedestrians in these areas, the safe and expedient access of public safety vehicles such as police, fire and rescue equipment to such areas. The city has a compelling state interest to regulate vehicular and pedestrian traffic such as to prevent or minimize collisions and the injury or death to persons caused thereby, or the damage to property, both public and private. Therefore, the city determines that there is a compelling state interest in the city's police chief regulating the type, traffic control message and placement of all traffic control signs and devices in the areas described above. The city also has a compelling state interest in insuring that private entities are not allowed to display in the areas described above, signs that imitate or emulate traffic instructional and control signs, devices or messages in such a way as may reasonably be mistaken by the public as true traffic control signs or devices, and thereby could reasonably be expected to cause a motorist or pedestrian to make an improper maneuver which will place the motorist or pedestrian or other motorist or pedestrian in danger of collision or injury due to such improper maneuver. Therefore, the city has a compelling state interest in regulating such signs in the areas described above which imitate or emulate a traffic instructional and control sign or device and which may reasonably be confusing to motorists or pedestrians in these areas.

(Ord. No. 2013-08, § 1(exh. A), 6-10-2013; Ord. No. 2016-05, § 1(exh. A, 5-23-2016)

Sec. 80-429. Administration.

The provisions of this article shall be administered by the director of planning of the City of Fairburn, Georgia.

(Ord. No. 2013-08, § 1(exh. A), 6-10-2013; Ord. of 10-28-2019(1))

Sec. 80-430. Sign permit required.

- (a) *Required.* Except where specifically excluded by other provisions of this article, it shall be unlawful for any person, firm or corporation to post, display, substantially change, change or modify sign face or face panels, alter, or erect, reconstruct, replace or reset a sign or advertising device in the City of Fairburn, Georgia, without first having obtained an authorization to erect a sign and thereafter a permit in the manner prescribed herein.
- (b) *Application for permits.* Application for authorization to erect a sign shall be made upon forms provided by the director of planning. Authorization to erect a sign is the first step in the sign permit process. Sign permits are granted after the director of planning has confirmed that the sign has been erected in accordance with the submitted application and all City of Fairburn requirements. The application shall contain or have attached thereto the following information:
 - (1) Name, address and telephone number of the property owner and applicant;
 - (2) Address of building, structure, or lot to which or upon which the sign is to be attached or erected;
 - (3) Position of the sign in relation to nearby buildings or structures and other signs. Setbacks from rights-of-way, property lines and easements;
 - (4) One accurate scale drawing of the sign plans, specifications, and method of construction and attachment to the building or ground for the sign as well as a scale drawing of the site showing driveways, structures, existing and proposed signs and any other limiting site features;
 - (5) One color rendering of the proposed sign;
 - (6) Name of person, firm, corporation, or association erecting the sign;

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- (7) Name of business or activity at the address where the sign is to be erected if any;
 - (8) A copy of the occupational tax license for the business where the sign is to be erected;
 - (9) Complete calculations establishing the area of sign;
 - (10) Such other information as the director of planning shall require to show full compliance with this and all other ordinances of the city;
 - (11) Written consent of the owner of the building or lot upon which the sign is to be erected; and
 - (12) A written description of all other signs located on the lot indicating the sign type, size and placement.
- (c) *Fees.* Fees for authorizations and permits shall be as fixed from time to time by the city council.
- (d) *Notification.* The director of planning shall process all sign authorization and permit applications within 30 days of the city's actual receipt of a completed application and a sign authorization and permit fee. The director of planning shall give notice to the applicant of the decision of the city by hand delivery, by mailing to the address on the authorization and permit application, by email as provided on the application, or by fax as provided on the application on or before the 30th day after the city's receipt of the completed application. Notice shall be deemed to have been given upon the date of mailing (if mailed), date of emailing (if emailed), date of faxing (if faxed), or date of hand delivery (if hand delivered). If the city fails to act within the 30-day period, the authorization to erect the sign shall automatically be granted; however, the final permit procedure must be followed by the applicant.
- (e) *Denial.* In the event the director of planning determines or learns at any time that the applicant has not properly completed the application for authorization to erect the proposed sign, he shall notify the applicant in writing within the 30 day period of such fact and shall automatically deny the application. In the event the zoning, or his designee, determines that all requirements for approval of the application for authorization have not been met, he shall then deny the application.
- (f) *Issuance of an authorization.* Upon the filing of an application for an authorization and permit and the payment of all necessary fees as required by this section, the director of planning shall examine all plans and specifications submitted and the premises upon which the proposed sign is to be erected, and if it shall appear that the proposed sign is in compliance with all the requirements of this article and all other ordinances and laws of the city, and if a business, that the business has registered and paid any tax due pursuant to the city's occupation tax chapter, he/she shall then issue an authorization to erect the sign pursuant to the application and any conditions placed upon the authorization by the city. If the work authorized thereby has not been completed within 180 days after the date of issuance and a final permit has not been requested in writing, the authorization shall become null and void and no final permit may be issued.
- (g) *Appeal procedure.* Any applicant who is dissatisfied by the director of planning interpretation of the sign ordinance may appeal such decision to the planning and zoning commission, pursuant to article VI, Appeals, section 80-255. Such appeal shall be in writing and shall be filed with the director of planning, within ten days of the decision being appeal. The planning and zoning commission will schedule the matter for hearing within 45 days of the appeal being filed, pursuant to section 80-273. The planning and zoning commission shall make its final determination on the appeal within ten days of the close of the hearing.
- (h) Within ten days after completion of the erection of a sign pursuant to an approved application and an authorization to erect, and within 180 days of the issuance of an authorization, the applicant shall deliver to the director of planning a written request for a final permit along with current and dated color photographs of each face of the sign (at least three inches by five inches in size) and a signed affidavit that the photographs are current and accurate photographs of the sign's faces as of the date on the photographs, that the sign was and is erected as described in the application as conditioned and authorized by the city,

including the size, location, building materials, height and lighting. Within ten business days of the filing of a request for a final permit, the director of planning shall issue the final permit or deny the final permit because of the applicant's failure to properly and timely submit the written request for final permit, failure to properly and timely document the request, or failure to properly and timely erect the sign as described in the application conditioned and authorized by the city. Notification of a denial shall be effectuated pursuant to subsection (d) above, and the applicant shall have the appeal rights as provided at subsection (g). Failure of the director of planning to approve or deny the application for a final sign permit within said ten business days of the applicant properly and timely filing with the city a fully and properly documented application for final permit shall constitute an approval of the final permit.

- (i) An applicant who has failed to complete the erection of a sign within 180 days of the issuance of an authorization or who fails to request a final permit within ten days of erection of a sign pursuant to an authorization or who fails to apply for a final permit within 180 days of the issuance of an authorization or who's request for a final permit is denied, shall remove the sign or parts of the sign within 30 days of notice from the director of planning to remove the sign or parts of the sign. Failure to so remove the sign shall constitute a separate ordinance violation for each day that the sign or part of the sign is not removed from the proposed site and upon conviction, the applicant and/or owner or tenant of the sign site shall be guilty of an ordinance violation and shall be subject to fines or imprisonment as authorized by the city's Charter.
- (j) Furthermore, if the sign or part of the sign is not removed within said 30 days, the city may remove the sign or part of the sign and charge the applicant and/or owner of the site the cost of removal and disposal.
- (k) Any person aggrieved by a final decision of the city shall have the right of certiorari to the superior court within 30 days after the date of the written decision.

(Ord. No. 2013-08, § 1(exh. A), 6-10-2013; Ord. No. 2015-24, § 1(exh. A), 12-14-2015; Ord. No. 2015-27, § 1(exh. A), 12-14-2015; Ord. of 10-28-2019(1))

Sec. 80-431. Regulated signs.

(a) *General regulations.*

- (1) Changeable copy shall be limited to freestanding and monument signs in nonresidential zoning districts, and where specifically permitted in residential districts pursuant to section 80-431(c)(3).
- (2) Notwithstanding any other provision of this sign article, no sign, whether permitted as a regulated sign or an exempt sign, shall be permitted within 100 feet of the intersection of any state highway with any other state highway or major thoroughfare without the prior approval of the city engineer. Considering such application, the city engineer shall approve such a location only upon a determination that the proposed sign will not potentially obstruct the view of motorists or pedestrians so as to prevent their safety in traversing the intersection.
- (3) Any sign authorized by this chapter is allowed to contain noncommercial copy or commercial copy, except for traffic instructional signs.
- (4) Traffic instructional signs shall be placed by the owner at such locations and for such purposes as required by the city engineer. A traffic instructional sign plan shall be submitted to the city for approval by the city engineer with the master sign age plan for planned centers, shopping centers, office or industrial complex, or subdivision.
- (5) All signs or advertising devices not specifically designated as a sign exempt from permitting (section 80-436, Exempt signs) shall be a regulated sign under the sign ordinance. The director of planning is authorized to issue sign permits for any sign that meets the standards and limitations set forth herein.

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- (6) Freestanding signs, as defined in subsection 80-427(b), which are permanent shall be permitted in non-residential zoning districts.
 - (7) Wall signs, as defined in subsection 80-427(b), shall be permitted in nonresidential zoning districts.
 - (8) Monument signs, as defined in subsection 80-427(b), shall be permitted in nonresidential zoning districts.
 - (9) Illuminated signs (internal and external) shall only be allowed in freestanding, monument, and wall signs in non-residential districts, and where specifically permitted in residential districts pursuant to section 80-431(c)(2) and (c)(6).
 - (10) Convenience stores and service stations with pump islands may have additional signage subject to the following limitations:
 - a. Two signs per canopy face with a maximum of eight square feet per sign.
 - b. Pump toppers (signs located under canopy over pump islands) shall be limited to no more than two signs per pump topper, not to exceed four square feet per pump.
 - c. Accessory car wash, if a separate drive-through car wash building is on site, two additional wall signs may be allowed not to exceed eight square feet each.
- (b) *Non-residential allowable signs.* In non-residential zoning districts, signs shall be permitted as herein provided:
- (1) *Freestanding and monument signs.* Such property may contain one or more freestanding or monument signs as defined in subsection 80-427(b).
 - a. Platted lots with a single building shall be permitted a maximum of one 50-square-foot freestanding sign or monument sign for each public street frontage provided the lot meets the minimum lot width for the specific zoning district.
 - b. Platted lots with two or more street frontages with a single building shall be allowed to combine the square footage for each public street frontage, as provided for in section 80-431(b)(1)a., into one monument or freestanding sign on one of the street frontages; provided no such sign is larger than 64 square feet, with a smaller monument or freestanding sign on the secondary street frontage utilizing the remainder of the overall allowed monument or freestanding signage area.
 - c. For lots that contain more than 15 acres, if the public street frontage of the lot is 500 linear feet or more and if the lot has two or more entrances or exits on the public street for which it has frontage, one maximum 64 square feet sign may be substituted with two double-sided freestanding or monument signs not to exceed 32 square feet.
 - d. All such signs shall be located within a landscaped area. No sign shall be permitted to encroach in a parking area to such extent that the remaining parking spaces fail to meet the minimum standards of the zoning ordinance for off-street parking.
 - e. The maximum height of a freestanding or monument sign shall be as follows:
 - 1. Six feet in the AG, C-1, DTMU,, and O&I zoning districts.
 - 2. Twenty feet in the C-2, M-1, and M-2 zoning districts.
 - 3. For lots which are zoned PD, the district regulations in subsection (1) or (2) above will apply depending on the nature of the use upon the lot in the planned development. For example, if a use allowed in the C-2 district is allowed on a lot within a planned development, the sign regulations for the C-2 district will apply.

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4. For lots which are zoned P&O, the district regulations in subsection (1) or (2) above will apply depending on the nature of the use upon the lot in the public service district. For example, if a use allowed in the C-2 district is allowed on a lot within a public service district, the sign regulations for the C-2 district will apply.
 - f. Such signs shall not be located within 15 feet of a street right-of-way or within 40 feet of any other sign, structure, or building except temporary signs.
 - g. Changeable copy shall not exceed 20 percent of the area of the sign face.
 - h. Such signs are allowed only on lots:
 1. Upon which there is a building which is currently occupied pursuant to a current and valid city certificate of occupancy and the sign applicant and/or owner of the property has shown proof that the occupational tax has been paid in full; or
 2. Which is currently being developed under an active city building permit.
- (2) *Wall/building signs.* Such property may contain one or more wall/building signs as defined in subsection 80-427(b).
- a. Platted lots with a single building shall be permitted two wall/building signs not to exceed the lesser of ten percent of the gross wall area or 150 square feet total.
 - b. When calculating their allowed square footage, calculations shall be based on the façade with the primary entrance and/or architectural features of the building. Otherwise, the façade used shall be that façade which faces the public road of the greatest capacity. The classification of streets set forth in chapter 71, Land development regulations of the city Code shall be the basis for determining street capacity.

If the linear footage of the façade with the primary entrance is at least 50 percent less than the linear footage of the opposite wall, then an average of the two measurements shall be used to determine the allowed square footage.
 - c. The maximum area for a single wall/building sign shall not exceed the lesser of ten percent of the gross wall area or 150 square feet.
 - d. Only one wall/building sign is allowed per wall.
 - e. Wall/building signs are allowed only upon a building which is currently occupied pursuant to a current and valid city certificate of occupancy or which is currently being developed under an active city building permit.
- (3) *Planned centers.*
- a. Freestanding or monument signs.
 1. Planned center developments shall be permitted a maximum of one 100-square-foot freestanding or monument sign for each street frontage.
 2. The maximum height of a freestanding or monument sign shall be as follows:
 - (i) Six feet in the AG, C-1, and DTMU zoning districts.
 - (ii) Twenty feet in the O&I, C-2, M-1, and M-2 zoning districts.
 - (iii) For lots which are zoned PD, the district regulations in subsection (1) or (2) above will apply depending on the nature of the use upon the lot in the planned development. For example, if a use allowed in the C-2 district is

allowed on a lot within a planned development, the sign regulations for the C-2 district will apply.

- (iv) For lots which are zoned PO, the district regulations in subsection (1) or (2) above will apply depending on the nature of the use upon the lot in the public service district. For example, if a use allowed in the C-2 district is allowed on a lot within a public service district, the sign regulations for the C-2 district will apply.

3. Changeable copy shall not exceed 20 percent of the area of the sign face.
4. Freestanding or monument signs are allowed only on lots upon which there is a building which is currently occupied pursuant to a current and valid city certificate of occupancy or which is currently being developed under an active city building permit.
5. Planned center developments may apply for a landscape wall sign in lieu of a standard freestanding or monument sign. Such signage shall be consistent with the architecture and materials of the planned center and shall be subject to approval by the director of planning. The maximum permitted height of landscape walls where such signs are mounted is four feet and the sign copy, to ensure visibility, must be a minimum of six inches from the top, and 12 inches above ground level. Landscape wall signs may be internally or externally illuminated.
6. Planned center developments shall also be permitted an entrance sign. Such signs shall be one double-sided freestanding sign located at each entrance of the development, each side of which shall not exceed 50 square feet signage area. The only permitted text on entrance signs shall be the name and street number of the planned center. The height of the sign shall not exceed six feet. All such signs shall be placed on private property and may not be placed within 15 feet of a right-of-way.

b. Wall/building signs.

1. Each planned center building with entrances accessible by multiple tenants such as an office building or similar use shall be permitted two wall/building signs not to exceed the lesser of ten percent of the gross wall area or 150 square feet total. Only one wall/building sign is allowed per wall.
2. Each building or unit with a separate entrance with multiple treated façades, not accessible by other tenants located in a planned center, shall be permitted two wall/building signs not to exceed the lesser of ten percent of the gross wall area or 150 square feet total. Only one wall/building sign is allowed per unit wall.
3. The maximum area for a single wall/building sign shall not exceed the lesser of ten percent of the gross wall area or 150 square feet.

c. No permits shall be issued for buildings or units in a planned center unless and until a master signage plan for the planned center has been submitted and approved by the director of planning. The master signage plan shall indicate how all signage will be consistent in:

1. Lighting.
2. Colors.
3. Fonts.
4. Building materials.
5. Location in relation to the primary building.

6. Proportions.

- d. A non-subdivided industrial, office or commercial complex with multiple tenants shall be permitted one double-sided freestanding or monument sign at the complex entrance, each side of which shall not exceed 50 square feet signage area, per section 80-427. The height of the sign shall not exceed six feet.

(4) *Billboards and electronic or digital billboards allowed.*

- a. Billboards shall be at a minimum 72 square feet and not exceed 672 square feet and shall be located according to the following standards:
1. All applications for billboards shall be accompanied by written permission of the owner of the property on which the proposed sign is to be placed, a site plan showing the proposed location of the sign, and a scale drawing of the sign.
 2. Along, and facing toward, I-85, or any other federal interstate highway, traffic only.
 3. Allowed only in lots zoned to an industrial or commercial zoning classification that have at least 400 feet of frontage on a federal interstate highway.
 4. At least 500 feet from all residential zoning districts.
 5. Maximum setback from I-85, or any other federal interstate highway, is 150 feet.
 6. Shall not exceed 75 feet in height.
 7. Minimum of 500 feet from any other billboard on the same side of street frontage.
 8. Minimum of 1,000 feet from any other electronic or digital billboard on the same side of street frontage.
 9. Billboards shall be erected only in the buildable area of the lot. No trees or other vegetation shall be cut or removed in locating or erecting a billboard.
 10. The lot on which the billboard is located shall have sufficient area to accommodate the fall zone, and excepting the sign, no buildings, structures, or appurtenances shall be contained in the fall zone.
 11. Billboards placed along interstates must obtain permission from the Georgia Department of Transportation.
 12. Inspections and maintenance. At least once every two years, an inspection report by a structural engineer licensed in the state must be submitted to the city engineer showing that the structural integrity of the billboard is intact. If the structural integrity of the billboard is not intact, the applicant and/or billboard owner shall, within 60 days from the date of the inspection report, take the steps required to make the billboard structurally sound and submit a second inspection report by a structural engineer licensed in the state to the city engineer showing that the structural integrity of the billboard is intact.
- b. Electronic or digital billboards shall be at a minimum 72 square feet and not exceed 672 square feet and shall be located according to the following standards:
1. For every electronic or digital billboard permit that is issued, two billboards owned by the permittee within the city limits must be removed within 180 days after the date of issuance of the authorization to erect the electronic or digital billboard. Failure to remove the two billboards within that time frame shall render the authorization to erect the electronic or digital billboard null and void;

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2. All applications for electronic or digital billboards shall be accompanied by written permission of the owner of the property on which the proposed sign is to be placed, a site plan showing the proposed location of the sign, and a scale drawing of the sign;
 3. Along, and facing toward, I-85, or any other federal interstate highway, traffic only;
 4. Allowed only in lots zoned to an industrial or commercial zoning classification that have at least 400 feet of frontage on a federal interstate highway;
 5. At least 1,000 feet from all residential zoning districts;
 6. Maximum setback from I-85, or any other federal interstate highway, is 150 feet;
 7. Shall not exceed 75 feet in height;
 8. Minimum of 1,000 feet from any other billboard on the same side of street frontage;
 9. Minimum of 5,000 feet from any other electronic or digital billboard on the same side of street frontage;
 10. The lot on which the electronic or digital billboard is located shall have sufficient area to accommodate the fall zone, and excepting the sign, no buildings, structures, or appurtenances shall be contained in the fall zone;
 11. Electronic or digital billboards shall be erected only in the buildable area of the lot. No trees or other vegetation shall be cut or removed in locating or erecting a billboard;
 12. Electronic or digital billboards placed along interstates must obtain permission from the Georgia Department of Transportation;
 13. Any permit for an electronic or digital billboard sign will include a maximum number of displays per cycle for the structure. No more than six displays per minute will be allowed;
 14. All such signs shall be programmed to automatically freeze in a single display in the event of a malfunction or computer error;
 15. Digital or electronic billboard signs must have a light sensing device that will adjust the brightness of the display as the natural ambient light conditions change. Dark backgrounds with light lettering or symbols are preferred between dusk and dawn to minimize detrimental effects. In any event, glare and excessive brightness in the field of view causes loss in visual performance or annoyance, to jeopardize health, safety or welfare, is to be avoided;
 16. Digital or electronic billboards may not operate at brightness levels of more than 0.20 footcandles above ambient light levels (at measurement conditions) as measured at a distance of 125 feet. If the digital or electronic billboard is located in the line of sight of a residentially occupied structure on a residentially zoned property, such electronic sign shall not operate at brightness levels of more than 0.1 footcandles above ambient light levels (at measurement conditions) as measured at the nearest portion of such residential structure;
 17. Such displays shall contain static messages only, changed instantaneously, through dissolve or fade transitions, or other subtle transitions that do not have the appearance of moving text or images;
 18. Any application for a revision to the sign or its display shall be evaluated by the director of planning. Regular copy changes are not considered revisions;
 19. The owner of said digital or electronic billboard sign shall provide to code enforcement, information for a 24-hour contact able to turn off the digital or electronic billboard sign

promptly if a malfunction occurs. If, at any time more than 50 percent of the digital or electronic display lights malfunction or are no longer working, the owner of said billboard sign shall turn off the digital or electronic display until repairs are made;

20. Inspections and maintenance. At least once every two years, an inspection report by a structural engineer licensed in the state must be submitted to the city engineer showing that the structural integrity of the electronic or digital billboard is intact. If the structural integrity of the electronic or digital billboard is not intact, the applicant and/or electronic or digital billboard owner shall, within sixty days from the date of the inspection report, take the steps required to make the electronic or digital billboard structurally sound and submit a second inspection report by a structural engineer licensed in the state to the city engineer showing that the structural integrity of the electronic or digital billboard is intact.

(5) *Electronic or digital signs/message boards.*

- a. Electronic or digital signs/message boards may be incorporated into the body of a freestanding or monument sign in the C-1, C-2, O&I, M-1 and M-2 zoning districts. In no case may electronic or digital sign/message boards exceed 50 percent of the total allowed signage for any property. The maximum sign face shall be 50 square feet, as per section 80-431(b)(1)a. above. The maximum sign face for a freestanding or monument sign in a planned center shall be 100 square feet, as per section 80-431(b)(3)a.1. above.
- b. The maximum height for such signs shall be as permitted in the specific zoning district per section 80-431(b)(l)c. above. The maximum height for a freestanding or monument sign in a planned center shall as follows per section 80-431(b)(3)a.2.:
 1. Six feet in the AG, C-1, and DTMU zoning districts.
 2. Twenty feet in the O&I, C-2, M-1, and M-2 zoning districts.
 3. For lots which are zoned P&O, the district regulations in subsection 1. Or 2. above will apply depending on the nature of the use upon the lot in the planned development. For example, if a use allowed in the C-2 district is allowed on a lot within a planned development, the sign regulations for the C-2 district will apply.
 4. For lots which are zoned PS, the district regulations in subsection 1. Or 2. above will apply depending on the nature of the use upon the lot in the public service district. For example, if a use allowed in the C-2 district is allowed on a lot within a public service district, the sign regulations for the C-2 district will apply.
- c. The regulations for freestanding and monument signs set forth in sections 80-431(b)(l) and 80-431(b)(3)a. shall also be applicable to electronic and digital signs/message boards.
- d. Electronic or digital signs/message boards shall be prohibited in DTMU and the Highway 29 Overlay districts.
- e. The following provisions shall also apply to electronic or digital signs/message boards:
 1. Any permit for an electronic or digital sign/message board will include a maximum number of displays per cycle for the structure. No more than three displays per minute will be allowed. Images and messages must be complete in themselves without continuation in context to the next image or message or to another sign;
 2. All such signs shall be programmed to automatically freeze in a single display in the event of a malfunction or computer error;
 3. Digital or electronic signs/message boards must have a light sensing device and automatic dimming equipment that will adjust the brightness of the display as the natural ambient

light conditions change. Dark backgrounds with light lettering or symbols are preferred between dusk and dawn to minimize detrimental effects. In any event, glare and excessive brightness in the field of view causes loss in visual performance or annoyance, to jeopardize health, safety or welfare, is to be avoided;

4. Digital or electronic signs/message boards may not operate at brightness levels of more than 0.10 footcandles above ambient light levels (at measurement conditions) as measured at any property line adjacent to a residentially used or zoned parcel.
5. Such displays shall contain static messages only, changed instantaneously, through dissolve or fade transitions, or other subtle transitions that do not have the appearance of moving text or images. Displays shall not be animated, intermittent, scrolling, and/or full video. Flashing, strobing, and/or racing shall be prohibited. No sign can be designed or displayed to imitate traffic safety lights and/or signs;
6. Changeable messages or displays shall not flash, undulate, pulse, blink, expand, contract, bounce, rotate, spin, twist or otherwise move;
7. Any application for a revision to the sign or its display shall be evaluated by the director of planning. Regular copy or text changes are not considered revisions; and
8. The owner of said electronic or digital sign/message board shall provide to code enforcement, information for a 24-hour contact able to turn off the electronic or digital sign/message board promptly if a malfunction occurs. If, at any time more than 50 percent of the digital or electronic display lights malfunction or are no longer working, the owner of said sign shall turn off the digital or electronic display until repairs are made.

(6) *Other non-residential signs allowed.*

- a. Each legal city lot in non-residential zoning districts shall be entitled to one stake sign, which may not be placed within a right-of-way.
- b. Lots in non-residential zoning districts shall be entitled to one temporary single-face freestanding sign up to 24 square feet. The required permit may be issued for no longer than one year. For properties outside of the Highway 29 overlay district, the sign may not be placed within 15 feet of a right-of-way.
- c. Window signs are permitted, except see limitations in Highway 29 overlay district signs. Window signs are not calculated as part of the overall signage allowed per property and must meet the sign material requirements of this chapter.
- d. A lot zoned C-2 or PD, containing a licensed business which provides and utilizes a vehicle drive-through, may display one additional permitted single-faced freestanding sign per drive through lane not to exceed 35 square feet in sign area nor seven feet in height, in addition to the signage allowed in section 80-431, located adjacent to the drive-through lane with a font size no larger than three inches, and the message face of which is directed towards the motorist passing through the drive through lane. Such lot shall also be entitled to two stake signs, which may not be placed within a right-of-way.
- e. Special temporary signs are permitted but only under the following conditions and requirements:
 1. Prior to use of such special temporary signs, and the erection and placement of any such temporary signs, an application for an annual permit shall be filed with the director of planning. Such signs shall be specifically described as to their construction, composition, and specific dates of display for that calendar year. Application for permit shall be approved or denied (with grounds therefore) in writing within 30 days of city receipt of complete application sent to applicant at address shown on application.

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2. A lot or unit shall be allowed a maximum of six special temporary signs per year, each of which shall be valid for 14 consecutive days.
 3. The maximum size allowance for all such signs used for an event shall be a total of 35 square feet.
 4. All such signs may be attached to the exterior wall or walls of a building or beneath an awning or attached to the ground. Outside of the Highway 29 overlay district, no such sign shall be placed within 15 feet of the street right-of-way. In all districts, no such sign shall be placed in any manner as to obstruct the view of motorists or pedestrians.
 5. All such signs shall be professionally made and properly maintained. Temporary signs shall not appear to be ripped, frayed, or in generally poor condition resulting from extended use.
 6. Temporary sign frames and related mounting hardware shall be removed when a sign is not permitted for display.
 7. The owner of a planned center may apply to the city for one common area sign, no larger than 30 square feet, for the planned center and its tenants located within the planned center. The common area sign shall be consistent with the architecture of the planned center and shall provide for removable sign panels. It shall be the responsibility of the planned center owner to coordinate with tenants on the use, maintenance and appearance of the common area sign.
 8. All special temporary signs shall comply with all other applicable regulations and conditions as set forth in this chapter.

(7) *Highway 29 overlay district signs.* The purpose of the Highway 29 overlay district sign ordinance [this subsection] is to ensure the district's signage is harmonious in proportion, form, color, and materials to the character of the overlay district. Visual relatedness is crucial to the goal of an integrated Highway 29 overlay district, which includes the historic downtown commercial district, and signs play a key role in helping to preserve this district's sense of time and place and achieve the desired effect of charm and compatibility. The ordinance allows businesses to maintain their individual identities, and also become identified with the overlay and downtown historic district as a whole. To resolve the technical and aesthetic questions of signage, and encourage high quality in design, the signs within this district shall comply with section 80-89 of the Highway 29 overlay district ordinance. Section 80-89 contains appropriate sign/design examples and is incorporated herein by reference.

- a. *Applicability.* This subsection shall apply only to those building structures and uses within the geographical boundaries of the Highway 29 overlay district, as established and defined in section 80-89 of the city's zoning ordinance.
- b. *Compatibility.* As to signs, buildings, structures, and uses within the Highway 29 overlay district, when a provision of this section conflicts with any section in the balance of chapter 80 of the Code, the provision of this section shall control. Otherwise, to the extent reasonably possible, the provisions of this section shall be interpreted consistent with the provisions of the balance of chapter 80 of this Code.
- c. *Signage standards.*
 1. *General.* Signage shall complement the architectural details of the building and shall not violate or otherwise obscure the architecture of the building to which it is attached. Signs, lettering, or boxed graphics shall not cut across columns, cornices, windowsills, arches or balconies, nor extend above the roofline of any building to which it is attached.

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2. *Lettering, size, and construction.* Letters can be painted or mounted directly on a signboard, storefront, wall or window, if in proportion to the storefront. Inside the Highway 29 overlay district businesses may utilize awning signs, A-frame and sandwich board signs, projecting/hanging/suspended signs, monument signs, wall/signboard signs, and window signs. Acceptable lettering materials include wood, stone, synthetic stone, metal, vinyl, dimensional plastic, acrylic, or high-density polystyrene foam. The overall design of all signage shall be compatible with the turn-of-the-century-theme. The typeset or lettering used shall be taken from, or compatible with, the typeset choices listed in Highway 29 overlay district ordinance, subsection 80-89(m).
 3. *Materials.* Signs may be constructed of concrete, brick, wood, stone, metal, glass, or synthetic materials that have the same appearance of the aforementioned natural materials due to their finish. All materials shall be compatible with the building's architecture and should be colorfast and resistant to corrosion. Signs shall be professionally finished in accordance with the material selected, whether by sanding, painting, staining and/or sealing, with the edges of the sign framed out and/or sealed.
 4. *Lighting.* All signs in the overlay district, whether freestanding signs or wall/building signs, shall only be illuminated by an external light source, and through craftsmanship and materials, shall reflect downtown district design aesthetics. (See Subsection 80-89(o) of the Highway 29 overlay district ordinance.)
 5. *Colors.* Signs, and all lettering, symbols, and embellishments contained therein, shall be furnished in colors either contained in or consistent with the typeset and color guide for the Highway 29 overlay district signage or from any commercially available historic color palette.
 6. *Awnings.* Decorative awnings over doors or windows are permitted in the historic district area and shall not be calculated as part of total signage area. Professionally applied lettering or symbols may be incorporated into the awning valance/drop flap; but, are restricted to 20 percent of the awning field. Awnings shall clear sidewalks by seven feet in height, and project no more than six feet from the building. Canvas or synthetic look-alike canvas is the only material permitted for decorative awnings. Metal or vinyl may be approved for functional awnings if the overall design is consistent with the historic district's turn-of-the-century theme. Awnings may not be backlit.
 7. *Projecting, hanging or suspended signs.* Hanging, suspended, or projecting signs are permitted in the historic area, and shall clear sidewalks by seven feet in height, and project no more than 36 inches from the building. Hanging or suspended signs should project from the wall at a 90-degree angle. Hanging or suspending signs over driveways, alleys, or parking areas is prohibited. Hanging, suspended, or projecting signs shall be limited to a maximum size of six square feet, and if double-sided, shall be calculated as only one sign. One hanging, suspended, or projecting sign per business street frontage is permitted, and shall be calculated as part of the total signage area allowed under section 80-431. Attractive hardware for hanging is encouraged.
 8. *Sandwich board signs (a.k.a. A-frame signs).* Movable sandwich signs, or A-frame signs, may be used in the overlay district one per building or unit. A sandwich board sign shall have a maximum height of four feet, and a maximum area of eight square feet on one side, and through design, paint, lettering, and materials, shall conform to the Highway 29 overlay district aesthetic standards. Sandwich board signs shall not be placed off-site or displayed in such a way as to block or hinder pedestrian traffic. Sandwich board signs may be placed upon public sidewalks; but, must leave a minimum of five feet width of sidewalks clear of obstructions for pedestrian traffic. Each building or unit at its main public entrance,

used exclusively by said building or unit shall be permitted one sandwich board sign. The sandwich board sign must be placed only on the sidewalk in front of said building or unit or in the front yard of the building or unit. Such signs must be placed in front of the building or unit within 20 feet of the main public entrance of said building or unit. Sandwich board signs shall not be included within the overall amount of signage allowed.

9. *Window signs.* Interior window signs, bearing lettered, numbered, or pictorial matter, shall not exceed 25) percent of the total window area exposed to public view. Window signs shall not be included within the overall amount of signage allowed.
10. *Wall sign or signboard sign.* Wall signs and signboard signs shall be permitted if such signs meet the requirements of section 80-431(b)(2) and 80-431(b)(3)b.
11. *Monument sign.* Monument signs shall be permitted if such signs meet the requirements of section 80-431(b)(1).
12. *Air and gas filled devices.* Under the following guidelines, balloons are permitted to be used as a temporary enhancement to sandwich boards in the Highway 29 overlay district.
 - (i) Deflated or unsightly displays shall be removed immediately.
 - (ii) Balloons must be no larger than 12 inches in length or diameter.
 - (iii) Maximum number of balloons per unit or lot is three.
 - (iv) Maximum length of tether is 24 inches.
 - (v) Non-metallic balloons only.
 - (vi) All displays shall conform to the Highway 29 overlay district sign ordinance aesthetic standards.
13. *Electronic or digital billboards/signs/message boards.* Such signs shall be prohibited in the Highway 29 overlay district.

(c) *Residential allowable signs.* In residential zoning districts, signs shall be permitted as follows subject to the provisions herein provided:

- (1) Two stake signs per lot in residential zoning districts not placed within the rights-of-way.
- (2) Subdivisions shall be permitted one double-sided monument sign located at the entrance of the subdivision, but not within 15 feet of the public right-of-way, each side of which shall not exceed 35 square feet signage area, per section 80-427. The height of the sign shall not exceed six feet. All subdivision signs shall be placed on private property and may not be placed within 15 feet of a right-of-way. This sign may be externally illuminated.
- (3) Subdivision homeowner associations may have one 25-square feet changeable copy or glass covered freestanding sign located adjacent to the entrance to the subdivision's intersection with the public right-of-way and located within the common area owned by the homeowner's association but not interfering with sidewalks or streets, and the message face directed toward motorist and pedestrians who have entered the subdivision. These signs shall be placed in common areas and may not be placed on individual lots. The homeowner association sign shall be the responsibility of the elected officials of the homeowner's association. Subdivisions without elected homeowner association officers must have a designated person responsible for the sign.
- (4) The owner or the owner's designated agent (but not both at the same time) of a subdivision under development in which the owner of the subdivision owns one or more subdivision lots may obtain a permit, effective for up to one year, to display within the subdivision under development one temporary double-sided freestanding or monument sign with no more than 24 square feet of sign face

per side. A planned center with one or two out-parcels is not a subdivision for purpose of this paragraph. The sign may not be placed within 15 feet of a right-of-way.

- (5) A lot zoned residential which is not within a subdivision platted pursuant to the city's subdivision regulations, and which is three acres or more in size, may display a permitted temporary, double-sided freestanding sign, with a sign face not more than 24 square feet per side. The required permit may be issued for no longer than one year. The sign may not be placed within 15 feet of a right-of-way.
- (6) Apartment complex, condominium complex, or other building with multiple residential dwelling units shall be permitted one double-sided monument or freestanding sign at the complex entrance, each side of which shall not exceed 35 square feet of signage area, per section 80-427. The height of the sign shall not exceed six feet. This sign may be externally illuminated.
- (7) Only one freestanding sign on a single-family zoned lot, with a face not to exceed 24 square feet per side.
- (8) Non-residential uses permitted in a residential zoned district that are in compliance with the zoning ordinance shall be permitted one double sided monument sign, with a face not to exceed 45 square feet per side, in lieu of the freestanding sign allowed per section 80-431(c)(7). This sign may be internally or externally illuminated. The height of the sign shall not exceed six feet.
 - a. The following provisions shall also apply to such signs:
 - 1. Changeable copy shall be allowed in such signs but shall not exceed 20 percent of the area of the sign face.
 - 2. Signs that are internally or externally illuminated may not operate at brightness levels of more than 0.10 footcandles above ambient light levels (at measurement conditions) measured at the nearest property line adjacent to residentially used or residentially zoned property.
- (9) Unless specified otherwise within this section, the maximum height of any sign shall be four feet in the R-1, R-2, R-3, R-4, RM-12, and R-CT zoning districts.
- (10) Changeable copy shall be prohibited, except where specifically permitted in subsection 80-431(c)(3) and (8) above.
- (11) Illuminated signs (internal and external) shall be prohibited, except where specifically permitted in subsection 80-431(c)(2),(6) and (8) above.

(Ord. No. 2013-08, § 1(exh. A), 6-10-2013; Ord. No. 2014-05, § 1, 2-24-2014; Ord. No. 2014-23, § 1, 11-10-2014; Ord. No. 2015-24, § 1(exh. A), 12-14-2015; Ord. No. 2015-27, § 1(exh. A), 12-14-2015; Amend. No. 2015-TA-007, 12-14-2015; Ord. No. 2016-05, § 1(exh. A), 5-23-2016; Ord. No. 2017-02, § 1(exh. A), 1-23-2017; Ord. of 10-28-2019(1))

Sec. 80-432. Construction and maintenance requirements.

- (a) No sign shall be constructed in such a manner which will hinder vehicle traffic or pedestrians or block any entrances or exists from any sidewalk or building or any windows, doors, fire escapes. Each sign shall be securely erected and free of any protruding nails, tacks and wire.
- (b) No sign shall be constructed with any type material, finished letters, characters or surface that will reflect sunlight or any other type of light of such an intensity to hinder vehicle traffic or in any way create a nuisance to the surrounding area.
- (c) A sign containing wood in its structure, face or frame or any part thereof shall be painted or stained.

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- (d) No wall sign or its supports shall protrude more than 15 inches from the wall on which it is mounted.
 - (e) All signs shall be constructed in such a manner and fastened in such a way to prevent movement by wind action.
 - (f) No wood, metal or any other type of supports for freestanding signs shall be less than four by four inches in size for each support or less than three inches in diameter if circular.
 - (g) Wood signs shall be framed on the two sides attached to the supports, except for hanging and projecting signs allowed in the Highway 29 overlay district. Supports can be considered framing if the sign is so designed with supports as part of framing on both sign face areas.
 - (h) Underwriters Laboratories (UL), FM approval tests or similar approval is required where applicable.
 - (i) All signs shall be constructed and maintained in accordance with the provisions of the building code as adopted and from time to time amended by the city.
 - (j) The illumination of internally illuminated signs shall not exceed 20 footcandles of incandescent light measured at a distance of ten feet from such structure; provided, however, the same may not exceed the maximum incandescent light measurement of the 2009 International Energy Code.
 - (k) Externally illuminated signs shall be lighted so that no lights are positioned in such a manner that light glares or shines into the eyes of motorists or pedestrians as to create a hazardous or dangerous condition.
 - (l) All internally and externally illuminated signs shall undergo an electrical inspection in accordance with National Electrical Code.
 - (m) No wall/building sign shall cover wholly or partially any wall opening, nor project beyond the ends or top of the wall to which it is attached.
 - (n) All special temporary signs shall be securely installed and shall meet all applicable safety standards as prescribed by the city's current building code or electrical code.
 - (o) All signs at the entrance of complexes shall be placed on private property and may not be placed within 15 feet of a right-of-way.
 - (p) Except for subdivision signs described in this article, all signs must be placed upon a lot, as defined in the city's zoning ordinance and the subdivision regulations. No sign may be placed on any lot, which lot does not meet the minimum lot requirements of the zoning ordinance and subdivision requirements.
 - (q) No message or advertisement may be displayed on any portion of the structural supports of any sign.
 - (r) All signs regulated by this article shall be kept clean, neatly painted, and free from all electrical and mechanical hazards, including, but not limited to, faulty wiring and loose connections, and the premises surrounding the signs shall be maintained by the owner in a sanitary and inoffensive condition, free and clear of all weeds, rubbish, and debris.
 - (s) No sign shall be illuminated either internally or externally, in any residential district zoned except that entrance signs and subdivision signs may be externally illuminated from dusk until dawn.
 - (t) All signs shall comply with the applicable provisions of the most current edition of the Georgia State Minimum Standard Electrical Code at all times.
- (Ord. No. 2013-08, § 1(exh. A), 6-10-2013; Ord. of 10-28-2019(1))

Sec. 80-433. Enforcement.

- (a) *Enforcement personnel.* The enforcement of this article shall be within the jurisdiction of the director of planning, a police officer of the city, or the city's code enforcement personnel. The enforcement personnel

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shall have such powers as are to enforce and give effect to this article, including, but not limited to, the issuance of citations for violations of this article.

- (b) *Violation deemed public nuisance.* Any violation of this article is hereby declared to be a public nuisance. Improperly located signs or prohibited signs are hereby determined to pose an immediate safety threat and traffic hazard to members of the public traveling on city roadways.
- (c) *Repair of signs.*
- (1) Any sign which has become dilapidated, or any sign which, due to poor maintenance or neglect, has become a visual blight, or by its condition and state of repair is deemed to be dangerous and is deemed to be a public nuisance. Upon the above determination, the director of planning shall cause notice of the same to be mailed by written notice, registered mail return receipt requested, to the owner of the sign if the same may be determined or to the owner of the property upon which said sign is located, that the owner shall be given 30 days from the date of receipt of such notice to repair the sign.
 - (2) If the sign owner or property owner fails to repair the sign so as to comply with the standards herein set forth within 30 days after such notice, the permit for such sign shall be revoked and the permittee or property owner shall be subject to the penalties set forth in this article, including but not limited to the removal of the sign by the city.
- (d) *Removal of signs with notice.*
- (1) The enforcement personnel may order the removal of any sign that has been issued a permit and is in violation of this article, including a violation of subsection 80-433(c)(1) and (2) above, by written notice, registered mail return receipt requested, to the permit holder. The removal order shall be issued only after the appropriate party fails to comply with the terms of this article within five days after the receipt of written notice of noncompliance by the city or within ten days from the mailing of such notice if no receipt indicating acceptance is returned.
 - (2) An aggrieved party may appeal the removal order or the notice finding the sign in disrepair within ten days from the date the notice was received to the planning and zoning commission.
 - (3) If the sign is not removed within 30 days after the order of removal or 30 days after the date any appeal of the order of removal becomes final, the enforcement personnel are authorized to remove or cause to be removed the sign and to collect the costs thereof as provided in this article.
- (e) *Removal of signs without notice.* The enforcement personnel or any other agent of the city having jurisdiction under the circumstances may remove or direct the removal of any sign in violation of this article without giving notice to any party, if such sign:
- (1) Is upon the public right-of-way or upon other public property; or
 - (2) Poses an immediate threat to the life or health of any members of the public; or
 - (3) The sign does not have a permit and is in violation of this article.

In the event that enforcement personnel remove or cause to be removed any sign under this section, criminal charges for such violation may be issued to any one or combination thereof of the following:

- (1) To the owner of the sign;
 - (2) To the erector of the sign;
 - (3) To the property owner upon which such illegal sign is located; or
 - (4) To the person or to the business entity who procured the erection of the sign.
- (f) *Charges to legal entity.* If the criminal charges shall issue to a legal entity registered to do business in any state, such as a corporation, limited liability company, partnership or the like, then in that case, the citation

for such violation may be issued to both the legal entity and any or all of the officers or employees of the legal entity who are culpable of violating this article.

- (g) *Evidence in prosecution.* Any sign that is removed and confiscated by the enforcement personnel shall constitute evidence in any subsequent prosecution regarding the illegal sign. Each sign that is caused to be removed shall constitute a separate violation of this article.
 - (h) *Costs of removal.* Removal of any sign as provided for in this section shall be without liability to the city, its officers, agents, servants and employees. The permit holder shall be primarily responsible for the costs of removal. If there is no permit holder, then the sign owner shall be responsible. If the sign owner cannot be found or cannot be determined, then the costs of removal shall be the responsibility of the sign erector and/or property owner or any other party that procured the erection of the sign. If payment or arrangement to make payment is not made within 60 days after the receipt of such statement, the code enforcement personnel shall certify the amount thereof for collection to the city attorney. Following such removal or repair, the county may collect the costs as provided in this subsection.
 - (i) *Invalid permits.* The enforcement personnel may issue a removal order when it has been determined that a permit was improperly issued, that the permit was issued on the basis of misstatement of fact or fraud, that the sign has not been constructed in compliance with this article or with the specifications of the application or site plans, that the sign permit has expired or that the sign is otherwise not in compliance with this article. If a sign is not removed after receipt of a removal order by the owner of such sign or property, enforcement personnel may institute legal proceedings pursuant to this article against the property owner, sign owner, lessee, sign erector or a combination thereof.
 - (j) *Civil actions.* The enforcement personnel or any individual or entity whose property interests are directly affected may bring a civil action to seek injunctive and other relief to enforce this article.
 - (k) *Citations.* Any violation of this article may be tried upon citations issued by the enforcement personnel pursuant to O.C.G.A. § 36-32-10.2. Without limitation, sign erectors, sign owners and such other parties responsible for the violation may be cited for violation of any provisions of this article.
 - (l) *Penalties.* Any person who violates any section or provision of this article after the conviction upon a citation issued to the municipal court of the city shall be fined as per the fine schedule determined by the municipal judge, in accordance with O.C.G.A. § 36-32-5.
 - (m) *Remedies cumulative.* All remedies and penalties specified in this article are cumulative.
- (Ord. No. 2013-08, § 1(exh. A), 6-10-2013; Ord. of 10-28-2019(1))

Sec. 80-434. Prohibited signs and advertising devices.

The following signs and advertising devices are prohibited in all zoning districts of the city:

- (1) Air and gas filled devices, except see Highway 29 overlay district signs;
- (2) Animated signs;
- (3) Awning signs, except see Highway 29 overlay district signs;
- (4) Banners, unless permitted as special temporary signs;
- (5) Beacons;
- (6) Bench signs;
- (7) Signs with neon or neon accents;
- (8) Feather flag signs;

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- (9) Inflatable signs and tethered balloons, except see Highway 29 overlay district signs;
 - (10) Sign which displays obscene text, copy, message, pictures, forms or structures;
 - (11) Flashing, intermittent, blinking, traveling signs or lights, except for authorized public safety and time and temperature signs;
 - (12) Portable, mobile or trailer signs, except for authorized public safety and Highway 29 overlay district signs;
 - (13) Roof signs or signs projecting above the roofline of a structure;
 - (14) Sidewalk, sandwich signs, and A-frame signs, except see Highway 29 overlay district signs;
 - (15) Signs located within a Railroad zoning district;
 - (16) Signs on a public right-of-way or on city property except exempt traffic control signs and devices;
 - (17) Signs which contain or are in imitation of an official traffic control sign or signal or contain the words "stop," "go," "slow," "danger," "detour," "speed limit," "yield" or similar words intended to direct or regulate traffic;
 - (18) Signs affixed to utility poles, trees, street markers, and fence posts or placed on any curb, sidewalk, fence, hydrant, bridge or other surface located on public property or over or across any public street;
 - (19) Signs that advertise or promote illegal activities;
 - (20) Signs that are erected, located or maintained in such a manner as to interfere with safe and free ingress or egress of any door or emergency exit or fire escape;
 - (21) Spectacular signs, including feather flag signs, streamers and pennants;
 - (22) Swinging or projecting signs, except see Highway 29 overlay district signs;
 - (23) Signs which obstruct sight of motorist or pedestrians so as to create safety hazards for motorists or pedestrians;
 - (24) Vehicle signs with a total sign area in excess of ten square feet, when the vehicle:
 - a. Or any part of the vehicle is parked within 100 feet of any street right-of-way, and the vehicle is not being actively loaded or unloaded, and there are other available and accessible locations on or about the occupancy advertised where the vehicle can be parked, which are not within 100 feet of a street right-of-way and visible from such; and
 - b. Is visible from the street right-of-way that the vehicle is within 100 feet; and
 - c. Is not regularly used in the conduct of the business advertised on the vehicle; a vehicle used primarily for advertising, and not for the purpose of providing transportation for owner, employees, inventory, merchandise, supplies or materials of the occupancy advertised on the vehicle, shall not be considered a vehicle used in the conduct of business. Vehicle may not be used for off-premises storage of inventory, merchandise, supplies, or materials.
 - (25) Any sign, including banners, not painted or manufactured by a professional artist or sign designer.

(Ord. No. 2013-08, § 1(exh. A), 6-10-2013; Ord. No. 2016-05, § 1(exh. A), 5-23-2016)

Sec. 80-435. Grandfathered and nonconforming signs.

Grandfathered and nonconforming signs may continue in existence subject to the following restrictions:

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- (1) No change may be made in the location, shape, height, size, or design of any nonconforming sign, except to bring the sign into compliance with the provisions of this article, and a sign permit granted.
 - (2) The structure of a nonconforming sign shall not be replaced, expanded, or modified by another nonconforming sign, except that the substitution or interchange of sign panels, on nonconforming signs shall be permitted.
 - (3) A nonconforming sign may not be reconstructed, replaced, or reset if it is removed by the owner or agent for the owner for any reason.
 - (4) Any sign erected in violation of this article may be removed from any public right-of-way by duly authorized employees of the city, and the responsible party (sign applicant, sign owner or owner of the property where the sign is located) may be cited for such violation.
 - (5) No additional sign or advertising device shall be erected on the same lot with an existing nonconforming sign until the nonconforming sign has been removed or brought into conformity with this article.
 - (6) No sign permit may be granted to any applicant, where there exists on the subject lot a nonconforming sign, as defined in this article, an illegal sign, an unpermitted sign, a damaged sign, a sign in need of repair or painting, or a sign in violation of this article.
 - (7) A nonconforming sign may not be replaced by another nonconforming sign except where such sign is damaged or destroyed by act of God or changed conditions beyond the control of the owner render the sign nonconforming or warrant the sign's repair.
 - (8) A nonconforming sign may not be expanded or altered in any manner that increases the degree of nonconformity.
 - (9) Destruction by any means of more than 50 percent of the appraised valuation of the sign shall require that the sign be reconstructed in conformity with the provisions of this section. The "appraised valuation" is the value of the sign prior to such destruction or damage having occurred, and shall be the appraised value established by the Fulton County tax assessor. If however, the appraised value has not been established by the Fulton County tax assessor, an independent appraiser shall establish the appraised value. The director of planning shall provide a list of four independent appraisers for the sign owner to choose from. It shall be the sign owner's responsibility to pay the cost of such appraisal.
 - (10) Destruction by any means of 50 percent or less of the appraised valuation of the sign shall not require that the sign be reconstructed in conformity with the provisions of this section. However, if a permit to reconstruct the sign is not obtained within 12 months from its destruction, the sign shall be reconstructed in conformity with the provisions of this article.
 - (11) Sixty days after a business is closed, if no new business is operating inside the same building or tenant space, non-conforming signs must be removed.

(Ord. No. 2013-08, § 1(exh. A), 6-10-2013; Ord. No. 2015-24, § 1(exh. A), 12-14-2015; Ord. No. 2015-27, § 1(exh. A), 12-14-2015; Ord. of 10-28-2019(1))

Sec. 80-436. Exempt signs.

The following signs and advertising devices are exempt from the permit requirements of this article but must in all respects otherwise comply with this article:

- (1) Window signs, as allowed by this article.
- (2) Flags (flag poles shall be considered as an "accessory structure" under the city's zoning ordinance as to the location and site of flag poles).

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- (3) Two stake signs per lot in residential zoning districts, as provided in this article.
 - (4) One stake sign per lot in non-residential zoning districts, as provided in this article.
 - (5) Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the zoned lot or parcel on which such sign is located.
 - (6) Any public notice or warning required by a valid and applicable federal, state, or local law, regulation or ordinance.
 - (7) Traffic control signs on private property, such as "stop," "yield," and similar signs, which meet state department of transportation standards.

(Ord. No. 2013-08, § 1(exh. A), 6-10-2013; Ord. No. 2016-05, § 1(exh. a), 5-23-2016)

Sec. 80-437. Variances.

- (a) *Limitations.* The planning and zoning commission shall be allowed to grant variances where a hardship has been demonstrated pursuant to the City of Fairburn Zoning Ordinance. Said variance or variances may only be granted as to number, set back, building material, height and size or sign style.
- (b) *Timing.* The planning and zoning commission shall hear and decide upon a variance within 90 days of the submission of a complete and accurate application.
- (c) *Tolling.* In the event a variance is sought under this sign ordinance, the time to grant or deny a sign permit application under section 80-430 will be tolled.
- (d) The mere existence of a nonconforming sign shall not constitute a valid reason to grant a variance.

(Ord. No. 2013-08, § 1(exh. A), 6-10-2013)

Sec. 80-438. Severability.

Should any article, section, clause, or provision of this article be declared by a court of competent jurisdiction to be invalid, such action shall not affect the validity of the ordinance as a whole or any part hereof other than the part so declared to be invalid, it being the intent of the city council that each article, section, clause, and provision hereof be severable.

(Ord. No. 2016-05, § 1(exh. A), 5-23-2016)

Secs. 80-439—80-450. Reserved.

DIVISION 2. ART ADVISORY COUNCIL⁹

Sec. 80-451. Creation of an art advisory council; appointment and terms.

- (a) There is hereby created an art advisory council ("council") called the "City of Fairburn Art Advisory Council" consisting of seven members, including the following:

⁹Editor's note(s)—An ordinance adopted Oct. 28, 2019 changed the title of div. 2 from art and architectural advisory committee to art advisory council.

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- (1) Seven members, having one or more of the following qualifications: A professional in the field of art, landscape architect or land use planner, historian, residential citizen of the City of Fairburn, or business citizen of the City of Fairburn. They will be chosen for their demonstrated background, education and expertise in the visual arts, public art, architecture or related professions, art history or art critic.
 - (b) Members shall serve four-year terms. In order to achieve staggered terms, initial appointments shall be two members for one year; two members for two years; and three members for four years. Members shall not receive a salary, although they may be reimbursed for authorized expenses directly incurred in the performance of the duties contained herein.

(Ord. No. 2013-08, § 1(exh. A), 6-10-2013; Ord. of 10-28-2019(1))

Editor's note(s)—An ordinance adopted Oct. 28, 2019 changed the title of § 80-451 from creation of an art and architectural advisory committee; appointment and terms to creation of an art advisory council; appointment and terms.

Sec. 80-452. Duties of the art advisory council.

- (a) The council shall have the duty and responsibility to review public art enhancement [PAE] throughout the City of Fairburn and to make recommendation on whether specific public art enhances or benefits the city and/or community. PAE shall review for nonresidential and mixed use (including any nonresidential use) properties.
- (b) After making such review, the council shall make recommendations regarding the approval or disapproval of such applications to the director of planning or his/her designee. Recommendations on PAE in the Highway 29 Overlay District shall be based upon the compliance or noncompliance with the architectural design standards set forth in the Highway 29 Overlay District, section 80-89 of the Fairburn Code of Ordinances. The art advisory council shall have no authority to actually approve or disapprove any applications.

(Ord. No. 2013-08, § 1(exh. A), 6-10-2013; Ord. of 10-28-2019(1))

Sec. 80-453. Meetings; quorum; officers.

The art advisory council shall meet at such time and on such days as the council may deem convenient for the members. Four members present shall constitute a quorum. A quorum shall be required for the council to conduct any business. A recommendation shall be authorized where a majority of the members present at the meeting vote in favor of a recommendation. If no majority vote can be reached, then the council shall provide a written statement to the director of planning that the council was unable to reach a recommendation supported by the majority of the present members.

(Ord. No. 2013-08, § 1(exh. A), 6-10-2013; Ord. of 10-28-2019(1))

Sec. 80-454. Review procedure.

- (a) Upon receipt of a PAE located anywhere in the city, the art advisory council shall, within 15 days, review such application and make a written recommendation to the director of planning or his/her designee. If the art advisory council should fail to review an application within the 15-day time period specified herein, then the director of planning or his/her designee shall consider the application without the recommendation of the council.
- (b) PAE standards of review. The purpose of regulating art in public areas is to enhance the quality of the visual environment in the City of Fairburn community, both natural and constructed; and in so doing:

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- (1) To promote the historic, intellectual and aesthetic enrichment of the community through public art;
 - (2) To provide a variety of public art for the City of Fairburn;
 - (3) To approve public art enhancement which has aesthetic and/or technical merit and is appropriate in context to the location;
 - (4) To approve public art enhancement throughout the City of Fairburn in such a manner that it is visible and accessible to the Fairburn community.
- (c) Determining PAE benefit to community. In determining whether specific PAE enhances or benefits the City of Fairburn community, the council, under the direction of the director of planning and city administrator, shall consider the following criteria:
- (1) PAE shall be located in areas where residents and visitors live, work or congregate and shall be visible and accessible by the general public.
 - (2) The council shall take into account appropriateness to the site, permanence of the work relative to environmental conditions, maintenance requirements and the enduring nature of the artistic statement.
 - (3) The selection should show sensitivity to the aesthetic, historic and cultural traditions of the City of Fairburn and also to the surrounding property's character.
 - (4) In the Highway 29 overlay district, the PAE must be consistent with and reflect historical Fairburn.

(Ord. No. 2013-08, § 1(exh. A), 6-10-2013; Ord. of 10-28-2019(1))

Sec. 80-455. Conflicts of interest.

At any time the council reviews an application in which a member has ownership or other vested interest, that member will be forbidden from presenting, voting, or discussing the application, other than answering a direct question, and such member shall reveal all conflicts of interest to the council.

(Ord. No. 2013-08, § 1(exh. A), 6-10-2013; Ord. of 10-28-2019(1))

Sec. 80-456. Effect upon the director of planning.

Nothing contained in sections 80-451 through 80-455 shall interfere with the right and authority of the director of planning to review and approve or disapprove any applications at any time.

(Ord. No. 2013-08, § 1(exh. A), 6-10-2013; Ord. of 10-28-2019(1))

Editor's note(s)—An ordinance adopted Oct. 28, 2019 changed the title of § 80-456 from effect upon the planning and zoning commission and the zoning administrator to effect upon the director of planning.

Secs. 80-457—80-471. Reserved.

ARTICLE XIII. RESIDENTIAL INFILL¹⁰

¹⁰Editor's note(s)—Ord. No. 2012-04, § 1, adopted June 11, 2012, repealed ch. 80, art. XIII, §§ 80-472—80-494 and added a new ch. 80, art. XIII, §§ 80-472—80-476. Former ch. 80, art. XIII, pertained to telecommunication

towers and antennas and was derived from Ord. No. 2008-10Z, exh. A, §§ 18.1—18.18, 19—23, adopted August 25, 2008.

Sec. 80-472. Definitions.

- (a) For the purposes of this section, the term "infill" shall apply to all single-family residential zoning within the districts.
- (b) For the purposes of this section, "accessory structure" shall mean detached garages, carports, storage sheds, etc. and shall meet the minimum setback requirements prescribed by the applicable zoning district. Said structures shall be constructed of similar building materials and orientation of the principal structure.
- (c) For the purposes of this section, the term "infill development" shall mean the construction of single-family dwellings and/or reconstruction of at least 25 percent of the exterior of a residential structure in neighborhoods in which at least 75 percent of the lots in the survey area have been developed. Infill development shall be required if a developer is building five or less homes. A single-family detached structure constructed on three acres or more is exempt from this chapter.
- (d) For purposes of this section, the term "survey area" shall mean:

The nearest ten surrounding single-family residential properties that are located on both sides, directly to the rear, and directly across the public right-of-way of the lot to be developed.

In the event that topography, zoning district boundaries, city limits, or other logistical matters render strict compliance with subsection (d) impossible, the director of planning and zoning shall determine the survey area as strictly as possible in compliance with subsection (d).

- (1) In order to establish and maintain compatibility among residential developments and to preserve the aesthetic qualities of neighborhoods, which serves to preserve the property values of all residential land owners and developers, promote the health, welfare and safety of neighborhoods, and preserve the tax base of the city, the design requirements detailed herein are hereby mandated for all residential infill developments, in addition to all other construction standards contained in this Code.
 - (2) The developer of a proposed infill development shall submit to the planning and zoning department, an infill compatibility survey, on the form provided by the planning and zoning department that illustrates the size, scale, and overall visual character of the structure including setbacks, height and basic architectural features of homes in the survey area. The applicant shall also submit labeled pictures of the survey area.
- (e) The minimum requirements for residential infill development, to be shown on the infill compatibility survey, shall be as follows:
- (1) *Height.* The maximum height is measured between the highest point along a roof or highest ridge line of a proposed home, and the slab or crawl space on grade. The height shall comply with the requirements of the applicable zoning district. For purposes of building height, chimneys, as well as flues, vents, pipes, antennae, and other small projections less than 24 inches in width/diameter (measured at the widest point) shall not be included in the above measurement.
 - (2) *Number of stories.* The number of stores shall comply with the height requirements of the applicable zoning district.
 - (3) *Orientation of the front door.* The home shall have its front entrance facing the street (if the lot faces more than one street, then facing the street that existing homes in the survey area face), and shall have no less than 25 square feet of framed window facing said street, or no less than 85 percent of the average square footage of framed window facing said street for homes within the survey area, whichever is less.
 - (4) *Orientation of the house.* The infill home shall have the same orientation to the streets as the majority (51 percent) of the existing homes within the survey area. Where the dimensions of the lot, or other

site-specific obstacles, do not permit the same orientation as a majority of existing structures in the survey area, the property owner, or his or her representatives, may file for a variance with the planning and zoning commission, which variance shall be considered in conformance with the procedures and standards contained in article VI, Appeals.

- (5) *Garages and carports.* Where a majority (51 percent) of existing homes have garages or carports within the survey area, the infill home shall include a garage or carport. The garage or carport frontage shall meet all setback requirements of the applicable zoning district. The orientation of garages and carports shall be consistent with the majority (51 percent) of such structures within the survey area. Where possible, garages and carports shall be oriented and entered from the side or rear of the infill home, and out of view of the public way. A detached garage within an infill development is considered an accessory structure and must comply with the infill standards and applicable zoning district.
- (6) *Exterior materials.* The exterior materials of an infill development, including garages, carports and other accessory structures, shall conform to the following requirements:
- All exterior finishes shall be either brick, stone, masonry, wood, masonry composite, or such other similar exterior finish as may be approved by the director of planning and zoning.
 - Where either brick, stone, masonry, wood, or masonry composite is used on a majority (51 percent) of existing homes in the survey area, the infill development shall include and reflect the majority (51 percent) of the homes' building materials on the front, sides and rear of the structure as demonstrated in the community and if visible from a public right-of-way.

(7) *Square footage requirements.*

| Zoning District | Minimum Floor Area (Square Feet) | Maximum Floor Area (Square Feet) |
|---|-------------------------------------|---|
| R-1 (Single-Family Dwelling District) | 2,000 square feet | 4,000 |
| R-2 (Single-Family Residential District) | 1,800 square feet | 4,000 |
| R-3 (Single-Family District) | 1,600 square feet | 3,600 |
| R-4 (Single-Family Residential District) | 1,400 square feet | 3,200 |

- (8) *Foundations.* Foundations shall reflect the character and style of homes in the survey area. However, no foundation shall have exposed concrete. Concrete foundations, where exposed, must be covered in stucco, brick or other approved masonry material used in the majority of the homes in the survey area.
- (9) *Fireplaces and chimneys.* Where the majority (51 percent) of existing homes in the survey area have fireplaces and chimneys, the infill home shall include fireplaces and chimneys to reflect the character and style of homes in the survey area. Chimneys shall be covered in stucco, brick or other approved masonry material, unless a different material is used in the majority (51 percent) of the existing homes in the survey area and shall terminate at finished grade.
- (10) *Front porch or stoops.* Where the majority (51 percent) of existing homes in the survey area have a functional front porch or stoop, or similar front entry feature, the infill home shall have such a feature. The inclusion of these features shall be consistent with the setbacks of the applicable zoning district.

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Architectural features and dimensions shall conform to those of the majority (51 percent) of homes in the survey area.

- (11) *Overhangs.* The roofs of all infill homes shall be constructed in such a manner as to provide soffits (i.e. the horizontal underside of the eaves) that extend a maximum horizontal distance of one foot beyond the face of the exterior walls.
 - (12) *Lot frontage.* Lot frontage for infill homes shall not vary more than ten percent from the average lot frontage of existing homes in the survey area.
 - (13) *Front yard setbacks.* The front yard setbacks shall comply with the requirements of the applicable zoning district.
 - (14) *Landscaping.* Landscaping of the infill lot following construction of the dwelling shall be compatible and reflect the landscaping of the homes in the survey area, subject to the requirements of the tree protection and landscape ordinance. Effect shall be made to preserve or replace specimen trees in accordance with the tree protection and landscape ordinance.
- (f) *Relief.* To apply for relief from any of these requirements, the property owner, or his or her representatives, may file for a variance with the planning and zoning commission. That variance shall be considered in conformance with the procedures and standards contained in article VI, Appeals.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. No. 2017-04, § 1(Exh. A), 5-22-2017; Ord. of 10-28-2019(1))

Sec. 80-473. Public participation program.

The public participation program is in place to ensure that applicants pursue early effective public involvement in conjunction with their petitions, ensure that the citizens of the city have an adequate opportunity to learn about petitions that may affect them, and to ensure ongoing communication between applicants, adjoining property owners, neighborhood groups, community associations and other organizations, elected officials and city staff. A minimum target area for public participation shall be a 500-foot radius from the affected property. At the director of planning and zoning's discretion, a greater distance may be required. Applicants are required to submit a public participation plan for meeting with interested citizens to advise residents of residential infill applications and to allow citizens the opportunity to discuss concerns and provide input about project design or development. An applicant's responsibilities are to inform the public, solicit input, and provide a summary of these activities in the form of a written report.

The requirement for a public participation plan does not give communities decision making powers. Applicants are encouraged to listen to the concerns of the community and seek to reach a consensus on the outstanding issues. A refusal by the community, as defined in section 80-474, to meet with applicants or to return the completed and signed departmental documents does not mean that the applicant fails to meet the requirements of the public participation program.

Public participation plans are required with all residential infill applications and must be filed simultaneously with the application. An application for building permit may be denied by the department of planning and zoning if the report is not submitted as required.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-474. Public participation plan.

Every application for residential infill shall include a public participation plan.

Minimum Standards:

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- (1) Identification of all property owners within 500-foot radius of the site, area neighborhood groups, community associations, other organizations and any political subdivision of the state (elected officials) which may be affected by an application. This list is known as the "community" for the purposes of public participation.
 - (2) Detailed explanation of how interested parties, including but not limited to the community, will be informed of a residential infill. At the least, by certified mail and a sign posted on the property ten business days prior to the meeting.
 - (3) Methods for providing opportunities for discussion with interested parties, including but not limited to the community, before meetings are held. Applicants are required to schedule at least one meeting at a convenient location and time and notify all interested parties, including but not limited to the community, of the purpose, place and time of meeting.
 - (4) Applicant's schedule for completion of the public participation plan.
 - (5) Site plan and sketches, including at least the building footprint and front and side elevations, of any structure to be built (the "site plan".)

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-475. Public participation plan report.

Every application for residential infill is required to provide a public participation report which shall include the items listed below:

- (1) Provide a list of all parties, including but not limited to the community, that were contacted, the methods of notification that were used, and copies of all notification letters.
- (2) Provide a copy of letter of notification to impacted adjacent property owner.
- (3) Provide dates and locations of all community and/or other meetings that were attended by the applicant to discuss an application. Attach meeting notices, letters, etc.
- (4) Provide the number of people who participated in meetings held to discuss an application. Attach sign-in sheets.
- (5) A summary of concerns and issues expressed by interested parties.
- (6) A summary of the applicant's response to concerns and issues.
- (7) A signed copy of the notification form, provided by the planning and zoning department, signed by both the applicant and a representative of the community or other interested parties presented to.
- (8) Applicant shall attach a copy of the site plan, as referenced in section 80-474(5), presented to the community representative and/or other interested parties.
- (9) Applicant shall bring to the community meeting copies of the site plan, as referenced in subsection 80-474(5), which can be distributed and kept by the community. (Size not to exceed 11 by 17 inches.)
- (10) Applicant shall conduct an additional community meeting if any modifications are made to the application after it has been reviewed by the appropriate property owners, neighborhood groups, community associations other organizations and any political subdivision of the state (elected officials) affected by the application.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-476. Community responsibility.

The affected community and/or other interested parties shall also fax, mail, e-mail or hand deliver to the department of planning and zoning a copy of the signed notification form by both parties in order to insure that the information submitted by the applicant reflects what was presented to the community and/or other interested parties. The form must be submitted within five days after the scheduled meeting. If the form is not submitted, the information submitted by the applicant will be deemed to be the information presented to the community and/or other interested parties. A refusal by the community and/or other interested parties to return this form does not mean that the applicant fails to meet the requirements of the public participation program.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

ARTICLE XIV. REGULATIONS FOR FENCES

Sec. 80-477. Fences.

- (a) *Intent.* This section is intended to promote the general health, safety and welfare of the residents of the city by regulating the height, location, design, construction and maintenance of fences within the city limits.
- (b) *Definitions.* For purposes of administering this section, the following interpretations and definitions shall apply; words and terms not explicitly defined in this section shall have the meanings given in section 80-478, and words and terms not explicitly defined in this section shall have the meanings given by common use and as defined in the latest edition of Webster's New Collegiate Dictionary:

Fence means a structure serving as an enclosure, a barrier, or a boundary, usually made of posts or stakes joined together by boards, wire or rails.

Fence height means the vertical dimension from the natural ground level to the top of the fence measured at any point along the length of the fence.

Natural ground level means the level of the ground prior to any recent manmade changes in the elevation of the ground. For purposes of administering this section, "natural ground level" shall also include the level of the ground established on any site plan or landscape plan approved in accordance with the city's review process for site plans and subdivision plats.

Yard, front means an unoccupied area extending the full width of the lot located between the front line and the front yard setback line. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

- (c) *Administration.*

- (1) *Primary responsibility.* The building official shall have the primary responsibility for administering this section.
- (2) *Permits.* A building permit shall be required for the construction or alteration of any fence. As a part of the permitting process, the building official shall review plans, issue permits, inspect installations, and in general secure compliance with the requirements of this section. All fences in the city must comply with the provisions of this section.
- (3) *Hazardous conditions.* If the building official determines that a hazardous condition exists in the city, he may require the installation of a fence adequate to protect the safety of the general public. If such a fence is required, it must also comply with the appropriate standards for the area in which it is located.

(4) *Temporary fence.* The building official may permit the installation of a temporary fence at a construction site, if it is felt that the fence would be necessary to protect the public safety or would be necessary to provide proper security for the site. A temporary fence shall remain in place for no more than one year and must comply with the following conditions:

- a. In residential zoning districts, a temporary fence shall not exceed six feet in height if located within any setback area.
- b. In any commercial or industrial zoning district, a temporary fence shall not exceed eight feet in height if located within any setback area.
- c. No signs shall be attached to any temporary fence.

(5) *Enforcement.* The building official is responsible for the enforcement of this section.

- a. If a suspected violation is reported, it will be investigated by the code enforcement officer.
- b. If it is determined that a violation has occurred, the city shall notify the property owner of the violation as well as the steps that should be taken to correct the violation.
- c. If the property owner does not agree to take immediate action to correct the violation, the city shall take any action as provided by law, including the issuance of a citation, to promptly and properly correct the violation.
- d. A property owner may request a variance as provided in article VI of this chapter.
- e. If a fence legally exists at the time of the enactment of this section, it shall continue to be allowed to exist as a nonconforming use, but must still be properly maintained.
- f. If a nonconforming fence is substantially damaged or is allowed to fall into a state of disrepair, it shall be required to either be removed or brought into conformance with this section.
- g. No nonconforming fence shall be extended in any way except as permitted by this section.

(d) *General standards.*

- (1) All fences built or erected within the city shall conform to the standards specified in this section.
- (2) No fence in excess of four feet in height shall be installed within 40 feet of the right-of-way of a major thoroughfare.
- (3) For any zoning lot adjacent to a greenbelt or buffer that is required along a major thoroughfare, no fence in excess of four feet in height shall be installed within 35 feet of the right-of-way of that thoroughfare.
- (4) No privately-owned fence shall be installed within any public street right-of-way or within any city-owned property.
- (5) No fence shall be installed so that, in the opinion of the city engineer, it obstructs vision at any street intersection, or in any way creates a hazard to traffic.
- (6) No fence shall be installed so that, in the opinion of the fire chief, it prevents or unduly restricts access to property for emergency purposes.
- (7) If a fence is designed so that its structural supports are primarily on one side, that side must always be toward the interior of the property.
- (8) Wire fencing may be attached to the interior of or made a part of any wooden, stone, brick, wrought iron, or other such non-wire-type fencing, where the other type fencing would not provide an adequate barrier to certain pets or animals. When so applied, the wire shall be vinyl coated or painted

in a standard dark brown, dark green or black color. When used under these conditions, it shall not be considered a wire fence.

- (9) If a fence is required by any governmental authority to provide for the safety and security of the residents of the city, that fence shall not be removed or otherwise left in an unsafe condition for any reason without the approval of the building official, and without proper precautions being taken to provide for continuous protection.
- (10) It shall be the responsibility of the owner of the property on which a fence is located to maintain that fence in good and proper repair so that at all times it presents a neat and orderly appearance to surrounding property owners and to the general public.
- (11) Any fence damaged by accident or an act of God shall be properly repaired within 90 days of the occurrence. Fencing required for public safety purposes shall be repaired immediately.
- (12) Swimming pool fences shall be constructed in accordance with the specific requirements for pools, as indicated in the International Swimming Pool and Spa Code, latest edition.
- (13) In those instances where fence height is limited to four feet, fences with intermittent decorative feature such as newels or finials may exceed four feet in height for those features, but in no case shall these features exceed more than four feet six inches in height.

(e) *Residential standards.*

- (1) The standards in this section shall apply to all fences in the following zoning districts: AG, R-1, R-2, R-3, R-4, R-CT, RM-12, RM-36 and PD.
- (2) No fence or portion of a fence shall exceed six feet in height; however, if a property owner wishes to install a tennis court or some other similar special-purpose facility, a fence not to exceed eight feet in height may be erected on the condition that the site plan for the special purpose facility is first approved in accordance with the city's site plan review process.
- (3) Unless further restricted by this section, no fence within a required side or rear setback area shall exceed six feet in height; however, if due to variations in topography or if the fence contains decorative features such as newels or finials, it may exceed six feet in height, but in no case shall it exceed seven feet in height.
- (4) No fence comprised of metal parts shall be installed in a residential area unless all exposed metal parts are vinyl-coated or painted a standard dark brown, dark green or black color to blend into the natural surroundings.
- (5) No fence in excess of four feet in height shall be installed within the required setback area that adjoins a street right-of-way. In addition, no fence in excess of four feet in height shall be installed within a residential front yard.
- (6) No fence installed in a residential front yard shall be constructed of any material that restricts the view through such fence by more than 50 percent of the total barrier as viewed from the street.
- (7) Except as provided in subsection (e)(8) of this section, no fence, which is constructed of wire, including chain link fencing, shall be installed between the principal structure on a residential zoning lot and any adjoining street right-of-way.
- (8) In AG zoning districts, fences constructed of wire may be constructed in the front yard, outside the required front setback area, except on those lots of three acres or less that are developed or intended to be developed for single-family residential use.

(f) *Commercial standards.*

- (1) The standards in this section shall apply to all fences in the following: O&I, DTMU, C-1 and C-2.

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- (2) No fence or portion of a fence shall exceed eight feet in height, unless specifically approved in accordance with the city's site plan review process; however, in no instance shall any fence exceed ten feet in height.
 - (3) No fence comprised of metal parts shall be installed in a commercial area unless all exposed metal parts are vinyl-coated or painted a standard dark brown, dark green or black color to blend into the natural surroundings.
 - (4) No fence which is constructed of wire, including chain link fencing, and no fence in excess of four feet in height shall be installed between the principal structure on a zoning lot and any adjoining street right-of-way line. On a zoning lot with multiple street frontages, this restriction shall apply on all street frontages. On a zoning lot with no principal building erected on the lot, this restriction shall apply to required setback areas that adjoin a street right-of-way.

(g) *Industrial standards.*

- (1) The standards in this section shall apply to all fences in the following zoning districts: M-1 and M-2.
- (2) No fence or portion of a fence shall exceed ten feet in height.
- (3) No fence comprised of metal parts shall be installed in a front yard setback area unless all exposed metal parts are vinyl-coated or painted a standard dark brown, dark green or black color to blend into the natural landscape.
- (4) No fence which is constructed of wire, including chain link fencing, and no fence in excess of six feet in height shall be installed between the principal structure on a zoning lot and any adjoining street right-of-way line. On a zoning lot with multiple street frontages, this restriction shall apply on all street frontages. On a zoning lot with no principal building erected on the lot, this restriction shall apply to all required setback areas that adjoin a street right-of-way.

(Ord. No. 2014-20, § 1(exh. A), 8-25-2014; Ord. of 10-28-2019(1))

ARTICLE XV. DEFINITIONS

Sec. 80-49578. Definitions.

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

Access drive. A private road giving access from a public way to a building on abutting grounds.

Accessory outdoor dining area. Any area outside the gross floor area of the building or business where customers may be served, including but not limited to food or beverages, provided, however, that any attempt to enclose such outside area may be construed to have a parking requirement as required for inside seating.

Accessory use. A subordinate use which is customarily incidental to the principal use of a lot, and which is located on the same lot as a principal use.

Addition. A structure added to the original structure at some time after completion of the original structure.

Adjacent to interior line. A lot which has frontage on only one street and is located in between two lots.

Administrative permit. Any use authorized by an administrative permit shall be approved and permitted by the planning and zoning administrator whenever the proposed use complies fully with the requirements of the subject property's zoning district and standards.

Annexation. The incorporation of new land areas into the city limits.

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Approved plan. A plan that has been given final approval by the appropriate authority.

Automobile service, major. Automobile repair services which generally require substantial replacement/repair of major components of an automobile. Examples of major automobile service include, but are not limited to, transmission repairs/replacement, paint and bodywork engine overhaul, and radiator repair.

Automobile service, minor. Automobile maintenance services which generally only require very brief adjustments and replacement of minor components. Examples of minor automobile service include but are not limited to, tune-up, oil change, lubrication, brake repair, air conditioning system services, muffler replacement, and alignment. Minor automobile parking shall be defined further as no overnight parking permitted.

Automobile service station. A building or premises where products necessary for automobile service or maintenance are sold, provided there is no storage of automobiles, and only minor services are rendered, and all repairs are performed indoors. An automobile service station is neither a repair garage nor a body shop.

Automobile service station pumps. Service station pumps and pump islands: Service station pumps and pump islands may occupy a required yard adjacent to a street, provided that no portion of such pump island shall be closer than 25 feet to any street intersection.

Basement. The level below a floor of a building with a minimum of one-half of the total wall area below grade. A basement is not a story. The term basement is synonymous with cellar.

Bed and breakfast inn. A residence in which the frequency and volume of visitors are incidental to the primary use as a private residence and where guest-rooms or cottages or cabins are made available for visitors for fewer than 14 consecutive days. Breakfast is the only meal served and is included in the charge for the room.

Bedroom. Any room in a dwelling designed and intended for sleeping, separable from other rooms by a door.

Berm. A planted earthen mound, usually linear in shape.

Block. An area of land bounded by streets or by a combination of streets and public land, railroad right-of-way, waterway or any other barrier to the continuity of development.

Boarding house. A dwelling in which meals, lodging, or both are furnished for compensation to more than two but not more than ten non-transient persons.

Brewpub. An accessory use to a permitted restaurant where distilled spirits, malt beverages or wines are licensed to sell and where beer or malt beverages are manufactured or brewed for consumption on the premise and solely in draft form.

Brownfields. A tract of land that has been developed for industrial purposes, the reuse of which is complicated by the presence or potential presence of contaminants.

Buffer, general. A buffer achieved with natural vegetation or revegetated. A portion of a tract which is permanently set aside to provide a perceived or actual visual (or horizontal spatial) separation between the use on the tract and abutting tracts through the use of natural vegetation or other means including replanting or the provision of supplemental plantings or other visual screening elements or noise attenuation devices. Buffers shall remain undisturbed except as required to implement landscape enhancement.

Buffer, replanted. A buffer that has been replanted or enhanced to provide a perceived or actual visual separation between the use on the tract and the abutting tracts to achieve a visual screening or noise attenuation device (noise barrier walls).

Buffer, state waters. An area along the course of any state waters to be maintained in an undisturbed and natural condition.

Buffer, undisturbed. A natural undisturbed portion of a lot, except for approved access and utility crossings, which is set aside to achieve a visual barrier between the use on the lot and adjacent lots and/or uses.

Buffer, zoning. A natural undisturbed portion of a lot, except for approved access and utility crossings, which is set aside to achieve a visual barrier between the use on the lot and adjacent lots and/or uses. A buffer is achieved with natural vegetation and must be replanted subject to the approval of the director of the department of planning and zoning or his/her designated agent(s) when sparsely vegetated. Clearing of undergrowth from a buffer is prohibited except when accomplished under the supervision of the director of the public works or his/her designated agent(s).

Buildable area. The portion of a parcel of land where a building may be located and shall contain enough square footage to meet the minimum required by the zoning district. That portion which is not located in the minimum setbacks, utility corridors, driveways, slopes to build streets, tree save areas, landscape strips, specimen tree areas, state water buffers, zoning buffers, wetlands, storm water and sanitary sewer easements.

Building. Any structure with a roof designed or built for the support, enclosure, shelter, or protection of persons, animals, or property of any kind.

Building height. The average of two measurements of vertical distance from adjacent grade to the lowest and highest points of the roof of the highest story of a building.

Building line at lot width. A line within a lot along which the distance of the "lot width at building line" is measured; the front yard setback line.

Building permit. Written permission issued by the proper municipal authority for construction, repair or alteration of, or addition to, a structure.

Building setback line. A line formed by the front, side and rear lot lines, beyond which a building or any projection thereof, excluding uncovered steps, cannot extend.

Business services. Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as, advertising and mailing; building maintenance; employment services, management and consultant services, protective services; equipment rental and leasing; commercial research; development and testing; and personal supply services.

Canopy. A roof-like cover, excluding carports, that either projects from the wall of a building or is freestanding.

Canopy tree. Any self-supporting woody plant of a species that grows to an overall height of at least 40 feet, usually with one stem or trunk and many branches.

Car wash, accessory. A customarily incidental use of an attached or detached bay for cleaning vehicles.

Car wash, principal. A primary or main use which provides space for cleaning vehicles.

Care facilities.

- (1) **Assisted living facility.** A facility which provides short- and long-term care room and board on a 24-hour basis for residents requiring assistance with daily living activities (such as, but not limited to, dressing, grooming, bathing, housekeeping, transportation, etc.) due to health or age-related conditions. Limited on-site medical care, as well as transportation assistance for medical appointments is generally provided. Licensed by the state department of human resources.
- (2) **Convalescent center.** A domiciliary care is provided to convalescing, chronically or terminally ill persons who are provided with food, shelter and care and not meeting the test of family. Convalescent homes are primarily designed to provide a home-like environment while patients recover from long-term illnesses or medical procedures. This use shall not include hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured. Licensed by the state department of human resources.

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- (3) *Personal care home.* 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 services, and one or more personal services for two or more adults who are not related to the owner or administrator by blood or marriage. Licensed by the state department of human resources.
- (4) *Nursing home/hospice care facilities.* Means a home for aged or ill persons in which three or more persons not of the immediate family are provided with food, shelter, and care for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to diagnosis and treatment. Licensed by the state department of human resources.

Cemetery, human. The use of property as a burial place for human remains. Such a property may contain a mausoleum.

Cemetery, pet. The use of property as a burial place for the remains of pets. Such a property may contain a mausoleum.

Certificate of occupancy (CO). A document issued by the building official indicating that a building has been constructed in accordance with all codes and provisions of this chapter, or that a legal variance to the codes and provisions of this chapter has been granted.

Certificate of zoning compliance. A document issued by the zoning administrator or its designee stating that a use of a building and/or land conforms to all provisions of this chapter or that a legal variance to the provisions of this chapter has been granted.

Check casher. An individual, partnership, association, or corporation engaged in cashing checks, money orders, or other drafts for a fee. Such fee may be payable in cash, in the form of exchange of value in excess of regular retail value, in the form of mandatory purchase of goods or services by patrons on a regular basis, which shall mean the check casher conducts such services more than ten times in any calendar month, or in the form of the purchase catalog items or coupons or other items indicating the ability to receive goods, services, or catalog items.

Check cashing establishment. Any establishment licensed by the state pursuant to O.C.G.A. § 7-1-700 et seq.

Church, temple or place of worship. A facility in which persons regularly assemble for religious ceremonies. This shall include, on the same lot, accessory structures and uses such as minister and caretaker's residences, and other uses identified under the provisions for administrative and use permits.

Cistern. An artificial reservoir (as an underground tank) for storing liquids and especially water (as rainwater).

City. The City of Fairburn, Georgia.

City council, mayor, and council. The mayor and council of the city.

Clear cutting. The removal of all vegetation from a property, whether by cutting or other means, excluding stream buffer requirements.

Clinic. A use where medical examination and treatment is administered to persons on an outpatient basis. No patient shall be lodged on an overnight basis.

Club, lodge, retreat, campground. A building or facility allowed with an administrative or use permit which provides space, food, and/or lodging facilities for and operated for social, educational, or recreational purposes.

Clubhouse, general. A non-profit social, educational or recreational use normally involving community centers, public swimming pools and/or courts, civic clubhouses, lodge halls, fraternal organizations, country clubs and similar facilities.

Clubhouse, neighborhood. Any club operated for recreation and social purposes solely by the residents of a specific neighborhood or community.

Cluster districts. A development pattern and technique where structures or building sites are arranged in close proximity to one another in non-linear groups to allow for the maximum number of residences under current residential zoning and subdivisions. This type of development protects natural resources and is typically adjacent to permanently preserved common open space, to make efficient and visually aesthetic use of the natural features of the landscape and maximize visualization of permanently preserved open space.

Code enforcement officer. The individual designated by the city administrator whose duty it shall be to enforce the provisions of this chapter.

Community farming/gardens. Means an area of land managed and maintained by a group of individuals to grow and harvest food crops and or ornamental crops for personal use, consumption, or donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

Condominium. A type of ownership for [multi-family dwelling units](#), attached or detached dwelling units, offices, or other space within a structure, as defined by the provision of O.C.G.A. title 44, chapter 3, article III (O.C.G.A. § 44-3-70 et seq.) in which each unit is independently owned and financed by the occupant, but in which all lands are owned in common on a proportional, undivided basis.

Cool roof. A cool roof is a reflective roof—A white or light-colored surface off of which sunlight will bounce, as opposed to a dark surface that absorbs the heat like a cast-iron skillet. The roofing material on a cool roof should also have a high emissivity, which means it easily releases heat.

Commissary. A licensed or permitted food service establishment that provides required services to a mobile food truck. A commissary may provide anything from a source for obtaining potable water and disposing of wastewater; storage for food and supplies; or cooking facilities to prepare the food for sale and consumption.

Country inn. A facility, with the owner or innkeepers residing on the premises, where guest rooms are made available for visitors for fewer than 30 consecutive days. A country inn is distinguished from a bed and breakfast category in that it serves both breakfast and lunch or dinner.

Courtyard. An open-air area, other than a yard, that is bounded by the walls of a building. Courtyards are used primarily for supplying pedestrian access, light, and air to the abutting building(s). Site furniture, lighting, and landscaping are appropriate for courtyards. Vehicular access allowed for unloading and loading only. No vehicular parking or vehicular storage is allowed.

Crematorium. A facility for the reduction of remains to ashes by incineration.

Cul-de-sac. A street having only one connection to another street, and is terminated by a vehicular turn-around.

Curb cut. An opening along the curb line of a public right-of-way through which vehicles may enter or exit the roadway. Curb cut applies to access regardless of the existence of curbing.

Cutoff. A luminaire light distribution where the emission does not exceed two and one-half percent of the lamp lumens at an angle of 90 degrees above nadir and does not exceed ten percent at a vertical angle of 80 degrees above nadir.

Cutoff fixture. A luminaire light distribution where the candela per 1,000 lamp lumens does not numerically exceed 25 (two and one-half percent) at or above a vertical angle of 90 degrees above nadir, and 100 (ten percent) at or above a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire.

DBH (diameter at breast height). The diameter of a tree measured at a point four and one-half feet above grade.

Day care center. Any establishment operated by an individual, partnership, society, agency, corporation, institution or group, and licensed by or registered with the state as a group day care home or day care center, which enrolls therein for pay, for supervision and care, at a minimum three or more children or adults. Such facility may provide

supervision, care, education, recreation, and specialized programming but does not provide overnight accommodations.

- (1) *Adult day care facility.* Any facility, 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 three or more adults who are not related to the owner or administrator by blood or marriage for a period of less than 24 hours per day.
- (2) *Child daycare center.* A use in which shelter, care, and supervision for three or more children under the age of 18 on a regular basis away from their residence for less than 24 hours a day. A child daycare facility may provide basic educational instruction. The term shall include nursery school, kindergarten, early learning center, play school, pre-school, and group day care home. Child daycare facilities shall be further differentiated by the following:
 - a. *Large.* A place operated by any person or group who receives therein for pay for supervision and care for fewer than 24 hours per day, without transfer of legal custody, 19 or more children under 18 years of age.
 - b. *Medium.* A place operated by any person or group who receives therein for pay for supervision and care for fewer than 24 hours per day, without transfer of legal custody, seven but not more than 18 children under 18 years of age.
 - c. *Small.* A private residence operated by any person who receives therein for pay for supervision and care for fewer than 24 hours per day, without transfer of legal custody, three but not more than six children under 18 years of age.

Deed restrictions or covenants. Private stipulations or legal restrictions assigned to the use of land, contained in the deed to the property or otherwise formally recorded.

Density. The number of dwelling units per acre. The standard for calculating gross density shall be the number of dwelling units divided by the entire acreage of the lot. Net density shall be based on the lot acreage minus the area comprising the network of streets and sidewalks together with any required reservation of open space.

Development of regional impact (DRI) study. A review by the Atlanta Regional Commission and the state regional transportation authority of large scale projects that are of sufficient size that they are likely to create impacts beyond the jurisdiction in which each project will be located.

Development standards. Dimensional measurements as specified in zoning districts relating to such standards as yard setbacks, lot area, lot frontage, lot width, height and floor area.

District. A geographic section of the city within which the zoning regulations are uniform.

Driveway. A private road giving access from a public way to a house, garage, or other building on abutting grounds.

Dumpster. A metal container designed for receiving, transporting, and dumping waste materials.

Dwelling. A building or portion thereof used exclusively for residential occupancy, including one-family, two-family (duplex) and multiple-family dwellings, but not hotels, ~~or~~ boardinghouses, ~~and~~ ~~or~~ rooming houses.

Dwelling, accessory. A detached dwelling unit meeting the single-family development standards and having a floor area of a maximum 800 square feet or less on the same lot as a primary dwelling. Accessory dwelling units are distinct dwelling units with independent kitchen facilities.

Dwelling, multi-family (includes multi-family residential unit). A dwelling unit within a building or set of buildings on a common lot containing separate living units for four or more families, having separate or joint entrances, and including apartments and condominiums. These are specifically distinguished from units defined as

single-family attached dwellings (townhouses). A building (land area) or portion thereof used exclusively for residential occupancy by three or more families living independent of each other and containing three or more dwelling units.

Dwelling, single-family attached (includes townhouse). A residential structure designed to house a single-family dwelling unit from the lowest level to roof, with a private outside entrance, but not necessarily occupying an individual lot, and sharing a common wall adjoining other dwelling units.

Dwelling, single-family detached. A residential structure designed to house a single unit located on an individual lot which is not attached to any other dwelling unit by any means.

Dwelling unit. One or more rooms constructed with cooking, sleeping, and sanitary facilities designed for and limited to use as living quarters.

Easement. A grant or reservation by the owner of land for the use of such land by the others for a specific purpose or purposes by the public, the city, a corporation or other persons for specified purpose, and which must be included in the conveyance of land affected by such easement.

Environmentally adverse. Any use or activity which poses a potential or immediate threat to the environment and/or is physically harmful or destructive to living beings as described in the executive order 12898 regarding environmental justice.

Environmentally stressed community. A community exposed to a minimum of two environmentally adverse conditions resulting from public and private municipal (e.g., solid waste and wastewater treatment facilities, utilities, airports, and railroads) and industrial (e.g., landfills, quarries and manufacturing facilities) uses.

Erosion. The detachment and movement of soil or rock fragments, or the wearing away of the land surface by water, wind, ice or gravity.

Extended stay residential facilities, or other similar accommodations. A building designed for occupancy of six or more guest rooms, and where more than five percent of the guest rooms located therein contain a fixed cooking appliance.

Family. Means one or more persons related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship, or up to three unrelated persons, occupying a dwelling unit and living as a single housekeeping unit, as distinguished from persons occupying a rooming, boarding house, or lodging house, or a hotel.

Family day care home. A home occupation in which shelter, care, and supervision are provided for six or fewer persons on a regular basis. A family day care home may provide basic educational instruction.

Farm. A parcel of land which is used for the raising of animals (including fish) on a commercial basis, or non-commercial such as ranching, dairy farming, piggeries, poultry farming and fish farming; a facility for the business of boarding or renting horses to the public; or a site used for the raising or harvesting of agricultural crops such as wheat, field forage and other plant crops intended for food or fiber.

Fence. A structure serving as an enclosure, a barrier, or a boundary, usually made of posts or stakes joined together by boards, wire, or rails.

Fixed cooking appliances. Includes a stove top burner, a hot plate that does not serve as an integral part of an appliance designed solely to produce coffee, a conventional oven, or any oven producing heat using resistance heating elements, induction heating, or infrared heating sources; provided, however, a microwave oven shall not be considered a fixed cooking appliance.

Flag lot. A lot where frontage to a public street is provided via a narrow strip of land forming a pole or stem to the buildable portion of the lot.

Flood lamp. A form of lighting designed to direct its output in a specific direction with a reflector formed from the glass envelope of the lamp itself. Such lamps are so designated by the manufacturers and are typically used in residential outdoor area lighting.

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

Floor area. The floor area is the gross horizontal area of the several floors of a structure exclusive of carport, garage, basement, attic, open porches, and balconies. Only finished, conditioned living space can contribute to the minimum required floor area.

Frontage. The length of any one property line of a lot that abuts a public street right-of-way.

Future land use map. A map contained in the city comprehensive plan depicting the desired pattern of development by type of use. This map is referenced in all zoning decisions.

Garden center/landscaping business. A business whose primary operation is the sale and/or storage of seeds and organic and inorganic materials, which include but are not limited to trees, shrubs, flowers, and other plants for sale or transplanting, mulch, pine straw, and other organic products for landscaping purposes, and other limited related accessory products for gardening and/or landscaping and the storage and use of landscape vehicles with an approved use permit for landscaping business, plant nursery, or garden center with indoor retail component.

Golf course. A use of land for playing the game of golf. The term shall not include miniature golf, but may include a country club and a driving range as an accessory use.

Grade. The average elevation of the finished surface of the ground adjacent to the exterior walls of a building.

Green roof. The roof of a building that is partially or completely covered with vegetation and a growing medium, planted over a waterproofing membrane. It may also include additional layers such as a root barrier and drainage and irrigation systems.

Green space. Permanently protected land and water, including agricultural and forestry land that is in its undeveloped, natural state or that has been developed only to the extent consistent with, or is restored to be consistent with, one or more of the following goals:

- (1) Water quality protection for rivers, streams, and lakes;
- (2) Flood protection;
- (3) Wetlands protection;
- (4) Reduction of erosion through protection of steep slopes, areas with erodible soils, and stream banks;
- (5) Protection of riparian buffers and other areas that serve as natural habitat and corridors for native plant and animal species;
- (6) Scenic protection;
- (7) Protection of archaeological and historic resources;
- (8) Provision of recreation in the form of boating, hiking, camping, fishing, hunting, running, jogging, biking, walking, and similar outdoor activities; and
- (9) Connection of existing or planned areas contributing to the goals set out in this paragraph.

Greyfields. Economically obsolescent, outdated, failing, and/or under used real estate assets or land. The term was coined as a way to describe the sea of empty asphalt and "dead malls".

Gross acreage. The total acreage of a lot prior to making site improvements.

Group home for children. A dwelling unit or facility in which full time residential care is provided for children under the age of 17 as a single housekeeping unit. A group home must comply with applicable federal, state and local licensing requirements. A group home may not serve the purpose of, or as an alternative to, incarceration. A group home for children shall be further differentiated by the following:

- (1) *Small.* A facility where care is provided for two or three unrelated children under the age of 17.
- (2) *Medium.* A facility where care is provided for four to six unrelated children under the age of 17.
- (3) *Large.* A facility where care is provided for seven to 15 unrelated children under the age of 17.
- (4) *Congregate.* A facility where care is provided for 16 or more unrelated persons under the age of 17.

Group home/shelter. A state licensed 24-hour residential facility functioning as a single housekeeping unit for the sheltered care of persons with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services and transportation. Bedroom suites shall not include kitchen facilities. For purposes of this chapter, group home/shelter shall not include those facilities which exclusively care for children under the age of 17.

- (1) *Small.* A facility where care is provided for two or three unrelated adults over the age of 18.
- (2) *Medium.* A facility where care is provided for four to six unrelated adults over the age of 18.
- (3) *Large.* A facility where care is provided for seven to 15 unrelated adults over the age of 18.
- (4) *Congregate.* A facility where care is provided for 16 or more unrelated adults over the age of 18.

Halfway house. Any dwelling used as a residence by individuals on parole, probation, or serving a criminal sentence on condition of house arrest, for the purpose of rehabilitation of the individual while transitioning back into the community.

Hardship. The existence of extraordinary and exceptional conditions pertaining to the size, shape, or topography of a particular property, because of which the property cannot be developed in strict conformity with the provisions of this chapter.

Height. The distance from grade to the highest point of an object.

Historic period lighting. Commercial lighting with an architectural design from the late 19th and early 20th centuries.

Home occupation. A low intensity type business conducted within or administered from a portion of a dwelling (see section 80-138).

Hospital. The provisions of in-patient health care for people, including general medical and surgical services, psychiatric care, and specialty medical facilities. Outpatient facilities are normally included.

Hotel/motel. A building in which lodging and/or boarding is provided for fewer than 30 days. The term may include a restaurant in conjunction therewith and may also mean an inn.

Impervious surface. Mainly artificial structures, such as pavements (roads, sidewalks, driveways and parking lots) that are covered by impenetrable materials such as asphalt, concrete, brick, stone, and rooftops.

Improvement. Any manmade object that becomes part of, is placed upon, or is affixed to real estate.

Industrialized (modular) housing. A single-family dwelling unit manufactured in one or more sections in accordance with the Georgia Industrialized Building Act of 1982, as amended and the rules of the commissioner of the state department of community affairs issued pursuant thereto. An industrialized or modular housing unit is designed for placement on a permanent foundation and does not have a permanent chassis, axle, or wheels. In addition, it is placed on a permanent foundation and is not intended to be moved at a later date.

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Inoperable vehicle. A motorized vehicle incapable of immediately being driven.

Junk facility. See salvage/storage/junk facility.

Junked vehicle. Any wrecked or inoperative vehicle which:

- (1) Does not bear a current license plate;
- (2) Has not been capable of operating under its own power for a period exceeding 30 days; or
- (3) From which parts have been or are to be removed for reuse or sale.

Kennel. A use for the shelter of domestic animals where the shelter of these animals involves an exchange of revenue in which a business license is required. If the kennel is a non-business operation, its use shall be certified by the county animal control office.

Land development regulations. Standards to provide guidance and establish rules and regulations governing the development of lands within the corporate city limits.

Landfill, inert waste disposal. Disposal facility accepting only waste that will not or is not likely to cause production of leachate of environmental concern by placing an earth cover thereon. Such waste is limited to earth and earth-like products, concrete, cured asphalt, rocks, bricks, yard trash, stumps, limbs, and leaves. This definition excludes other types of industrial and demolition waste not specifically listed above. (Refer to the rules concerning solid waste management of the state department of natural resources, environmental protection division, as amended, for further definition.)

Landfill, solid waste disposal. A disposal facility accepting solid waste excluding hazardous waste disposed of by placing an earth cover thereon. Solid waste includes waste from domestic, agricultural, commercial, and industrial sources. (Refer to the rules concerning solid waste management of the state department of natural resources, environmental protection division, as amended, for further definition.)

Landscape strip. An area required by this resolution or by conditions of zoning which is reserved for the installation and/or maintenance of plant materials.

Large-scale retail/service commercial development. A retail/service commercial development with at least one large-scale retail structure but no more than four such structures whether freestanding or combined.

Large-scale retail/service commercial structure. An individual retail/service commercial structure that is 75,000 square feet or greater. This size threshold refers to an individual establishment and its associated outdoor areas used for display and storage.

Lawful use. Any use of lots or structure which is not in violation of any existing federal, state or local law, statute, regulation or ordinance.

LEED (leadership in energy and environmental design). Is an internationally recognized green building certification system, providing third-party verification that a building or community was designed and built using strategies intended to improve performance in metrics such as energy savings, water efficiency, CO 2 emissions reduction, improved indoor environmental quality, and stewardship of resources and sensitivity to their impacts.

Licensed cashier of checks (check cashing facility). Any individual, partnership, association, or corporation duly licensed by the department of banking and finance to engage in this type of business.

Licensee. A licensed cashier of checks, drafts, or money orders.

Livestock. Used to refer (singularly or plural) to a domesticated animal intentionally raised in an agricultural setting to produce commodities such as food or fiber, or for its labor. The term generally does not include poultry, or farmed fish.

Live-work units. Buildings or spaces within buildings that are used jointly for commercial and residential purposes where the residential use of the space is secondary or accessory to the primary use as a place of work.

Maximum size of the live-work unit shall be 1,200 square feet with at least one-third of the unit designated for residential space.

Loading space. An area within the main building or on the same lot, which provides for the temporary parking of vehicles for loading or unloading of people, goods, and equipment.

Loft, residential. A dwelling in combination with any permitted use in a non-commercial zoning district provided the dwelling is located above the first floor, with direct access to the street or other public area; the dwelling has at least 800 square feet of usable floor area, and the dwelling meets all the requirements of the building and fire codes.

Long-term storage. A truck, trailer or vehicle parked in the same parking space continuously for a period of 30 days or more.

Lot. An unsubdivided parcel or portion of land occupied or intended to be occupied by a common use or occupied or intended to be occupied by a building or group of buildings devoted to a common use, together with the customary accessory buildings and uses and open spaces belonging to the same, which has both lot area and lot dimensions equal to or greater than the lot width and lot area requirements established by this chapter for the zoning district in which such tract of land is located and for the use purposed for the tract of land.

Lot, corner. A parcel of land bounded on two or more adjacent sides by street right-of-way lines

Lot coverage. The total horizontal ground area of a lot that is occupied by all buildings on the lot.

Lot, double frontage. A lot having frontage on two streets that do not intersect at any point along the lot, as distinguished from a corner lot.

Lot, flag. A lot to which access to the bulk of the lot area is by means of a narrow, private right-of-way or driveway.

Lot frontage. The horizontal distance of a lot adjacent to a street right-of-way.

Lot line. A boundary of a lot. The term "lot line" may also be referred to as a property line.

Lot line, front. A lot line which extends the entire length of an abutting street from intersecting property line to intersecting property line. The front lot line of a corner lot has two front lines.

Lot line, rear. The boundary of a lot which is most distant from, and is, or is most nearly parallel to the front lot line; except that in the absence of a rear lot line as is the case of the triangular shaped lot, the rear lot line may be considered as a line within the lot parallel to and at a maximum distance from the front lot line.

Lot line, side. A lot line which is not a rear or front lot line.

Lot of record. An individual lot or lot which is a part of a subdivision, the map of which has been recorded in the office of the clerk of superior court of the county; or a parcel of land the deed of which has been recorded in the office of the clerk of superior court of the county.

Lot, substandard. A lot having less than the minimum area required by the district in which it is located, provided the lot was of record as a legally created lot on the effective date of the ordinance.

Lot, unlawful. Any lot-of-record which, at the time of recordation in the official records of the clerk of superior court, did not comply with zoning and subdivision laws in effect at that time.

Lot width. The horizontal distance between side lot lines measured at the minimum front yard setback line.

Lots, multiple frontage. Any lot having a property line adjacent to more than one public street right-of-way or private street shall be deemed a multiple frontage lot. Any rear or side setback that also fronts on a public right-of-way or private street shall have a setback depth equal to the minimum front setback depth specified for the appropriate zoning district.

Manufactured (mobile) housing. A dwelling unit fabricated in an off-site facility for installation or assembly at the building site, bearing a label certifying it is constructed in compliance with the Federal Manufactured Home and Standards Act, 42 U.S.C. §§ 5401—5445. Said dwelling unit is transportable and is delivered to a site on wheels and then converted to a semi-stationary or stationary structure. As used herein, the terms "manufactured housing or mobile home" shall exclude any structure that falls under the definition of the term "industrialized housing".

Marquee. Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building used for advertising or identification.

Massing. Varying the massing of a building may be achieved by varying the surface planes of the building with porches, balconies, bay windows, and/or overhangs, and/or stepping-back the buildings from the second floor and above, and/or breaking up the roofline with different elements to create smaller compositions.

Maximum lot coverage. The percentage of the gross acreage of a lot that may be occupied by a structure or structures. In calculating maximum lot coverage, gross acreage shall not include floodplains or slopes in excess of 30 percent.

Medical related lodging. A use which provides temporary lodging for family members of a hospitalized patient.

Minimum building separation. A required space between any two buildings on the same lot that are used for multi-family or nonresidential purposes.

Miniwarehouse. A building or portion thereof used for dead storage, mainly of the excess personal property of an individual or family, but also of small amounts of goods or merchandise for business or individuals. Miniwarehouse shall not include retail sale on the premises, commercial repair or other services, manufacturing or any other commercial use.

Mixed-use. A building or groups of buildings under one ownership designed to encourage a diversity of compatible land uses, which include a mixture of two or more of the following uses: retail, office and institutional, and/or service, and residential.

Mobile food truck. A retail food establishment that reports to and operate from a commissary and is readily moveable. Said mobile food truck shall be a motorized wheeled vehicle which includes a self-contained kitchen where food is prepared or stored and from which food products are sold and dispensed.

Mobile home. Prefabricated homes built in factories, rather than on-site, and then taken to the place where they will be occupied. Being built on a permanently attached chassis with highway-grade wheels and tires, they are usually transported by being pulled behind a tractor-trailer over public roads to a home site.

Mobile home park. Use of property for two or more mobile homes for living purposes, and spaces or lots set aside and offered for use for mobile homes. Does not include mobile home sales lot.

Modification, administrative. An application requesting change to an approved condition of zoning or use permit, except for conditions that pertain to a change in use, increase in density, and/or increase in height.

Modification, zoning. An application to change approved zoning conditions on rezoning and use permits where it has been determined by the zoning administrator that the requested change involves a matter of significant public interest.

Modular building. A transportable, nonresidential building fabricated in an off-site facility for installation or assembly at a separate building site.

Modular home. A factory-fabricated, single-family dwelling built in one or more sections, designed for placement on a permanent foundation and not having a permanent chassis. A modular home is not a mobile home.

Multi-tenant. Two or more businesses that provide goods and/or services within separate structures located on the same site or within the same structure, that provides wall separation and private access for each business.

Nightclub. An establishment having a capacity of at least 100 persons, with all booths and tables unobstructed and open to view, dispensing alcoholic beverages and in which music, dancing or entertainment is conducted. All such establishments shall be equipped with air conditioning. The principal business of a nightclub shall be entertainment, and the serving of alcoholic beverages shall be incidental thereto.

Nonconforming (grandfathered) lot, use, or structure. A use, lot or structure that was nonconforming at the time of the adoption and does not now meet the minimum requirements of the district in which it is located. Also, a use, lot, or structure which has been made nonconforming by some city or state action. Any change or addition to a use, lot, or structure must comply with current provisions of this chapter.

Official zoning map. The most current map depicting the district designation of all lots in the city, controlling their use and development, as attested by the city clerk.

Off-premises. A location outside of the subject lot for a designated use.

Off-site. The location of a structure or use outside the lot-of-record of the subject development including the adjoining street or other right-of-way.

Off-street parking space. A paved, off-street area adequate for parking an automobile, with appropriately related access to a public street or alley and associated maneuvering room.

Office, temporary. A mobile, manufactured or other structure which is used as an office for real estate sales, on-site construction management and related functions. Requires an administrative permit under temporary structures.

On-premises. The individual lot-of-record on which the use is located.

On-site. The location of a structure or use within the confines of a property delineated by property lines or, if referenced in a zoning or use permit case, within the confines of the boundaries of the legal description filed with the petition.

Open space. A portion of a site which is permanently set aside for public or private use and will not be developed. The space may be used for passive or active recreation or may be reserved to protect or buffer natural areas. Open space may include wooded areas other than required landscape strips and buffers, pathways/walkways, fields, and sensitive environmental areas such as wetlands, etc. Detention facilities and platted residential lots shall not be included in open space calculations.

Outdoor display. The outdoor display of products actively available for rent or sale within the principle business facility. This definition does not include products in shipping boxes, crates, on pallets, or other shipping containers, or any construction equipment which shall be considered outdoor storage.

Outdoor storage. The outdoor storage of products, whether for sale, rent or processing for a period exceeding 24 hours. This definition includes any products on pallets, in shipping containers, in or on crates, any construction equipment, any goods, junk, material, merchandise, or vehicles.

Outparcel (spin-site). A portion of a larger parcel of land generally designed as a site for a separate structure and business from the larger tract. An outparcel may or may not be a subdivision of a larger parcel. To be recognized as an outparcel, the portion must be identified on a site plan approved for the larger parcel.

Owner. An individual, firm, association, syndicate, partnership, or corporation having sufficient vested legal property rights in the property for which they seek an action under this chapter.

Parcel. An area of land having one continuous boundary held by one owner and recorded with the clerk of the superior court of the county.

Park land. Land within or suitable for public parks; land for noncommercial park, recreation or open space purposes;

Parking lot. An area which is used for the parking of vehicle.

Parking space. An area designated for the parking of one vehicle on an all-weather surface. All residential development shall provide two spaces per dwelling unit.

Path. A cleared way for pedestrians and/or bicycles that may or may not be paved or otherwise improved.

Pavement. An area of brick, stone, concrete, or asphalt placed on the surface of land sufficient for vehicular use, and that portion of a street right-of-way having an improved surface.

Pawn shop. A business that lends money at interest on personal property deposited with the lender until redeemed.

Permitted use. An activity conducted on a lot that is among those activities allowed as a matter of right under the zoning district of this chapter in which the lot is located, subject to the applicable regulations of the district.

Personal services. Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel.

Pervious lot paving. Pervious paving materials include pervious interlocking concrete paving blocks, concrete grid pavers, perforated brick pavers, and compacted gravel. It is used to reduce the imperviousness of firm surfaces such as patios, walkways, driveways, fire lanes, and parking areas, for the purpose of reducing surface runoff and increasing infiltration.

Plant nursery. Any land used to raise trees, shrubs, flowers and other plants for sale or transplanting, but not including the retail sale of any related garden supplies such as chemical fertilizer, tools and other similar goods and/or equipment. See garden center/landscaping business for retail component.

Plat, final. The permanent plan documenting the approved subdivision of land as defined in the city subdivision regulations, indicating the proposed layout of the subdivision, together with all site improvements.

Plat, preliminary. An initial plan for the subdivision of land as defined in the city subdivision regulations, indicating the proposed layout of the subdivision.

Porch. A roofed open structure projecting from the exterior wall of a building and having at least 70 percent of the total area of the vertical planes forming its perimeter unobstructed in any manner except by insect screening between floor and ceiling.

Principal use. The primary activity on a lot distinguished from a secondary or accessory use.

Property. When used in conjunction with an application for rezoning, an area of land composed of less than one lot, or of accumulations of one or more lots, or parts thereof.

Protected zone. All lands that fall outside the buildable area of a parcel, all areas of a parcel required to remain in open space, all areas required as landscape strips and/or buffers (including zoning buffers, state water buffers and tributary buffers) and all tree save areas according to the provisions of the Fairburn zoning ordinance, conditions of zoning, use permit or variance approval, and/or the tree protection, landscaping and maintenance ordinance.

Public art/creative placemaking. Works of art in public places (usually outside and accessible to all) can take form in various sizes and scales and can be temporary or permanent. Public art/creative placemaking can include murals, sculpture, memorials, integrated architectural or landscape architectural work, community art, digital new media, and performances and festivals. Public art/creative placemaking can be integrated into community revitalization work by placing arts and culture at the table with land-use, transportation, economic development, education, housing, infrastructure and public safety strategies.

Public notice. Information conveyed to the general population concerning any provision of this chapter or its application to real property in the city of the city appearing on affected property or in a paper of general circulation. Such notices are used primarily to announce the time, place, and nature of a hearing during which city officials will publicly debate such matters.

Rain barrel. A barrel used as a cistern to hold rainwater. A rain barrel catches and stores runoff rainwater from the roof which can be used to water the lawn or garden.

Rain gardens. A planted depression that allows rainwater runoff from impervious urban areas like roofs, driveways, walkways, parking lots, and compacted lawn areas the opportunity to be absorbed. This reduces rain runoff by allowing stormwater to soak into the ground.

Recreational court, private. An improved area designed and intended for the playing of a game or event such as basketball or tennis, and which serves a single-family dwelling(s), duplex dwellings and/or multi-family dwellings, or combinations of dwelling types, including such improved areas which are owned and/or controlled by a neighborhood or similar organization. A basketball goal adjoining a driveway of typical residential driveway dimensions shall not constitute a recreational court.

Recreational court, public. An improved area designed and intended for the playing of a game or event such as basketball or tennis, and is operated as a business or as a club unless such club is a neighborhood club or similar organization identified under recreational court, private.

Recreational facilities. Includes parks, recreation areas, golf courses, playgrounds, recreation centers (indoor and outdoor), playing fields, and other similar uses or facilities.

Recreational vehicle. A vehicle used for leisure time activities and as a dwelling unit while traveling. Examples include a camper, a motor home, and a travel trailer.

Recycling center, collecting. Any facility utilized for the purpose of collecting materials to be recycled including, but not limited to, plastics, glass, paper, and aluminum materials.

Recycling center, processing. Any facility utilized for the purpose of collecting, sorting, and processing materials to be recycled including, but not limited to, plastics, glass, paper, and aluminum materials. A recycling center is not to be considered a landfill.

Rehabilitation center. Shall include rehabilitation centers for persons with alcohol, drug abuse or other dependency problems or mentally or physically handicapped persons.

Relocated residential structure. A dwelling which has been removed from one location for relocation to another lot.

Repair garage, truck, and heavy equipment. A use which may provide a full-range of repairs and services including major overhauls on trucks and heavy equipment. Includes paint and body shops.

Resident. Any person who is a member of the family residing in the dwelling unit, takes substantially all of his overnight lodging at the dwelling unit, stores substantially all his personal belongings in the dwelling unit, and uses the address of the premises as his address for legal purposes such as voter registration, and payment of personal property taxes.

Residential use dwelling. Any building or portion thereof where one actually lives or has his home; a place of human habitation.

Restaurant. A food service use which involves the preparation and serving of food to seated patrons. A cafeteria shall also be considered a restaurant. The restaurant seating area must be at least 40 percent of the gross square footage of the restaurant facility. Seating space located outside of the main structure (i.e. patios, decks, etc.) shall not be included in calculating the seating space.

Restaurant, drive-through. An establishment that allows customers to order and pick up food and/or beverages through a window, in a designated lane, while remaining in their vehicles, regardless of whether it also serves food and/or beverages to customers who are not in motor vehicles, for consumption on or off the premises. Restaurant with curbside ordering and pickup of food and/or beverage is not considered a drive-through restaurant.

Restaurant, fast food. Fast food establishments refer to buildings used for the preparation and sale of ready-to-eat food. Fast food restaurants are characterized by a limited menu of food prepared quickly (often within a few minutes), and sometimes cooked in bulk in advance and kept hot, with minimal table service. Fast food restaurants often serve hamburgers, french fries, pizza, hot dogs, chicken, sub sandwiches, tacos, ice cream, coffee, milkshakes, etc.

Retail or service establishments. An establishment that sells services or goods to meet the everyday needs of the community. Such establishments may include grocery stores, hardware stores, clothing stores, furniture stores, restaurants, hotels, watch repair establishments, barber shops, and other such local establishments. Retail or service establishments may sell goods as an incidental service when necessary. Retail or service establishments may sell products as a secondary service to the primary business activity.

Retail use. A business whose primary purpose is the sale of merchandise to consumers.

Right-of-way. An area of land specifically designated for use as a public street or sidewalk; utility, railroad, interstate or transmission corridor; landscaping and street furnishings; or other public purpose.

Roadside produce stand. A use offering either farm-grown, prepared food products such as fruits, vegetables, canned foods, or prepared packaged meats for sale from a vehicle or a temporary structure. The consumption of food on-site is prohibited.

Roadside vending. The sale of merchandise such as clothing, crafts, household item, firewood, etc., from a temporary table or cart.

Rooming house. A residential use other than a hotel or motel in which lodging may be provided to non-household members for periods of 30 days or longer, and which does not include the provision of meals.

Rural. Rural applies to sparsely settled or agricultural country areas that are not urbanized.

Salvage/storage/junk facility. Any use involving the storage or disassembly of wrecked or junked automobiles, trucks or other vehicles; vehicular impound lots; storage, bailing or otherwise dealing in scrap irons or other metals, used paper, used cloth, plumbing fixtures, appliances, brick, wood or other building materials; and the storage or accumulation outside of a storage building of used vehicle tires or tire carcasses which cannot be reclaimed for their original use. Such uses are storage and/or salvage facilities whether or not all or part of such operations is conducted inside or outside a building or as principal or accessory uses. State approval is required for all sites utilized for reclamation and/or disposal of toxic and/or hazardous waste.

Satellite dish. A round, parabolic antenna designed to receive signals from orbiting satellites. Noncommercial dish antennas are defined as being less than four meters in diameter. **Scale.**

- (1) Refers to the relationship of the size of a building to neighboring buildings and of a building to a site. In general, the scale of new construction should relate to the majority of surrounding buildings.
- (2) A linear scale, also called a bar scale, scale bar, graphic scale, or graphical scale, is a means of visually showing the scale of a map, nautical chart, engineering drawing, or architectural drawing.

Schools, colleges, and universities. Any educational facility established under the laws of the state (and usually regulated in matters of detail by local authorities), in the various districts, counties, or towns, maintained at the public expense by taxation, and open, usually without charge, to all residents of the city, town or other district; private schools which have students regularly attending classes and which teach subjects commonly taught in these schools of this state; any educational facility operated by a private organization or local county, or state that

provides training or education beyond and in addition to that training received in grades kindergarten to twelfth, including but not limited to, trade, business and vocational schools; any institution of higher learning, consisting of an assemblage of colleges united under one corporate organization or government, affording instruction in the arts and sciences and the learned professions, and conferring degrees.

School, private. An educational use having a curriculum at least equal to a public school, but not operated by the county board of education.

School, special. An educational use devoted to special education including the training of gifted, learning disabled, mentally and/or physically handicapped persons, but not operated by the county board of education.

Screen. A fence, wall, hedge, landscaping, earthen berm, buffer area, or any combination of these that is designed to provide a visual and/or physical barrier.

Seasonal business use. A primary use involving the sale of items related to calendar holidays, such as Christmas trees, Halloween pumpkins, etc., which may be conducted outside.

Senior housing. A single family or multi-family development intended for, operated for and designed to accommodate residents 55 years of age and older. Senior housing communities are designed for seniors to live on their own, but with the security and conveniences of community living. Some provide communal dining rooms and planned recreational activities (congregate living or retirement communities), while others provide housing with only minimal amenities or services.

Service station. A use which provides for the sale of motor vehicle fuels and automotive accessories, and which may provide minor repair and maintenance services. A service station shall be limited to four or fewer bays excluding no more than one attached or detached bay for washing cars.

Setbacks. See building setbacks.

Sexually oriented business. An adult bookstore or adult video store, an adult cabaret, an adult motion picture theater, a semi-nude model studio, a sexual device shop, or a sexual encounter center.

Shopping center. A group of commercial establishments planned, developed, and managed as a unit with individual vendors housed in one building that provides customer access, amenities, and protection from the elements and features common, on-site parking.

Sidewalk. Any portion of a street between the curblane and the adjacent property line, intended for the use of pedestrians, excluding parkways.

Sign. Any surface, frame, letter, figure, character, mark, plane, point, design, picture, stroke, stripe, reading matter, material, fabric, device, fixture, placard, structure, object, three dimensional object, or display which bears lettered, numbered, pictorial, or sculptured matter, designed to convey information visually, advertise, announce the purpose of, identify the purpose of a person, or entity, to draw attention, or to communicate information of any kind to the public and which is exposed to public view (excluding those objects which qualify as "architectural enhancement" pursuant to the city's art and architectural advisory committee ordinance, Code sections 80-451 through 80-456). For the purpose of this article, the term "sign" shall not include those devices located entirely within a building or structure, unless such devices are considered window signs; additionally the term "sign" shall include all structural members used to erect or mount same, and any company colors, trademarks, service marks, brand names, logos, symbols, or roof shapes, which are generally used by the company in the design of its buildings, and are generally used, or identified, as trade styles or other identifying marks or symbols of the company's business.

Site plan, conceptual. A detailed plan for one or more lots drawn to scale depicting the proposed and existing conditions based on a certified boundary survey.

Site plan, final. The construction plan that identifies the details of the proposed development to include approved conceptual site plan and other information to include erosion control plans and details,

sediment/detention pond details, sewer and drainage plan, tree protection plan, water and sanitary sewer layout, and construction details.

Small box retail store. A retail store with a floor area less than 15,000 square feet that primarily offers for sale an assortment of physical goods, products, or merchandise directly to the consumer, including food or beverages for off-premises consumption, household products, personal grooming, and health products and other consumer goods, with the majority of items being offered for sale at lower than the typical market price. Small box discount retail stores shall not include the following: Pharmacy drug store or a convenience store attached to or collocated with a gas station.

Solar power. The conversion of sunlight into electricity, either directly using photovoltaics (PV) (able to generate a current or voltage when exposed to visible light or other electromagnetic radiation), or indirectly using concentrated solar power (CSP) (the use of mirrors or lenses to concentrate a large area of sunlight, or solar thermal energy, onto a small area).

Special event. An event or happening organized by any person or organization which will generate or invite considerable public participation and/or spectators for a particular and limited purpose of time, including, but not limited to, special sales and service promotions, car shows, arts and crafts shows, horse shows, carnivals, festivals, exhibitions, circuses, fairs, show houses and tours of homes for charity. Special events are not limited to those events conducted on the public streets but may occur entirely on private property. Special events may be for profit or nonprofit. Events which will occur in the public right-of-way, such as roadway foot races, fundraising walks, bike-a-thons, parades, etc. are subject to the approval of the city police department.

Stadium. A large open or enclosed structure used for sports and other major events and partly or completely surrounded by tiers of seats for spectators.

Story. A portion of a building between the surface of any floor and the floor or space above it, excluding basements and attics.

Story, half. A heated and finished area below a roof, one or more of the vertical walls of which are less than normal ceiling height for the building.

Street. A public way for vehicle traffic that provides the primary means of access to abutting properties.

Street trees. Any tree whose trunk is located 50 percent or more within the land lying between property lines on either side of all public streets, boulevards, and alleys including public easements.

Structural alteration. Any change in the supporting member of a structure, such as foundations, bearing walls or bearing partitions, columns, beams, girders, or any substantial change in the roof or exterior walls.

Structure. Any object constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground.

Structure, accessory. A subordinate or secondary structure, customarily incidental to a principal structure or use and located on the same lot. Examples of accessory structures in single-family dwelling districts include outbuildings, such as, tool sheds, woodsheds, workshops, outdoor kitchens, pool houses, gazebos, guest houses, storage sheds, temporary storage pods, detached garages and detached carports, etc. Fences and retaining walls are not considered accessory structures. Driveways, surface parking lots, patios, and similar paved surfaces are not considered accessory structures.

Structure, principal. The primary building on a lot as distinguished from a secondary or accessory structure.

Subdivision. The division of land into three or more lots. A development consisting of subdivided lots.

Subordinate/incidental. Of lesser order or importance. Uses which are incidental to a permitted use as long as the incidental or subordinate use does not undercut the plain intent of the zoning.

Surface, all weather. Any surface treatment, including gravel, which is applied to and maintained so as to prevent erosion, and to limit vehicle wheels from making direct contact with soil, sod or mud; and which effectively prevents the depositing of soil, sod or mud onto streets from areas required to be so treated.

Sustainable. Development that meets the needs of the present without compromising the ability of future generations to meet their needs.

Swimming pool, private. A recreation facility designed and intended for water contact activities which serves a single-family dwelling(s), duplex dwellings and/or multi-family dwellings, or combinations of dwelling types, including pools which are owned and/or controlled by a neighborhood club or similar organization.

Swimming pool, public. A recreation facility designed and intended water contact activities which are operated as a business or as a club unless such club is associated with a neighborhood club or similar organization.

Tasting room. An outlet operated for the distribution and sale of wine by providing complimentary samples of such wine to the public and for the sale of such wine at retail.

Temporary storage pod. An accessory structure on a lot used for storage for less than three months. It is not intended for permanent storage. Such structure is used primarily for storage of building materials, household goods, personal items and other materials for use on a limited basis on residential, commercial or industrial property. Examples of temporary storage pods include portable storage units (PODS) and self-storage containers.

Transfer station. A facility used to transfer solid waste from one transportation vehicle to another for transportation to a disposal facility or processing operation.

Travel trailers. Used primarily as temporary or vacation homes and is equipped for use (while traveling) as a dwelling.

Truck or motor freight terminal, service facility. An establishment engaged in transporting goods or commodities for another business enterprise, including the parking and repair of the motor vehicles used in providing such service.

Truck stop. A commercial establishment that provides fuel, parking, and sometimes food, primarily used for trucks, usually located on or near an interstate or state highway.

Truck terminal. A primary use of property where trucks/trailers are temporarily stored, maintained or based. Trucks/trailers shall have current registration and license plates with decal.

Use permit. A [legislative land use decision permit](#) approved by the city council, pursuant to a public hearing, which authorizes a use which must meet certain standards which exceed the requirements of the district as a whole.

Used or occupied. Means and shall be construed to include the words "intended, arranged, or designed to be used or occupied".

Variance.

- (1) *Administrative minor variance.* A variance to the minimum district yard requirements of not more than one foot, granted administratively by zoning director.
- (2) *Concurrent variance.* A concurrent variance from any standards of this chapter which shall be filed simultaneously with rezoning, use permit or zoning modification requests on the same property based on the conceptual plan submitted.
- (3) *Minor variance.* An application requesting deviation from the minimum yard requirements, not to exceed ten percent of the dimensional requirements.

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- (4) *Primary variance.* A request for a variance from any zoning ordinance provision that is not being handled as a minor, administrative minor or concurrent variance and shall be heard and decided by the planning and zoning commission in accordance with article VI of this chapter.
 - (5) *Secondary variance.* An appeal of a decision and/or action of the zoning administrator authorized to hear a variance request or interpretation of this chapter.

Vehicle, junk, or salvage. Any automobile, truck or other vehicle which is missing one of the following:

- (1) Current registration;
- (2) License plate with current decal;
- (3) Proof of liability insurance;
- (4) Drive train component for more than 30 days.

Veterinary clinic/hospital. A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

Waste. Material that are discarded, disposed of, or no longer usable.

Waste disposal boundary. The limit of all waste disposal areas, appurtenances, and ancillary activities (including but not limited to internal access roads and drainage control devices).

Waste, hazardous. See state department of natural resources definition.

Waste, solid. See state department of natural resources definition.

Yard:

- (1) *Front.* An unoccupied area extending the full width of the lot located between the front lot line and the front yard setback line. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension.
- (2) *Rear.* An unoccupied area extending the full width of the lot located between the rear lot line and the rear yard setback line.
- (3) *Side.* An unoccupied area bounded by the side yard setback line, the side lot line and the front and rear yards.

Zoning conditions. Requirements placed on property by the city council at the time of approval of a rezoning and/or use permit.

Zoning district. A specifically delineated area or district in a municipality within which regulations and requirements uniformly govern the use, placement, spacing, and size of land and buildings.

Zoning map. The "zoning district maps" of the city.

(Ord. No. 2008-10Z, exh. A, §§ 2.01, 2.02, 8-25-2008; Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. No. 2013-18, § 1(Exh. A), 9-9-2013; Ord. No. 2013-25, § 1, 10-14-2013; Ord. No. 2013-26, § 1, 10-14-2013; Ord. No. 2014-01, § 1, 2-14-2014; Ord. No. 2014-09, 6-9-2014; Ord. of 5-22-2017(1); Ord. of 10-28-2019(1) ; Ord. No. 2022-234 , § 1, 3-28-2022)

Secs. 80-479—80-494. Reserved.

ARTICLE XV. DISTRIBUTED GENERATION FACILITY¹¹

Sec. 80-495. Definitions.

Accessory use. A subordinate building or use which is customarily incidental to the principal building or use of a lot, and which is located on the same lot as a principal building or use.

Distributed generation. For purposes of this ordinance a solar energy system includes building mounted and ground mounted solar energy systems.

Distributed generation facility/facilities (as defined under state law pursuant to O.C.G.A. § 46-3-52). A facility owned and operated by a customer of the electric service provider for the production of electrical energy that:

- (1) Uses a solar photovoltaic system, fuel cell, or wind turbine;
- (2) Has a peak generating capacity of not more than ten kW for residential applications and 125 percent of actual measured or estimated peak demand for commercial applications;
- (3) Is located on the customer's premises;
- (4) Operates in parallel with the electric service provider's distribution facilities;
- (5) Connected to the electric service provider's distribution system on either side of the electric service provider's meter; and
- (6) Is intended primarily to offset part or all of the customer generator's requirements for electricity.

Interconnected distributed generation system. A distributed generation system designed to serve the electricity needs of the building to which it is connected, thus offsetting a home's or business's electricity usage. Any excess electricity generated is sent to the electric utility grid and credited via a customer's agreement with the city.

Large distributed generation system. Produces electricity using solar photovoltaic, hydro, geothermal, fuel cell or other technology to produce electricity for the premise to which it is attached. Large DG systems shall have a nameplate capacity of more than 100 kW.

Non-Interconnected distributed generation system. A distributed generation system designed to operate independently from the local utility grid and provide electricity to a home, building, boat, RV (or remote agricultural pumps, gates, traffic signs, lights, etc.). These systems typically require a battery bank to store the electricity for use during nighttime or cloudy weather.

Photovoltaic cell. A semiconductor device that converts solar energy directly into electricity.

Photovoltaic (PV) system. A solar energy system that produces electricity by the use of photovoltaic cells that generate electricity whenever light strikes them. Included in a PV system are the solar energy mechanisms (e.g., panels or other assemblies of solar electric cells), inverters (devices that convert direct current electricity produced by the system to usable alternating current), batteries and battery systems that store electrical energy from the PV

¹¹Editor's note(s)—An ordinance adopted May 22, 2017, § 1(Exh. A), set out provisions intended for use as art. XV, §§ 80-478 and 80-479. Inasmuch as there were provisions so designated, and at the editor's discretion, the provisions have been included as art. XV, §§ 80-495 and 80-496.

system for future use, meters and electric distribution wires and conduits that facilitate connections with the user and/or the local power grid.

Small distributed generation system. Produces electricity using solar photovoltaic, hydro, geothermal, fuel cell or other technology to produce electricity for the premise to which it is attached. Small DG systems shall have a nameplate capacity of 100 kW or less.

Solar access easement. A recorded easement, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar energy system.

Solar array. A number of solar collector modules or panels that generate solar electricity, assembled or connected together to provide a single electrical output.

Solar collector. A professionally manufactured device, structure or part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical or electrical energy.

Solar collector surface. any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process. Collector surface does not include frames, supports and mounting hardware.

Solar energy system, building mounted. A solar energy system that is professionally mounted on the roof of a principal building or accessory structure. A building mounted solar energy system may be building integrated, flush mounted or non-flush mounted.

- (1) *Building integrated.* A building mounted solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural part of the building. Building integrated systems include, but are not limited to, photovoltaic or hot water systems that are contained within roofing materials, skylights, shading devices and similar architectural components.
- (2) *Flush mounted.* A building mounted solar energy system that is mounted to a finished roof surface where the solar collector, once installed, projects no further than six inches in height beyond the roof surface.
- (3) *Non-flush mounted.* A building mounted solar energy system that is mounted to a finished roof surface where the solar collector, once installed, projects more than six inches in height beyond the roof surface.

Solar energy system, ground mounted. A free-standing solar energy system that is placed on or mounted to the ground.

Solar energy system, large. A type of professionally manufactured distributed generation system accessory to the principal use that utilizes solar collectors to convert solar energy from the sun into thermal, mechanical or electrical energy for storage and use, and is intended primarily to reduce on-site consumption of utility power. A large system is defined as having a nameplate capacity of more than 100 kW. Energy produced in excess of on-site consumption may be sold back to the electric utility service provider that serves the proposed site for use within the existing energy grid in accordance with chapter 59, Utilities, article V, Electric service, section 59-113.

Solar energy system, self-contained. A self-contained solar energy system is not interconnected to the city's electric distribution system and shall have a solar collector surface area less than or equal to six square feet. Such systems are typically used to power area lighting, small roadway signs, etc.

Solar energy system, small. A type of professionally manufactured distributed generation system accessory to the principal use that utilizes solar collectors to convert solar energy from the sun into thermal, mechanical or electrical energy for storage and use, and is intended primarily to reduce on-site consumption of utility power. A small system is defined as having a nameplate capacity of 100 kW or less. Energy produced in excess of on-site consumption may be sold back to the electric utility service provider that serves the proposed site for use within the existing energy grid in accordance with chapter 59, Utilities, article V, Electric service, section 59-113,

Distributed generation. For purposes of this article a solar energy system includes building mounted and ground mounted solar energy systems.

Solar panel (or module). A device or structure containing one or more receptive cells, the purpose of which is to convert sunlight into useable solar energy (including electricity or heat).

(Ord. of 5-22-2017(1) , § 1(Exh. A)

Sec. 80-496. Solar energy systems.

- (a) *Purpose.* The purpose of this section is to establish reasonable and uniform regulations for the location, installation, operation and maintenance of solar energy systems, to assure that the development and production of solar energy systems is safe and to minimize any potentially adverse effects on the community; to promote the supply of sustainable and renewable energy sources, in support of national, state and local goals; and to facilitate energy cost savings and economic opportunities for individuals and businesses situated within the City of Fairburn.
- (b) *Solar energy system general regulations.* Building mounted, building integrated, flush mounted and ground mounted solar energy systems may be erected or installed on properties used or zoned for residential or non-residential purposes, and in accordance with this article and electric service ordinances, all state and federal laws and regulations as amended from time to time, concerning its use and operation and shall be further subjected to the following standards:
 - (1) Shall only be permitted if accessory to a principal building/use.
 - (2) Shall be installed according to manufacturer specifications and in accordance with all applicable city ordinances.
 - (3) No solar energy system shall be mounted or affixed to any freestanding wall or fence.
 - (4) Electric solar energy system components must have a UL listing.
 - (5) An external disconnect switch, readily accessible by city emergency personnel, and which is clearly identifiable and unobstructed, shall be provided to disconnect power at the solar panel.
 - (6) Labels indicating the use of solar panels shall be posted at an easily viewable location. The label shall clearly state the name, address and phone number of the person or persons authorized to deactivate the solar system in the event of an emergency. In addition, the label shall contain the words "WARNING: PHOTOVOLTAIC POWER SOURCE". Labels shall be placed adjacent to the main service disconnect switch in a location clearly visible from the location where the disconnect switch is operated.
 - (7) Utility notification. No interconnected distributed generation system, including photovoltaic systems, shall be installed until evidence has been given to the planning and zoning department that the owner has submitted the required contracts and agreements to the city pursuant to chapter 59, utilities, article V, Electric service, section 59-113, Distributed generation. Non-interconnected distributed generation systems are exempt from this requirement.
 - (8) The fire department shall review and comment on the installation of solar collectors that are building mounted to verify that adequate roof access is provided to emergency personnel in the case of an emergency.
 - (9) Glare and lighting.
 - a. The solar energy components shall be designed and installed with an antireflective coating or at least shall not produce glare that would constitute a nuisance to occupants of neighboring properties, aircraft, or persons traveling on adjacent or nearby roads.

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- b. If lighting is required, it shall be activated by motion sensors, fully shielded and downcast type where the light does not spill onto any adjacent property or into the night sky.
- (10) Noise. Inverter noise shall not exceed 40 dBA, measured at the property line.
- (11) Maintenance, upkeep and decommissioning:
- a. Systems shall be maintained in accordance with manufacturer's specifications. The operator of the facility shall maintain the facility, including all buffer screening, in compliance with the approved plans and shall keep the facility free from weeds, dust, trash and debris.
 - b. Systems shall be considered obsolete or unused when they have not been operated for 12 consecutive months. All obsolete or unused systems shall be repaired or removed at the owner's expense. If the owner fails to remove or repair the defective or abandoned solar energy system, the City of Fairburn may pursue a legal action to have the system removed at the owner's expense, including but not limited to the issuance of a citation for violation of this section, whereby the owner will be required to appear before the municipal court of the City of Fairburn.
- (12) This section shall not apply to a non-interconnected distributed generation systems/self-contained solar energy systems; however, non-interconnected distributed generation system/self-contained solar energy system(s) shall comply with the following restrictions:
- a. On property used or zoned for residential or non-residential purposes, non-interconnected distributed generation systems/self-contained solar energy systems that are ground mounted are limited to an aggregate solar collector surface area less than or equal to six square feet.
 - b. On property used or zoned for residential purposes, non-interconnected distributed generation system/self-contained solar energy systems that are building mounted are limited to an aggregate solar collector surface area less than or equal to six square feet.
- (13) Any additional information and data reasonably necessary to evaluate the conformity of the solar energy system with this article pursuant to the request of the zoning administrator.
- (c) *Building mounted solar energy system requirements.* Building mounted solar energy systems may be allowed on property that meets all requirements as defined in the section below and elsewhere in this article.
- (1) *Type permitted and roof area maximum.*
- a. On property used or zoned for residential purposes:
 - 1. Building integrated and/or flush mounted small solar energy systems are permitted to be installed on any roof area.
 - 2. Non-flush mounted small solar energy systems are not permitted on a building with a flat roof.
 - 3. Non-flush mounted small solar energy systems shall only be permitted on the back roof or side roof and shall not exceed the highest point of the roof line or pitch so it remains completely screened from view to an observer on the street.
 - 4. A non-flush mounted small solar energy system is prohibited on any roof that is adjacent to the front yard and/or corner side yard.
 - 5. The solar collector surface area shall not cover more than 80 percent of any roof area upon which the collectors are mounted, and shall be set back from the roof edge by a minimum of one foot.
 - b. On property used or zoned for non-residential purposes:

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1. Building integrated and/or flush mounted small or large solar energy systems are permitted to be installed on any roof area.
 2. Non-flush mounted small or large solar energy systems are permitted on a building with a flat roof if the solar collector is completely screened from view to an observer five feet above the ground at any point along an abutting property line.
 3. Non-flush mounted small or large solar energy systems are permitted on a building with a pitched roof but shall only be permitted on the back roof or side roof and shall not exceed the height of the highest point of the roof line or pitch so it is completely screened from view to an observer five feet above the ground at any point along the street view.
 4. Non-flush mounted small or large solar energy system is prohibited on any pitched roof that is adjacent to the front yard and/or corner side yard.
 5. The solar collector surface area shall not cover more than 80 percent of any roof area upon which the collectors are mounted, and shall be set back from the roof edge by a minimum of one foot.

(2) *Maximum permitted height and building projection/extension.*

- a. On property used or zoned for residential purposes:
 1. Non flush-mounted small solar energy systems shall not extend above the highest point of the roof line.
 2. Shall not project/extend beyond the exterior wall of any building on which the system is mounted or built.
- b. On property used or zoned for non-residential purposes:
 1. Non flush-mounted small or large solar energy systems shall not extend above the highest point of the roof line or a parapet wall.
 2. Building integrated and/or flush mounted small or large solar energy systems shall not extend two feet above the roof and shall not extend beyond the highest point of the roof.
 3. Shall not project/extend beyond the exterior wall of any building on which the system is mounted or built.

(d) *Ground mounted solar energy system requirements.* Ground mounted small solar energy systems may be allowed on property used or zoned for residential purposes and ground mounted small or large solar energy systems may be allowed on property used or zoned for non-residential purposes. A ground mounted solar energy system shall meet the requirements as defined in the section below and elsewhere in this article:

- (1) *Site plan review.* Small or large ground mounted solar energy systems proposed within residential zoning or nonresidential zoning districts shall undergo site plan review prior to construction, installation or modification. The following must be shown on the site plan:
 - a. Property lines and physical features, including roads, for the project site;
 - b. Proposed changes to the landscape of the site, grading plan, vegetation clearing and planting plan, exterior lighting, screening vegetation or structures;
 - c. Blueprints or drawings of the solar energy system showing the proposed layout of the system, any potential shading from nearby structures, the distance between the proposed solar collector and all property lines and existing on-site buildings and structures, and the tallest finished height of the solar collector;

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- d. Documentation of the major system components to be used, including the panels, mounting system, and inverter;
 - e. Name, address, and contact information for proposed system installer;
 - f. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
 - g. The name, contact information and signature of any agents representing the project proponent; and
 - h. Zoning district designation for the parcel(s) of land comprising the project site. Erosion and sedimentation plan, if applicable.
- (2) *Maximum height.* On property zoned for residential or non-residential purposes:
- a. Shall not exceed 25 percent of the footprint of the principal building served for residential properties, nor more than 50 percent of the footprint of the principal building served for non-residential properties.
 - b. Shall not exceed ten feet in height for non-residential property and five feet in height for residential property, unless the solar collector is attached to a legal and conforming parking lot light pole or other monopole structure that is necessary to the lot.
 - c. When a solar collector is attached to a legal and conforming parking lot light pole or other permitted monopole structure that is an accessory to the lot, the solar collector shall not extend more than five feet above the height of the parking lot light pole or other monopole structure.
- (3) *Location requirements.* On property used or zoned for residential or non-residential purposes:
- a. Shall be set back a distance not less than or equal to one times the system height or five feet, whichever is greater, measured from the edge of the system to the nearest property line. However, a solar collector attached to a legal and conforming parking lot light pole or other permitted monopole structure that is accessory to the lot may have a setback less than five feet.
 - b. On property that is zoned for residential purposes, no part of a ground mounted system shall be located in the front yard or corner side yard.
 - c. A solar collector may only be attached to a legal and conforming parking lot light pole or other permitted monopole structure if all other ordinance requirements are met.
 - d. No part of a ground mounted system shall be located or protrude into a dedicated easement.
 - e. A ground-mounted system shall not be located over a septic system, leach field area or identified reserve area unless approved by the health department.
 - f. If located in a floodplain or an area of known localized flooding, all panels, electrical wiring, automatic transfer switches, inverters, etc. shall be located above the base flood elevation.
 - g. All transmission wiring installed between the solar system and the premise being served shall be installed underground.
 - h. It is the property owner's responsibility to obtain any solar access easements he/she deems necessary to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar energy system.
 - i. A landscape buffer shall be provided around all ground mounted solar energy systems including but not limited to its mechanical equipment and solar panels to provide screening from adjacent properties and shall consist of a variety of native, drought-resistant evergreen plants. Such screening shall be a height at the time of planting equal to the maximum height of any part of the

ground mounted solar energy systems. The landscape buffer shall remain undisturbed except as required to implement landscape enhancements. Buffers shall be well maintained. Buffer requirements may be expanded where circumstances of topography or other factors render normal buffers ineffective. All buffers shall be subject to the approval of the zoning administrator.

- (e) *Variance.* The planning and zoning commission shall be allowed to grant variances where a hardship has been demonstrated pursuant to section 80-251 of this Code.

(Ord. of 5-22-2017(1) , § 1(Exh. A))

ARTICLE XVI. SPECIAL EVENT VENUES

Sec. 80-497. Intent.

This article establishes a permit process and standards for the development and operation of special event venues. These provisions are necessary to reduce impacts to surrounding properties so that special event facilities do not result in incompatible land use.

(Ord. of 11-8-2021 , § 1(Exh. A))

Sec. 80-498. Definition.

Special event venue. A special event venue is a place of public assembly used for commercial events. Special event venues are subject to a use agreement between a private group or individual and the venue owner. The venue owner may or may not charge a fee for the use of the venue. Venues may operate entirely within a structure, outside of a structure, or both inside and outside a structure.

(Ord. of 11-8-2021 , § 1(Exh. A))

Sec. 80-499. Applicability.

Special event venues are permitted in the following districts: AG (Agriculture), O&I (Office Institutional), C-2 (General Commercial), M-1 (Light Industrial), and M-2 (Heavy Industrial). This section does not apply to the special event permit process provided in section 80-179.

- (a) Special event venues can be a principal or accessory use. Special event venues in an agricultural district that are accessory to the site's principal use shall not substantially change the character of the primary use of the property.

(Ord. of 11-8-2021 , § 1(Exh. A))

Sec. 80-500. Permit process.

All special event venues as described under this article require the approval of a special event venue permit by the planning and zoning director or his/her designee.

- (a) The special event permit application shall include a site plan, description of all uses, an exhibit map showing the location and distance of the venue to the closest surrounding sensitive receptors such as single-family residences and other housing types, management plan, traffic plan and shall comply with the special event facility standards set forth.

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- (b) Event management plan. Owner/operator shall maintain an event management plan that includes, but is not limited to, a site plan, arrangements for emergency (fire, police, medical) services, arrangements for waste disposal services, name and contact information for the property owner and the event operator, and other information as may be required by the planning and zoning staff to ensure events are operated safely and with minimal impact on nearby property owners and uses. A copy of the event management plan shall be provided to the planning and zoning office and must always be available for an on-site inspection.
 - (c) Traffic plan. The special event permit application shall include a traffic management plan. The traffic management plan shall include the following requirements and standards:
 - (1) A traffic control plan to ensure an orderly and safe arrival, parking, and departure of all vehicles and to ensure that traffic will not back up or block easements, city roads, intersections, or private driveways. All ingress/egress and parking areas shall be located in such a manner to minimize traffic hazards associated with entering and exiting the public roadway.
 - (2) The location of all temporary directional signs on driveways entrance and within parking lots to ensure orderly flow of traffic. Temporary directional signs shall be placed prior to the event and removed at least three hours at the conclusion of the event. Signs should not be placed in the right-of-way.
 - (3) Adequate ingress and egress shall be provided for all emergency vehicles to the satisfaction of the Fairburn Fire and Police Department [article II, section 56-26, temporary and emergency parking restrictions]. Temporary or emergency parking restrictions may be established and posted by order of the city engineer, fire chief, or police chief. Violations of such restrictions shall be subject to the enforcement and impoundment provisions of section 56-25, impounding of vehicles.

(Ord. of 11-8-2021 , § 1(Exh. A))

Sec. 80-501. Standards.

Special event venues shall follow the operation and development standards at all times:

- (a) *Noise control.* Noise standards shall be regulated in accordance with article XI, noise. For evaluating conformance with the standards of this section, noise levels shall be measured in accordance with article XI, noise.
- (b) *Setbacks.* The following setbacks shall be maintained at all times:
 - (1) If an adjoining parcel has a residence, then all structures or activities associated with the special event shall be located at least 75 feet from the property line that adjoins a residence.
 - (2) All temporary structures such as tents, stages, and dance floors shall abide by all setbacks, and their use must be identified in the management plan.
- (c) *Parking requirements.* On-site parking shall be provided according with section 80-337, off-street parking requirements (the larger of one space for each four seats, one space for each 25 square feet of floor area available for chairs in the largest assembly room, or one space for every 150 square feet of gross floor area). Parking shall also comply with article IX, off street-parking, loading and landscape requirement, sections 80-326 to 80-364.
- (d) *Music/entertainment.* Music or entertainment shall not be the primary purpose of the special event and always shall be secondary and customary to the primary purpose of the special event. For

example, music and dancing may be secondary to a wedding reception, but a concert, play, or stage performance is not permitted.

(e) *Lighting.* All lighting shall comply with the following requirements:

- (1) All outdoor lighting associated with the special event shall be turned off within two hours after the special event ends.
- (2) Outdoor lighting shall be located, shielded, and directed such that no direct light falls outside the property line or into the public right-of-way.

(f) *Signage.* All signs shall conform to the requirements in article XII, sign regulations.

(g) *Neighborhood notification.* Special event facilities shall post a schedule of future events to their website, or an annual/seasonal schedule of future events shall be mailed to all neighbors within 1,200 feet at least two weeks prior to the beginning of the event year or season. The schedule shall show days planned for events, hours of operation, and include a phone number for inquiries.

(h) *Structures.* Structures shall meet fire code standards and shall be inspected by the fire marshal and building inspector prior to occupancy.

(i) *Alcoholic beverages.* The consumption of alcoholic beverages on premises is subject to section 8-21, permitted locations for private functions at which alcoholic beverages are served; sales prohibited.

(Ord. of 11-8-2021 , § 1(Exh. A))

Sec. 80-502. Permit revocation or modification.

The permit for a special event venue may be revoked or can be subject to approval with conditions. The City of Fairburn Police Department, in its discretion, may stop an event that has been issued a permit and/or may issue citations where event staff or participants violate other city ordinances, terms, or conditions specified in the application, and including, but not limited to, traffic rules and regulations, disturbing the peace, public nuisance, failure to disperse, trespass, or other health and safety regulations.

(Ord. of 11-8-2021 , § 1(Exh. A))