CHAPTER 27

CITY OF DUNWOODY

ZONING ORDINANCE

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ARTICLE I. GENERAL REGULATIONS

DIVISION 1. GENERAL PROVISIONS

Sec. 1-1. Short Title.

This chapter shall be known and may be cited as the Zoning Ordinance of the City of Dunwoody, Georgia.

Sec. 1-2. General Purposes.

This chapter is enacted by the City Council in order to promote the public health, safety, morals and general welfare of the residents of the City of Dunwoody, Georgia, and to implement the City of Dunwoody Comprehensive Plan. To these ends, the chapter is intended to achieve the following purposes:

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

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

(c) To promote, in the public interest, the wise utilization of land.

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

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

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

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

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

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

(j) To protect against overcrowding of land, overcrowding of population in relation to the community facilities existing or available, obstruction of light and air, danger and

congestion in travel and transportation, and loss of life or health or property from fire, flood, or other danger.

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

(l) To promote the preservation of the unique natural and physical resources of the City including forested areas, riverbeds, stream beds, and archaeological sites.

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

(n) To protect the public welfare by protecting approach slopes and other safety areas of licensed airports.

(o) To provide for and promote housing for all income groups and all citizens within the City.

(p) To implement the authority, powers and duties of the planning commission and the zoning board of appeals pursuant to state and local law.

(q) To reduce or eliminate the secondary effects of adult entertainment establishments and other establishments that create such secondary effects while protecting legitimate constitutional rights of said establishments.

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

Sec. 1-3. Minimum Requirements.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals and general welfare, as set forth in the provisions hereof establishing the intent and purpose of this chapter in general and its various sections in particular.

Sec. 1-4. Authority.

This chapter is enacted pursuant to the City of Dunwoody's authority to adopt plans and exercise the power of zoning granted by the Ga. Const. art. IX, section II, ¶ IV; by the City of Dunwoody's authority to enact regulations and exercise powers granted by the Ga. Const. art. IX, section II, ¶¶ II and III; by authority granted by the State of Georgia including but not limited to the City of Dunwoody Charter, 2008 General Assembly Senate Bill 82 2008 Ga. Laws ___, et seq.; by Official Code of Georgia Annotated (O.C.G.A.) § 36-66-2(b); by the City's general police powers; and by other powers and authority provided by federal, state and local laws applicable hereto.

Sec. 1-5. General Applicability.

All buildings and structures erected hereafter, all uses of land, water, buildings or structures established hereafter, all structural alterations or relocations of existing buildings occurring hereafter, and all enlargements of, additions to, changes in and relocations of existing uses occurring hereafter shall be subject to all regulations of this chapter which are applicable to the zoning district in which such buildings, structures, uses or land are located. Existing buildings, structures and uses which comply with the regulations of this chapter shall be subject to all regulations of this chapter. Existing buildings, structures and uses which do not comply with the regulations of this chapter shall be authorized to continue subject to the provisions of **Section 5E** of this chapter relating to nonconformities.

Sec. 1-6. General Prohibition.

No building or structure, and no use of any building, structure, land, or property, and no lot of record, now or hereafter existing, shall hereafter be established, constructed, expanded, altered, moved, diminished, divided, eliminated or maintained in any manner except in conformity with the provisions of this chapter. No use of any land, building, structure or property shall be permitted unless expressly and specifically authorized in the district within which said use is located or by supplemental regulations established by this chapter.

Sec. 1-7. Applicability to All Property.

The regulations in this chapter shall apply to all buildings, structures, land and uses within the incorporated area of the City of Dunwoody, Georgia.

Sec. 1-8. Components of Zoning Ordinance.

This chapter and the official zoning maps of the City on file and maintained in the Office of the City Manager or his/her designee shall together constitute the zoning ordinance of the City of Dunwoody.

Sec. 1-9. Zoning Maps.

The City shall be divided into the zoning districts listed in **Articles II and III** of this chapter as shown on the official maps entitled "Zoning maps, City of Dunwoody, Georgia." Said official zoning maps, together with all explanatory matter thereon, are hereby adopted by reference and declared to be a part of this chapter. The official zoning maps shall be located in the Planning and Zoning office of City Hall. The City Manager or his/her designee shall be the final authority as to the current zoning status of land, buildings and structures in the City, except for subsequent amendments enacted by the City Council and not yet officially recorded on said official zoning maps, and except for uncertainties to be clarified by the City Council as described in **section 1-10(h)**. Verifications of the current zoning status of property shall be the responsibility of the City Manager or his/her designee.

Sec. 1-10. Interpretation of Zoning Maps.

Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning maps, the following rules shall apply:

(a) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow centerlines of rights-of-way or prescriptive easements. In case of closure of a street or alley, or vacation of any easement, the boundary shall be construed as remaining at its prior location unless ownership of the closure or vacated area is divided other than at the center, in which case the boundary shall be construed as moving to correspond with the ownership, but not beyond any previous right-of-way or easement line.

(b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(c) Boundaries indicated as following City limit lines shall be construed as following such City limits.

(d) Boundaries indicated as following railroad lines shall be construed to be midway in the right-of-way.

(e) Boundaries indicated as following shorelines of bodies of water shall be construed to follow such shorelines. Boundaries indicated as approximately following the centerlines of creeks, streams, rivers, or other predominantly linear bodies of water shall be construed to follow such centerlines.

(f) Boundaries indicated as parallel to or concentric with, or extensions of features indicated in paragraphs (a) through (e) above, shall be so construed. Distances and dimensions not specifically indicated on the zoning maps shall be determined from the zoning maps by the City Manager or his/her designee.

(g) Where areas appear to be unclassified on the zoning maps, and classification cannot be established by the above rules, such areas shall be considered to be classified R-100 until action is taken by the City Council to amend the zoning maps.

(h) Where uncertainties continue to exist or further interpretation is required beyond that presented in the above paragraphs, the question shall be presented by the City Manager or his/her designee to the City Council to enact a clarifying ordinance and said action shall be recorded on the zoning maps as is provided herein.

Sec. 1-11. Rules Applicable to Parcels Split into Two or More Zoning Districts.

Where a parcel of land is split into two (2) or more zoning districts, each such portion of said parcel may be used only for purposes allowed within the zoning district that each such portion is classified. No principal or accessory use of land, building or structures, and no use or building or structure authorized by special administrative permit, special land use permit, or

special exception, shall be authorized unless said use or building or structure is authorized or permitted within the applicable zoning district.

Sec. 1-12. Applicability to Prior Permits.

See **Article V, Section 5E-9**.

Sec. 1-13. Relation to and Conflict with Other Provisions.

The provisions of this chapter shall be interpreted and applied so as to constitute the minimum requirements for the promotion of the public health, safety, morals, or general welfare. Whenever any provision of this chapter imposes a greater requirement or a higher standard than is required in any federal or state law or other county ordinance, resolution or regulation, the provision of this chapter shall govern unless preempted by said federal or state law. Whenever any provision of any federal or state law or other county ordinance, resolution or regulation imposes a greater requirement or a higher standard than is required by this chapter, the provision of such state or federal statute or other county ordinance or regulation shall apply.

Sec. 1-14. Relation to Private Agreements.

This chapter is not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship provided that when the regulations of this chapter are more restrictive or impose higher standards or requirements than such easements, covenants, or other private agreements or legal relationships, the regulations of this chapter shall govern.

Sec. 1-15. Street and Building Numbering Systems.

See **subdivision code for City of Dunwoody**.

Sec. 1-16. Severability.

The several provisions of this chapter shall be separable in accordance with the following rules:

(a) Should any court of competent jurisdiction adjudge any section or provision of this chapter to be invalid, such judgment shall not affect the validity or continued application of this chapter as a whole or any section or provision thereof other than the section(s) or provision(s) specifically adjudged invalid.

(b) Should any court of competent jurisdiction adjudge invalid the application of any section or provision of this chapter to a particular property, building or structure, such judgment shall not affect the application of said section or provision to any other property, building or structure.

Sec. 1-17. Definitions.

The following definitions shall apply to this Chapter. Any word or phrase not defined below but otherwise defined in the Code of Ordinances shall be given that meaning. All other words or phrases shall be given their common ordinary meaning unless the context clearly requires otherwise.

"A" weighted sound level means the sound level reported in units of dB(A) approximating the response of human hearing when measuring sounds of low to moderate intensity as measured using the "A" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors.

Accessory building means a building detached from the principal building located on the same lot and customarily incidental and subordinate in area, extent, and purpose to the principal building or use.

Accessory dwelling unit means a separate and complete dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit, whether a part of the same structure as the primary dwelling unit or a detached dwelling unit on the same lot.

Accessory structure means a structure detached from the principal building located on the same lot and customarily incidental and subordinate in area, extent, and purpose to the principal building or use.

Accessory use means a use of land or building or structure or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

Adult day care center means an establishment operated by any person with or without compensation for providing for the care, supervision, and oversight only during day-time hours of seven (7) or more adults who are elderly, physically ill or infirm, physically handicapped, or mentally handicapped.

Adult day care facility means an establishment operated by any person with or without compensation for providing for the care, supervision, and oversight only during day-time hours of six (6) or fewer adults who are elderly, physically ill or infirm, physically handicapped, or mentally handicapped.

Adult entertainment establishment – see Section 4-2 of Article IV.

Adult service facility means a commercial establishment in which the patron directly or indirectly is charged a fee to engage in private, personal contact with employees, patrons, or personnel primarily for entertainment purposes, using steam rooms or other devices or equipment provided by the establishment, and that is not otherwise regulated as an adult entertainment establishment or massage establishment.

Agricultural activities means those activities performed on farmlands in order to cultivate the soil, produce crops, or raise livestock.

Agriculture means the comprehensive plan land use category which includes the following uses: crop lands, pasture lands, orchards, sod farms, and attendant farm residences and accessory buildings or structures.

Alternative tower structure means a telecommunications tower and antenna the visual presence of which is camouflaged or concealed in the form of a clock tower, campanile, light pole, artificial tree or similar alternative-design mounting structure.

Amateur radio service antenna structure means a tower and antenna for radio transmission and reception which is maintained by a licensed amateur radio operator as an accessory structure.

American Main Street Commercial style means buildings designed in the one-part commercial block and two-part commercial block styles.

Amplified sound reproduction device means any device capable of producing, reproducing or emitting sounds by means of any loudspeaker or amplifier.

ANSI means the American National Standards Institute.

Antenna means *telecommunications antenna*.

Apartment. See *dwelling, multifamily*.

Apartment unit means one (1) or more rooms with a private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a building containing four (4) or more dwelling units.

Archaeological resource means any material remains of past human culture or activities which are of archaeological interest, including, but not limited to the following: basketry, bottles, carvings, graves, human skeletal materials, pit houses, pottery, rock intaglios, rock paintings, soapstone quarries, structures or portions of structures, tools, weapons, weapon projectiles, or any portion or piece of any of the foregoing items. Nonfossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources under the regulations of to this Chapter, unless found in archaeological context. No item shall be deemed to be an archaeological resource under regulations of to this Chapter unless such item is at least two hundred (200) years of age.

Authorized use means any use allowed by right in a zoning district and subject to the restrictions applicable to that zoning district.

Automobile means a self-propelled, free-moving vehicle, with not more than six (6) wheels, usually used to transport not more than six (6) passengers and licensed by the appropriate state agency as a passenger vehicle.

Automobile wrecking yard means an establishment that cuts up, compresses, or otherwise disposes of motor vehicles.

Basement means a space having one-half or more of its floor-to-ceiling height below the average level of the adjoining ground and with a floor-to-ceiling height of not less than six and one-half (6 1/2) feet.

Bed and breakfast inn means a building containing one (1) or more guest rooms offering transient lodging accommodations available at daily rental rates to the general public.

Bedroom means a private room planned and intended for sleeping, separated from other rooms by a door, and accessible to a bathroom without crossing another bedroom.

Biomedical solid waste means pathological waste, biological waste cultures and stocks of infectious agents and associated biologicals, contaminated animal carcasses (body parts, their bedding, and other wastes from such animals), sharps, chemotherapy waste, discarded medical equipment and parts, and similar waste products.

Biomedical waste disposal facility means any facility or location where the final deposition of biomedical solid waste occurs and which is limited to solid waste thermal treatment technology facilities.

Boardinghouse means a building containing one (1) or more lodging units but not more than twenty (20) lodging units, all of which offer non-transient lodging accommodations, available only at weekly or longer rental rates to the general public. Meals may only be provided from a single central kitchen and compensation for such meals, if provided, shall be included in the weekly or longer rental rate. No restaurant, meeting, reception, or banquet facilities shall be provided.

Boom box means any self-contained, portable, hand-held music or sound amplification or reproduction equipment capable of emitting sound.

Boom car means any vehicle with loudspeakers, amplifiers, radio receiving sets, musical instruments, phonographs or other equipment capable of producing, reproducing or emitting sound which is cast upon the public streets for personal or commercial purposes.

Borrow pit means a pit from which sand, gravel or other construction material is taken for use as fill in another location.

Buffer area means that portion of a lot set aside for open space and/or visual screening purposes, pursuant to applicable provisions of to this Chapter, to separate different use districts,

or to separate uses on one property from uses on another property of the same use district or a different use district.

Buildable area means the area of a lot remaining after the minimum setbacks and open space requirements of to this Chapter have been met.

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

Building, accessory. See *accessory building*.

Building footprint means the outline of the total area covered by a building's perimeter at the ground level.

Building heightas to all structures with the exception of single-family detached dwellings means the vertical distance from finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs.

Building height for single-family detached dwelling means the vertical distance from the front door threshold of the proposed residential structure to the highest point of the roof of the structure.

Building mass means the overall visual impact of a structure's volume; a combination of height and width, and the relationship of the heights and widths of the building's components.

Building, principal means a structure in which is conducted the principal use of the lot on which it is located.

Building scale means the relationships of the size of the parts of a structure to one another and to humans.

Building setback line means the minimum horizontal distance required between the street right-of-way line and the principal building or structure on a lot or any projection thereof except the projections of unenclosed porches, steps, eaves, gutters and similar elements which are authorized exceptions to building setback line requirements in to this Chapter.

Business service establishment means an entity primarily engaged in rending services to businesses on a fee or contract basis, including the following and similar services: advertising and mailing; building maintenance; employment services; management and consulting services; protective services; commercial research; development and testing; photo finishing; and personal supply services.

"C" weighted sound level means the sound level reported in units of dB(C) as measured using the "C" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors.

Cellar means a space having less than one-half of its floor-to-ceiling height above the average finished grade of the adjoining ground or with a floor-to-ceiling height of less than six and one half (6 1/2) feet.

Cemetery means property used for the interring of the dead. See Georgia cemetery regulations.

Chapel means a *place of worship*.

Check cashing establishment means any establishment licensed by the State of Georgia pursuant to O.C.G.A. § 7-1-700 et seq.

Child day care center means an establishment operated by any person with or without compensation providing for the care, supervision, and protection of seven or more children who are under the age of eighteen (18) years for less than twenty-four (24) hours per day, without transfer of legal custody.

Child day care facility means an establishment operated by any person with or without compensation providing for the care, supervision, and protection of six (6) or fewer children who are under the age of eighteen (18) years for less than twenty-four (24) hours per day, without transfer of legal custody. For the purpose of computing the number of children within the child day care facility, all children who are related by blood, marriage, adoption or guardianship to the person or persons operating the facility shall be included.

Church. See *place of worship*.

City means the City of Dunwoody, Georgia. When appropriate to the context, the term "City" also includes authorized officers, employees and agents thereof.

City Council means the seven-member legislative branch of the City of Dunwoody.

City Manager or his/her designee means the person hired as such and/or his designee approved as such by the City Council.

City solid waste means any solid waste derived from household, including garbage, trash, and sanitary waste in septic tanks and means solid waste from single-family, duplex, and multifamily residences, hotel and motels, picnic grounds and day use recreation areas. The term includes yard trimmings and commercial solid waste but does not include solid waste from mining, agricultural, or silvicultural operations or industrial processes or operations.

City solid waste disposal facility means any facility or location where the final deposition of any amount of City solid waste occurs, whether or not mixed with or including commercial or

industrial solid waste, and includes, but is not limited to, City solid waste landfills and City solid waste thermal treatment technology facilities.

City solid waste landfill means a disposal facility where any amount of City solid waste, whether or not mixed with or including commercial waste, industrial waste, nonhazardous sludges, or small quantity generator hazardous waste, is disposed of by means of placing an approved cover thereon.

Club, private means a group of people organized for a common purpose to pursue common goals, interests, or activities and characterized by definite membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws, such as country clubs and golf clubs, but excluding places of worship, personal service facilities, adult entertainment establishments, and adult service facilities which shall be defined and regulated as otherwise provided herein. Private club shall also mean, where the context requires, the premises and structures owned or occupied by members of such group within which the activities of the private club are conducted.

Clubhouse means a structure in which the activities of a private club are conducted.

Cluster housing development means a development that permits a reduction in lot area provided there is no increase in overall density of development, and in which all remaining land area is perpetually and properly protected, maintained and preserved as undivided open space or recreational or environmentally sensitive areas.

Collector street means a street or road designated as a collector street in the Dekalb County Transportation and Thoroughfare Plan.

Columbarium means a structure with niches for the placement of cinerary urns.

Commercial district means any parcel of land which is zoned for any commercial use including regional commercial centers, neighborhood and community oriented stores, shopping centers and other developed centers where commercial land uses predominate. Such districts would include O-I, O-I-T, C-2, O-D, NS, C-1 and any property zoned OCR excluding property used for residential use.

Commercial parking garage means a covered or sheltered structure of one (1) or more stories designed, constructed and used for the parking of motor vehicles for profit.

Commercial parking lot means an uncovered or unsheltered structure of one (1) or more stories designed, constructed and used for the parking of motor vehicles for profit.

Commercial solid waste means all types of solid waste generated by stores, offices, restaurants, warehouses, and other non-manufacturing activities, excluding residential and industrial wastes.

Common open space means that open space that is a central organizing feature of a development and is readily accessible. Common open space includes, but is not limited to: squares, plazas, village greens, parks, trails and nature preserves.

Compatible means land development that is consistent with existing, identified physical elements in proximity to that land development, such as architectural style, building mass, building scale, land uses, and landscape architecture.

Complainant means any person who has registered a noise complaint with an authorized enforcement agency that he or she is the recipient of noise on a protected property category. A complainant must have an interest in the protected property as an owner, tenant, or employee.

Composting means the controlled biological decomposition of organic matter into a stable, odor-free humus.

Comprehensive plan means the Dekalb County Comprehensive Plan adopted by the City Council until such time as the city adopts its own as it may be amended from time to time, which divides areas of the City into land use categories and which constitutes the official policy of the City regarding long-term planning and use of land.

Conditional approval or conditions means the imposition of special requirements, whether expressed in written form or as a site plan or other graphic representation, made a requirement of development permission associated with a particular parcel or parcels of land and imposed in accordance with the terms of to this Chapter.

Condominium means a building, or group of buildings, in which dwelling units, offices, or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis in compliance with Georgia Law.

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

Construction means any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

Continuous sound means any sound with duration of more than one (1) second, as measured with a sound level meter set to the "slow" meter response.

Convent means a building or buildings used as both a place of worship and as a residence, operated as a single housekeeping unit, solely by and for a group of women who have professed vows in a religious order and who live together as a community under the direction of a local supervisor designated by the order.

Convalescent home means a nursing care facility.

Convenience store means any retail establishment offering for sale items such as gasoline, household items, newspapers and magazines, prepackaged food products, sandwiches and other freshly prepared foods, and beverages, for off-site consumption.

Decibel (dB) means the unit for the measurement of sound pressure based upon a reference pressure of twenty (20) micropascals (zero decibels), i.e., the average threshold of hearing for a person with very good hearing.

Demolition means any dismantling, destruction or removal of buildings, structures, or roadways whether man-made or natural occurring both above and below ground.

Demolition of an infill building shall mean the destruction and removal of an existing building or structure in whole or in part whether such destruction and removal involves removal of all or part of the prior foundation.

Density means the number of dwelling units per acre of land.

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

Disposal facility means any facility or location where the final deposition of solid waste occurs which includes, but is not limited to landfills and solid waste thermal treatment technology facilities.

Dripline means a vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

Dwelling, multifamily means a building designed for and containing four (4) or more dwelling units.

Dwelling, single-family means a building designed for and containing one (1) dwelling unit.

Dwelling, single-family attached means a dwelling unit on an individual lot attached to another dwelling unit by a common party wall.

Dwelling, single-family detached means a dwelling unit on an individual lot unattached to another dwelling unit.

Dwelling, three-family or triplex means a building designed for and containing three (3) dwelling units.

Dwelling, two-family or duplex means a building designed for and containing two (2) dwelling units.

Dwelling unit means one (1) or more rooms, designed, occupied, or intended for occupancy as a separate living quarters, with cooking, sleeping, and bathroom facilities provided within the dwelling unit for the exclusive use of a single-family maintaining a household.

Dwelling unit, efficiency or studio means a self-contained residential unit consisting of not more than one (1) room together with a private bath and kitchen facilities.

Dwelling unit, multifamily means one (1) or more rooms with a private bath and kitchen facilities comprising an independent, self-contained residential unit in a building containing four (4) or more dwelling units.

Emergency work means any work or action necessary to deliver essential services including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions.

Extraneous sound means a sound of high intensity and relatively short duration which is neither part of the neighborhood residual sound, nor comes from the sound source under investigation.

Family means a group of individuals related by blood, marriage, adoption, guardianship or other custodial relationship, or not more than four (4) persons not so related, living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability. This definition shall specifically include four (4) or fewer mentally handicapped, developmentally disabled persons, and other handicapped persons, as defined in the Fair Housing Act, 42 U.S.C. §§ 3601 et seq., living as a housekeeping unit and otherwise meeting the definition of "family" herein.

Fence means a structure designed to provide separation and security constructed of materials including chain link, wire, metal, artistic wrought iron, vinyl, plastic and other such materials as may be approved by the City Manager or his/her designee.

Fenestration means the arrangement, proportioning, and design of windows and doors in a building.

Flea market means an occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public.

Floodplain means one hundred-year floodplain.

Floodplain, one hundred-year means land within the one hundred-year flood elevation as is defined in the City's Land Development Code.

Flood hazard district means the same as that term is defined in the City's Land Development Code.

Floodway means the same as that term is defined in the City's Land Development Code.

Floor area means the gross heated horizontal areas of the floors of a building, exclusive of open porches and garages, measured from the interior face of the exterior walls of the building.

Floor area of accessory building means the gross horizontal areas of the floors of an accessory building, measured from the exterior faces of the exterior walls of the accessory building.

Floor area ratio means the gross floor area of all heated floor space in all buildings or structures on a lot divided by the total lot area.

Forestry means establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or in performing forest services.

Fraternity house means a building containing sleeping rooms, bathrooms, common rooms, and a central kitchen and dining room maintained exclusively for fraternity members and their guests or visitors and affiliated with an institution of higher learning.

Freeway means a multiple-lane roadway carrying local, regional, and interstate traffic of relatively high volumes which permits access only at designated interchanges and is so designated in the comprehensive plan.

Frequency means the time rate of repetition of sound waves in cycles per second, reported as Hertz (Hz), also referred to as "pitch."

Frontage means the horizontal distance for which the boundary line of a lot and a street right-of-way line are coincident.

Front Door means the door located closest to the front of the dwelling that provides the most direct access to that level of the dwelling that contains the main kitchen of the dwelling.

Grade, average means the mean elevation of the ground along a line determined by dividing the sum of the elevation of the highest point on the line and the elevation of the lowest point on the line by two (2).

Grade, existing means the elevation of the ground surface before development.

Grade, finished means the final grade of the ground surface after development.

Grassed playing fields mean reasonably flat and undeveloped recreation areas intended for a variety of informal recreational uses, including but not limited to: walking, kite-flying, flying disc-throwing, and recreational games of soccer, softball, or cricket. In the creation of grassed playing fields, minimal grading may be used, however, specimen trees may not be damaged or removed. Grassed playing fields may not include recreation areas with amenities for a particular sport, such as baseball diamonds or golf courses.

Gravel pit means an open land area where sand, gravel, and rock fragment are mined or excavated for sale or off-site use. Gravel pit includes sifting, crushing, and washing as part of the primary operation. To excavate the rock, blasting also may be necessary.

Greenspace means undeveloped land that has been designated, dedicated, reserved, or restricted in perpetuity from further development, which is not a part of an individual residential lot.

Grid pattern means a continuous web of streets in which most streets terminate at other streets to form multiple vehicular and pedestrian connections. Streets are to be laid out with primarily linear features, but the grid may be broken by circles, ovals, diagonals, and natural curves to add visual interest.

Hardship means a condition of significant practical difficulty in using a lot because of physical problems relating solely to the size, shape or topography of the lot in question which are not economic difficulties and which are not self-imposed.

Health facility means a commercial or not-for-profit establishment which has as its sole purpose the improvement of health and physical fitness through special fitness and health equipment, facilities, and related educational programs, but specifically excluding adult service facilities. This term shall not include hospitals or other professional health care establishments separately licensed as such by the State of Georgia.

Heliport means an area, either at ground level or elevated on a structure, licensed by the federal government or an appropriate state agency and approved for the loading, landing, and takeoff of helicopters and including auxiliary facilities, such as parking, waiting room, fueling, and maintenance equipment.

High density residential means the comprehensive plan land use category which includes single-family detached and attached dwellings, two-family dwellings, three-family dwellings, townhouses, condominiums, and multifamily apartments at a density not exceeding thirty (30) dwelling units per acre.

High intensity commercial means the comprehensive plan land use category which includes regional commercial centers and other intensively developed centers where commercial land uses predominate. Retail commercial uses are anticipated to represent approximately fifty (50) percent or more of the land use in this category.

High-rise apartment development means a building or buildings with a minimum of three stories containing multifamily dwelling units and developed in accordance with the provisions of to this Chapter.

Home occupation means an occupation carried on by an occupant of a dwelling unit as a secondary use of the dwelling that is incidental to the primary use of the dwelling unit for residential purposes and is operated in accordance with the provisions of to this Chapter. Home occupation does not include "private educational use" as defined in to this Chapter.

Home stay bed and breakfast residence means a single-family dwelling in which is provided not more than two (2) rooms for not more than four (4) people for overnight rental and a morning meal to transient persons for compensation on a nightly basis by the occupant of said dwelling.

Hotel means a building in which lodging or board and lodging are provided for at least twenty-one (21) transient guests and offered to the public for compensation and in which ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge at all hours.

Household pet means a domestic animal that is customarily kept for personal use and enjoyment including domestic dogs, domestic cats, canaries, parrots, parakeets, domestic tropical birds, hamsters and guinea pigs. Household pet does not include livestock, poultry, pot bellied pigs, pit bulls, and snakes.

Impulsive sound means either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one (1) second characterized with an abrupt onset and rapid decay.

INCE means Institute of Noise Control Engineering.

Industrial means the comprehensive plan land use category which includes light and heavy distribution, warehouse, assembly, manufacturing, quarrying, truck terminals, and landfills.

Industrial district means any parcel of land which is zoned for industrial use including property used for light and heavy distribution, warehouses, assembly, manufacturing, quarrying, truck terminals and landfills. Such districts include M-1 and M-2 Districts and include any commercial land uses allowed in M-2.

Industrial solid waste means solid waste generated by manufacturing or industrial processes or operations that is not a hazardous waste as defined herein. Such wastes include, but are not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer and agricultural chemicals; food and related products and by-products; inorganic chemicals; iron and steel products; leather and leather products; nonferrous metal and foundry products; organic chemicals; plastics and resins; pulp and paper; rubber and

miscellaneous plastic products; stone, glass, clay and concrete products; textiles; transportation equipment; and water treatment. This terms does not include mining waste or oil and gas waste.

Industrialized building means any structure or component thereof which is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation on a building site and has been manufactured in such a manner that all parts or processes cannot be inspected at the installation-site without disassembly, damage to, or destruction thereof.

Infill building means any building built or proposed to be built on an infill lot.

Infill lot means:

(a) A conforming lot or a nonconforming lot of record created by the demolition of an existing residential structure for the replacement of that structure with new construction;
(b) Any lot intended for use as a site for a single family dwelling that is created by act of subdivision; and
(c) Any lot that, at the time it is zoned, has no principal building and which is subsequently proposed as a site for a single family dwelling.

Institutional means the comprehensive plan land use category which includes the following uses: government-owned administration buildings and offices, fire stations, public hospitals and health care facilities, child day care centers, public schools, colleges and educational research facilities, places of worship, and cemeteries.

Interim development control means an ordinance that temporarily imposes developmental regulations when existing regulations do not adequately protect the public's health, safety and welfare in accordance with the standards specified in to this Chapter.

Intermodal freight terminal means an industrial establishment in which freight is transferred in containerized form from truck to railroad cars for transportation.

Junk vehicle means any vehicle which is nonoperable, or any vehicle which does not bear a current license plate.

Junkyard means any lot or lot and building(s) in combination which is utilized for the parking, storage or disassembling of junked vehicles, or wrecked or nonoperable automobiles, trucks or other vehicles; storage, bailing or otherwise dealing in bones, animal hides, scrap iron and other metals, used paper, used cloth, used plumbing fixtures, old refrigerators and other old household appliances, and used brick, wood or other building materials. These uses shall be considered junkyards whether or not all or part of these operations are conducted inside a building or in conjunction with, in addition to or accessory to other uses of the premises.

Kennel means an establishment for the boarding, caring for and keeping of more than a total of three (3) dogs or cats or other small animals or combination thereof (except litters of

animals of not more than six (6) months of age, and also raising, breeding, caring for or boarding dogs, cats or other small animals for commercial purposes.

Kennel, noncommercial means an establishment for the boarding, caring for and keeping of more than three (3) but not more than ten (10) dogs or cats or other small animals or combination thereof (except litters of animals of not more than six (6) months of age), not for commercial purposes, but as a hobby such as the raising of show and hunting dogs.

Kindergarten means an establishment operated by any person wherein compensation is paid for providing for the care, supervision, instruction, and protection of seven (7) or more children who are under the age of seven (7) years for less than twenty-four (24) hours per day, without transfer of legal custody.

Kiosk means a freestanding structure upon which temporary information and/or posters, notices, and announcements are posted.

Kitchen facilities means a room used to prepare food containing, at a minimum, a sink and a stove or oven.

Land use means a description of how land is occupied or utilized.

Landfill means an area of land on which or an excavation in which solid waste is placed for permanent disposal and which is not a land application unit, surface impoundment, injection well, or compost pile.

Landscape buffer means that portion of a lot set aside for open space and/or visual screening purposes, pursuant to a condition or conditions imposed by the City Council in the enactment of a conditional zoning ordinance or special land use permit, to separate different use districts, or to separate uses on one property from uses on another property of the same use district or a different use district. Any such landscaped buffer shall not be graded or otherwise disturbed, and all trees and other vegetation shall remain, provided that additional trees and other plant material may be added to such landscaped buffer.

Landscaped space means the areas of a parking lot which are planted with trees, shrubs and ground cover, plazas, fountains and other hardscape elements and similar features which are located within such parking lot and which are generally accessible to patrons or the general public during normal business hours.

Leachate collection system means a system at a landfill for collection of the leachate which may percolate through the waste and into the soils surrounding the landfill.

Light malt beverage manufacturer means a malt beverage manufacturer which produces less than three thousand (3,000) barrels or one hundred thousand (100,000) gallons of malt beverage annually. All state and federal licensing and regulatory requirements shall be met prior to the approval of a certificate of occupancy for this use.

Light manufacturing establishment means a manufacturing establishment or operation, other than light malt beverages manufacturers and other than those uses classified as heavy manufacturing establishments, which is housed wholly within a building, emits no excessive dust or vibrations beyond the property on which the establishment is located, and complies with the noise limitations contained in **Article IV, Section 4-30**.

Liquor store means a retail shop which sells alcoholic beverages for off-site consumption.

Livestock means domestic animals and fowl customarily kept on a farm including horses, mules, donkeys, cows, cattle, sheep, goats, ducks, geese and turkeys.

Live-work unit means a structure or portion of a structure that combines residential living space with an integrated work space used principally by the occupant of the unit.

Lodging unit means one (1) or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with sleeping, and bathroom facilities provided within the lodging unit for the exclusive use of a single-family maintaining a household.

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

Lot area means the total area within the lot lines of a lot, excluding any street rights-of-way and any area used for a retention pond.

Lot, buildable area of means the portion of a lot remaining after required yards have been provided. Buildings may be located within any portion of the buildable area of a lot, except that if there are lot coverage limitations which exceed the area in required yards, the remaining required open space shall be provided within the buildable area of the lot.

Lot, conforming. Conforming lot means a designated parcel, tract, or area of land which meets the lot area and lot width requirements of to this Chapter, which has the amount of frontage on a public or private street required by to this Chapter.

Lot, corner means a lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees.

Lot coverage means that portion of a lot that is covered by buildings, structures, driveways and parking areas, and any other impervious surface.

Lot, double-frontage means a lot that abuts two (2) parallel streets or that abuts two (2) streets that do not intersect at the boundaries of the lot. A double-frontage lot may also be referred to as a through lot.

Lot, interior means a lot, other than a corner lot, abutting only one street.

Lot of record, nonconforming means a designated parcel, tract or area of land legally existing at the time of the enactment of to this Chapter or amendment of to this Chapter which does not meet the lot area, lot width, or public or private street frontage and access requirements of to this Chapter.

Lot, substandard means a designated parcel, tract, or area of land created after the time of enactment of to this Chapter or amendment of to this Chapter which does not meet the lot area, lot width, or public or private street frontage and access requirements of to this Chapter. Such a lot is illegal except where created by governmental action in which case such lot shall have the status of a nonconforming lot of record.

Lot width means the horizontal between the side lines of a lot measured at right angles to its depth along a straight line parallel to the street.

Major automobile repair and maintenance shop means an establishment wherein engines, transmissions, drive shafts, bodies and fenders are dismantled, repaired or painted. Major automobile repair and maintenance shops may do minor repair.

Major thoroughfare means a street, road or highway shown as a major thoroughfare in the Dekalb CountyTransportation and Thoroughfare Plan.

Manufactured home, class I means a single-family dwelling unit that is constructed in accordance with the Federal Manufactured Home Construction and Safety Standards and bears an insignia issued by the U.S. Department of Housing and Urban Development, or a single-family dwelling unit that, if constructed prior to applicability of such standards and insignia requirements, was constructed in conformity with the Georgia State Standards in effect on the date of manufacture. Class II means a single-family dwelling unit meeting the requirements of a Manufactured Home Class I and, in addition, bears the insignia of the Southern Standard Building Code Congress International.

Massage establishment means any business properly licensed under the Code of the City of Dunwoody that is established for profit and employs one (1) or more massage therapists, operates or maintains for profit one (1) or more massage apparatus, and which, for good or valuable consideration, offers to the public facilities and personnel for the administration of massages, within the meaning of said Code. This term shall not include hospitals or other professional health care establishments separately licensed as such by the State of Georgia.

Materials recovery facility means a solid waste handling facility that provides for the extraction from solid waste of recoverable materials, materials suitable for use as a fuel or soil amendment, or any combination of such materials.

Mine means (1) a cavity in the earth from which minerals and ores are extracted; and (2) the act of removing minerals and ores.

Mining means the extraction of minerals, including solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gases. The term mining includes quarrying; ground-water diversion; soil removal; milling, such as crushing, screening, washing, and flotation; and other preparation customarily done at the mine site as part of a mining activity.

Miniwarehouse. See *self-storage warehouse*.

*Minor automobile repair and maintenance sho*p means an establishment wherein tires, carburetors, ignitions and other minor accessory parts as are necessary for normal upkeep of any automobile are repaired, replaced or serviced. Minor automobile repair and maintenance does not include dismantling, repairing or painting of engines, transmissions, drive shafts, axles, bodies and fenders.

Minor thoroughfare means a street, road or highway shown as a minor thoroughfare in the Dekalb County Transportation and Thoroughfare Plan.

Mixed use component means a definable and compact area of a development in a Pedestrian Community district that contains a mix of residential and non-residential uses.

Mixed-use development means a development which incorporates a variety of (two (2) or more different) land uses, buildings or structures, that includes both primary residential uses and primary nonresidential uses which are part of the same development. Such uses may include, but not be limited to, residential, office, commercial, institutional, recreational or public open space, in a compact urban setting that encourages pedestrian oriented development that can result in measurable reductions in traffic impacts. Such a development would have interconnecting pedestrian and vehicular access and circulation.

Mobile home means a detached, single-family dwelling designed for long-term occupancy, designed to be transported on its own wheels, arriving at the site as a complete dwelling unit, usually including major appliances and furniture, and ready for occupancy. Removal of the wheels and placement on a foundation does not change its classification.

Mobile home lot means a parcel of land, approved pursuant to the subdivision requirements of the Dunwoody City Code, in a mobile home park which is intended and used for the placement of a single mobile home and for the exclusive use of its occupants.

Mobile home park means a parcel of land which has been planned and improved pursuant to the requirement of to this Chapter and the Dunwoody City Code for the placement of mobile homes for nontransient use.

Mobile home stand means that part of a mobile home lot which has been reserved for the placement of a mobile home for nontransient use.

Modular home means a factory-manufactured single-family dwelling which is constructed in one (1) or more sections and complies with the definition of "industrialized building."

Monastery means a building or buildings used as both a place of worship and as a residence, operated as a single housekeeping unit, solely by and for a group of men who have professed vows in a religious order and who live together as a community under the direction of a local supervisor designated by the order.

Mosque means a *place of worship*.

Motel means a *hotel*.

Muffler means a sound-dissipative device or system for lessening the sound of the exhaust of an internal combustion machine where such a device is part of the normal configuration of the equipment.

Multifamily dwellings, supportive living, means four (4) or more dwelling units in a single building or group of buildings which are designed for independent living for persons with disabilities of any kind and in which are provided supportive services to the residents of the complex but which supportive services do not constitute continuous twenty-four-hour watchful oversight, and which does not require licensure as a personal care home by the Office of Regulatory Services of the State of Georgia Department of Human Resources.

Multi-use property means any distinct parcel of land that is being used for more than one (1) land use purpose.

Neighborhood means an area of the City within which residents share a commonality of interests including distinct physical design and street layout patterns, a shared developmental history, distinct housing types, or boundaries defined by physical barriers such as major roads and railroads or natural features such as creeks or rivers.

Neighborhood recreation club means a not-for-profit association of people organized for the purpose of providing recreation facilities and programs for a neighborhood or neighborhoods and characterized by certain membership qualifications, payment of fees and dues, and a charter or bylaws. Neighborhood recreation club shall also mean, where the context requires, the premises and structures owned or occupied by members of such association within which the activities of the neighborhood recreation club are conducted.

Neighborhood residual sound level means that measured value that represents the summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous sounds, and those from the source under investigation. Neighborhood residual sound level is synonymous with background sound level. Neighborhood residual sounds are differentiated from extraneous sounds by the fact that the former are not of a relatively short duration, although they are not necessarily continuous.

New construction on an infill lot means the replacement of an existing residential building or structure with a new building, structure or an addition that increases the usable square footage in the building, structure or addition.

Node means a concentration of population, retail, and employment within a well-defined area that has a diverse mix of land uses and a pedestrian and transit orientation.

Noise control officer means a City employee or agent who has received noise enforcement training and is currently certified in noise enforcement.

Noise sensitive facility means any facility whose operations may be detrimentally impacted by excessive sound levels. Such facilities include but are not limited to schools, hospitals, and places of worship.

Nonconforming characteristic(s) of building or structure means a building or structure, legally existing on the effective date of to this Chapter, but which fails to comply with one (1) or more of the district or general non-use development regulations adopted under the terms of to this Chapter which are applicable to said building or structure, including, but not limited to, setbacks, lot frontage, lot area, building height limitations, off-street parking or loading, buffers, landscaping or any other applicable development regulation.

Nonconforming use of land means a use of land, including any land whereon the value of all the improvements is less than ten thousand dollars ($10,000.00) based on the assessed value of said improvements as established by the City of Dunwoody Board of Tax Assessors at the date of enactment of to this Chapter, legally existing on the effective date of to this Chapter, but which is not an authorized use under the terms of to this Chapter in the district in which such use is located.

Nonconforming use of land and building(s) or nonconforming use of land and structure(s) means a use of land and building(s) or land and structure(s), in combination, legally existing on the effective date of to this Chapter, but which is not an authorized use of land and building(s) or land and structure(s), in combination, under the terms of to this Chapter in the district in which such use is located.

Nonconforming use requiring special exception or special land use permit means a use of land, or land and building(s) or structure(s) in combination, legally existing on the effective date of to this Chapter, but which is not an authorized use under the terms of to this Chapter in the district in which such use is located but is permitted only upon approval of a special exception or special land use permit by the appropriate body.

Nonresidential development means all commercial, office, institutional, industrial and similar lands and uses.

Nontransient lodging accommodations means long-term or permanent sleeping accommodations offered to persons as a residence, domicile, or settled place of abode.

Nursing care facility means an establishment providing inpatient nursing and rehabilitative services to patients who require health care but not hospital services. Care must be ordered by and under the direction of a physician. The staff must include a licensed nurse on

duty continuously with a minimum of one (1) full-time registered nurse on duty during each day shift. Included are establishments certified to deliver skilled nursing care under the Medicare and Medicaid programs. The term includes convalescent homes with continuous nursing care, extended care facilities, mental retardation hospitals, skilled nursing homes and intermediate care nursing homes.

Official zoning map or maps means the zoning maps of the City of Dunwoody which are adopted with and incorporated into to this Chapter and shall be a part of the zoning ordinance.

One-part commercial block style means a single-story building that has a flat roof, a facade that is rectangular in shape, and in which the fenestration in the facade is equal to seventy-five (75) percent of the width of the front facade of the building.

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

Outdoor storage means the keeping, in an unenclosed area, of any goods, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours.

Parking garage means a covered or sheltered structure designed, constructed and used for the parking of motor vehicles.

Parking lot means any area designed for temporary storage of motor vehicles of the motoring public in normal operating condition, whether for a fee or as a service.

Parking space means a paved area of not less than one hundred twenty (120) square feet (small car space) or not less than one hundred fifty-three (153) square feet (large car space) space with dimensions of not less than eight (8) feet wide by fifteen (15) feet deep (small cars) or eight (8) feet six (6) inches wide by eighteen (18) feet deep (large cars), the exclusive purpose of which is for the parking of a vehicle.

Paved means an area which is covered by asphalt, concrete, or other impervious surface.

Pawn shop means any entity engaged in whole or in part in the business of lending money on the security of pledged goods (as that term is defined in O.C.G.A. § 44-12-130(5)), or in the business of purchasing tangible personal property on a condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time, or in the business of purchasing tangible personal property from persons or sources other than manufacturers or licensed dealers as part of or in conjunction with the business activities described in this paragraph.

Permitted use means any use which can be undertaken only after approval by the designated authority of the special land use permit, special exception, or special administrative permit which is required by the terms of to this Chapter.

Personal care home means building(s) in which is provided housing, meals, and twenty-four-hour continuous watchful oversight for one (1) or more ambulatory adults and which is licensed as a personal care home by the Office of Regulatory Services of the State of Georgia Department of Human Resources.

Personal care home, congregate means a personal care home which offers care to sixteen (16) or more persons.

Personal care home, family means a personal care home which offers care to at least four (4) but not more than six (6) persons.

Personal care home, group means a personal care home which offers care to at least seven (7) but not more than fifteen (15) persons.

Personal care home, registered means a personal care home which offers care to at least one (1) but not more than three (3) persons.

Personal services means an establishment primarily engaged in providing services involving the care of a person or providing personal goods where the sale at retail of such goods, merchandise, or articles is only accessory to the provision of such services, including barber shops, beauty shops, tailor shops, laundry shops, dry cleaning shops, shoe repair shops, funeral services, diaper services, and similar uses, but specifically excluding adult service facilities and adult entertainment establishments.

Pet cemetery means property used for the interring of dead domestic animals.

Pitch of roof lines means the ratio of the rise to the run.

Place of worship means a lot or building wherein persons assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship. The term shall also include any of the following accessory uses and buildings: schools, religious education, social gathering rooms, food service facilities, indoor and outdoor recreation facilities, child day care center, and kindergarten.

Plainly audible means any sound that can be detected by a person using his or her unaided hearing faculties.

Primary conservation area means that portion of a site for which application is made for cluster housing development which consists of areas that are unbuildable due to the presence of wetlands, floodplains, steep slopes, or other similar environmental conditions.

Principal use means the primary or predominant use of any lot.

Principal structure means the building in which is conducted the principal use of the lot on which it is located.

Private club. See *club, private*.

Private educational use means the instruction, teaching or tutoring of students by an occupant of a residential dwelling as a secondary use of the dwelling that is incidental to the primary use of the dwelling unit for residential purposes. No articles or products shall be sold on the premises other than by telephone. Such instruction, teaching or tutoring shall be limited to a maximum of two (2) students at a time and shall be limited to the hours of 9:00 a.m. to 9:00 p.m. Such private educational Use shall be allowed as a permitted use in all districts where home occupations are allowed but private educational uses shall be subject to the provisions of **Article IV, Section 4-19**.

Private golf course means a tract of land laid out for at least nine (9) holes for playing the game of golf and improved with tees, greens, fairways, and hazards and which may also include a clubhouse and shelter.

Private industry solid waste disposal facility means a disposal facility which is operated exclusively by and for a private solid waste generator for the purpose of accepting solid waste generated exclusively by said private solid waste generator.

Private restrictive covenants means private restrictions on the use of land or structures imposed by private contract, such as subdivision covenants.

Private right-of-way means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is not owned, leased, or controlled by a governmental entity.

Public right-of-way means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

Public uses means land or structures owned by a federal, state or local government, including a board of education, and used by said government for a necessary governmental function.

Quarry means a mine where rock, ore, stone, and similar materials are excavated for sale or for off-site use. Quarry includes rock crushing, asphalt plants, the production of dimension stone, and similar activities.

Real property line means either (a) the imaginary line, including vertical extension, that separates one parcel of real property from another; (b) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-family dwelling unit; or (c) on a multi-use property, the dividing line(s) that separate various portions of the property used for different purposes.

Real property owners within a proposed or enacted residential infill overlay district means the homeowners or other real property owners of land within the residential infill overlay district as indicated in the tax records maintained by the City's board of tax assessors.

Receptor property means any property from which a complainant has filed a complaint with an authorized enforcement agency.

Recovered materials means those materials which have known use, reuse, or recycling potential; can be feasibly used, reused, or recycled; and have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing.

Recovered materials processing facility means a facility engaged solely in the storage, processing, and resale or reuse of recovered materials. Such term shall not include a solid waste handling facility; provided, however, any solid waste generated by such facility shall be subject to all applicable laws and regulations relating to such solid waste.

Recreational vehicle means a vehicle which is: built on a single chassis; four hundred (400) square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty vehicle; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Recycling means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

Residential district means any parcel of land which is zoned for any single-family detached or attached residential district classification, two- or three- family residential district classification, any multifamily residential district classification, mobile home park district classification, any property zoned O-I or OCR which is used for multifamily dwellings, and any property zoned C-1 which is used for multifamily or single family dwellings.

Residential use means the occupation of a building and land for human habitation.

Restaurant means an establishment where food and drink are prepared, served, and consumed primarily within the principal building.

Restaurant, drive-through means an establishment where food and drink are prepared which may be consumed within the principal building or which may be ordered and picked up from a service window.

Retaining wall means a structure constructed and erected between lands of different elevations to protect structures and/or to prevent erosion.

Rooming house means boardinghouse.

Sand pit means a surface mine or excavation used for the removal of sand, gravel, or fill dirt for sale or for use off-site.

Satellite television antenna means an apparatus capable of receiving but not transmitting television, radio, or cable communications from a central device transmitting said communications.

School, private means any building or group of buildings the use of which meets state requirements for elementary, middle, or secondary education and which use does not secure the major part of its funding from any governmental agency.

Screening fence means an opaque structure designed to provide a visual barrier constructed of materials including wood, chain link with wood or plastic inserts, metal, vinyl, plastic and other such materials as may be approved by the City Manager or his/her designee.

Secretary means the City Manager or his/her designee who shall serve as secretary to the planning commission and as secretary to the zoning board of appeals.

Secondary conservation area means that portion of a site for which application is made for cluster housing development which consists of those areas of land which are outside the primary conservation area but which are environmentally sensitive, historically or culturally significant, scenic, or which possess other unusual attributes that merit conservation.

Self-storage warehouse means a building or group of buildings in a controlled-access and secured compound that contains varying sizes of individual, compartmentalized and controlled-access stalls or lockers for the storage of customers' goods or wares.

Semi-nude means the exposure of one (1) or more, but not all, of the following: human genitals or pubic region, buttocks, or female breasts below a point immediately above the top of the areola.

Shared parking means parking shared by two (2) or more lots or uses for which the peak parking demands are not at the same time, and parking that can reasonably be shared by such lots or uses. Shared parking areas must have interconnected or shared driveways and be subject to formal agreements for shared use of parking spaces.

Shelter for homeless persons means a building or buildings in which is provided overnight housing and sleeping accommodations for one (1) or more persons who have no permanent residence and are in need of temporary, short-term housing assistance, and in which may also be provided meals and social services including counseling services. (See also definition of transitional housing facility).

Shopping center means a commercial development of two (2) or more stores which is developed and managed as a whole in accordance with all applicable requirements of to this Chapter.

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

Solid waste means any garbage or refuse; sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material including solid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and community activities, but does not include recovered materials; solid or dissolved materials in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. Section 1342; or source, special nuclear, or byproduct material as defined by the Federal Atomic Energy Act of 1954, as amended (68 State. 923).

Solid waste handling means the storage, collection, transportation, treatment, utilization, processing, or disposal of solid waste or any combination of such activities.

Solid waste handling facility means any facility the primary purpose of which is the storage, collection, transportation, treatment, utilization, processing, or disposal, or any combination thereof, of solid waste.

Solid waste thermal treatment technology facility means any solid waste handling facility the purpose of which is to reduce the amount of solid waste to be disposed of through a process of combustion, with or without the process of waste to energy.

Sorority house means a building containing sleeping rooms, bathrooms, common rooms, and a central kitchen and dining room maintained exclusively for sorority members and their guests or visitors and affiliated with an institution of higher learning.

Sound level meter means an instrument that conforms to ANSI S1.4-1983 or its successors.

Special administrative permit means a written authorization granted by the City Manager or his/her designee for a use of land pursuant to an application which that official is authorized to decide as specified within a zoning district or in **Article V, Section 5A**, pursuant to the procedures and criteria contained in **Article V, Section 5C**.

Special events facility means a building and/or premises used as a customary meeting or gathering place for personal social engagements or activities, where people assemble for parties, weddings, wedding receptions, reunions, birthday celebrations, other business purposes, or similar such uses for profit, in which food and beverages may be served to guests. This definition shall not include places of worship, as defined elsewhere in to this Chapter.

Special exception means the approval by the zoning board of appeals of an application which that board is authorized to decide as specified within a zoning district pursuant to the procedures and criteria contained in **Article V, Section 5D** of to this Chapter.

Special land use permit means the approval by ordinance of a use of land which the City Council is authorized to decide as specified within a zoning district pursuant to the procedures and criteria contained in **Article V, Section 5B** of to this Chapter.

Special permit means a special administrative permit, special exception, or special land use permit.

Specified anatomical areas shall include any of the following:

(a) Less than completely and opaquely covered human genitals or pubic region, buttocks, or female breasts below a point immediately above the top of the areola; or
(b) Human male genitalia in a discernibly turgid state, even if completely or opaquely covered.

Specified sexual activities shall include any of the following:

(a) Actual or simulated intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: analingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, sapphism; or
(b) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
(c) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
(d) Fondling or touching of nude human genitals, pubic regions, buttocks or female breasts; or
(e) Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or
(f) Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or
(g) Human excretion, urination, menstruation, vaginal or anal irrigation.

State means the State of Georgia.

Steady tonal quality means sound emissions comprised of a single frequency or a narrow cluster of frequencies, which may be referred to as a whine, hum or buzz, with measured sound levels not fluctuating by more than plus or minus three (3) dB(A).

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

Story means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above or, if there is no floor above, the space between the floor and the ceiling next above. Each floor or level in a multistory building used for parking, excluding a basement, shall be classified as a story.

Street, private means any street that provides vehicular or pedestrian access within a development which is not dedicated or intended to be dedicated to the City, and which is not maintained by the City.

Street, public means any right-of-way set aside for public travel deeded to the City and any right-of-way which has been accepted for maintenance as a street by the City.

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

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

Structure, accessory. See *accessory structure*.

Subdivision means as set forth in the Dunwoody Development Code, except that Cluster Housing Developments districts meeting all requirements of to this Chapter shall not be deemed to be a subdivision.

Synagogue means a *place of worship.*

Telecommunications antenna means any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves.

Telecommunications tower means any structure that is designed or constructed primarily for the purpose of supporting one (1) or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, and alternative tower structures.

Telecommunications tower or antenna height means the vertical distance from grade to the highest point of the telecommunications tower, grade being the average level of the pre-existing or finished surface of the ground adjacent to the exterior of the tower, whichever is lower. When referring to a telecommunications antenna alone it shall mean the vertical distance from the base of the antenna to its highest point. Where telecommunications towers and antennae are used in combination, height shall mean the vertical distance from grade to the highest point of either the tower or antenna, whichever is highest.

Temple means a *place of worship*.

Threshold means the top of the subfloor in the opening that is designated as the front door of a dwelling.

Total sound level means that measured level which represents the summation of the sounds from the sound source under investigation and the neighborhood residual sounds which affect a given place at a given time, exclusive of extraneous sound sources.

Transient lodging accommodations means temporary sleeping accommodations, with or without independent kitchen facilities, offered to persons traveling from one place to another, stopping overnight, or otherwise in need of a temporary place to stay.

Transitional buffer zone means a natural or planted buffer area between two (2) different land use zones which is intended to provide protection between said land use zones and which meets the criteria for said buffer specified in to this Chapter.

Transitional housing facility means a building or buildings in which is provided long-term but no permanent living accommodations for more than six (6) persons who have no permanent residence and are in need of long-term housing assistance.

Tree means any self-supporting woody plant that usually provides one (1) main trunk and produces a more or less distinct and elevated head with branches.

Tree canopy means the area directly beneath the crown and within the outermost edges of the branches and leaves of a tree.

Truck means every motor vehicle designed, used, or maintained primarily for the transportation of property.

Truck stop means any building, premises, or land in which or upon which a business, service, or industry involving the maintenance, servicing, storage, or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into such commercial vehicles and the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop may also include overnight accommodations and restaurant facilities primarily for the use of truck crews.

Truck terminal means an area and building where trucks load and unload cargo and freight and where the cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation.

Two-part commercial block style means a building of two (2) stories or greater in height that has a flat roof and is characterized by a horizontal division of the building facade into two (2) distinct zones. These zones may be similar in design but shall be clearly separated from one another. The ground floor level of the building shall contain fenestration equal to seventy-five (75) percent of the width of the front facade of the building.

Usable satellite signals means satellite signals from all major communications satellites that, when viewed on a conventional television set, are at least equal in picture quality to those received from local commercial television stations by way of cable television.

Use means the purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

Utility means any public or private agency that provides for the generation, transmission or distribution of electricity, gas, water, storm water, wastewater, communication, transportation, or other similar service, excluding those utilities that are public uses.

Vacant and undeveloped means the comprehensive plan land use category which includes forested areas, undeveloped land and land not used for any other identified purpose.

Van service means a commercial or not-for-profit service in which the provider offers transportation service to clients from their home to another destination, such as a medical service facility or other destination, and in which service is usually provided in a closed vehicle with a capacity of eight (8) to twelve (12) passengers.

Variance means permission to depart from the requirements of to this Chapter pursuant to the requirements of **Article V, Section 5D**.

Viewshed means the total visible area from an identified observation position or positions.

Wall means a solid retaining or security barrier constructed of materials including brick, stone, concrete, concrete block, ceramic tile or other aggregate materials and other such materials as may be approved by the City Manager or his/her designee.

Waste to energy facility means a solid waste handling facility that provides for the extraction and utilization of energy from City solid waste through a process of combustion.

Weekday means the time period of the week that begins at 7:00 a.m. on each Monday and ends at 6:00 p.m. on each Friday.

Weekends means the time period of each week that begins at 6:00 p.m. on each Friday and ends at 7:00 a.m. on each Monday.

Wetlands means an area of land meeting the definition of "wetlands" set forth in 33 C.F.R. Part 328.3(b) of the Code of Federal Regulations, as amended, and that is subject to federal, state or local regulations governing land meeting that definition.

Workforce housing means for-sale housing that is affordable to those households earning eighty (80) percent of median household income for the Atlanta MSA as determined by the current fiscal year HUD income limit table at the time the building is built.

Yard means that area of a lot between the principal building and adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. The minimum required width or depth of a yard shall be determined as the horizontal distance between lot or street lines and minimum setback lines as established by to this Chapter.

Yard, front means a yard extending across the total width of a lot between side lot lines and being that area between the street right-of-way lines and that line or lines established by the front wall or walls of the principal structure projected to intersect the side lot lines. There can only be one (1) front yard.

Yard, interior side means a yard extending the total depth of a lot between the front and rear yards and being that area between the side lot line, where the side lot line is coincidental with the side or rear lot line of an adjacent lot, and that line or lines established by the side wall or walls of the principal structure.

Yard, rear means a yard extending across the total width of a lot between side lot lines and being that area between the rear lot line and that line or lines established by the rear wall or walls of the principal structure projected to intersect the side lot lines.

Yard, side means a yard extending the total depth of a lot between the front and rear yards and being that area between the side lot lines and that line or lines established by the side wall or walls of the principal structure.

Zoning decision shall mean final legislative action by a local government which results in:

(a) The adoption of a zoning ordinance;
(b) The adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance;
(c) The adoption of any amendment to a zoning ordinance which rezones the property from one zoning classification to another;
(d) The grant of a permit relating to a special use of property, as defined in O.C.G.A. § 36-66-3, and as may hereafter be amended by Georgia law.

Sec. 1-18. Rules for Interpretation of Language.

For the purpose of to this Chapter, certain words and terms are to be interpreted as follows:

(a) Words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; words in the singular number include the plural; and words in the plural include the singular, unless the obvious construction of the wording indicated otherwise.
(b) The word "shall" is mandatory.

(c) Unless otherwise specified, all distances shall be measured horizontally and at right angles or radially to the line in relation to which the distance is specified.
(d) The word "lot" includes the word "plot"; the word used shall be deemed also to include designed, intended, or arranged to be used; the term erected shall be deemed also to include constructed, reconstructed, altered, placed, relocation or removed.
(e) The terms "land use" and "use of land" shall be deemed also to include "building use" and "use of building."

Sec. 1-19. Public Uses.

Public uses shall be authorized in all districts except where otherwise prohibited. A government proposing to construct or operate a public use within the incorporated areas of the City of Dunwoody shall notify the City of Dunwoody in writing of its plans to establish said public use and shall submit a site plan for approval in accordance with the applicable provisions of the Code of Ordinances and shall obtain at no cost a building permit.

Sec. 1-20. Compliance with Other Laws Required.

Compliance with the provisions of to this Chapter shall not be interpreted to obviate the requirements for compliance with any and all other provisions of federal or state law, or the City of Dunwoody Code of Ordinances, including but not limited to requirements for licenses or permits of any kind.

Sec. 1-21. Private Restrictive Covenants.

Private restrictive covenants to which the City is not a party shall not be regulated or enforced by the City under to this Chapter.

Sec. 1-22. Relationship to Comprehensive Plan.

The comprehensive plan is hereby established as the official policy of the City concerning designated land uses, under which the unincorporated areas of the City are divided into the following land use categories:

(a) Suburban.

(b) Traditional neighborhood.

(c) Neighborhood center.

(d) Town center.

(e) Regional center.

(f) Industrial.

(g) Light industrial.

(h) Institutional.

(i) Office park.

(j) Conservation and open space.

(k) Commercial redevelopment corridor.

(l) Scenic corridor.

(m) Highway corridor.

Sec. 1-23. Comprehensive Plan Distinguished from Zoning.

The comprehensive plan does not alter or affect the existing zoning districts in the city, does not effectuate an amendment to the official zoning maps, and does not itself permit or prohibit any existing land uses.

Sec. 1-24. Land Use Districts.

The boundaries of the various land use districts are shown upon the maps that constitute the land use element of the comprehensive plan and are made a part of this Chapter and shall be maintained by the City Manager or his/her designee at the direction of the City Council. All such maps and all notations, references and information shown thereon shall be as much a part of this Chapter as if all the matter and information set forth by the maps were fully described herein. All other writings concerning the comprehensive plan, including technical documents and appendices adopted simultaneously with the comprehensive plan, are for guidance and information purposes only, and are not made a part of this Chapter.

Sec. 1-25. Interpretation of Land Use District Boundaries.

Where uncertainty exists as to the boundaries of any land use district shown on the maps constituting the comprehensive plan, the rules set forth in **Section 1-10** shall apply.

Sec. 1-26. Relationship between Land Use Categories and Zoning Districts.

The land use categories established by the land use element of the comprehensive plan are to be implemented by the establishment of appropriate zoning districts within each category. The zoning districts that are permitted within each land use category shall be restricted to the following:

(a) Suburban: R-200; R-150; R-100; R-85; R-75; R-30,000; R-20,000; R-A5; R-50; R-A8; R-DT; RM-150; NS; R-60, C-1, and O-I, provided the density does not exceed four (4) dwelling units per acre.

(b) Traditional neighborhood: R-200; R-150; R-100; R-85; R-75; R-30,000; R-20,000; R-A5; R-50; RM-150; R-60; NS, RA-8; R-DT; RM-100 and PCD, provided the density does not exceed eight (8) dwelling units per acre.

(c) Neighborhood center: NS, OCR C-1; O-I; O-I-T; PCD; RM-100; RM-85; RM-75 and OCR, provided the density does not exceed twenty-four (24) dwelling units per acre.

(d) Town center: OCR; C-1; O-I; C-2; O-I-T; RM-100; RM-85; RM-75; RM-HD; and PCD, provided the density does not exceed sixty (60) dwelling units per acre.

(e) Office park: O-I; OCR; O-D; NS; C-1; RM-HD; C-2; O-I-T; and PCD, provided the density does not exceed thirty (30) dwelling units per acre.

(f) Regional center: C-1; O-I; C-2; O-I-T; OCR; RM-100; RM-85; RM-75; RM-HD; and PCD, provided the density does not exceed one hundred twenty (120) dwelling units per acre.

(g) Industrial: C-2; O-D; OCR; M and M-2.

(h) Light industrial: C-1; C-2; O-D; O-I; OCR; M and M-2.

(i) Institutional: O-I; O-I-T and all residential zoning districts.

(j) Commercial redevelopment corridor: O-I; O-I-T; C-1; C-2; OCR; O-D; R-200; R-150; R-30,000; R-20,000; R-100; R-85; R-75; R-60; R-A5; R-50; R-A8; R-DT; RM-150; RM-100; RM-85; RM-75; and PCD; provided the density does not exceed eighteen (18) dwelling units per acre.

(k) Scenic corridor: Allows all zoning districts.

(l) Highway corridor: O-I; OIT; C-1; C-2; O-D; RM-HD; OCR; PCD; M and M-2, provided the density does not exceed thirty (30) dwelling units per acre.

(m) Conservation and open space: Allowed in all zoning districts.

Sec. 1-27. Permitted Land Use.

Within the various land use categories described in this Chapter and shown on the comprehensive plan, no amendment to the official zoning maps shall permit a use except in accordance with the uses permitted in the comprehensive plan land use category applicable to the property to which the proposed zoning map amendment applies.

Sec. 1-28. Status of Lots Zoned TND (Traditional Neighborhood Development) and Lots Previously Zoned R-CH (Single Family Cluster Residential) and R-CD (Residential Community Development).

(a) Lots that were zoned R-CH by DeKalb County on April 12, 1999, prior to the existence of the City of Dunwoody, shall bear the zoning district classification R-CH. The R-CH zoning district regulations in effect in DeKalb County on April 12, 1999, and the applicable existing conditions of zoning, shall govern the development of the lots identified in this subsection.

(b) Lots that were zoned R-CD by DeKalb County on April 12, 1999, prior to the existence of the City of Dunwoody, shall bear the zoning district classification R-CD. The R-CD zoning district regulations in effect in DeKalb County on April 12, 1999, and the applicable existing conditions of zoning, shall govern the development of the lots identified in this subsection.

(c) Lots that were zoned TND by DeKalb County after April 13, 1999, prior to the existence of the City of Dunwoody, shall continue to bear the zoning district classification TND. The TND zoning district regulations in effect in DeKalb County on April 27, 2004, and the applicable existing conditions of zoning, shall govern the development of the lots identified in this **subsection (c).**

(d) Lots that bear the zoning district classification TND, R-CH or R-CD may file an application for an amendment to the official zoning map seeking rezoning to any other zoning classification, in compliance with the procedures in **Article V, Section 5A** of this Chapter and subject to all the applicable requirements of that zoning district classification.

Sec. 1-29. Status of Lots Zoned PSD (Planned Shopping) District under Previous Zoning Ordinance.

The former zoning district designation PS (Planned Shopping) District is hereby deleted and replaced with the zoning district designation NS (Neighborhood Shopping) District. Lots existing on the date of adoption of this Chapter that bear the zoning district designation Planned Shopping District shall hereafter bear the zoning district designation NS (Neighborhood Shopping) District.

Sec. 1-30. Status of Lots Zoned O-I (Office-Institution) and Used as High-Rise Apartments Developments.

(a) Except as otherwise provided herein, any lots that were zoned O-I, have submitted a complete application and otherwise lawfully applied for or have been issued a land disturbance permit or building permit for the construction or redevelopment of a high-rise apartment development on or before the effective date of this section shall continue to bear the zoning district classification O-I and shall be allowed to develop and maintain high-rise apartment developments that are approved as required by law and that comply with all applicable conditions of zoning and any other applicable provisions of this Code.

(b) Those O-I lots with high-rise apartment developments in lawful existence prior to the enactment of this section shall without further action be considered a conforming use and shall not be considered nonconforming under the nonconforming use regulations in **Section 5E** et seq. Those O-I lots with high-rise apartment developments in lawful existence prior to the enactment of this section also shall have the right to make interior structural alterations and exterior maintenance alterations within the limits of the building regulations of the Code of the City of Dunwoody; but any enlargement, extension or movement of the high-rise apartment development shall not be permitted.

(c) Any high rise apartment development covered by this section that has been damaged by fire or other cause, may be reconstructed and used as it was prior to damage if said reconstruction is completed within five years of the date of the damage.

ARTICLE II. DISTRICT REGULATIONS

Sec. 2A-1. Scope of Provisions: R-200 (Single Family Residential) District.

The provisions contained within this division are the regulations of the R-200 (Single-family Residential) District.

Sec. 2A-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the R-200 (Single-family Residential) District is as follows:

(a) To provide for the protection of neighborhoods within the City where lots have a minimum area of one (1) acre;

(b) To provide for infill development in neighborhoods having one (1) acre lots in a manner compatible with existing development;

(c) To assure that the uses and structures authorized in the R-200 (Single-family Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 2A-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the R-200 (Single-family Residential) District:

(a) Single-family detached dwelling.

(b) Personal care home, family.

(c) Personal care home, registered.

(d) Agriculture and forestry uses as follows:

(1) Agricultural produce stand.

(2) Commercial greenhouse or plant nursery.

(3) Dairy.

(4) Field crops, production of.

(5) Fruits, tree nuts, and vegetables, production of.

(6) Livestock.

(7) Noncommercial kennel.

(8) Riding stable.

(9) Temporary or portable sawmill.

Sec. 2A-4. Accessory Uses, Buildings and Structures.

Accessory uses, buildings and structures shall be located within the rear yard. Accessory buildings and structures shall not exceed twenty (20) feet in height or the height of the principal structure, whichever is less, and shall comply with the requirements of **Section 4-1**. An accessory structure in the R-200 may be used as the second authorized dwelling unit on the lot. The following accessory uses of land and accessory buildings and structures shall be authorized in the R-200 (Single-family Residential) District:

(a) Accessory uses, buildings and structures incidental to any authorized principal use, including the following and similar uses:

(1) Garages for parking of automobiles.
(2) Storage buildings.
(3) Swimming pools.
(4) Tennis courts and other play and recreation areas.

(b) Signs in accordance with the provisions of this Chapter and the City's Sign Ordinance.

Sec. 2A-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) Special administrative permit from City Manager or his/her designee or his/her designee:

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) Special exception permit from the zoning board of appeals:

(1) Utility structure necessary for the transmission or distribution of service.
(2) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one such fourteen-day time period within any calendar year.

(c) Special land use permit from City Council:

(1) Adult day care facility.

(2) Amateur radio service antenna exceeding seventy (70) feet.

(3) Cemetery, columbarium, or mausoleum.

(4) Child day care facility.

(5) Convent or monastery.

(6) Home occupation involving any customer contact.

(7) Home stay bed and breakfast residence.

(8) Neighborhood recreation club.

(9) Place of worship.

(10) Private elementary, middle and high school.

Sec. 2A-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the R-200 (Single-family Residential) District:

(a) *Lot width:* All lots shall have at least two hundred (200) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured

along the public street and shall have at least two hundred (200) feet of width as measured at the required front yard building setback line.

(b) *Minimum lot area:* One (1) acre.

(c) *Minimum yard adjacent to public street:*

(1) From major thoroughfares: Seventy (70) feet.
(2) From minor thoroughfares: Sixty (60) feet.
(3) From collector streets: Fifty-five (55) feet.
(4) From other streets: Fifty-five (55) feet.

(d) *Interior side yard setbacks:* Twenty (20) feet.

(e) *Rear yard:* Forty (40) feet.

Sec. 2A-7. Height of Buildings and Structures.

No building or structure shall exceed a height of thirty-five (35) feet.

Sec. 2A-8. Floor Area of Dwelling.

The minimum floor area shall be as follows:

(a) Single-family dwelling: Two thousand (2,000) square feet.

Sec. 2A-9. Lot Coverage.

The lot coverage of each lot shall not exceed twenty-five (25) percent.

Sec. 2A-10. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the R-200 (Single-Family Residential) District are as follows:

(a) *Single-family dwelling:* Four (4) spaces.

(b) *Personal care home, family:* Four (4) spaces.

(c) *Personal care home, registered:* Four (4) spaces.

(d) *Temporary outdoor social, religious, entertainment or recreation activity:* One (1) space for each two hundred (200) square feet of land devoted to such use, or where such use is conducted within a tent one (1) space for each two hundred (200) square feet of area within the tent enclosure.

(e) *Adult day care facility:* Four (4) spaces.

(f) *Child day care facility:* Four (4) spaces.

(g) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(h) *Neighborhood recreation club:* One (1) space for each five (5) club members but in no case less than ten (10) spaces.

(i) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(j) *Private elementary, middle and high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(k) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

Sec. 2A-11. Landscaping Requirement.

Each lot shall provide and shall maintain trees and plant material as is required by the City's Tree Protection Ordinance.

Sec. 2A-12. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2B. R-150 (SINGLE-FAMILY RESIDENTIAL) DISTRICT

Sec. 2B-1. Scope of Provisions.

The provisions contained within this Section are the regulations of the R-150 (Single-family Residential) District.

Sec. 2B-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the R-150 (Single-family Residential) District is as follows:

(a) To provide for the protection of neighborhoods within the City where lots have a minimum area of one (1) acre;

(b) To provide for infill development in neighborhoods having one (1) acre lots in a manner compatible with existing development;

(c) To assure that the uses and structures authorized in the R-150 (Single-family Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 2B-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the R-150 (Single-family Residential) District:

(a) Single-family detached dwelling.

(b) Personal care home, family.

(c) Personal care home, registered.

(d) Agriculture as follows:

(1) Livestock.

(2) Riding stable.

Sec. 2B-4. Accessory Uses, Buildings and Structures.

Accessory uses, buildings and structures shall be located within the rear yard. Accessory buildings and structures shall not exceed twenty (20) feet in height or the height of the principal structure, whichever is less, and shall comply with the requirements of **Section 4-1**. The following accessory uses of land and buildings and structures shall be authorized in the R-150 (Single-family Residential) District:

(a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:

(1) Garages for parking of automobiles.

(2) Storage buildings.

(3) Swimming pools.

(4) Tennis courts and other play and recreation areas.

(b) Signs in accordance with the provisions of this Chapter and the City's Sign Ordinance.

Sec. 2B-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) Special administrative permit from City Manager or his/her designee or his/her designee or his/her designee:

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) Special exception permit from the zoning board of appeals:

(1) Utility structure necessary for the transmission or distribution of service.

(c) Special land use permit from the City Council:

(1) Adult day care facility.

(2) Amateur radio service antenna exceeding seventy (70) feet.

(3) Cemetery, columbarium, or mausoleum.

(4) Child day care facility.

(5) Convent or monastery.

(6) Home occupation involving any customer contact.

(7) Home stay bed and breakfast residence.
(8) Neighborhood recreation club.

(9) Place of worship.

(10) Private elementary, middle and high school.

Sec. 2B-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the R-150 (Single-family Residential) District:

(a) *Lot width:* All lots shall have at least one hundred fifty (150) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least one hundred fifty (150) feet of width as measured at the point of the required front yard building setback line.

(b) *Minimum lot area:* One (1) acre.

(c) *Minimum yard adjacent to public street:*

(1) From major thoroughfares: Sixty (60) feet.

(2) From minor thoroughfares: Fifty (50) feet.

(3) From collector streets: Forty-five (45) feet.

(4) From other streets: Forty-five (45) feet.

(d) *Interior side yard setbacks:* Twenty (20) feet.

(e) *Rear yard:* Forty (40) feet.

Sec. 2B-7. Height of Buildings and Structures.

No building or structure shall exceed a height of thirty-five (35) feet.

Sec. 2B-8. Floor Area of Dwelling.

The floor area of each dwelling shall be no less than two thousand (2,000) square feet.

Sec. 2B-9. Lot Coverage.

The lot coverage of each lot shall not exceed twenty-five (25) percent.

Sec. 2B-10. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the R-150 (Single-family Residential) District are as follows:

(a) *Detached single-family dwelling:* Four (4) spaces.

(b) *Personal care home, family:* Four (4) spaces.

(c) *Personal care home, registered:* Four (4) spaces.

(d) *Adult day care facility:* Four (4) spaces.

(e) *Child day care facility:* Four (4) spaces.

(f) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(g) *Neighborhood recreation club:* One (1) space for each five (5) club members but in no case less than ten (10) spaces.

(h) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(i) *Private elementary, middle and high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(j) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

Sec. 2B-11. Landscaping Requirement.

Each lot shall provide and shall maintain trees and plant material as is required in the City's tree Protection Ordinance.

Sec. 2B-12. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2C. R-100 (SINGLE-FAMILY RESIDENTIAL) DISTRICT

Sec. 2C-1. Scope of Provisions.

The provisions contained within this section are the regulations of the R-100 (Single-family Residential) District.

Sec. 2C-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the R-100 (Single-family Residential) District is as follows:

(a) To provide for the protection of neighborhoods within the City where lots have a minimum area of fifteen thousand (15,000) square feet;

(b) To provide for infill development in neighborhoods having fifteen thousand (15,000) square foot lots in a manner compatible with existing development;

(c) To assure that the uses and structures authorized in the R-100 (Single-family Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 2C-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the R-100 (Single-family Residential) District:

(a) Detached single-family dwelling.

(b) Personal care home, family.

(c) Personal care home, registered.

(d) Stable.

Sec. 2C-4. Accessory Uses, Buildings and Structures.

Accessory uses, buildings and structures shall be located within the rear yard. Accessory buildings and structures shall not exceed twenty (20) feet in height or the height of the principal structure, whichever is less, and shall comply with the requirements of **Section 4-1**. The following accessory uses of land and buildings and structures shall be authorized in the R-100 (Single-family Residential) District:

(a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:

(1) Garages for parking of automobiles.

(2) Storage buildings.

(3) Swimming pools.

(4) Tennis courts and other play and recreation areas.

(b) Signs in accordance with the provisions of this Chapter and the City's Sign Ordinance.

Sec. 2C-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) Special administrative permit from City Manager or his/her designee:

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) Special exception permit from the zoning board of appeals:

(1) Utility structure necessary for the transmission or distribution of service.

(c) Special land use permit from City Council:

(1) Adult day care facility.

(2) Amateur radio service antenna exceeding seventy (70) feet.

(3) Cemetery, columbarium, or mausoleum.

(4) Child day care facility.

(5) Convent or monastery.

(6) Home occupation involving any customer contact.

(7) Home stay bed and breakfast residence.

(8) Neighborhood recreation club.

(9) Place of worship.

(10) Private elementary, middle and high school.

(11) Congregate personal care home if located on a campus of no less than twenty five (25) acres.

Sec. 2C-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the R-100 (Single-family Residential) District:

(a) *Lot width:* All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured

along the public street and shall have at least one hundred (100) feet of frontage as measured at the required front yard building setback line.

(b) *Minimum lot area:* Fifteen thousand (15,000) square feet.

(c) *Minimum yard adjacent to public street:*

(1) *From major thoroughfares:* Fifty (50) feet.

(2) *From minor thoroughfares:* Forty (40) feet.

(3) *From collector streets:* Thirty-five (35) feet.

(4) *From other streets:* Thirty-five (35) feet.

(d) *Interior side yard setbacks:* Ten (10) feet.

(e) *Rear yard:* Forty (40) feet.

Sec. 2C-7. Height of Buildings and Structures.

No building or structure shall exceed a height of thirty-five (35) feet.

Sec. 2C-8. Floor Area of Dwelling.

The floor area of each dwelling shall be no less than two thousand (2,000) square feet.

Sec. 2C-9. Lot Coverage.

The lot coverage of each lot shall not exceed thirty-five (35) percent.

Sec. 2C-10. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the R-100 (Single-family Residential) District are as follows:

(a) *Detached single-family dwelling:* Four (4) spaces.

(b) *Personal care home, family:* Four (4) spaces.

(c) *Personal care home, registered:* Four (4) spaces.

(d) *Adult day care facility:* Four (4) spaces.

(e) *Child day care facility:* Four (4) spaces.

(f) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(g) *Neighborhood recreation club:* One (1) space for each five (5) club members but in no case less than ten (10) spaces.

(h) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(i) *Private elementary, middle and high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(j) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

Sec. 2C-11. Landscaping Requirement.

Each lot shall provide and shall maintain trees and plant material as is required in the City's Tree Protection Ordinance.

Sec. 2C-12. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2D. R-85 (SINGLE-FAMILY RESIDENTIAL) DISTRICT

Sec. 2D-1. Scope of Provisions.

The provisions contained within this section are the regulations of the R-85 (Single-family Residential) District.

Sec. 2D-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the R-85 (Single-family Residential) District is as follows:

(a) To provide for the protection of neighborhoods within the City where lots have a minimum area of twelve thousand (12,000) square feet;

(b) To provide for infill development in neighborhoods having twelve thousand (12,000) square foot lots in a manner compatible with existing development;

(c) To assure that the uses and structures authorized in the R-85 (Single-family Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 2D-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the R-85 (Single-family Residential) District:

(a) Detached single-family dwelling.

(b) Personal care home, family.

(c) Personal care home, registered.

Sec. 2D-4. Accessory Uses, Buildings and Structures.

Accessory uses, buildings and structures shall be located within the rear yard. Accessory buildings and structures shall not exceed twenty (20) feet in height or the height of the principal structure, whichever is less, and shall comply with the requirements of **Section 4-1**. The following accessory uses of land and buildings and structures shall be authorized in the R-85 (Single-family Residential) District:

(a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:

(1) Garages for parking of automobile.

(2) Storage buildings.

(3) Swimming pools.

(4) Tennis courts and other play and recreation areas.

(b) Signs in accordance with the provisions of this Chapter and the Dunwoody City Code.

Sec. 2D-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from City Manager or his/her designee:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service.

(c) *Special land use permit from City Council:*

(1) Adult day care facility.

(2) Amateur radio service antenna exceeding seventy (70) feet.

(3) Cemetery, columbarium, or mausoleum.

(4) Child day care facility.

(5) Convent or monastery.

(6) Home occupation involving any customer contact.

(7) Home stay bed and breakfast residence.

(8) Neighborhood recreation club.

(9) Place of worship.

(10) Private elementary, middle and high school.

Sec. 2D-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the R-85 (Single-family Residential) District:

(a) *Lot width:* All lots shall have at least eighty-five (85) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least eighty-five (85) feet of frontage as measured at the required front yard building setback line.

(b) *Minimum lot area:* Twelve thousand (12,000) square feet.

(c) *Minimum yard adjacent to public street:*

(1) *From major thoroughfares:* Fifty (50) feet.

(2) *From minor thoroughfares:* Forty (40) feet.

(3) *From collector streets:* Thirty-five (35) feet.

(4) *From other streets:* Thirty-five (35) feet.

(d) *Interior side yard setbacks:* Eight and one-half (8 1/2) feet.

(e) *Rear yard:* Forty (40) feet.

Sec. 2D-7. Height of Buildings and Structures.

No building or structure shall exceed a height of thirty-five (35) feet.

Sec. 2D-8. Floor Area of Dwelling.

The floor area of each dwelling shall be no less than one thousand eight hundred (1,800) square feet.

Sec. 2D-9. Lot Coverage.

The lot coverage of each lot shall not exceed thirty-five (35) percent.

Sec. 2D-10. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the R-85 (Single-family Residential) District are as follows:

(a) *Detached single-family dwelling:* Four (4) spaces.

(b) *Personal care home, family:* Four (4) spaces.

(c) *Personal care home, registered:* Four (4) spaces.

(d) *Adult day care facility:* Four (4) spaces.

(e) *Child day care facility:* Four (4) spaces.

(f) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(g) *Neighborhood recreation club:* One (1) space for each five (5) club members but in no case less than ten (10) spaces.

(h) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(i) *Private elementary, middle and high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(j) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

Sec. 2D-11. Landscaping Requirement.

Each lot shall provide and shall maintain trees and plant material as is required in the Dunwoody City Code.

Sec. 2D-12. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2E. R-75 (SINGLE-FAMILY RESIDENTIAL) DISTRICT

Sec. 2E-1. Scope of Provisions.

The provisions contained within this section are the regulations of the R-75 (Single-family Residential) District.

Sec. 2E-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the R-75 (Single-family Residential) District is as follows:

(a) To provide for the protection of neighborhoods within the City where lots have a minimum area of ten thousand (10,000) square feet;

(b) To provide for infill development in neighborhoods having ten thousand (10,000) square foot lots in a manner compatible with existing development;

(c) To assure that the uses and structures authorized in the R-75 (Single-family Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 2E-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the R-75 (Single-family Residential) District:

(a) Detached single-family dwelling.

(b) Personal care home, family.

(c) Personal care home, registered.

Sec. 2E-4. Accessory Uses, Buildings and Structures.

Accessory uses, buildings and structures shall be located within the rear yard. Accessory buildings and structures shall not exceed twenty (20) feet in height or the height of the principal structure, whichever is less, and shall comply with the requirements of **Section 4-1**. The following accessory uses of land and buildings and structures shall be authorized in the R-75 (Single-family Residential) District:

(a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:

(1) Garages for parking of automobiles.

(2) Storage buildings.

(3) Swimming pools.

(4) Tennis courts and other play and recreation areas.

(b) Signs in accordance with the provisions of this Chapter and the City's Sign Ordinance.

Sec. 2E-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from City Manager or his/her designee:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service.

(c) *Special land use permit from City Council:*

(1) Adult day care facility.

(2) Amateur radio service antenna exceeding seventy (70) feet.

(3) Cemetery, columbarium, or mausoleum.

(4) Child day care facility.

(5) Convent or monastery.

(6) Home occupation involving any customer contact.

(7) Home stay bed and breakfast residence.

(8) Neighborhood recreation club.

(9) Place of worship.

(10) Private elementary, middle and high school.

Sec. 2E-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the R-75 (Single-family Residential) District:

(a) *Lot width:* All lots shall have at least seventy-five (75) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least seventy-five (75) feet of frontage as measured at the required front yard building setback line.

(b) *Minimum lot area:* Ten thousand (10,000) square feet.

(c) *Minimum yard adjacent to public street:*

(1) *From major thoroughfares:* Forty-five (45) feet.

(2) *From minor thoroughfares:* Thirty-five (35) feet.

(3) *From collector streets:* Thirty (30) feet.

(4) *From other streets:* Thirty (30) feet.

(d) *Interior side yard setbacks:* Seven and one-half (7 1/2) feet.

(e) *Rear yard:* Forty (40) feet.

Sec. 2E-7. Height of Buildings and Structures.

No building or structure shall exceed a height of thirty-five (35) feet.

Sec. 2E-8. Floor Area of Dwelling.

The floor area of each dwelling shall be no less than one thousand six hundred (1,600) square feet.

Sec. 2E-9. Lot Coverage.

The lot coverage of each lot shall not exceed thirty-five (35) percent.

Sec. 2E-10. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the R-75 (Single-family Residential) District are as follows:

(a) *Detached single-family dwelling:* Four (4) spaces.

(b) *Personal care home, family:* Four (4) spaces.

(c) *Personal care home, registered:* Four (4) spaces.

(d) *Adult day care facility:* Four (4) spaces.

(e) *Child day care facility:* Four (4) spaces.

(f) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(g) *Neighborhood recreation club:* One (1) space for each five (5) club members but in no case less than ten (10) spaces.

(h) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(i) *Private elementary, middle and high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(j) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

Sec. 2E-11. Landscaping Requirement.

Each lot shall provide and shall maintain trees and plant material as is required in the City's Sign Ordinance.

Sec. 2E-12. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2F. R-60 (SINGLE-FAMILY RESIDENTIAL) DISTRICT

Sec. 2F-1. Scope of Provisions.

The provisions contained within this section are the regulations of the R-60 (Single-family Residential) District.

Sec. 2F-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the R-60 (Single-family Residential) District is as follows:

(a) To provide for the protection of neighborhoods within the city where lots have a minimum area of eight thousand (8,000) square feet;

(b) To provide for infill development in neighborhoods having eight thousand (8,000) square foot lots in a manner compatible with existing development;

(c) To assure that the uses and structures authorized in the R-60 (Single-family Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 2F-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the R-60 (Single-family Residential) District:

(a) Detached single-family dwelling.

(b) Personal care home, family.

(c) Personal care home, registered.

Sec. 2F-4. Accessory Uses, Buildings and Structures.

Accessory uses, buildings and structures shall be located within the rear yard. Accessory buildings and structures shall not exceed twenty (20) feet in height or the height of the principal structure, whichever is less, and shall comply with the requirements of **Section 4-1**. The following accessory uses of land and buildings and structures shall be authorized in the R-60 (Single-family Residential) District:

(a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:

(1) Garages for parking of automobiles.

(2) Storage buildings.

(3) Swimming pools.

(4) Tennis courts and other play and recreation areas.

(b) Signs in accordance with the provisions of this Chapter and the City's Sign Ordinance.

Sec. 2F-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from City Manager or his/her designee:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service.

(c) *Special land use permit from City Council:*

(1) Adult day care facility.

(2) Amateur radio service antenna exceeding seventy (70) feet.

(3) Cemetery, columbarium, or mausoleum.

(4) Child day care facility.

(5) Convent or monastery.

(6) Home occupation involving any customer contact.

(7) Home stay bed and breakfast residence.

(8) Neighborhood recreation club.

(9) Place of worship.

(10) Private elementary, middle and high school.

Sec. 2F-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the R-60 (Single-family Residential) District:

(a) *Lot width:* All lots shall have at least sixty (60) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least sixty (60) feet of frontage as measured at the required front yard building setback line.

(b) *Minimum lot area:* Eight thousand (8,000) square feet.

(c) *Minimum yard adjacent to public street:*

(1) *From major thoroughfares:* Forty-five (45) feet.

(2) *From minor thoroughfares:* Thirty-five (35) feet.

(3) *From collector streets:* Thirty (30) feet.

(4) *From other streets:* Thirty (30) feet.

(d) *Interior side yard setbacks:* Seven and one-half (7 1/2) feet

(e) *Rear yard:* Forty (40) feet.

Sec. 2F-7. Height of Buildings and Structures.

No building or structure shall exceed a height of thirty-five (35) feet.

Sec. 2F-8. Floor Area of Dwelling.

The floor area of each dwelling shall be no less than one thousand two hundred (1,200) square feet.

Sec. 2F-9. Lot Coverage.

The lot coverage of each lot shall not exceed thirty-five (35) percent.

Sec. 2F-10. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the R-60 (Single-family Residential) District are as follows:

(a) *Detached single-family dwelling:* Four (4) spaces.

(b) *Personal care home, family:* Four (4) spaces.

(c) *Personal care home, registered:* Four (4) spaces.

(d) *Adult day care facility:* Four (4) spaces.

(e) *Child day care facility:* Four (4) spaces.

(f) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(g) *Neighborhood recreation club:* One (1) space for each five (5) club members but in no case less than ten (10) spaces.

(h) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(i) *Private elementary, middle and high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(j) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

Sec. 2F-11. Landscaping Requirement.

Each lot shall provide and shall maintain trees and plant material as is required in the City's Tree Protection Ordinance.

Sec. 2F-12. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2G. R-A8 (SINGLE-FAMILY RESIDENTIAL) DISTRICT

Sec. 2G-1. Scope of Provisions.

The provisions contained within this section are the regulations of the R-A8 (Single-family Residential) District.

Sec. 2G-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the R-A8 (Single-family Residential) District is as follows:

(a) To provide for the protection of neighborhoods within the City where lots have a minimum area of six thousand (6,000) square feet;

(b) To provide for infill development in neighborhoods having six thousand (6,000) square foot lots in a manner compatible with existing development;

(c) To assure that the uses and structures authorized in the R-A8 (Single-family Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 2G-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the R-A8 (Single-family Residential) District:

(a) Attached single-family dwelling.

(b) Detached single-family dwelling.

(c) Personal care home, family.

(d) Personal care home, registered.

Sec. 2G-4. Accessory Uses, Buildings and Structures.

Accessory uses, buildings and structures shall be located within the rear yard. Accessory buildings and structures shall not exceed twenty (20) feet in height or the height of the principal structure, whichever is less, and shall comply with the requirements of **Section 4-1**. The following accessory uses of land and buildings and structures shall be authorized in the R-A8 (Single-family Residential) District:

(a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:

(1) Garages for parking of automobiles.

(2) Storage buildings.

(3) Swimming pools.

(4) Tennis courts and other play and recreation areas.

(5) Signs in accordance with the provisions of this Chapter and the City's Sign Ordinance.

Sec. 2G-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from City Manager:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service.

(c) *Special land use permit from City Council:*

(1) Adult day care facility.

(2) Amateur radio service antenna exceeding seventy (70) feet.

(3) Cemetery, columbarium, or mausoleum.

(4) Child day care facility.

(5) Convent or monastery.

(6) Home occupation involving any customer contact.

(7) Home stay bed and breakfast residence.

(8) Neighborhood recreation club.

(9) Place of worship.

(10) Private elementary, middle and high school.

Sec. 2G-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the R-A8 (Single-family Residential) District:

(a) *Lot width:*

(1) *Single-family detached dwellings:* Sixty (60) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least sixty (60) feet of frontage as measured at the required front yard building setback line.

(2) *Single-family attached dwellings:* One hundred (100) feet of frontage as measured along the public street.

(b) *Minimum lot area, detached single-family dwellings:* Six thousand (6,000) square feet.

(c) *Maximum density for attached or detached single-family dwellings:* Eight (8) dwelling units per acre.

(d) *Minimum setback requirements:*

(1) *Front yard setback:* Five (5) feet, except that where a garage door faces the street, the facade of said garage shall be set back no less than twenty (20) feet from back of curb, or where sidewalk is required, the facade of said garage shall be set back no less than twenty (20) feet from back of sidewalk.

(2) *Interior side yard setbacks* are as follows:

(A) *Single-family detached dwellings:* Seven and one-half (7 1/2) feet.

(B) *Single-family attached dwellings:* Fifteen (15) feet.

(3) *Side yard along side street side on corner lot:* Fifteen (15) feet.

(4) *Rear yard:* Thirty (30) feet.

Sec. 2G-7. Transitional Buffer Zone Requirement.

Where a lot in the RA-8 (Single-family Residential) District is used for attached single-family dwellings and adjoins the boundary of any property which is zoned R (Single-family Residential) District, except single-family attached developments, a transitional buffer zone not less than twenty (20) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining single-family residential.

Sec. 2G-8. Height of Buildings and Structures.

No building or structure shall exceed a height of thirty-five (35) feet.

Sec. 2G-9. Floor Area of Dwelling.

The floor area of each dwelling shall be no less than one thousand two hundred (1,200) square feet.

Sec. 2G-10. Lot Coverage.

The lot coverage of each lot shall not exceed fifty (50) percent.

Sec. 2G-11. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the R-A8 (Single-family Residential) District are as follows:

(a) *Attached single-family dwelling:*

(1) *Less than one thousand six hundred (1,600) square feet of floor area:* Two (2) spaces.

(2) *One thousand six hundred (1,600) through one thousand nine hundred ninety-nine (1,999) square feet of floor area:* Three (3) spaces.

(3) *Two thousand (2,000) square feet or greater:* Four (4) spaces.

(b) *Detached single-family dwelling:* Four (4) spaces.

(c) *Personal care home, family:* Four (4) spaces.

(d) *Personal care home, registered:* Four (4) spaces.

(e) *Adult day care facility:* Four (4) spaces.

(f) *Child day care facility:* Four (4) spaces.

(g) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(h) *Neighborhood recreation club:* One (1) space for each five (5) club members but in no case less than ten (10) spaces.

(i) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(j) *Private elementary, middle and high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(k) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

Sec. 2G-12. Landscaping Requirement.

Each lot shall provide and shall maintain trees and plant material as is required in the City's Tree Protection Ordinance.

Sec. 2G-13. Public Streets Required.

All streets upon which detached single-family homes are constructed in the RA-8 district shall be public streets.

Sec. 2G-14. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2H. R-CH (SINGLE-FAMILY CLUSTER RESIDENTIAL) DISTRICT

Sec. 2H-1. Purpose and Scope.

Except as provided in **Section 1-28** of this Code, the R-CH regulations of this division remain repealed. No application or amendment to the official zoning maps shall be filed with the planning director, initiated by official action of the planning commission, or considered by the City Council if such amendment or application seeks to have any lot(s) in the City zoned R-CH. The R-CH regulations set forth in this division are codified solely for the purpose of complying with the requirements of **Section 1-28** of this Code.

Sec. 2H-2. Permitted Uses.

Permitted uses are as follows:

(a) *Accessory uses and structures:*

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

(2) Customary home occupation.

(3) Signs and outdoor advertising in accordance with the provisions of this Chapter and the City's Sign Ordinance.

(b) *Agriculture and forestry:*

(1) Temporary and portable sawmills.

(c) *Community facilities*:

(1) Electric transformer station, gas regulator station and telephone exchange.

(2) Golf courses and clubhouses, private.

(3) Neighborhood recreation centers or swimming pools.

(4) Noncommercial club or lodge (except fraternal club or lodge).

(5) Public uses.

(6) Public utility facilities.

(7) Sewage treatment plants.

(d) *Dwellings:*

(1) Cluster housing subdivision.

(2) Dwelling, single-family.

(3) Dwelling, single-family attached.

(4) Mobile home, as an accessory structure to be used for security purposes.

(5) Single-family attached subdivision.

(e) *Education:*

(1) Private or parochial elementary and high schools.

(2) Public schools.

(f) *Religious facilities:*

(1) Churches and other places of worship and accessory facilities.

(2) Convent or monastery.

(g) *Services, personal:*

(1) Personal care home, family.

(2) Personal care home, registered.

(h) *Transportation and storage*:

(1) Automobile parking.

Sec. 2H-3. Development Standards.

(a) *Minimum lot area.* There is no minimum lot area.

(b) *Minimum lot width.* There is no minimum lot width at the building setback line.

(c) *Minimum yard adjacent to public street.* The following are minimum requirements for yards that are adjacent to a public street:

(1) The setback from major thoroughfares shall be twenty (20) feet.

(2) The setback from minor thoroughfares shall be twenty (20) feet.

(3) The setback from collector streets shall be five (5) feet.

(4) The setback from other streets shall be five (5) feet.

(d) *Minimum rear yard.* There is no minimum rear yard, except that where a rear yard adjoins a project boundary, the minimum rear yard shall be forty (40) feet.

(e) *Maximum height of structures.* The maximum height of any structure shall be thirty-five (35) feet.

(f) *Minimum side yard.* There is no minimum side yard required.

(g) *Buffer.* No buffer is required.

(h) *Open space.* The required open space is twenty (20) percent.

(i) *Minimum floor area.* The minimum floor area provided shall be one thousand four hundred (1,400) square feet.

(j) *Density.* The maximum density shall be three (3) units per acre.

DIVISION 2I. R-CD (RESIDENTIAL COMMUNITY DEVELOPMENT) DISTRICT

Sec. 2I-1. Purpose and Scope.

Except as provided in **Section 1-28** of this Code, the R-CD regulations of this division remain repealed. No application or amendment to the official zoning maps shall be filed with the planning director, initiated by official action of the planning commission, or considered by the City Council if such amendment or application seeks to have any lot(s) in the City zoned R-CD. The R-CD regulations set forth in this division are codified solely for the purpose of complying with the requirements of **Section 1-28** of this Code.

Sec. 2I-2. Permitted Uses.

Permitted uses are as follows:

(a) *Accessory uses and structures:*

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

(2) Customary home occupation.

(3) Signs and outdoor advertising in accordance with the provisions of this Chapter and the City's Sign Ordinance.

(b) *Agriculture and forestry:*

(1) Livestock and poultry.

(2) Riding stable.

(3) Temporary or portable sawmill.

(4) Pigeons.

(c) *Animal care facilities:*

(1) Pigeons.

(d) *Community facilities:*

(1) Electric transformer station, gas regulator station and telephone exchange.

(2) Golf courses and clubhouses, private.

(3) Neighborhood recreation centers or swimming pools.

(4) Noncommercial club or lodge (except fraternal club or lodge).

(5) Parks, private.

(6) Public uses.

(7) Public utility facilities.

(8) Sewage treatment plants.

(e) *Dwellings:*

(1) Cluster housing subdivision.

(2) Community development subdivision.

(3) Dwelling, multi-family units and apartment developments.

(4) Dwelling, single-family.

(5) Dwelling, single-family attached.

(6) Dwelling, two-family.

(7) Mobile home, as an accessory structure to be used for security purposes.

(8) Single-family attached subdivision.

(f) *Education:*

(1) Day nurseries and kindergartens.

(2) Private or parochial elementary and high schools.

(3) Public schools.

(g) *Religious facilities*:

(1) Churches and other places of worship and accessory facilities.

(2) Convent or monastery.

(h) *Retail trade:*

(1) Planned shopping developments, as part of a community development subdivision.

(2) Retail trade, person services and offices, as part of a community development subdivision.

(i) *Services, personal:*

(1) Personal care home, family.

(2) Personal care home, registered.

(j) *Transportation and storage:*

(1) Automobile parking.

Sec. 2I-3. Development Standards.

(a) *Minimum lot area.* The minimum lot area shall be fifty (50) acres for residential development and one hundred (100) acres for development with NS or OI uses.

(b) *Density of development and types of residential use.* The maximum number of dwelling units permitted in a community development subdivision shall not exceed four and one-half (4 1/2) dwelling units per net residential acre (total developable acreage minus that to be used for NS and OI uses as provided in this section). Not more than forty (40) percent of the dwelling units shall be multifamily. Not less than sixty (60) percent of the dwelling units shall be single-family. One-half (1/2) of the single-family dwelling units may be attached, but not less than one-half (1/2) of the single-family lots or within a cluster housing subdivision.

(c) *Minimum development requirements.* The minimum lot area, width, and yard requirements permitted within a community development subdivision for single-family lots, multifamily dwellings and business lots shall be as follows:

TABLE INSET:

Lot and yard			Single-family Lots	Multifamily Dwellings Lots	Business Lots (feet)
Minimum lot area			6,000 sq. ft.	None	None
Minimum lot width			60 ft.	75 (minimum project frontage on public street)	75
Minimum yard adjacent to public street:					
	(1)	Major thoroughfare	30 ft.	30	50
	(2)	Minor thoroughfare	25 ft.	25	40
	(3)	Collector street	10 ft.	10	40
	(4)	Other street	10 ft.	10	40
Minimum side yard			0 to 7.6 ft.; 30 ft. from project boundary with a minimum of 15 feet between units unless two units are	10	20

	attached by a common wall; however, the attachment of a wall of one unit and the wall of an enclosed courtyard shall not be considered attached housing		
Minimum rear yard	30 ft. (40 ft. on exterior lots) The development standards for single-family attached units shall be as provided in this Chapter	30	40

(d) *Minimum floor area.* The minimum floor area shall be as follows:

(1) For a single-family dwelling, one thousand two hundred (1,200) square feet.

(2) For a single-family attached dwelling, one thousand (1,000) square feet.

(3) For a two-family dwelling containing:

(A) One (1) bedroom, six hundred (600) square feet.

(B) Two (2) bedroom, seven hundred fifty (750) square feet.

(C) Three (3) or more bedrooms, one thousand fifty (1,050) square feet

(4) For an apartment containing:

(A) One (1) bedroom, six hundred fifty (650) square feet.

(B) Two (2) bedrooms, eight hundred (800) square feet.

(C) Three (3) or more bedrooms, one thousand (1,000) square feet.

Notwithstanding the above minimum floor area requirements, a maximum of twenty (20) percent of the total units constructed in any single development of more than one (1) building may be one (1) bedroom units having floor areas of less than six hundred fifty (650) square feet but not less than a minimum floor area of five hundred twenty (520) square feet.

(e) *Maximum height of structures.* The maximum height of any structure shall be thirty-five (35) feet.

(f) *Buffer*. A buffer of at least twenty (20) feet is required when the lot adjoins a developed single-family detached subdivision.

(g) *Open space requirement.* Not less than twenty (20) percent of the subdivision shall be set aside for open space purposes. A homeowner's association created by the developer, by recorded covenants, declarations and restrictions running with the land, shall preserve and maintain for the use and benefit of the owners and occupants of lots and dwellings within the subdivision the lands set aside for open space, parks and recreational use. The book and page in which such covenants and declarations are recorded shall be shown on the final plat of the subdivision. Required yards, streets, drives, parking areas and other similar uses shall not be created toward the minimum open space requirements. Not more than fifty (50) percent of the land reserved for open space purposes shall be within a flood plain. The requirement that open space be deeded to and maintained by a homeowner's association may be waived by the City for that portion of an R-CD district in which detached single-family housing is constructed. This waiver and survey to which there is entered a covenant by the developer at the minimum open space requirement shall be applied to individual lots within the subdivision. Dedication of open space to the City may also satisfy the open space requirement.

(h) *Neighborhood shopping and office-institution uses.* The developer of a community development subdivision of not less than one hundred (100) acres may set aside not more than five (5) percent of the total area for neighborhood shopping and office-institution uses permitted herein. However, retail liquor stores shall not be permitted unless these uses are housed within a planned shopping center constructed within a minimum of ten thousand (10,000) square feet in a continuous facade. Not more than fifty (50) percent of the five (5) percent may be reserved and developed for NS uses. When one hundred (100) or more dwelling units have been constructed within the subdivision, then NS uses may be established under the following conditions:

(1) Not more than two hundred forty (240) square feet of floor space for retail sales and services shall be permitted for each ten (10) dwelling units in the subdivision. There shall be not less than four (4) square feet of business lot area for each one (1) square foot of permitted retail floor area. Land may be reserved for the maximum permitted retail development but the permitted square feet of retail area may be built only as the required ratio of dwelling units has been constructed.

(2) Retail sales and services shall be constructed entirely within a wholly and permanently enclosed building or buildings, which shall be of an architectural design compatible with the residential structures within the subdivision.

(3) Outdoor storage or displays of any kind shall be prohibited.

(4) Signs shall be limited to an identification sign for each point of entry to a store. The signs shall not exceed four (4) square feet in area, shall not be directly lighted and shall be attached flat against the face of the building.

(5) Off-street parking and loading spaces shall be provided as required by this Chapter.

(6) This use shall only be placed on lots specifically designated for these purposes on the plat of the subdivision, and shall be located at least one hundred (100) feet from any residential structure. Accessory parking and loading areas shall be located at least fifty (50) feet from any residential structure.

(7) When shopping facilities within a planned unit development subdivision contain not less than forty thousand (40,000) square feet of floor area, then the development standards established by this Chapter for planned shopping developments shall apply.

(8) The sides, rear or front of a lot developed for retail sales and services shall neither abut nor be across the street from property lying outside the subdivision, and shall be located at least three hundred (300) feet from any exterior subdivision property line.

(9) Office-institution development uses shall:

(A) Meet all IO district development standards and requirements.

(B) Be limited to three hundred (300) square feet of floor space for each ten (10) dwelling units, and not less than four (4) square feet of lot area for each one (1) square foot of floor area.

(C) Be constructed only as the required ratio of dwelling units has been constructed.

(D) Meet all applicable requirements of this subsection except paragraphs (1) and (7).

(10) Office-institution uses permitted by this subsection shall include:

(A) Cultural facilities, including art galleries, museums, legitimate theatres, libraries and other uses similar in character to those listed.

(B) Offices of health service practitioners, physicians, surgeons, dentists and dental surgeons, osteopathic physicians, chiropractors and others licensed practitioners similar to those listed.

(C) Health service clinics, including a pharmacy as an accessory use.

(D) General office uses, including sales representatives, legal service, engineering and architectural, accounting, auditing, book-keeping, finance, real estate, insurance and others similar to those listed.

(i) *Development plan.* The development plan for the subdivision shall be processed in conformance with the requirements of the City subdivision regulations. The use to be made of each lot shall be marked on the plat. The plat shall also state the maximum number of dwelling units authorized for the subdivision. When approved, the final plat shall be recorded in the same manner as other subdivision plats along with the necessary covenants and restrictions applicable to the development. In addition, a faithful reproduction of the plat shall be predominantly displayed within the subdivision until such time as the subdivision is fully developed.

(j) *Private deed covenants.* The subdivision shall be covered by private deed covenants running with the land which assure its continuance in accordance with approved plans and development.

DIVISION 2J. R-DT (TWO- AND THREE-FAMILY RESIDENTIAL) DISTRICT

Sec. 2J-1. Scope of Provisions.

The provisions contained within this section are the regulations of the R-DT (Two- and Three-family Residential) District.

Sec. 2 J2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the R-DT (Two- and Three-family Residential) District is as follows:

(a) To provide for the protection of neighborhoods within the county where lots are developed with two-family and three-family residences;

(b) To provide for infill development in areas which are zoned R-DT in a manner compatible with existing development;

(c) To assure that the uses and structures authorized in the R-DT (Two- and Three-family Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 2J-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the R-DT (Two- and Three-family Residential) District:

(a) Single-family dwelling.

(b) Two-family dwelling.

(c) Three-family dwelling.

(d) Personal care home, family.

(e) Personal care home, registered.

Sec. 2J-4. Accessory Uses, Buildings and Structures.

Accessory uses, buildings and structures shall be located within the rear yard. Accessory buildings and structures shall not exceed twenty (20) feet in height or the height of the principal structure, whichever is less, and shall comply with the requirements of **Section 4-1**. The following accessory uses of land and buildings and structures shall be authorized in the R-DT (Two- and Three-family Residential) District:

(a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:

(1) Garages for parking of automobiles.

(2) Storage buildings.

(3) Swimming pools.

(4) Tennis courts and other play and recreation areas.

(b) Signs in accordance with the provisions of this Chapter and the City's Sign Ordinance.

Sec. 2J-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service.

(c) *Special land use permit from City Council:*

(1) Adult day care facility.

(2) Cemetery, columbarium, or mausoleum.

(3) Child day care facility.

(4) Convent or monastery.

(5) Home occupation involving any customer contact.

(6) Neighborhood recreation club.

(7) Place of worship.

(8) Private elementary, middle and high school.

Sec. 2J-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the R-DT (Two- and Three-family Residential) District:

(a) *Lot width:* All lots shall have at least eighty-five (85) feet of frontage as measured along the public street frontage.

(b) *Minimum lot area:*

(1) *Single-family dwelling:* Ten thousand (10,000) square feet.

(2) *Two-family dwelling:* Fifteen thousand (15,000) square feet.

(3) *Three-family dwelling:* Twenty thousand (20,000) square feet.

(c) *Minimum yard adjacent to public street:*

(1) *From major thoroughfares:* Fifty (50) feet.

(2) *From minor thoroughfares:* Forty (40) feet.

(3) *From collector streets:* Thirty-five (35) feet.

(4) *From other streets:* Thirty-five (35) feet.

(d) *Interior side yard setbacks:* Eight and one-half (8 1/2) feet.

(e) *Rear yard:* Forty (40) feet.

Sec. 2J-7. Height of Buildings and Structures.

No building or structure shall exceed a height of thirty-five (35) feet.

Sec. 2J-8. Floor Area of Dwelling.

The floor area of each dwelling shall be no less than one thousand (1,000) square feet.

Sec. 2J-9. Lot Coverage.

The lot coverage of each lot shall not exceed thirty-five (35) percent.

Sec. 2J-10. Off-street parking requirement.

Off-street parking requirements for uses and structures authorized and permitted in the R-DT (Two- and Three-family Residential) District are as follows:

(a) *Single-family dwelling:* Four (4) spaces.

(b) *Two-family dwelling:* Four (4) spaces per dwelling unit.

(c) *Three-family dwelling:* Four (4) spaces per dwelling unit.

(d) *Personal care home, family:* Four (4) spaces.

(e) *Personal care home, registered:* Four (4) spaces.

(f) *Adult day care facility:* Four (4) spaces.

(g) *Child day care facility:* Four (4) spaces.

(h) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(i) *Neighborhood recreation club:* One (1) space for each five (5) club members but in no case less than ten (10) spaces.

(j) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(k) *Private elementary, middle and high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(l) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

Sec. 2J-11. Landscaping Requirement.

Each lot shall provide and shall maintain trees and plant material as is required in the City's Tree Protection Ordinance.

Sec. 2J-12. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-340** of this Chapter.

DIVISION 2K. RM-150 (MULTIFAMILY RESIDENTIAL) DISTRICT

Sec. 2K-1. Scope of Provisions.

The provisions contained within this section are the regulations of the RM-150 (Multifamily Residential) District.

Sec. 2K-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the RM-150 (Multifamily Residential) District is as follows:

(a) To provide for the development of multifamily neighborhoods within the county at a density of six (6) units per acre where so designated on the comprehensive plan;

(b) To provide for infill development in multifamily neighborhoods having a density of six (6) dwelling units per acre in a manner compatible with existing development;

(c) To assure that the uses and structures authorized in the RM-150 (Multifamily Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 2K-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the RM-150 (Multifamily Residential) District:

(a) *Dwellings:*

(1) Attached single-family dwelling.

(2) Detached single-family dwelling.

(3) Multifamily dwellings.

(4) Multifamily dwellings, supportive living.

(b) *Lodging:*

(1) Fraternity house or sorority house.

(2) Rooming house.

(c) *Personal services:*

(1) Personal care home, family.

(2) Personal care home, group.

(3) Personal care home, registered.

(d) *Medical and health services:*

(1) Nursing or convalescent home.

(e) *Education:*

(1) Adult day care center or adult day care facility.

(2) Child day care center or child day care facility.

(3) Kindergarten.

Sec. 2K-4. Accessory Uses, Buildings and Structures.

Accessory uses, buildings and structures shall be located within the buildable area of the lot. Accessory buildings and structures shall not exceed twenty (20) feet in height and shall comply with the requirements of **Section 4-1**. The following accessory uses of land and buildings and structures shall be authorized in the RM-150 (Multifamily Residential) District:

(a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:

(1) Club house including meeting room or recreation room.

(2) Garages for parking of automobiles.

(3) Laundry facilities for residents.

(4) Leasing office.

(5) Mail room for residents.

(6) Storage buildings.

(7) Swimming pools.

(8) Tennis courts and other play and recreation areas.

(b) Signs in accordance with the provisions of this Chapter and the City's Sign Ordinance.

Sec. 2K-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service.

(c) *Special land use permit from City Council:*

(1) Cemetery, columbarium, or mausoleum.

(2) Convent or monastery.

(3) Home occupation involving any customer contact.

(4) Place of worship.

(5) Private elementary, middle or high school.

(6) Shelter for homeless persons for no more than six (6) persons.

(7) Telecommunications tower or antenna.

(8) Transitional housing facility for no more than six (6) persons.

Sec. 2K-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the RM-150 (Multifamily Residential) District:

(a) *Lot width and area:*

(1) All lots developed with multifamily dwellings shall have at least one hundred fifty (150) feet of frontage as measured along the public street frontage and a lot area of not less than two (2) acres and may be developed at a density not exceeding six (6) dwelling units per acre.

(2) All lots developed with detached single-family dwellings shall have a lot area of not less than six thousand (6,000) square feet and shall have at least sixty (60) feet of frontage as measured along the public

street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least sixty (60) feet of frontage as measured at the point of the required front yard setback line.

(b) *Minimum setback requirements:*

(1) *Multifamily dwellings*:

a. *Front yard:* Forty-five (45) feet.

b. *Side yard:* Twenty (20) feet, except that where an RM-150 lot adjoins any R lot along a side lot line, the required yard shall be fifty (50) feet.

c. *Rear yard:* Forty (40) feet, except that where an RM-150 lot adjoins any R lot along a rear lot line, the required yard shall be fifty (50) feet.

(2) *Single-family detached dwellings:*

a. *Front yard:* Thirty (30) feet.

b. *Interior side yard:* Seven and one-half (7 1/2) feet.

c. *Side yard along side street side:* Fifteen (15) feet.

d. *Rear yard:* Thirty (30) feet.

Sec. 2K-7. Spacing Between Buildings.

Spacing between multiple buildings within an RM-150 district is subject to the requirements of **Section 27-788**.

Sec. 2K-8. Transitional Buffer Zone Requirement.

Where a lot in the RM-150 (Multi-family Residential) District is used for attached single-family dwellings and adjoins the boundary of any property which is zoned R (Single-family Residential) District, except single-family attached developments, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining single-family residential.

Sec. 2K-9. Height of Buildings and Structures.

No building or structure shall exceed four (4) stories in height, provided however, that no building exceeding three (3) stories in height shall be authorized except after approval by the department of fire and rescue services for assurance of adequacy of fire protection facilities and service for such four-story building.

Sec. 2K-10. Floor Area of Dwelling.

The minimum floor area of each dwelling shall be as follows:

(a) *Multifamily dwellings:*

(1) One (1) bedroom: Six hundred fifty (650) square feet, provided however, that twenty (20) percent of the total units in a multifamily dwelling development of more than one (1) building may have a floor area of not less than five hundred twenty (520) square feet.

(2) Two (2) bedrooms: Eight hundred (800) square feet.

(3) Three (3) or more bedrooms: One thousand (1,000) square feet.

(b) *Multifamily dwellings, supportive living:* Three hundred (300) square feet.

(c) *Single-family dwelling, attached or detached:* One thousand (1,000) square feet.

Sec. 2K-11. Lot Coverage.

The maximum lot coverage by buildings shall not exceed thirty-five (35) percent.

Sec. 2K-12. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the RM-150 (Multifamily Residential) District are as follows:

(a) *Adult day care center:* One (1) space for each two hundred (200) square feet of floor area.

(b) *Adult day care facility:* Four (4) spaces.

(c) *Detached single-family dwelling:* Four (4) spaces per dwelling unit.

(d) *Child day care center:* One (1) space for each two hundred (200) square feet of floor area.

(e) *Child day care facility:* Four (4) spaces.

(f) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(g) *Elementary, middle or high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(h) *Fraternity house or sorority house:* One (1) space per bed.

(i) *Kindergarten:* One (1) space per two hundred (200) square feet of floor area.

(j) *Multifamily dwellings:* Two (2) spaces per dwelling unit.

(k) *Multifamily dwellings, supportive living:* Five-tenths (0.50) space per dwelling unit.

(l) *Nursing or convalescent home:* Five-tenths (0.50) space per bed.

(m) *Personal care home, family:* Four (4) spaces.

(n) *Personal care home, group:* Four (4) spaces.

(o) *Personal care home, registered:* Four (4) spaces.

(p) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(q) *Rooming house or boardinghouse:* One (1) space per bedroom.

(r) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(s) *Attached single-family dwelling:*

(1) *Less than one thousand six hundred (1,600) square feet of floor area:* Two (2) spaces.

(2) *One thousand six hundred (1,600) through one thousand nine hundred ninety-nine (1,999) square feet of floor area:* Three (3) spaces.

(3) *Two thousand (2,000) square feet or greater:* Four (4) spaces.

Sec. 2K-3. Landscaping Requirement.

Each lot shall provide and shall maintain trees and plant material as is required in the City's the City's Tree Protection Ordinance.

Sec. 2K-14. Outdoor Play and Recreation Areas Required.

Each lot developed and used for multifamily housing shall provide and shall maintain outdoor play and recreation areas equal to five (5) percent of the total area of the lot. In no case shall the contiguous area of any such outdoor play and recreation area be less than four thousand (4,000) square feet.

Sec. 2K-15. Parking Lot Landscaping Requirements.

Parking lots shall be landscaped and maintained in accordance with the standards and requirements of **Section 4-21**.

Sec. 2K-16. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2L. RM-100 (MULTIFAMILY RESIDENTIAL) DISTRICT

Sec. 2L-1. Scope of Provisions.

The provisions contained within this section are the regulations of the RM-100 (Multifamily Residential) District.

Sec. 2L-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the RM-100 (Multifamily Residential) District is as follows:

(a) To provide for the development of multifamily neighborhoods within the county at a density of twelve (12) units per acre where so designated on the comprehensive plan;

(b) To provide for infill development in multifamily neighborhoods having a density of twelve (12) dwelling units per acre in a manner compatible with existing development;

(c) To assure that the uses and structures authorized in the RM-100 (Multifamily Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 2L-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the RM-100 (Multifamily Residential) District:

(a) *Dwellings:*

(1) Attached single-family dwelling.

(2) Detached single-family dwelling.

(3) Multifamily dwellings.

(4) Multifamily dwellings, supportive living.

(b) *Lodging:*

(1) Fraternity house or sorority house.

(2) Rooming house or boardinghouse.

(c) *Personal services:*

(1) Personal care home, family.

(2) Personal care home, group.

(3) Personal care home, registered.

(4) Personal care home, congregate.

(d) *Medical and health services:*

(1) Nursing or convalescent home.

(e) *Education*

(1) Adult day care center or adult day care facility.

(2) Child day care center or child day care facility.

(3) Kindergarten.

Sec. 2L-4. Accessory Uses, Buildings and Structures.

Accessory uses, buildings and structures shall be located within the buildable area of the lot. Accessory buildings and structures shall not exceed twenty (20) feet in height and shall comply with the requirements of **Section 4-1**. The following accessory uses of land and buildings and structures shall be authorized in the RM-100 (Multifamily Residential) District:

(a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:

(1) Club house including meeting room or recreation room.

(2) Garages for parking of automobiles.

(3) Laundry facilities for residents.

(4) Leasing office.

(5) Mail room for residents.

(6) Storage buildings.

(7) Swimming pools.

(8) Tennis courts and other play and recreation areas.

(b) Signs in accordance with the provisions of this Chapter and the City's Sign Ordinance.

Sec. 2L-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service.

(c) *Special land use permit from City Council:*

(1) Cemetery, columbarium, or mausoleum.

(2) Convent or monastery.

(3) Home occupation involving any customer contact.

(4) Place of worship.

(5) Private elementary, middle or high school.

(6) Shelter for homeless persons.

(7) Telecommunications tower or antenna.

(8) Transitional housing facility.

Sec. 2L-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the RM-100 (Multifamily Residential) District:

(a) *Lot width and area:*

(1) All lots developed with multifamily dwellings shall have at least one hundred (100) feet of frontage as measured along the public street frontage and a lot area of not less than two (2) acres and may be developed at a density not exceeding twelve (12) dwelling units per acre.

(2) All lots developed with detached single-family dwellings shall have a lot area of not less than six thousand (6,000) square feet and shall have at least sixty (60) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least sixty (60) feet of frontage as measured at the point of the required front yard setback line.

(b) *Minimum setback requirements:*

(1) *Multifamily dwellings:*

a. *Front yard:* Thirty-five (35) feet.

b. *Side yard:* Twenty (20) feet, except that where an RM-100 lot adjoins any R lot along a side lot line, the required yard shall be fifty (50) feet.

c. *Rear yard:* Forty (40) feet, except that where an RM-100 lot adjoins any R lot along a rear lot line, the required yard shall be sixty (60) feet.

(2) *Single-family detached dwellings:*

a. *Front yard:* Thirty (30) feet.

b. *Interior side yard:* Seven and one-half (7 1/2) feet.

c. *Side yard along side street side:* Fifteen (15) feet.

d. *Rear yard:* Thirty (30) feet.

Sec. 2L-7. Spacing between Buildings.

Spacing between multiple buildings within an RM-100 district is subject to the requirements of **Section 4-55**.

Sec. 2L-8. Transitional Buffer Zone Requirement.

Where a lot in the RM-100 (Multi-family Residential) District is used for attached single-family dwellings and adjoins the boundary of any property which is zoned R (Single-family Residential) District, except single-family attached developments, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional

buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining single-family residential.

Sec. 2L-9. Height of Buildings and Structures.

No building or structure shall exceed four (4) stories in height, provided however, that no building exceeding three stories in height shall be authorized except after approval by the department of fire and rescue services for assurance of adequacy of fire protection facilities and service for such four-story building.

Sec. 2L-10. Floor Area of Dwelling.

The minimum floor area of each dwelling shall be as follows:

(a) *Multifamily dwellings:*

(1) *One (1) bedroom:* Six hundred fifty (650) square feet, provided however, that twenty (20) percent of the total units in a multifamily dwelling development of more than one building may have a floor area of not less than five hundred twenty (520) square feet.

(2) *Two (2) bedrooms:* Eight hundred (800) square feet.

(3) *Three (3) or more bedrooms:* One thousand (1,000) square feet.

(b) *Multifamily dwellings, supportive living:* Three hundred (300) square feet.

(c) *Single-family dwelling, attached or detached:* One thousand (1,000) square feet.

Sec. 2L-11. Lot Coverage.

The maximum lot coverage by buildings shall not exceed thirty-five (35) percent.

Sec. 2L-12. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the RM-100 (Multifamily Residential) District are as follows:

(a) *Adult day care center:* One (1) space for each two hundred (200) square feet of floor area.

(b) *Adult day care facility:* Four (4) spaces.

(c) *Detached single-family dwelling:* Four (4) spaces per dwelling unit.

(d) *Child day care center:* One (1) space for each two hundred (200) square feet of floor area.

(e) *Child day care facility:* Four (4) spaces.

(f) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(g) *Elementary, middle or high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(h) *Fraternity house or sorority house:* One (1) space per bed.

(i) *Kindergarten:* One (1) space per two hundred (200) square feet of floor area.

(j) *Multifamily dwellings:* Two (2) spaces per dwelling unit.

(k) *Multifamily dwellings, supportive living:* Five-tenths (0.50) space per dwelling unit.

(l) *Nursing or convalescent home:* Five-tenths (0.50) space per bed.

(m) *Personal care home, congregate:* One (1) space for each four (4) clients.

(n) *Personal care home, family:* Four (4) spaces.

(o) *Personal care home, group:* Four (4) spaces.

(p) *Personal care home, registered:* Four (4) spaces.

(q) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(r) *Rooming house or boardinghouse:* One (1) space per bedroom

(s) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(t) *Attached single-family dwelling:*

(1) *Less than one thousand six hundred (1,600) square feet of floor area:* Two (2) spaces.

(2) *One thousand six hundred (1,600) through one thousand nine hundred ninety-nine (1,999) square feet of floor area:* Three (3) spaces.

(3) *Two thousand (2,000) square feet or greater:* Four (4) spaces.

Sec. 2L-13. Landscaping Requirement.

Each lot shall provide and shall maintain trees and plant material as is required in the City's Tree Protection Ordinance.

Sec. 2L-14. Outdoor Play and Recreation Areas Required.

Each lot developed and used for multifamily housing shall provide and shall maintain outdoor play and recreation areas equal to five (5) percent of the total area of the lot. In no case shall the contiguous area of any such outdoor play and recreation area be less than four thousand (4,000) square feet.

Sec. 2L-15. Parking Lot Landscaping Requirements.

Parking lots shall be landscaped and maintained in accordance with the standards and requirements of **Section 4-21**.

Sec. 2L-16. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2M. RM-85 (MULTIFAMILY RESIDENTIAL) DISTRICT

Sec. 2M-1. Scope of Provisions.

The provisions contained within this section are the regulations of the RM-85 (Multifamily Residential) District.

Sec. 2M-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the RM-85 (Multifamily Residential) District is as follows:

(a) To provide for the development of multifamily neighborhoods within the county at a density of fourteen (14) units per acre where so designated on the comprehensive plan;

(b) To provide for infill development in multifamily neighborhoods having a density of fourteen (14) dwelling units per acre in a manner compatible with existing development;

(c) To assure that the uses and structures authorized in the RM-85 (Multifamily Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 2M-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the RM-85 (Multifamily Residential) District:

(a) *Dwellings:*

(1) Attached single-family dwelling.

(2) Detached single-family dwelling.

(3) Multifamily dwellings.

(4) Multifamily dwellings, supportive living.

(b) *Lodging:*

(1) Fraternity house or sorority house.

(2) Rooming house or boardinghouse.

(c) *Personal services:*

(1) Personal care home, family.

(2) Personal care home, group.

(3) Personal care home, registered.

(4) Personal care home, congregate.

(d) *Medical and health services:*

(1) Nursing or convalescent home.

(e) *Education:*

(1) Adult day care center or adult day care facility.

(2) Child day care center or child day care facility.

(3) Kindergarten.

Sec. 2M-4. Accessory Uses, Buildings and Structures.

Accessory uses, buildings and structures shall be located within the buildable area of the lot. Accessory buildings and structures shall not exceed twenty (20) feet in height and shall comply with the requirements of **Section 4-1**. The following accessory uses of land and buildings and structures shall be authorized in the RM-85 (Multifamily Residential) District:

(a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:

(1) Club house including meeting room or recreation room.

(2) Garages for parking of automobiles.

(3) Laundry facilities for residents.

(4) Leasing office.

(5) Mail room for residents.

(6) Storage buildings.

(7) Swimming pools.

(8) Tennis courts and other play and recreation areas.

(b) Signs in accordance with the provisions of this Chapter and the City's Sign Ordinance.

Sec. 2M-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service (**Section 4-35**).

(c) *Special land use permit from City Council:*

(1) Cemetery, columbarium, or mausoleum.

(2) Convent or monastery.

(3) Home occupation involving any customer contact.

(4) Place of worship.

(5) Private elementary, middle or high school.

(6) Shelter for homeless persons.

(7) Telecommunications tower or antenna. (**Section 4-47**).

(8) Transitional housing facility.

Sec. 2M-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the RM-85 (Multifamily Residential) District:

(a) *Lot width and area:*

(1) All lots developed with multifamily dwellings shall have at least one hundred (100) feet of frontage as measured along the public street frontage and a lot area of not less than two (2) acres and may be developed at a density not exceeding fourteen (14) dwelling units per acre.

(2) All lots developed with detached single-family dwellings shall have a lot area of not less than six thousand (6,000) square feet and shall have at least sixty (60) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least sixty (60) feet of frontage as measured at the point of the required front yard setback line.

(b) *Minimum setback requirements:*

(1) *Multifamily dwellings:*

a. *Front yard:* Thirty-five (35) feet.

b. *Side yard:* Twenty (20) feet, except that where an RM-85 lot adjoins any R lot along a side lot line, the required yard shall be fifty (50) feet.

c. *Rear yard:* Forty (40) feet, except that where an RM-85 lot adjoins any R lot along a rear lot line, the required yard shall be fifty (50) feet.

(2) *Single-family detached dwellings:*

a. *Front yard:* Twenty (20) feet.

b. *Interior side yard:* Seven and one-half (7 1/2) feet.

c. *Side yard along side street side:* Fifteen (15) feet.

d. *Rear yard:* Thirty (30) feet.

Sec. 2M-7. Spacing Between Buildings.

Spacing between multiple buildings within an RM-85 district is subject to the requirements of **Section 4-55**.

Sec. 2M-8. Transitional Buffer Zone Requirement.

Where a lot in the RM-85 (Multi-family Residential) District is used for attached single-family dwellings and adjoins the boundary of any property which is zoned R (Single-family Residential) District, except single-family attached developments, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining single-family residential.

Sec. 2M-9. Height of Buildings and Structures.

No building or structure shall exceed four (4) stories in height, provided however, that no building exceeding three (3) stories in height shall be authorized except after approval by the department of fire and rescue services for assurance of adequacy of fire protection facilities and service for such four-story building.

Sec. 2M-10. Floor Area of Dwelling.

The minimum floor area of each dwelling shall be as follows:

(a) *Multifamily dwellings:*

(1) *One (1) bedroom:* Six hundred fifty (650) square feet, provided however, that twenty (20) percent of the total units in a multifamily dwelling development of more than one (1) building may have a floor area of not less than five hundred twenty (520) square feet.

(2) *Two (2) bedrooms:* Eight hundred (800) square feet.

(3) *Three (3) or more bedrooms:* One thousand (1,000) square feet.

(b) *Multifamily dwellings, supportive living:* Three hundred (300) square feet.

(c) *Single-family dwelling, attached or detached:* One thousand (1,000) square feet.

Sec. 2M-11. Lot Coverage.

The maximum lot coverage by buildings shall not exceed thirty-five (35) percent.

Sec. 2M-12. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the RM-85 (Multifamily Residential) District are as follows:

(a) *Adult day care center:* One (1) space for each two hundred (200) square feet of floor area.

(b) *Adult day care facility:* Four (4) spaces.

(c) *Detached single-family dwelling:* Four (4) spaces per dwelling unit.

(d) *Child day care center:* One (1) space for each two hundred (200) square feet of floor area.

(e) *Child day care facility:* Four (4) spaces.

(f) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(g) *Elementary, middle or high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(h) *Fraternity house or sorority house:* One (1) space per bed.

(i) *Kindergarten:* One (1) space per two hundred (200) square feet of floor area.

(j) *Multifamily dwellings:* One and seventy-five hundredths (1.75) spaces per dwelling unit.

(k) *Multifamily dwellings, supportive living:* Five-tenths (0.50) space per dwelling unit.

(l) *Nursing or convalescent home:* Five-tenths (0.50) space per bed.

(m) *Personal care home, congregate:* One (1) space for each four (4) clients.

(n) *Personal care home, family:* Four (4) spaces.

(o) *Personal care home, group:* Four (4) spaces.

(p) *Personal care home, registered:* Four (4) spaces.

(q) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(r) *Rooming house or boardinghouse:* One (1) space per bedroom.

(s) *Other uses:* One (1) space for each three hundred (300) square feet of floor area within the principal structure.

(t) *Attached single-family dwelling:*

(1) *Less than one thousand six hundred (1,600) square feet of floor area:* Two (2) spaces.

(2) *One thousand six hundred (1,600) through one thousand nine hundred ninety-nine (1,999) square feet of floor area:* Three (3) spaces.

(3) *Two thousand (2,000) square feet or greater:* Four (4) spaces.

Sec. 2M-13. Landscaping Requirement.

Each lot shall provide and shall maintain trees and plant material as is required in the City's Tree Protection Ordinance.

Sec. 2M-14. Outdoor Play and Recreation Areas Required.

Each lot developed and used for multifamily housing shall provide and shall maintain outdoor play and recreation areas equal to five (5) percent of the total area of the lot. In no case shall the contiguous area of any such outdoor play and recreation area be less than four thousand (4,000) square feet.

Sec. 2M-15. Parking Lot Landscaping Requirements.

Parking lots shall be landscaped and maintained in accordance with the standards and requirements of **Section 4-21**.

Sec. 2M-16. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2N. RM-75 (MULTIFAMILY RESIDENTIAL) DISTRICT

Sec. 2N-1. Scope of Provisions.

The provisions contained within this section are the regulations of the RM-75 (Multifamily Residential) District.

Sec. 2N-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the RM-75 (Multifamily Residential) District is as follows:

(a) To provide for the development of multifamily neighborhoods within the county at a density of eighteen (18) units per acre where so designated on the comprehensive plan;

(b) To provide for infill development in multifamily neighborhoods having a density of eighteen (18) dwelling units per acre in a manner compatible with existing development;

(c) To assure that the uses and structures authorized in the RM-75 (Multifamily Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 2N-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the RM-75 (Multifamily Residential) District:

(a) *Dwellings:*

(1) Attached single-family dwelling.

(2) Detached single-family dwelling.

(3) Multifamily dwellings.

(4) Multifamily dwellings, supportive living.

(b) *Lodging:*

(1) Fraternity house or sorority house.

(2) Rooming house or boardinghouse.

(c) *Personal services:*

(1) Personal care home, family.

(2) Personal care home, group.

(3) Personal care home, registered.

(4) Personal care home, congregate.

(d) *Medical and health services:*

(1) Nursing or convalescent home.

(e) *Education:*

(1) Adult day care center or adult day care facility.

(2) Child day care center or child day care facility.

(3) Kindergarten.

Sec. 2N-4. Accessory Uses, Buildings and Structures.

Accessory uses, buildings and structures shall be located within the buildable area of the lot. Accessory buildings and structures shall not exceed twenty (20) feet in height and shall comply with the requirements of **Section 4-1**. The following accessory uses of land and buildings and structures shall be authorized in the RM-75 (Multifamily Residential) District:

(a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:

(1) Club house including meeting room or recreation room.

(2) Garages for parking of automobiles.

(3) Laundry facilities for residents.

(4) Leasing office.

(5) Mail room for residents.

(6) Storage buildings.

(7) Swimming pools.

(8) Tennis courts and other play and recreation areas.

(b) Signs in accordance with the provisions of this Chapter and the City's Sign Ordinance.

Sec. 2N-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(c) *Special land use permit from City Council:*

(1) Cemetery, columbarium, or mausoleum.

(2) Convent or monastery.

(3) Home occupation involving any customer contact.

(4) Place of worship.

(5) Private elementary, middle or high school.

(6) Shelter for homeless persons.

(7) Telecommunications tower or antenna (**Section 4-47**).

(8) Transitional housing facility.

Sec. 2N-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the RM-75 (Multifamily Residential) District:

(a) *Lot width and area:*

(1) All lots developed with multifamily dwellings shall have at least one hundred (100) feet of frontage as measured along the public street frontage and a lot area of not less than two (2) acres and may be developed at a density not exceeding eighteen (18) dwelling units per acre.

(2) All lots developed with detached single-family dwellings shall have a lot area of not less than six thousand (6,000) square feet and shall have at least sixty (60) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall

have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least 60 feet of frontage as measured at the point of the required front yard setback line.

(b) *Minimum setback requirements:*

(1) *Multifamily dwellings:*

a. *Front yard:* Thirty-five (35) feet.

b. *Side yard:* Twenty (20) feet, except that where an RM-75 lot adjoins any R lot along a side lot line, the required yard shall be fifty (50) feet.

c. *Rear yard:* Forty (40) feet, except that where an RM-75 lot adjoins any R lot along a rear lot line, the required yard shall be fifty (50) feet.

(2) *Single-family detached dwellings:*

a. *Front yard:* Thirty (30) feet.

b. *Interior side yard:* Seven and one-half (7 1/2) feet.

c. *Side yard along side street side:* Fifteen (15) feet.

d. *Rear yard:* Thirty (30) feet.

Sec. 2N-7. Spacing between Buildings.

Spacing between multiple buildings within an RM-75 district is subject to the requirements of **Section 4-55**.

Sec. 2N-8. Transitional Buffer Zone Requirement.

Where a lot in the RM-75 (Multi-family Residential) District is used for attached single-family dwellings and adjoins the boundary of any property which is zoned R (Single-family Residential) District, except single-family attached developments, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining single-family residential.

Sec. 2N-9. Height of Buildings and Structures.

No building or structure shall exceed four (4) stories in height, provided however, that no building exceeding three (3) stories in height shall be authorized except after approval by the department of fire and rescue services for assurance of adequacy of fire protection facilities and service for such four-story building.

Sec. 2N-10. Floor Area of Dwelling.

The minimum floor area of each dwelling shall be as follows:

(a) *Multifamily dwellings:*

(1) *One (1) bedroom:* Six hundred fifty (650) square feet, provided however, that twenty (20) percent of the total units in a multifamily dwelling development of more than one building may have a floor area of not less than five hundred twenty (520) square feet.

(2) *Two (2) bedrooms:* Eight hundred (800) square feet.

(3) *Three (3) or more bedrooms:* One thousand (1,000) square feet.

(b) *Multifamily dwellings, supportive living:* Three hundred (300) square feet.

(c) *Single-family dwelling, attached or detached:* One thousand (1,000) square feet.

Sec. 2N-11. Lot Coverage.

The maximum lot coverage by buildings shall not exceed thirty-five (35) percent.

Sec. 2N-12. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the RM-75 (Multifamily Residential) District are as follows:

(a) *Adult day care center:* One (1) space for each two hundred (200) square feet of floor area.

(b) *Adult day care facility:* Four (4) spaces.

(c) *Detached single-family dwelling:* Four (4) spaces per dwelling unit.

(d) *Child day care center:* One (1) space for each two hundred (200) square feet of floor area.

(e) *Child day care facility:* Four (4) spaces.

(f) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(g) *Elementary, middle or high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(h) *Fraternity house or sorority house:* One (1) space per bed.

(i) *Kindergarten:* One (1) space per two hundred (200) square feet of floor area.

(j) *Multifamily dwelling:* One and seventy-five one-hundredths (1.75) spaces per dwelling unit.

(k) *Multifamily dwelling, supportive living:* Five-tenths (0.50) space per dwelling unit.

(l) *Nursing or convalescent home:* Five-tenths (0.50) space per bed.

(m) *Personal care home, congregate:* One (1) space for each four (4) clients.

(n) *Personal care home, family:* Four (4) spaces.

(o) *Personal care home, group:* Four (4) spaces.

(p) *Personal care home, registered:* Four (4) spaces.

(q) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(r) *Rooming house or boardinghouse:* One (1) space per bedroom.

(s) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(t) *Attached single-family dwelling:*

(1) *Less than one thousand six hundred (1,600) square feet of floor area:* Two (2) spaces.

(2) *One thousand six hundred (1,600) through one thousand nine hundred ninety-nine (1,999) square feet of floor area:* Three (3) spaces.

(3) *Two thousand (2,000) square feet or greater:* Four (4) spaces.

Sec. 2N-13. Landscaping Requirement.

Each lot shall provide and shall maintain trees and plant material as is required in the City's Tree Protection Ordinance.

Sec. 2N-14. Outdoor Play and Recreation Areas Required.

Each lot developed and used for multifamily housing shall provide and shall maintain outdoor play and recreation areas equal to five (5) percent of the total area of the lot. In no case shall the contiguous area of any such outdoor play and recreation area be less than four thousand (4,000) square feet.

Sec. 2N-15. Parking Lot Landscaping Requirements.

Parking lots shall be landscaped and maintained in accordance with the standards and requirements of **Section 4-21**.

Sec. 2N-16. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2O. [Intentionally Deleted.]

DIVISION 2P. RM-HD (MULTIFAMILY RESIDENTIAL) DISTRICT

Sec. 2P-1. Scope of Provisions.

The provisions contained within this section are the regulations of the RM-HD (Multifamily Residential) District.

Sec. 2P-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the RM-HD (Multifamily Residential) District is as follows:

(a) To provide for the development of multifamily neighborhoods within the county at a density of thirty (30) units per acre where so designated on the comprehensive plan;

(b) To provide for infill development in multifamily neighborhoods having a density of thirty (30) dwelling units per acre in a manner compatible with existing development;

(c) To assure that the uses and structures authorized in the RM-HD (Multifamily Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 2P-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the RM-HD (Multifamily Residential) District:

(a) *Dwellings:*

(1) Attached single-family dwelling.

(2) Detached single-family dwelling.

(3) Multifamily dwellings.

(4) Multifamily dwellings, supportive living.

(b) *Lodging:*

(1) Fraternity house or sorority house.

(2) Rooming house or boardinghouse.

(c) *Personal services:*

(1) Personal care home, family.

(2) Personal care home, group.

(3) Personal care home, registered.

(4) Personal care home, congregate.

(d) *Medical and health services:*

(1) Nursing or convalescent home.

(e) *Education:*

(1) Adult day care center or adult day care facility.

(2) Child day care center or child day care facility.

(3) Kindergarten.

Sec. 2P-4. Accessory Uses, Buildings and Structures.

Accessory uses, buildings and structures shall be located within the buildable area of the lot. Accessory buildings and structures shall not exceed twenty (20) feet in height and shall comply with the requirements of **Section 4-1**. The following accessory uses of land and buildings and structures shall be authorized in the RM-HD (Multifamily Residential) District:

(a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:

(1) Club house including meeting room or recreation room.

(2) Garages for parking of automobiles.

(3) Laundry facilities for residents.

(4) Leasing office.

(5) Mail room for residents.

(6) Storage buildings.

(7) Swimming pools.

(8) Tennis courts and other play and recreation areas.

(b) Signs in accordance with the provisions of this Chapter and the City's Sign Ordinance.

Sec. 2P-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(c) *Special land use permit from City Council:*

(1) Cemetery, columbarium, or mausoleum.

(2) Convent or monastery.

(3) Home occupation involving any customer contact.

(4) Place of worship.

(5) Private elementary, middle or high school.

(6) Shelter for homeless persons.

(7) Telecommunications tower or antenna (**Section 4-47**).

(8) Transitional housing facility.

Sec. 2P-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the RM-HD (Multifamily Residential) District:

(a) *Lot width and area:*

(1) All lots developed with multifamily dwellings shall have at least one hundred (100) feet of frontage as measured along the public street frontage and a lot area of not less than two (2) acres and may be developed at a density not exceeding thirty (30) dwelling units per acre.

(2) All lots developed with detached single-family dwellings shall have a lot area of not less than six thousand (6,000) square feet and shall have at least sixty (60) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least sixty (60) feet of frontage as measured at the point of the required front yard setback line.

(b) *Minimum setback requirements:*

(1) *Multifamily dwellings:*

a. *Front yard:* Fifty (50) feet.

b. *Side yard:* Twenty (20) feet, except that where an RM-HD lot adjoins any R lot along a side lot line, the required yard shall be 50 feet.

c. *Rear yard:* Forty (40) feet, except that where an RM-HD lot adjoins any R lot along a rear lot line, the required yard shall be fifty (50) feet.

(2) *Single-family detached dwellings:*

a. *Front yard:* Thirty (30) feet.

b. *Interior side yard:* Seven and one-half (7 1/2) feet.

c. *Side yard along side street side:* Fifteen (15) feet.

d. *Rear yard:* Thirty (30) feet.

Sec. 2P-7. Spacing between Buildings.

Spacing between multiple buildings within an RM-HD district is subject to the requirements of **Section 4-55**.

Sec. 2P-8. Transitional Buffer Zone Requirement.

Where a lot in the RM-HD (Multi-family Residential) District is used for attached single-family dwellings and adjoins the boundary of any property which is zoned R (Single-family Residential) District, except single-family attached developments, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining single-family residential.

Sec. 2P-9. Height of Buildings and Structures.

No building or structure shall exceed five (5) stories in height, provided however, that no building exceeding three (3) stories in height shall be authorized except after approval by the department of fire and rescue services for assurance of adequacy of fire protection facilities and service for such building.

Sec. 2P-10. Floor Area of Dwelling.

The minimum floor area of each dwelling shall be as follows:

(a) *Multifamily dwellings:*

(1) *One (1) bedroom:* Six hundred fifty (650) square feet, provided however, that twenty (20) percent of the total units in a multifamily dwelling development of more than one (1) building may have a floor area of not less than five hundred twenty (520) square feet.

(2) *Two (2) bedroom:* Eight hundred (800) square feet.

(3) *Three (3) or more bedrooms:* One thousand (1,000) square feet.

(b) *Multifamily dwelling, supportive living:* Three hundred (300) square feet.

(c) *Single-family dwelling, attached or detached:* One thousand (1,000) square feet.

Sec. 2P-11. Lot Coverage.

The maximum lot coverage by buildings shall not exceed sixty-five (65) percent.

Sec. 2P-12. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the RM-HD (Multifamily Residential) District are as follows:

(a) *Adult day care center:* One (1) space for each two hundred (200) square feet of floor area.

(b) *Adult day care facility:* Four (4) spaces.

(c) *Detached single-family dwelling:* Four (4) spaces per dwelling unit.

(d) *Child day care center:* One (1) space for each two hundred (200) square feet of floor area.

(e) *Child day care facility:* Four (4) spaces.

(f) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(g) *Elementary, middle or high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(h) *Fraternity house or sorority house:* One (1) space per bed.

(i) *Kindergarten:* One (1) space per three hundred (300) square feet of floor area.

(j) *Multifamily dwelling:* One and five-tenths (1.50) spaces per dwelling unit.

(k) *Multifamily dwelling, supportive living:* Five-tenths (0.50) space per dwelling unit.

(l) *Nursing or convalescent home:* Five-tenths (0.50) spaces per bed.

(m) *Personal care home, congregate:* One (1) space for each four (4) clients.

(n) *Personal care home, family:* Four (4) spaces.

(o) *Personal care home, group:* Four (4) spaces.

(p) *Personal care home, registered:* Four (4) spaces.

(q) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(r) *Rooming house or boardinghouse:* One (1) space per bedroom.

(s) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(t) *Attached single-family dwelling:*

(1) *Less than one thousand six hundred (1,600) square feet of floor area:* Two (2) spaces.

(2) *One thousand six hundred (1,600) through one thousand nine hundred ninety-nine (1,999) square feet of floor area:* Three (3) spaces.

(3) *Two thousand (2,000) square feet or greater:* Four (4) spaces.

Sec. 2P-13. Landscaping Requirement.

Each lot shall provide and shall maintain trees and plant material as is required in the City's Tree Protection Ordinance.

Sec. 2P-14. Outdoor Play and Recreation Areas Required.

Each lot developed and used for multifamily housing shall provide and shall maintain outdoor play and recreation areas equal to five (5) percent of the total area of the lot. In no case shall the contiguous area of any such outdoor play and recreation area be less than four thousand (4,000) square feet.

Sec. 2P-15. Parking Lot Landscaping Requirements.

Parking lots shall be landscaped and maintained in accordance with the standards and requirements of **Section 4-21**.

Sec. 2P-16. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2Q. MHP (MOBILE HOME PARK) DISTRICT

Sec. 2Q-1. Scope of Provisions.

The provisions contained within this section are the regulations of the MHP (Mobile Home Park) District.

Sec. 21-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the MHP (Mobile Home Park) District is as follows:

(a) To provide locations within the county for the location of mobile home parks consistent with the comprehensive plan.

(b) To provide for the development of accessory uses which are necessary in order to provide appropriate recreational and educational opportunities to residents.

Sec. 2Q-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the MHP (Mobile Home Park) District:

(a) Child day care center and kindergarten.

(b) Community facilities as follows:

(1) Golf course and clubhouse, private.

(2) Neighborhood recreation center or swimming pool.

(c) Dwellings, as follows:

(1) Mobile homes and mobile home parks.

(d) Educational uses, as follows:

(1) Private elementary, middle or high school.

(e) Services, personal, as follows:

(1) Personal care home, family.

(2) Personal care home, registered.

Sec. 2Q-4. Accessory Uses and Structures.

The following accessory uses of land and structures shall be authorized in the MHP (Mobile Home Park) District:

(a) Decks, porches, storage buildings and similar accessory structures.

(b) Parking lots for residents.

Sec. 2Q-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service.

(c) *Special land use permit from City Council:* None.

Sec. 2Q-6. Mobile Home Parks: Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all mobile home parks:

(a) *[Frontage:]* All mobile home parks shall be located on a lot having a frontage of not less than four hundred (400) feet as measured along the public street frontage.

(b) *Lot width:* All mobile home parks shall be located on a lot having a lot area of not less than twenty (20) acres.

(c) *Minimum yard adjacent to public street:*

(1) *From major thoroughfares:* Two hundred fifty (250) feet.

(2) *From minor thoroughfares:* One hundred fifty (150) feet.

(3) *From collector streets:* One hundred (100) feet.

(4) *From all other streets:* One hundred (100) feet.

(d) *Minimum side yard:* Fifty (50) feet unless the site abuts an R or RM district in which case the minimum side yard setback shall be one hundred (100) feet.

(e) *Minimum rear yard:* Forty (40) feet unless the site abuts an R or RM district in which case the minimum rear yard setback shall be one hundred (100) feet.

(f) *Maximum height of buildings:* No building shall exceed thirty-five (35) feet in height.

Sec. 2Q-7. Mobile Home Lots: Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all individual lots within a mobile home park:

(a) *Lot area for single-family dwelling:* Four thousand (4,000) square feet.

(b) *Lot width:* Fifty (50) feet.

(c) *Minimum yard adjacent to public street:*

(1) *From major thoroughfares:* Two hundred fifty (250) feet.

(2) *From minor thoroughfares:* One hundred fifty (150) feet.

(3) *From collector streets:* One hundred (100) feet.

(4) *From other streets:* One hundred (100) feet.

(d) *Minimum yard adjacent to interior driveways:* Ten (10) feet.

(e) *Interior side yard:* Seven and one-half (7 1/2) feet.

(f) *Minimum rear yard:* Seven and one-half (7 1/2) feet.

(g) *Maximum height of buildings:* No building shall exceed thirty-five (35) feet in height.

Sec. 2Q-8. Transitional Buffer Zone Requirement.

Where a lot in the MHP (Mobile Home Park) District is used for attached single-family dwellings and adjoins the boundary of any property which is zoned R (Single-family Residential) District, except single-family attached developments, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining single-family residential.

Sec. 2Q-9. Mobile Home Park Design Requirements.

The following design requirements shall apply to all mobile home parks:

(a) *Density.* The maximum density shall not exceed eight (8) mobile home units per acre. Only fifty (50) percent of any portion of the land within a mobile home park that is located within a floodplain may be included for the purpose of density determination.

(b) *Street access requirements.* A mobile home park shall abut upon a major thoroughfare, a minor thoroughfare, or a local access road paralleling a freeway or railroad right-of-way. It shall have a minimum of four hundred (400) feet

frontage in order to provide adequate and safe ingress and egress from the abutting road to the mobile home park. It shall have ingress and ingress only from the above roads. The minimum distance between curb cuts shall be thirty (30) feet. The entrance or exit road to the development shall have a minimum right-of-way width of sixty (60) feet with a minimum pavement width of twenty-eight (28) feet. The entrance or exit road shall have a turning radius of at least thirty (30) feet and the road shall extend for at least one hundred (100) feet into the mobile home park with no parking and with no ingress to or egress from any individual mobile home lot.

(c) *Mobile home lots.* Each mobile home shall be located on a mobile home lot. Each lot shall conform to the following requirements:

(1) *Street frontage:* Each mobile home lot shall front on an interior driveway having a pavement width of not less than twenty (20) feet, or more, dependent upon the function and classification of the interior driveway as set forth in the "Mobile Home Court Development Guide," FHA G4200.7, published January, 1970, which is adopted by reference and made a part of this Chapter.

(2) *Mobile home lot width and depth:* Each lot shall be not less than fifty (50) feet wide and eighty (80) feet deep.

(3) *Mobile home stand:* A mobile home stand shall be located on each lot for the placement of the mobile home and it appurtenant structures and for the tie-down of the mobile home. The stand shall provide for the retention of the mobile home on the lot in a stable condition and in a satisfactory relationship to its surroundings. Acceptable provisions for hurricane anchorage for each mobile home shall be provided.

(4) *Yard requirements:* Each mobile home lot shall have side and rear yards with a minimum width or depth of seven and one-half (7 1/2) feet and front yards with a minimum depth of ten (10) feet, but in no case shall the distance between mobile home stands on opposite sides of the street be less than forty (40) feet. No structural addition to a mobile home shall be built within a required yard.

(d) *Recreation area.* One (1) acre of land shall be set aside and developed within the mobile home park for open space and recreation purposes for each fifty (50) lots. The minimum size of a single open space and recreation area shall be ten thousand (10,000) square feet. Not more than fifty (50) percent of the land reserved for open space and recreation purposes shall be located within a floodplain.

(e) *Automobile parking spaces.* At least two (2) automobile parking spaces shall be provided for each mobile home lot. At least one (1) such space shall be provided on each mobile home lot. The second required space may be provided on the mobile home lot, in on-street parking lanes or bays, or in an off-street parking lot conveniently located to the mobile home it serves.

(f) *Boundary setbacks.* All mobile homes within a mobile home park shall be set back not less than fifty (50) feet from the boundary line of the mobile home park, except that where the boundary of the mobile home park adjoins a residential district, as that term is defined in Division 015, said setback shall be not less than one hundred (100) feet.

(g) *Design standards.* All mobile home parks shall conform to the standards and requirements of "Mobile Home Court Development Guide," U.S. Department of Housing and Urban Development, FHA G4200.7, published January, 1970, which by this reference is made a part of this Chapter. All mobile home parks shall also conform to all of the requirements of the City's subdivision regulations, **Article III**.

(h) *Site construction and development.* No site construction or development shall be undertaken and no development or building permits shall be issued until a preliminary subdivision plat shall have been approved for the mobile home park pursuant to the requirements of the City's subdivision regulations.

DIVISION 2R. TND (TRADITIONAL NEIGHBORHOOD DEVELOPMENT) DISTRICT

Sec. 2R-1. Repealer.

Except as provided in **Section 1-28** of this Code, the TND regulations of this division are repealed. No application or amendment to the official zoning maps shall be filed with the planning director, initiated by official action of the planning commission, or considered by the City Council if such amendment or application seeks to have any lot(s) in the County zoned TND. The TND regulations set forth in **Division 2R** remain codified solely for the purpose of complying with the requirements of **Section 1-28** of this Code.

Sec. 2R-2. Design and Development Standards.

The following design and development standards shall apply to each Traditional Neighborhood Development District hereafter established by the City Council:

(a) *Density.* The density of the proposed development shall be as approved by the City Council and shall be consistent with the comprehensive plan and with the surrounding area. The density of each Traditional Neighborhood Development District shall be established by the City Council at the time of approval of any such application.

(b) *Public streets required.* All streets within Traditional Neighborhood Development Districts shall be public streets and the design and construction of said streets shall comply in all respects with the requirements of the City's subdivision Coe and any other applicable provision of the Code.

(c) *Sidewalk requirements.* Five-foot sidewalks with a four-foot street tree planting zone between the sidewalk and the back of curb shall be provided on each street contained within any Traditional Neighborhood Development District.

(d) *Maintenance and protection of land held in common.* Each applicant shall present as a part of the application for the TND zoning designation a legal

mechanism under which all land to be held in common and used for open space purposes shall be protected in perpetuity. Such legal mechanism may include deed restrictions, homeowner associations, common areas held in common ownership or control, or any other legal mechanism, provided that said legal mechanism shall be approved by the Department of Law as assuring each of the following mandatory requirements:

(1) That all land held in common shall remain undivided and shall not be subdivided or developed in perpetuity;

(2) That all subsequent property owners in perpetuity within said Traditional Neighborhood Development District be placed on notice of this development restriction through the deed records of City of Dunwoody Superior Court;

(3) That all land held in common will be properly maintained and insured with no liability or maintenance responsibilities accruing to the county;

(4) That a legal mechanism exists for notice of deficiencies in maintenance of the land 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 county;

(5) That the legal mechanism be created and implemented prior to the sale of any individual properties within the Traditional Neighborhood Development District; and

(6) That all requirements of the legal mechanism chosen by the applicant and approved by the Department of Law shall be specified on the final plan and recorded with the Clerk of Superior Court of City of Dunwoody.

(e) When an applicant for a Traditional Neighborhood Development District chooses to utilize a homeowners association in order to comply with the requirements of **subsection (d)** 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 homeowners association as a requirement of dwelling unit ownership;

(2) All owners shall have equal access and right of use to all common and shared facilities;

(3) A fair and uniform method of assessment for dues, maintenance and related costs;

(4) Where appropriate, party wall maintenance and restoration in the event of damage or destruction;

(5) Perpetual and continued maintenance of land held in common and liability through the use of liens or other means in the case of default; and

(6) That all required covenants, declarations and restrictions shall be filed with the Clerk of the Superior Court of City of Dunwoody.

Sec. 2R-3. Principal Uses and Principal Structures.

The following are the principal uses of land and structures which are authorized in the TND (Traditional Neighborhood Development) District:

(a) Dwelling, single-family attached.

(b) Dwelling, single-family detached.

(c) Dwelling, three-family.

(d) Dwelling, two-family.

(e) Dwellings, multifamily.

(f) Personal care home, family.

(g) Personal care home, registered.

(h) Open space(s) and public space(s).

Sec. 2R-4. Accessory Uses and Accessory Structures.

The following are the accessory uses of land and structures which are authorized in the TND (Traditional Neighborhood Development) District:

(a) Accessory commercial uses, subject to the following requirements:

(1) Such use shall be limited to uses which are permissible within the NS district;

(2) All accessory commercial uses shall be located within the interior of any TND District and shall not be visible from any public street outside the boundaries of such TND District or from any dwelling located outside the boundaries of such TND District;

(3) Accessory commercial use shall not exceed twenty-five (25) percent of the gross residential floor space of the total development, and in no case shall total commercial use exceed one hundred thousand (100,000) square feet, and no individual building shall exceed fifty thousand (50,000) square feet in total floor area;

(4) Within multifamily TND development, accessory commercial use may be located in freestanding buildings or in the ground floor level of multifamily dwellings;

(5) All accessory commercial space shall be concentrated within a designated area within any TND district; and

(6) Accessory commercial space shall be constructed concurrently with or after the construction of the dwelling units to which it is accessory, and no certificate of occupancy for such accessory commercial space shall be issued until certificates of occupancy have

been issued for at least fifty (50) percent of the dwelling units to be constructed within said development.

(b) Accessory uses and structures incidental to any authorized use;

(c) Recreation facilities including swimming pools, tennis courts, outdoor play areas, bikeways, walking trails, picnic pavilions, clubhouses, and similar recreation facilities designed for and used principally by the residents of the TND (Traditional Neighborhood Development) District;

(d) Signs for accessory commercial use in accordance with the provisions of the NS (Neighborhood Shopping) District in the City's Sign Ordinance.

Sec. 2R-5. Special Permits.

The following uses are allowed by special permits of the type indicated below:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception from zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(c) *Special land use permit from City Council:*

(1) Adult day care facility.

(2) Child day care facility.

(3) Home occupation involving any customer contact.

(4) Home stay bed and breakfast residence.

(5) Kindergarten.

(6) Neighborhood recreation club.

(7) Personal care home, group.

(8) Personal care home, congregate.

(9) Place of worship.

(10) Private elementary, middle and high school.

Sec. 2R-6. Lot Width, Minimum Size, and Yard Requirements.

(a) *Lot width:* Each lot for which application is made for TND District zoning shall have a minimum width of one hundred (100) feet on a public street.

(b) *Minimum lot area:* See above.

(c) *Minimum yard requirements for individual single-family detached dwelling units within a TND District:*

(1) *Front yard:* None, except that where dwellings have front entry garages, the front of the garage shall be set back at least twenty-two (22) feet from the front property line.

(2) *Interior side yards:* Seven and one-half (7 1/2) feet on each side.

(3) *Side yard along side street on corner lot:* Fifteen (15) feet.

(4) *Rear yard:* Twenty (20) feet.

(d) *Minimum spacing between buildings for TND Districts containing attached single-family residences and multifamily dwellings:* See Spacing between buildings, **Section 4-55**.

Sec. 2R-7. Maximum Height of Buildings.

Thirty-five (35) feet, except where accessory commercial use is provided in the ground floor level of buildings containing multifamily housing units above, then the height of any such building shall not exceed forty-five (45) feet.

Sec. 2R-8. Maximum Lot Coverage.

Lot coverage for each TND district established pursuant to this division shall not exceed sixty (60) percent for the development as a whole.

Sec. 2R-9. Off-Street Parking Requirements.

Off-street parking requirements for uses and structures authorized and permitted in the TND (Traditional Neighborhood Development) District are as follows:

(a) [*Accessory commercial uses.]* Accessory commercial uses shall provide parking as follows:

(1) Retail uses: Not more than one (1) space for each two hundred fifty (250) square feet of floor space devoted to such use;

(2) All other permissible accessory commercial uses: Same as required in the NS district;

(3) No parking space for any accessory commercial use shall be permitted to be located in front of such accessory commercial use.

(b) *Adult day care facility:* Four (4) spaces.

(c) *Child day care facility:* Four (4) spaces.

(d) *Dwellings:*

(1) *Single-family detached:* Four (4) spaces per dwelling unit.

(2) *Two-family, three-family, and single-family attached:*

a. *Less than one thousand six hundred (1,600) square feet of floor area:* Two (2) spaces.

b. *One thousand six hundred (1,600) through one thousand nine hundred ninety-nine (1,999) square feet of floor area:* Three (3) spaces.

c. *Two thousand (2,000) square feet or greater:* Four (4) spaces.

(3) *Multifamily:* One and seventy-five hundredths (1.75) spaces per unit.

(e) *Elementary, middle or high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(f) *Kindergarten:* One (1) space per two hundred (200) square feet of floor area.

(g) *Neighborhood recreation club:* One (1) space for each five (5) club members.

(h) *Personal care home, congregate:* One (1) space for each four (4) persons in the home.

(i) *Personal care home, family:* Four (4) spaces.

(j) Personal care home, group: Four (4) spaces.

(k) *Personal care home, registered:* Two (2) spaces.

(l) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(m) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

Sec. 2R-10. Minimum Dwelling Unit Size Requirements.

The minimum size of each dwelling unit shall be as follows:

(a) *Single-family dwelling:* One thousand six hundred (1,600) square feet.

(b) *Multifamily dwellings, as follows:*

(1) *One (1) bedroom:* Six hundred fifty (650) square feet, provided however, that twenty (20) percent of the total units in a multifamily dwelling development of more than one (1) building may have a floor area of not less than five hundred twenty (520) square feet.

(2) *Two (2) bedroom:* Eight hundred (800) square feet.

(3) *Three (3) or more bedrooms:* One thousand (1,000) square feet.

(c) *Two- and three-family dwellings:* One thousand two hundred (1,200) square feet.

Sec. 2R-11. Phasing of Projects.

TND development may be phased. Where an applicant desires to phase such development, the schedule for development shall be submitted and is subject to approval as a condition of zoning. In all cases where a project is permitted to be phased, each phase of the project shall contain the required parking spaces, open space, recreation space, landscaping and utilities required for that phase.

Sec. 2R-12. Final Approval of Plans.

Prior to issuance of any development or building permit for any TND development, the final site plan shall be submitted to and approved by the director of planning. Said final plan shall be consistent with that plan approved by DeKalb County. The director is authorized to approve minor changes in any such plan subject to the limitations in **Section 5A-25** of this Chapter. The applicant shall submit the final plan to the director of planning in a form which complies with the requirements of the City's subdivision regulations as to required form for recording of final plats.

Sec. 2R-13. Relation of TND Regulations to Subdivision or Other Regulations.

The TND regulations which are contained within this division shall apply to the application for and regulation of all TND districts. Where there are conflicts between these TND regulations and land subdivision requirements contained in the subdivision within the Code, these TND regulations shall apply.

Sec. 2R-14. Recording of Final Plat by Director of Planning.

The director of planning shall, after final approval of any development plan for TND, record said final plat with the Clerk of Superior Court of City of Dunwoody.

Sec. 2R-15. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2S. NCD (NEIGHBORHOOD CONSERVATION) DISTRICT

Sec. 2S-1. Scope of Provisions.

The provisions contained within this section are the regulations of the NCD (Neighborhood Conservation) District. This division establishes the procedures and the criteria that the City Council shall utilize in making a decision on any application to amend the official zoning maps so as to change any parcel of land to the NCD (Neighborhood Conservation) District zoning classification.

Sec. 2S-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the NCD (Neighborhood Conservation) District is to establish a zoning district classification by which the county may permit a variety in type, design, and arrangement of residential structures and enable the coordination of project characteristics with features of a particular site in a manner consistent with the public health, safety, and general welfare. Appropriate areas for the location of a NCD (Neighborhood Conservation) District include existing neighborhoods where the characteristics of traditional neighborhood development communities can be preserved. The NCD

(Neighborhood Conservation) District is established so as to permit reasonable residential development of vacant properties in the defined neighborhood while at the same time protecting and preserving important features of the natural and built environment and to permit innovative design of new housing. The NCD (Neighborhood Conservation) District is further intended to accomplish public objectives as follows:

(a) To establish a zoning district classification wherein certain established neighborhoods can be preserved within City of Dunwoody;

(b) To prevent these neighborhoods and subdivisions from becoming nonconforming under the terms of this division. Any such established neighborhoods will be allowed to continue to exist and develop further under the general regulations governing their design and development in accordance with any plats or plans previously approved;

(c) To assure that infill development authorized pursuant to these district regulations is compatible with the density and the character of surrounding uses; and

(d) To assure that basic services are available to serve the recreational, educational and social needs of the neighborhood.

Sec. 2S-3. Procedures.

The following requirements shall apply to each application for change of the official zoning maps to the NCD (Neighborhood Conservation) District classification:

(a) Procedures (same as **Article V**, **Section 5A**). Each application for NCD district classification shall be filed with the department of planning and shall be reviewed and public hearings conducted with public notice provided and decisions made as is required for all applications to amend the official zoning map pursuant to **Article V**, **Section 5A** of this Chapter and with the additional standards and factors contained in **Section 25-4** below. The proposal may consist of any use(s) authorized in **Section 25-5** and **Section 25-6** below.

(b) Plans required. In addition to all of the information and materials required as part of any application to amend the official zoning maps in **Article V**, **Division 1**, each applicant for NCD shall submit a site plan which shall contain the following information:

(1) Size of each lot proposed.

(2) Housing types.

(3) Open space areas to be held in joint ownership, common ownership, or control in perpetuity.

(4) Location and amount of commercial space.

(5) Location of existing places of worship.

(c) Density. The density of the proposed development shall be as approved by the City Council at the time of approval of any such application and shall be

consistent with the comprehensive plan provided the density does not exceed eight (8) dwelling units per acre.

Sec. 2S-4. Additional Standards and Factors to be Considered.

The county may approve or may approve with modifications or conditions an application for NCD (Neighborhood Conservation) District designation if, in addition to meeting all of the criteria contained in **Article V**, **Section 5A**, the applicant meets each of the following standards:

(a) That the NCD (Neighborhood Conservation) District accomplishes, through preservation of existing housing and compatible infill development and redevelopment, a neighborhood that has a greater net benefit to the county than would result from redevelopment under the land subdivision regulations. Net benefit to the county may be demonstrated by one (1) or more of the following factors:

(1) Preservation of existing housing and permitting construction of infill housing compatible with existing housing in size, appearance and value that results in a community of compact scale and design which encourages pedestrian circulation;

(2) Preservation of a design in which authorized commercial use (if any) is so located as to be accessible to residents of the community.

(3) Preservation of existing places of worship within the neighborhood.

(b) That the NCD (Neighborhood Conservation) District results in no greater burden on present and projected public services and utilities than would result from subdivision development and that the NCD (Neighborhood Conservation) District will be served by adequate facilities including public streets, public fire protection, and public and private utilities.

(c) That all public streets serving the development, both existing and proposed, are suitable in design and adequate to carry the anticipated traffic within the proposed project and in the vicinity of the proposed project.

(d) That the NCD (Neighborhood Conservation) District shall be limited to existing neighborhoods with at least fifty (50) percent of the houses constructed prior to and including 1950 according to City of Dunwoody tax records.

(e) That a minimum of fifty (50) percent of the lots of record in the proposed NCD (Neighborhood Conservation) District have fifty (50) feet or less of frontage as measured along the public street frontage according to City of Dunwoody tax records.

(f) That the neighborhood which is proposed to become a NCD (Neighborhood Conservation) District is a neighborhood with historical significance.

(g) That the neighborhood which is proposed to become a NCD (Neighborhood Conservation) District shall have a minimum lot area of not less than ten (10) acres.

Sec. 2S-5. Principal Uses and Principal Structures.

The following are the principal uses of land and structures which are authorized in the NCD (Neighborhood Conservation) District:

(a) Dwelling, single-family attached.

(b) Dwelling, single-family detached.

(c) Dwelling, three-family.

(d) Dwelling, two-family.

(e) Dwellings, multifamily.

(f) Personal care home, family.

(g) Personal care home, registered.

(h) Open space(s) and public space(s).

Sec. 2S-6. Accessory Uses, Accessory Structures, and Other Authorized Uses.

The following are the accessory uses of land and structures which are authorized in the NCD (Neighborhood Conservation) District:

(a) Accessory uses and structures incidental to any authorized use;

(b) Recreation facilities including swimming pools, tennis courts, outdoor play areas, bikeways, walking trails, picnic pavilions, clubhouses, and similar recreation facilities designed for and used principally by the residents of the NCD (Neighborhood Conservation) District;

(c) Commercial uses, subject to the following requirements:

(1) Such use shall be limited to uses which are permissible within the NS district (see Division 25) and shall be located only on a major or minor thoroughfare;

(2) Commercial use shall not exceed two hundred forty (240) square feet of floor area for each ten (10) dwelling units in the NCD (Neighborhood Conservation) District, and no individual building shall exceed ten thousand (10,000) square feet in total floor area;

(3) Within multifamily development, commercial use may be located in freestanding buildings or in the ground floor level of multifamily dwellings;

(d) Signs for commercial use in accordance with the provisions of the NS (Neighborhood Shopping) District in the City's Sign Ordinance.

Sec. 2S-7. Special Permits.

The following uses are allowed by special permits of the type indicated below:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception from zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(c) *Special land use permit from City Council:*

(1) Adult day care facility.

(2) Child day care facility.

(3) Home occupation involving any customer contact.

(4) Home stay bed and breakfast residence.

(5) Kindergarten.

(6) Neighborhood recreation club.

(7) Personal care home, congregate.

(8) Personal care home, group.

(9) Places of worship.

(10) Private elementary, middle and high school.

Sec. 2S-8. Lot Width, Minimum Size, and Yard Requirements.

(a) *Lot width:*

(1) *Single-family dwelling:* Fifty (50) feet of frontage as measured along the public street frontage;

(2) *Two-family dwelling:* Eighty-five (85) feet of frontage as measured along the public street frontage;

(3) *Three-family dwelling:* One hundred (100) feet of frontage as measured along the public street frontage;

(4) *Multifamily dwellings:* One hundred (100) feet of frontage as measured along the public street frontage.

(b) *Minimum lot area:*

(1) *Single-family dwelling:* Five thousand (5,000) square feet;

(2) *Two-family dwelling:* Eight thousand (8,000) square feet;

(3) *Three-family dwelling:* Ten thousand (10,000) square feet;

(4) *Multifamily dwellings:* Two (2) acres.

(c) *Minimum yard requirements for single-family, two-family and three-family dwelling units within a NCD District:*

(1) *Front yard:* Front yards shall be consistent with the front yards of buildings on adjoining properties, but not less than twenty (20) feet.

(2) *Interior side yard setbacks:* Interior side yards of buildings shall be consistent with the interior side yard setbacks of buildings on adjoining properties, but not less than five (5) feet.

(3) *Side yard along side street on corner lot:* Fifteen (15) feet.

(4) *Rear yard setbacks:* Rear yards of buildings shall be consistent with the rear yards of buildings on adjoining properties, but not less than twenty (20) feet.

(d) *Minimum yard requirements for multifamily dwellings:*

(1) *Front yard:* Fifty (50) feet.

(2) *Side yard:* Twenty (20) feet, except that where a NCD lot adjoins any lot zoned or used for a single-family residence along a side lot line, the required yard shall be fifty (50) feet.

(3) *Rear yard:* Forty (40) feet, except that where a NCD lot adjoins any lot zoned or used for a single-family residence along a rear lot line, the required yard shall be fifty (50) feet.

(e) *Minimum yard requirements for any lots or structures used for commercial use in any NCD (Neighborhood Conservation) District:*

(1) *Lot width:* All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage;

(2) *Minimum lot area:* Twenty thousand (20,000) square feet;

(3) *Minimum setback requirements:*

a. *Front yard:* Fifty (50) feet;

b. *Side yard along side street on corner lot:* Fifty (50) feet;

c. *Interior side yard setback:* Twenty (20) feet;

d. *Rear yard:* Thirty (30) feet.

(f) *Development standards for nonconforming lots:* A nonconforming lot may be used for a single-family detached dwelling notwithstanding the failure of the lot to meet minimum lot area or minimum lot width requirements specified in the NCD District provided that all other requirements of this division, including minimum yards, shall be met. Such lots shall be exempt from the minimum lot area and minimum lot width requirements and a building permit may be issued without the need for a variance from the zoning board of appeals subject to the following provisions:

(1) The lot was a legally created lot of record on the effective date of this division and the lot was not created in violation of this division;

(2) The lot was not part of a series of two (2) or more vacant lots in a single ownership, sharing continuous street frontage, and which are sufficient when taken together to meet the minimum lot area and minimum lot width requirements of this division.

Sec. 2S-9. Maximum Height of Buildings.

Thirty-five (35) feet, except where commercial use is provided in the ground floor level of buildings containing multifamily housing units above, then the height of such building shall not exceed forty-five (45) feet.

Sec. 2S-10. Maximum Lot Coverage.

The lot coverage of each lot shall not exceed thirty-five (35) percent.

Sec. 2S-11. Off-Street Parking Requirements.

Off-street parking requirements for uses and structures authorized and permitted in the NCD (Neighborhood Conservation) District are as follows:

(a) [*Commercial uses.*] Commercial uses shall provide parking as follows:

(1) Retail uses: Not more than one (1) space for each two hundred fifty (250) square feet of floor space devoted to such use;

(2) All other permissible commercial uses: Same as required in the NS district;

(3) No parking space for any commercial use shall be permitted to be located in front of such commercial use.

(b) *Adult day care facility:* Four (4) spaces.

(c) *Child day care facility:* Four (4) spaces.

(d) *Dwellings:*

(1) *Single-family, two-family, and three-family dwellings:* Two (2) spaces for each unit.

(2) *Multifamily dwellings:* One and seventy-five hundredths (1.75) spaces for each unit.

(e) *Elementary, middle or high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(f) *Kindergarten:* One (1) space per two hundred (200) square feet of floor area.

(g) *Neighborhood recreation club:* One (1) space for each five (5) club members.

(h) *Personal care home, congregate:* One (1) space for each four (4) persons in the home.

(i) *Personal care home, family:* Four (4) spaces.

(j) *Personal care home, group:* Four (4) spaces.

(k) *Personal care home, registered:* Two (2) spaces.

(l) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(m) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

Sec. 2S-12. Minimum Dwelling Unit Size Requirements.

The minimum size of each dwelling unit shall be as follows:

(a) *Single-family dwelling:* One thousand (1,000) square feet.

(b) *Multifamily dwellings,* as follows:

(1) *One bedroom:* Six hundred fifty (650) square feet, provided however, that twenty (20) percent of the total units in a multifamily dwelling development of more than one (1) building may have a floor area of not less than five hundred twenty (520) square feet.

(2) *Two bedroom:* Eight hundred (800) square feet.

(3) *Three or more bedrooms:* One thousand (1,000) square feet.

(c) *Two- and three-family dwellings:* One thousand (1,000) square feet.

Sec. 2S-13. Final Approval of Plans.

Prior to issuance of any development or building permit within a NCD District, the application shall be submitted to and approved by the director of planning. A final site plan shall be submitted and shall be consistent with that plan approved by the City Council. The director is authorized to approve minor changes in any such plan subject to the limitations in **Section 5A-25** of this Chapter. The applicant shall submit the final plan to the director of planning in a form which complies with the requirements of the City's subdivision regulations as to required form for recording of final plats.

Sec. 2S-14. Relation of NCD Regulations to Subdivision or Other Regulations.

The NCD regulations which are contained within this division shall apply to the application for and regulation of all NCD districts. Where there are conflicts between these NCD regulations and land subdivision requirements or other regulations within the Code, these NCD regulations shall apply.

Sec. 2S-15. Concurrent Variances and Special Exceptions Authorized.

In enacting an ordinance designating a parcel of land as NCD the City Council may enact a plan which provides for variances and special exceptions from rules applying generally in this Chapter, or for variances and special exceptions from the requirements generally applicable in this district. Any such variance or special exception shall be subject to the criteria contained in **Section 5D-13**, **Section 5D-14**, or **Section 5D-15** as is applicable. After approval of any such

NCD development plan by the City Council, no action is required by the zoning board of appeals. After approval of the final plan and recording of the approved plan of the development by the director of planning, the director of public works shall issue development and building permits in accordance with the approved plan.

Sec. 2S-16. Recording of Final Plat by Director of Planning.

The director of planning shall, after final approval of any development plan for NCD, record said final plat with the Clerk of Superior Court of City of Dunwoody.

DIVISION 2T. O-I (OFFICE-INSTITUTION) DISTRICT

Sec. 2T-1. Scope of Provisions.

The provisions contained within this section are the regulations of the O-I (Office-Institution) District.

Sec. 2T-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the O-I (Office-Institution) District is as follows:

(a) To provide convenient areas within the county for the location of office and institutional uses which are necessary for the residents and business and professional practitioners within the county;

(b) To provide locations for the development of cultural, recreational, educational and health service facilities for the county.

Sec. 2T-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the O-I (Office-Institution) District:

(a) Child day care center and kindergarten.

(b) Commercial recreation and entertainment establishments as follows:

(1) Adult entertainment establishments. (See also **Section 4-2**).

(c) Community facilities as follows:

(1) Cemetery, columbarium, or mausoleum.

(2) Cultural facilities.

(3) Golf course and clubhouse, private.

(4) Neighborhood recreation center or swimming pool.

(5) Noncommercial club or lodge.

(6) Private park.

(d) Convent and monastery.

(e) Educational uses as follows:

(1) Colleges and universities.

(2) Vocational school.

(3) Private elementary, middle and high school.

(4) Research and training facility associated with a college or university.

(5) Specialized non-degree school.

(f) Lodging uses as follows:

(1) Fraternity house, sorority house, and residence hall.

(2) Hotel.

(3) Motel.

(g) Offices, including construction contractors, health service practitioners, legal services, accounting, auditing and book-keeping services, engineering and architecture, finance, insurance, real estate and financial institutions, radio and television broadcasting stations, telephone business offices, and similar business and professional offices.

(h) Place of worship.

(i) Services, personal, as follows:

(1) Funeral home and mortuary.

(2) Personal care home, congregate.

(3) Personal care home, group.

(4) Photographic studio.

(j) Services, health and medical, as follows:

(1) Health services clinic.

(2) Home health care service.

(3) Hospice.

(4) Hospital including general medical, surgical, psychiatric and specialty.

(5) Kidney dialysis center.

(6) Medical and dental laboratory and clinic.

(7) Nursing care facility.

(k) Tennis center, club and facilities.

Sec. 2T-4. Accessory Uses and Structures.

The following accessory uses of land and structures shall be authorized in the O-I (Office-Institution) District:

(a) Ambulance service, where accessory to a hospital.

(b) Parking lot and parking garage.

(c) Restaurant, where accessory to a hotel or motel.

(d) Retail liquor store where accessory to a hotel, motel or high-rise office building.

(e) Retail use where accessory to a high-rise apartment building or high-rise office building, provided that all such uses shall be located on the ground floor of such high-rise building and shall be entered from the interior lobby of said building, and said accessory retail uses shall be designed and scaled to meet the needs of the tenants of the building and their guests.

(f) Signs are allowed in accordance with the provisions of the City's Sign Ordinance and this Chapter.

Sec. 2T-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(2) Telecommunications tower or antenna, subject to requirements of **Section 4-47**.

(3) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(c) *Special land use permit from City Council:*

(1) Building exceeding five (5) stories in height.

(2) Heliport.

(3) Shelter for homeless persons.

(4) Stations and terminal for bus and rail passenger service.

(5) Transitional housing facility.

(6) High-rise apartment development but if the property line for the high-rise apartment development abuts any parcel of land that is zoned for any single family detached residential district classification, then the maximum height of any structure in the high-rise apartment development described in this subsection shall not exceed thirty-five (35) feet.

(7) High-rise apartment development but if the property line for the high-rise apartment development abuts any parcel of land that is zoned for any single family attached residential district classification, then the maximum height of any structure in the high-rise apartment development described in this subsection shall not exceed forty (40) feet.

(8) High-rise apartment development.

Sec. 2T-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the O-I (Office-Institution) District:

(a) *Lot width:* All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage.

(b) *Minimum lot area:* Twenty thousand (20,000) square feet.

(c) *Minimum setback requirements:*

(1) *From public street:* Fifty (50) feet.

a. *Front yard:* Fifty (50) feet.

b. *Side yard:* Twenty (20) feet.

c. Side yard along side street on corner lot: Fifty (50) feet.

(2) *Interior side yard setback:* Twenty (20) feet.

(3) *Rear yard:* Thirty (30) feet.

Sec. 2T-7. Transitional Buffer Zone Requirement.

Where a lot in the O-I (Office-Institution) District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining residential use.

Sec. 2T-8. Height of Buildings and Structures.

The maximum height of any building or structure shall not exceed five (5) stories and seventy (70) feet. Buildings exceeding five (5) stories and seventy (70) feet in height shall be permitted only upon approval of a special land use permit by the City Council. Buildings in excess of three (3) stories must be approved by the department of fire and rescue services to assure adequacy of fire protection facilities and services.

Sec. 2T-9. Floor Area of Dwelling.

The floor area of each dwelling for high-rise apartments shall be as follows:

(a) *One-bedroom unit:* Six hundred fifty (650) square feet.

(b) *Two-bedroom unit:* Eight hundred (800) square feet.

(c) *Three- or more bedroom unit:* One thousand (1,000) square feet.

Notwithstanding the above minimum floor area requirements, a maximum of twenty (20) percent of the total units constructed in any single development of more than one (1) building may be one-bedroom units having floor areas of less than six hundred fifty (650) square feet, but not less than a minimum floor area of five hundred twenty (520) square feet.

Sec. 2T-10. Lot Coverage.

The lot coverage of each lot shall not exceed eighty (80) percent.

Sec. 2T-11. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the O-I (Office-Institution) District are as follows:

(a) *Adult entertainment establishments:* One (1) parking space for each seventy-five (75) square feet of floor area in the building. (See **Section 4-2**, Adult entertainment establishments).

(b) *Ambulance service, where accessory to a hospital:* One (1) parking space for each vehicle plus one (1) additional space for each two (2) administrative or service employees.

(c) *Cultural facilities, funeral home, and other places of assembly:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for seating.

(d) *Child day care center and kindergarten:* One (1) space for each two hundred (200) square feet of floor area.

(e) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(f) *Dwelling, multifamily:* Two (2) spaces for each dwelling unit, except that multifamily dwellings in the RM-HD district shall provide one and five-tenths (1.5) spaces for each dwelling unit.

(g) *Fraternity and sorority house:* One (1) space for each bed.

(h) *Hospital, nursing care facility, and similar institutional use:* One (1) space for each two (2) beds.

(i) *Hotel and motel:* One and twenty-five hundredths (1.25) spaces for each unit.

(j) *Noncommercial club or lodge:* One (1) space for each one hundred (100) square feet of floor area.

(k) *Office and clinic:* One (1) space for each two hundred fifty (250) square feet of floor area.

(l) *Place of worship:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for public worship.

(m) *Public swimming pool, golf course, neighborhood recreation center, or similar use:* Twenty (20) spaces except that an eighteen-hole golf course shall have forty (40) spaces.

(n) *Private swimming pool, golf course, neighborhood recreation center, or similar use:* One (1) space for each five (5) members but no less than twenty (20) spaces except that golf courses shall provide a minimum of twenty (20) spaces for each nine (9) holes.

(o) *Restaurant where accessory to hotel or motel:* One (1) space for each seventy-five (75) square feet of floor area, but not less than ten (10) spaces.

(p) *Retail use accessory to high-rise apartment building or high-rise office building, and personal service uses:* Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.

(q) *School, private elementary and middle:* Two (2) spaces for each classroom.

(r) *School, private high:* Five (5) spaces for each classroom.

(s) *Schools and colleges, including vocational schools:* Ten (10) spaces for each classroom.

Sec. 2T-12. Landscaping Requirement for Parking Lots.

See **Section 4-21.**

Sec. 2T-13. Noise limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2U. O-I-T (OFFICE-INSTITUTION-TRANSITIONAL) DISTRICT

Sec. 2U-1. Scope of Provisions.

The provisions contained within this section are the regulations of the O-I-T (Office-Institution-Transitional) District.

Sec. 2U-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the O-I-T (Office-Institution-Transitional) District is as follows:

A. To provide convenient areas within the county for the location of office and institutional uses which are necessary for the residents and business and

professional practitioners within the county, and to limit said buildings to two stories in height where adjacent to single family residential districts;

B. To provide locations for the development of cultural, recreational, educational, and health service facilities for the county.

Sec. 2U-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the O-I-T (Office-Institution-Transitional) District:

A. Child day care center and kindergarten.

B. Community facilities as follows:

1. Columbarium.
2. Cultural facilities.
3. Golf course and clubhouse, private.
4. Neighborhood recreation center or swimming pool.
5. Noncommercial club or lodge.
6. Private park.
7. Special events facility.

C. Convent and monastery.

D. Dwellings as follows:

1. Single family attached dwellings.

E. Educational uses as follows:

1. Colleges and universities.
2. Private elementary, middle and high school.
3. Research and training facility associated with a college or university.
4. Specialized non-degree school.
5. Vocational school.

F. Offices, including construction contractors, health service practitioners, legal services, accounting, auditing and bookkeeping services, engineering and architecture, finance, insurance, real estate and financial institutions, radio and television broadcasting stations, telephone business offices, and similar business and professional offices.

G. Place of worship.

H. Services, personal, as follows:

1. Personal care home, group.
2. Photographic studio.

I. Services, health and medical, as follows:

1. Health service clinic.

2. Home health care service.

3. Hospice.

4. Kidney dialysis center.

5. Medical and dental laboratory and clinic.

6. Nursing care facility.

J. Tennis center, club and facilities.

Sec. 2U-4. Accessory Uses and Structures.

The following accessory uses of land and structures shall be authorized in the O-I-T (Office-Institutional-Transitional) District:

A. Parking lot and parking garage.

B. Signs are allowed in accordance with the provisions of **Chapter 21** and this Chapter.

Sec. 2U-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

A. *Special administrative permit from director of public works:*

1. Home occupation involving no customer contact and no employee other than a person residing on the premises.

2. Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such 14-day time period within any calendar year.

B. *Special exception permit from the zoning board of appeals:*

1. Utility structure necessary for the transmission or distribution of service.

C. *Special land use permit from City Council:*

1. Shelter for homeless persons.

2. Transitional housing facility.

3. Personal care home, congregate.

Sec. 2U-6. Lot Width; Lot Area; Setbacks.

The following requirement shall apply to all lots and structures in the O-I-T (Office-Institutional-Transitional) District:

A. *Lot width:* All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage.

B. *Minimum lot area:* Twenty thousand (20,000) square feet, except that single family attached dwellings shall have an average lot area of four thousand (4,000) square feet per dwelling unit.

C. *Minimum setback requirements:*

1. From public street:

a. Front yard: Forty (40) feet.

b. Side yard along side street on corner lot: Fifty (50) feet.

2. Interior side yard: Twenty (20) feet.

3. Rear yard: Thirty (30) feet.

Sec. 2U-7. Transitional Buffer Zone Requirement.

Where a lot in the O-I-T (Office-Institution-Transitional) District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining residential use.

Sec. 2U-8. Height of Buildings and Structures.

The maximum height of any building or structure shall not exceed two (2) stories and thirty-five (35) feet.

Sec. 2U-9. Floor Area of Dwelling.

The minimum floor area of each single family dwelling shall be no less than one thousand (1,000) square feet.

Sec. 2U-10. Lot Coverage.

The lot coverage of each lot shall not exceed eighty (80) percent.

Sec. 2U-11. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the O-I-T (Office-Institutional-Transitional) District are as follows:

A. Cultural facilities, and other places where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for seating.

B. Child day care center and kindergarten: One (1) space for each two hundred (200) square feet of floor area.

C. Convent or monastery: Two (2) spaces for each two hundred (200) square feet of floor area within the principal structure.

D. Noncommercial club or lodge: One (1) space for each one hundred (100) square feet of floor area.

E. Office and clinic: One (1) space for each two hundred fifty (250) square feet of floor area.

F. Place of worship: One (1) space for each three (3) seats in the main auditorium, or where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for public worship.

G. Public swimming pool, golf course, neighborhood recreation center, or similar use: Twenty (20) spaces except that an 18-hole golf course shall have forty (40) spaces.

H. Private swimming pool, golf course, neighborhood recreation center, or similar use: One (1) space for each five (5) members, but not less than twenty (20) spaces except that golf courses shall provide a minimum of twenty (20) spaces for each nine (9) holes.

I. School, private elementary and middle: Two (2) spaces for each classroom.

J. School, private high: Five (5) spaces for each classroom.

K. Schools and colleges, including vocational schools: Ten (10) spaces for each classroom.

Sec. 2U-12. Landscaping Requirement for Parking Lots.

See **Section 4-21**.

Sec. 2U-13. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2V. O-D (OFFICE-DISTRIBUTION) DISTRICT

Sec. 2V-1. Scope of Provisions.

The provisions contained within this section are the regulations of the O-D (Office-Distribution) District.

Sec. 2V-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the O-D (Office-Distribution) District is as follows:

(a) To provide convenient areas within the county for the development of office and distribution establishments which are necessary for the residents and business practitioners within the county; and

(b) To assure that all such uses are provided in locations consistent with this Chapter and the Comprehensive Plan.

Sec. 2V-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the O-D (Office-Distribution) District:

(a) Commercial recreation and entertainment uses as follows:

(1) Golf driving range or batting cage facility.

(2) Recreation grounds and facilities.

(3) Tennis center, club and facilities.

(b) Community facilities as follows:

(1) Cemetery, columbarium, or mausoleum.

(2) Cultural facilities.

(3) Golf course and clubhouse, private.

(4) Neighborhood recreation center or swimming pool.

(5) Noncommercial club or lodge.

(6) Private park.

(7) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(c) Educational uses as follows:

(1) Adult day care center or adult day care facility.

(2) Child day care center or child day care facility.

(3) Colleges and universities.

(4) Vocational school.

(5) Kindergarten.

(6) Private elementary, middle and high school.

(7) Research and training facility associated with a college or university.

(8) Specialized non-degree school.

(d) Lodging uses as follows:

(1) Hotel.

(2) Motel.

(e) Offices, including legal services, accounting, auditing and bookkeeping services, engineering and architecture, finance, insurance, real estate and financial institutions, radio and television broadcasting stations, wholesale sales offices, wholesale trade and distribution offices, and similar service, business and professional offices.

(f) Place of worship.

(g) Retail sales as follows, but not including adult entertainment establishment and not including adult service facility:

(1) Apparel and accessories store.

(2) Book, greeting card, and stationery store.

(3) Camera and photographic supply store.

(4) Computer and computer software store.

(5) Convenience store.

(6) Farm and garden supply store.

(7) Florist.

(8) Food stores including bakeries.

(9) Furniture, home furnishings and equipment store.

(10) General merchandise store.

(11) Gift, novelty, and souvenir store.

(12) Hardware store.

(13) Hobby, toy and game store.

(14) Jewelry store.

(15) Liquor store, including retail liquor store as accessory use to hotels, motels, and high-rise office buildings.

(16) Music and musical equipment store.

(17) News dealer and newsstand.

(18) Office supplies and equipment store.

(19) Pharmacy and drugstore.

(20) Quick copy printing store.

(21) Radio, television and consumer electronics store.

(22) Specialty store.

(23) Sporting goods and bicycle sale.

(24) Variety store.

(25) Video tape sales and rental store.

(h) Services, personal, as follows:

(1) Personal care home, congregate.

(2) Personal care home, family.

(3) Personal care home, group.

(4) Personal care home, registered.

(i) Services, health and medical, as follows:

(1) Health service clinics including pharmacy.

(j) Transportation and storage as follows:

(1) Automobile parking.

(2) Miniwarehouse.

(3) Warehousing and storage.

Sec. 2V-4. Accessory Uses and Structures.

The following accessory uses of land and structures shall be authorized in the O-D (Office-Distribution) District:

(a) Parking lots and parking garages.

(b) Restaurant, where accessory to a hotel or motel.

(c) Retail liquor store where accessory to a hotel, motel or high-rise office building.

(d) Signs in accordance with the provisions of the City's Sign Ordinance and this Chapter.

Sec. 2V-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Telecommunications tower and antenna, subject to requirements of **Section 47-47**.

(2) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.

(b) *Special exception permit from the zoning board of appeals:* None.

(c) *Special land use permit from City Council:*

(1) Building exceeding two (2) stories in height.

(2) Heliports.

Sec. 2V-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the O-D (Office-Distribution) District:

(a) *Lot width:* All lots shall have at least one hundred fifty (150) feet of frontage as measured along the public street frontage.

(b) *Minimum lot area:* One (1) acre.

(c) *Minimum setback requirements:*

(1) *From public street:*

a. *Front yard:* Seventy-five (75) feet.

(2) *Interior side yard:* Twenty (20) feet.

(3) *Rear yard:* Thirty (30) feet.

Sec. 2V-7. Transitional Buffer Zone Requirement.

Where a lot in the O-D (Office-Distribution) District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining residential use.

Sec. 2V-8. Height of Buildings and Structures.

The maximum height of any building or structure shall not exceed two (2) stories and thirty-five (35) feet. Buildings exceeding two (2) stories in height shall be permitted only upon approval of a special land use permit by the City Council. Buildings in excess of three (3) stories must be approved by the department of fire and rescue services to assure adequacy of fire protection facilities and services.

Sec. 2V-9. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the O-D (Office-Distribution) District are as follows:

(a) *Cultural facilities, and other places of assembly:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for seating.

(b) *Hotel and motel:* One and twenty-five hundredths (1.25) spaces for each unit.

(c) *Offices and clinics:* One (1) space for each two hundred fifty (250) square feet of floor area.

(d) *Place of worship:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for public worship.

(e) *Public swimming pool, golf course, neighborhood recreation center, or similar use:* Twenty (20) spaces except that an eighteen-hole golf course shall have forty (40) spaces.

(f) *Private swimming pool, golf course, neighborhood recreation center, or similar use:* One (1) space for each five (5) members but no less than twenty (20) spaces except that golf courses shall provide a minimum of twenty (20) spaces for each nine (9) holes.

(g) *Restaurant where accessory to hotel or motel:* One (1) space for each seventy-five (75) square feet of floor area, but not less than ten (10) spaces.

(h) *Retail uses accessory to hotel, motel, or high-rise office building, and personal service uses:* Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.

(i) *Retail uses, personal service uses, and other commercial and general business uses, but not including food stores:* Four (4) spaces for each one thousand (1,000) square feet of floor area.

(j) *School, private elementary and middle:* Two (2) spaces for each classroom.

(k) *School, private high:* Five (5) spaces for each classroom.

(l) *Schools and colleges, including vocational schools:* Ten (10) spaces for each classroom.

Sec. 2V-10. Lot Coverage.

The lot coverage of each lot shall not exceed eighty (80) percent.

Sec. 2V-11. Landscaping Requirement for Parking Lots.

See **Section 4-21**, Landscaping requirements for parking lots.

DIVISION 2W. OCR (OFFICE-COMMERCIAL-RESIDENTIAL) DISTRICT

Sec. 2W-1. Scope of Provisions.

The provisions contained within this section are the regulations of the OCR (Office-Commercial-Residential) District.

Sec. 2W-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the OCR (Office-Commercial-Residential) District is as follows:

(a) To provide for economic development within the county through redevelopment of parcels of land which have been used in the past for commercial and light industrial uses but which have become obsolete and now offer an opportunity for establishing new mixed use developments of medium intensity which consist of a combination of office, commercial, and residential uses;

(b) To promote redevelopment and new development in an environment which is pedestrian-oriented and which provides job opportunities and shopping facilities within the same complex in which multifamily housing is located and thereby reduces dependence on the automobile; and

(c) To encourage the conversion of vacant commercial and industrial buildings into residential dwelling units.

Sec. 2W-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the OCR (Office-Commercial-Residential) District:

(a) Animal hospital, veterinary clinic, pet supply store, animal grooming shop, and boarding and breeding kennel.

(b) Art gallery and art supply store.

(c) Bank, credit union and other similar financial institution.

(d) Child day care center and kindergarten.

(e) Commercial recreation and entertainment establishments as follows:

(1) Adult entertainment establishments. (See also **Section 4-2**).

(f) Convent and monastery.

(g) Educational uses as follows:

(1) Private elementary, middle and high school.

(2) Specialized non-degree school.

(h) Lodging uses, as follows:

(1) Hotels, when located within a mixed-use development encompassing a minimum of ten (10) acres of land area.

(i) Movie theater, bowling alley, and other recreational facilities where such activities are wholly enclosed within a building.

(j) Office uses as follows:

(1) Accounting office.

(2) Engineering and architectural office.

(3) Building and construction contractor.

(4) Financial services office.

(5) Insurance office.

(6) Legal office.

(7) Medical office.

(8) Real estate office.

(9) Wholesale sales office.

(k) Place of worship.

(l) Restaurant.

(m) Retail sales as follows, but not including adult service facility:

(1) Apparel and accessories store.

(2) Book, greeting card, and stationery store.

(3) Camera and photographic supply store.

(4) Computer and computer software store.

(5) Convenience store.

(6) Farm and garden supply store.

(7) Florist.

(8) Food stores including bakeries.

(9) Furniture, home furnishings and equipment store.

(10) General merchandise store.

(11) Gift, novelty, and souvenir store.

(12) Hardware store.

(13) Hobby, toy and game store.

(14) Jewelry store.

(15) Liquor store, including retail liquor store as accessory use to hotels, motels, and high-rise office buildings.

(16) Music and musical equipment store.

(17) News dealers and newsstand.

(18) Office supplies and equipment store.

(19) Pharmacies and drugstore.

(20) Quick copy printing store.

(21) Radio, television and consumer electronics store.

(22) Specialty store.

(23) Sporting goods and bicycle sale.

(24) Variety store.

(25) Video tape sales and rental store.

(n) Services, medical and health, as follows:

(1) Health service clinic.

(2) Medical and dental laboratory.

(3) Offices of health service practitioners.

(4) Pharmacy.

(o) Services, personal, as follows:

(1) Barbershop, beauty shop, and similar personal service establishment.

(2) Coin-operated laundry and dry-cleaning store.

(3) Laundry and dry-cleaning establishment and pickup station.

(4) Linen and diaper service, garment pressing, alteration and repair.

(5) Photographic studio.

(p) Services, repair, as follows:

(1) Home appliance repair and service.

(2) Jewelry repair service.

(3) Radio, television and similar home appliance repair service.

(4) Shoe repair store.

(q) Shopping center.

(r) Tennis center, club and facilities.

Sec. 2W-4. Accessory Uses and Structures.

The following accessory uses of land and structures shall be authorized in the OCR (Office-Commercial-Residential) District:

(a) Parking lots and parking garages.

(b) Signs are allowed in accordance with the provisions of the City's Sign Ordinance and this Chapter.

(c) Neighborhood recreation centers or swimming pools.

(d) Dwellings as follows:

(1) Single-family, two-family, or three-family dwellings.

(2) Multifamily dwellings.

Sec. 2W-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(2) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(2) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.

(c) *Special land use permit from City Council:*

(1) Building exceeding two (2) stories in height.

Sec. 2W-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the OCR (Office-Commercial-Residential) District:

(a) *Lot width and area:* All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage.

(b) *Minimum lot area:* Two (2) acres.

(c) *Minimum setback requirements:*

(1) *From public street:*

a. *Front yard:* Fifty (50) feet.

b. *Side yard:* Twenty (20) feet.

(2) *Rear yard:* Forty (40) feet.

(d) *Development controls:* Multifamily dwellings may be developed at a density not exceeding thirty (30) dwelling units per acre.

Sec. 2W-7. Transitional Buffer Zone Requirement.

Where a lot in the OCR (Office-Commercial-Residential)District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone,

but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining residential use.

Sec. 2W-8. Height of Buildings and Structures.

The maximum height of any building or structure shall not exceed two (2) stories and thirty-five (35) feet. Buildings exceeding two (2) stories in height shall be permitted only upon approval of a special land use permit by the City Council. Buildings in excess of three (3) stories must be approved by the department of fire and rescue services to assure adequacy of fire protection facilities and services. A minimum of two (2) stories is required for any residential component of the development. Individual buildings within the OCR District may be mixed use with commercial use on the ground floor and multifamily dwellings on upper floors.

Sec. 2W-9. Floor Area of Dwelling.

The minimum floor area of each dwelling unit shall be as follows:

(a) *One-bedroom:* Six hundred fifty (650) square feet.

(b) *Two-bedroom:* Eight hundred (800) square feet.

(c) *Three- or more bedroom:* One thousand (1,000) square feet.

Sec. 2W-10. Lot coverage.

The lot coverage of each lot shall not exceed eighty (80) percent.

Sec. 2W-11. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the OCR (Office-Commercial-Residential) District are as follows:

(a) *Adult entertainment establishments:* One (1) parking space for each seventy-five (75) square feet of floor area in the building. (See **Section 4-2**, Adult entertainment establishments).

(b) *Child day care center and kindergarten:* One (1) space for each two hundred (200) square feet of floor area.

(c) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(d) *Dwellings, multifamily:* One and seventy-five one hundredths (1.75) spaces for each dwelling unit.

(e) *Food stores:* One (1) space for each one hundred (100) square feet of floor space.

(f) *Offices and clinics:* One (1) space for each two hundred fifty (250) square feet of floor area.

(g) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room utilized for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor area in the largest assembly room used for public worship.

(h) *Private swimming pool, neighborhood recreation center, or similar use:* One (1) space for each five (5) members but no less than twenty (20) spaces except that golf courses shall provide a minimum of twenty (20) spaces for each nine (9) holes.

(i) *Recreational facilities:*

(1) *Without fixed seating:* One (1) space for each two hundred (200) square feet of floor area.

(2) *With fixed seating:* One (1) seat for each three (3) seats.

(j) *Restaurant:* One (1) space for each seventy-five (75) square feet of floor area, but not less than ten (10) spaces.

(k) *Retail uses, personal service uses, and other commercial and general business uses, but not including food stores:* Four (4) spaces for each one thousand (1,000) square feet of floor area.

(l) *Schools, commercial vocational:* Ten (10) spaces for each classroom.

(m) *Shopping center:* Four (4) spaces for each one thousand (1,000) square feet of floor area.

(n) *Theaters and other places of assembly:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for seating.

Sec. 2W-12. Landscaping Requirement for Parking Lots.

See Landscaping requirements for parking lots, **Section 4-21**.

DIVISION 2X. NS (NEIGHBORHOOD SHOPPING) DISTRICT

Sec. 2X-1. Scope of Provisions.

The provisions contained within this section are the regulations of the NS (Neighborhood Shopping) District.

Sec. 2X-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the NS (Neighborhood Shopping) District is as follows:

(a) To provide convenient neighborhood retail shopping and service areas within the county for all residents;

(b) To provide for the development of new neighborhood shopping districts where so designated on the comprehensive plan;

(c) To assure that the size and scale of neighborhood shopping centers and individual uses within said centers are compatible with the scale of adjoining neighborhoods.

(d) To assure that the uses authorized within the Neighborhood Shopping District are those uses which are designed to serve the convenience shopping and service needs of the immediate neighborhood area.

Sec. 2X-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the NS (Neighborhood Shopping) District:

(a) Animal hospital, veterinary clinic, pet supply store, and animal grooming shop.

(b) Art galleries and art supply store.

(c) Bank, credit union and other similar financial institution.

(d) Child day care center.

(e) Office uses as follows:

(1) Accounting office.

(2) Engineering and architectural office.

(3) Financial services office.

(4) Insurance office.

(5) Legal office.

(6) Medical office.

(7) Real estate office.

(f) Recreational facilities where such activities are wholly enclosed within a building.

(g) Restaurant, but not including drive-through restaurants.

(h) Place of worship.

(i) Retail sales as follows, but not including adult entertainment establishment and not including adult service facility:

(1) Apparel and accessories store.

(2) Book, greeting card, and stationery store.

(3) Camera and photographic supply store.

(4) Convenience store.

(5) Florist.

(6) Food stores including bakeries.

(7) Gift, novelty, and souvenir store.

(8) Hardware store.

(9) Hobby, toy and game store.

(10) Jewelry store.

(11) Music and musical equipment store.

(12) News dealers and newsstand.

(13) Office supplies and equipment store.

(14) Pharmacy.

(15) Quick copy printing store.

(16) Shopping center.

(17) Sporting goods and bicycle sale.

(18) Variety store.

(19) Video tape sales and rental store.

(j) Services, personal, as follows:

(1) Barbershop, beauty shop, and similar personal service establishments.

(2) Coin-operated laundry and dry-cleaning store.

(3) Laundry and dry-cleaning establishment and pickup station.

(4) Personal care home, congregate.

(5) Personal care home, family.

(6) Personal care home, group.

(7) Personal care home, registered.

(8) Photographic studios.

(k) Services, repair, as follows:

(1) Jewelry repair store.

(2) Shoe repair store.

Sec. 2X-4. Accessory Uses and Structures.

The following accessory uses of land and structures shall be authorized in the NS (Neighborhood Shopping) District:

(a) Accessory uses and structures incidental to any authorized use.

(b) Signs and outdoor advertising in accordance with the provisions of the City's Sign Ordinance and this Chapter.

Sec. 2X-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Art shows, carnival rides and special events of community interest.

(2) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(c) *Special land use permit from City Council:*

(1) Telecommunications tower or antenna, subject to requirements of **Section 4-47**.

(2) Temporary outdoor sales, seasonal.

Sec. 2X-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the NS (Neighborhood Shopping) District:

(a) *Lot width:* All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage.

(b) *Minimum lot area:* Twenty thousand (20,000) square feet.

(c) *Minimum setback requirements:*

(1) *From public street:*

a. *Front yard:* Fifty (50) feet.

b. Side yard along side street on corner lot: Fifty (50) feet.

(2) *Interior side yard setback:* Twenty (20) feet.

(3) *Rear yard:* Thirty (30) feet.

Sec. 2X-7. Transitional Buffer Zone Requirement.

Where a lot in the NS (Neighborhood Shopping) District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along

the property line or within the transitional buffer zone separating the use from the adjoining residential use.

Sec. 2X-8. Height of Buildings and Structures; Limitation on Size of Shopping Centers and Individual Buildings within NS District.

No building or structure shall exceed two (2) stories and twenty-five (25) feet in height. No shopping center within the NS district shall exceed one hundred thousand (100,000) square feet in total floor area, and no individual building within the NS district shall exceed fifty thousand (50,000) square feet in total floor area.

Sec. 2X-9. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the NS (Neighborhood Shopping) District are as follows:

(a) *Child day care center:* One (1) space for each two hundred (200) square feet of floor area.

(b) *Food store:* One (1) space for each one hundred (100) square feet of floor space.

(c) *Office:* One (1) space for each two hundred fifty (250) square feet of floor area.

(d) *Place of worship:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for public worship.

(e) *Public swimming pool, golf course, neighborhood recreation center, or similar use:* Twenty (20) spaces except that an eighteen-hole golf course shall have forty (40) spaces.

(f) *Recreational facilities:*

(1) *Without fixed seating:* One (1) space for each two hundred (200) square feet of floor area.

(2) *With fixed seating:* One (1) space for each three (3) seats.

(g) *Restaurant:* One (1) space for each seventy-five (75) square feet of floor area but not less than ten (10) spaces.

(h) *Retail uses, personal service uses, and other commercial and general business uses, but not including food stores:* Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.

(i) *Shopping center:* Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.

(j) *Temporary outdoor social, religious, entertainment or recreation activity:* One (1) space for each one hundred (100) square feet of space used for such activity.

Sec. 2X-10. Lot Coverage.

The lot coverage of each lot shall not exceed eighty (80) percent.

Sec. 2X-11. Landscaping Requirement for Parking Lots.

Trees, plant material, and ground cover shall be provided and maintained as is required in **Section 4-21** of this Chapter.

DIVISION 2Y. C-1 (LOCAL COMMERCIAL) DISTRICT

Sec. 2Y-1. Scope of provisions.

The provisions contained within this section are the regulations of the C-1 (Local Commercial) District.

Sec. 2Y-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the C-1 (Local Commercial) District is as follows:

(a) To provide convenient local retail shopping and service areas within the county for all residents;

(b) To provide for the development of new local commercial districts where so designated on the comprehensive plan;

(c) To assure that the uses authorized within the C-1 (Local Commercial) District are those uses which are designed to serve the convenience shopping and service needs of groups of neighborhoods.

Sec. 2Y-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the C-1 (Local Commercial) District:

(a) Animal hospital, veterinary clinic, pet supply store, animal grooming shop, and boarding and breeding kennel.

(b) Art gallery and art supply store.

(c) Automobile, boat, and trailer sales and service as follows:

(1) Automobile and truck sales.

(2) Automobile service station.

(3) Automobile, truck, and trailer lease and rentals.

(4) Automobile, truck, and trailer lease and rentals as accessory to an automobile service station.

(5) Automobile wash service.

(6) Boat sales.

(7) Minor automobile repair and maintenance.

(8) Retail automobile parts and tire stores.

(9) Trailer salesroom and sales lot.

(d) Bank, credit union and other similar financial institution.

(e) Business service establishment.

(f) Child day care center and kindergarten.

(g) Communications uses as follows:

(1) Radio and television broadcasting station.

(2) Telephone business office.

(h) Community facilities as follows:

(1) Cultural facilities.

(2) Noncommercial club or lodge.

(3) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(i) Dwellings:

(1) Shelter for homeless persons.

(2) Transitional housing facility.

(j) Education uses as follows:

(1) Vocational schools.

(2) Private elementary, middle or high school.

(3) Specialized non-degree schools.

(k) Lodging uses, as follows:

(1) Bed and breakfast inn.

(2) Hotel.

(3) Motel.

(l) Movie theater, bowling alley, and other recreational facilities where such activities are wholly enclosed within a building.

(m) Office uses as follows:

(1) Accounting office.

(2) Engineering and architectural office.

(3) Building and construction contractor.

(4) Financial services office.

(5) Insurance office.

(6) Legal office.

(7) Medical office.

(8) Real estate office.

(9) Wholesale sales office.

(n) Parking, as follows:

(1) Commercial parking lot.

(2) Commercial parking garage.

(o) Place of worship.

(p) Restaurants, as follows:

(1) Drive-through restaurant.

(2) Restaurant.

(3) Restaurant accessory to a hotel or motel.

(q) Retail sales as follows, but not including adult entertainment establishment and not including adult service facility:

(1) Apparel and accessories store.

(2) Book, greeting card, and stationery store.

(3) Camera and photographic supply store.

(4) Computer and computer software store.

(5) Convenience store.

(6) Farm and garden supply store.

(7) Florist.

(8) Food stores including bakeries.

(9) Furniture, home furnishings and equipment store.

(10) General merchandise store.

(11) Gift, novelty, and souvenir store.

(12) Hardware store.

(13) Hobby, toy and game store.

(14) Jewelry store.

(15) Liquor store, including retail liquor store as accessory use to hotels, motels, and high-rise office buildings.

(16) Music and musical equipment store.

(17) News dealers and newsstand.

(18) Office supplies and equipment store.

(19) Pharmacies and drugstore.

(20) Quick copy printing store.

(21) Radio, television and consumer electronics store.

(22) Specialty store.

(23) Sporting goods and bicycle sale.

(24) Variety store.

(25) Video tape sales and rental store.

(r) Retail sales, building supplies and farm equipment, as follows:

(1) Electrical supply store.

(2) Farm equipment.

(3) Lumber, hardware and other building materials establishments.

(4) Paint, glass and wallpaper store.

(5) Plumbing, heating and air-conditioning equipment establishments.

(s) Services, medical and health, as follows:

(1) Health service clinic.

(2) Medical and dental laboratories.

(3) Offices of health service practitioners.

(4) Pharmacy.

(5) Private ambulance and emergency medical services.

(t) Services, personal, as follows:

(1) Barbershop, beauty shop, and similar personal service establishments.

(2) Coin-operated laundry and dry-cleaning store.

(3) Funeral home.

(4) Laundry and dry-cleaning establishment and pickup station.

(5) Linen and diaper service, garment pressing, alteration and repair.

(6) Personal care home, congregate.

(7) Personal care home, family.

(8) Personal care home, group.

(9) Personal care home, registered.

(10) Photographic studios.

(u) Services, repair, as follows:

(1) Home appliance repair and service.

(2) Jewelry repair service.

(3) Radio, television and similar home appliance repair service.

(4) Furniture upholstery and repair shop within shopping center.

(5) Shoe repair store.

(v) Shopping center.

(w) Taxi stand and taxi dispatching office.

(x) Tennis center, club and facilities.

Sec. 2Y-4. Accessory Uses and Structures.

The following accessory uses of land and structures shall be authorized in the C-1 (Local Commercial) District.

(a) Accessory uses and structures incidental to any authorized use.

(b) Commercial uses authorized within this district on first floor of multifamily dwelling buildings.

(c) Signs and outdoor advertising in accordance with the provisions of the City's Sign Ordinance and this Chapter.

Sec. 2Y-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Telecommunications tower or antenna, subject to requirements of **Section 4-47**.

(2) Temporary outdoor sales of merchandise.

(3) Art shows, carnival rides and special events of community interest.

(4) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.

(b) *Special exception permit from the zoning board of appeals:* None.

(c) *Special land use permit from City Council:*

(1) Buildings in excess of two (2) stories in height.

(2) Bus and rail stations and terminals for passenger service or freight service.

(3) Heliport.

(4) Temporary outdoor sales, seasonal.

Sec. 2Y-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the C-1 (Local Commercial) District:

(a) *Lot width:* All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage.

(b) *Minimum lot area:* Twenty thousand (20,000) square feet.

(c) *Minimum setback requirements:*

(1) *From public street:*

a. *Front yard:* Seventy-five (75) feet.

b. *Side yard:* Fifty (50) feet.

(2) *Interior side yard:* Twenty (20) feet, five (5) feet which shall be planned and landscaped.

(3) *Rear yard:* Thirty (30) feet.

Sec. 2Y-7. Transitional Buffer Zone Requirement.

Where a lot in the C-1 (Local Commercial) District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining residential use.

Sec. 2Y-8. Height of Buildings and Structures.

The maximum height of any building or structure shall not exceed two (2) stories and thirty-five (35) feet. Buildings exceeding two (2) stories in height shall be permitted only upon approval of a special land use permit by the City Council. Buildings in excess of three (3) stories must be approved by the department of fire and rescue services to assure adequacy of fire protection facilities and services.

Sec. 2Y-9. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the C-1 (Local Commercial) District are as follows:

(a) *Ambulance service:* One (1) parking space for each vehicle plus one (1) additional space for each two (2) administrative or service employees.

(b) *Automobile, minor repair and maintenance establishments:* One (1) space for each one hundred fifty (150) square feet of floor space.

(c) *Automobile service station:* Three (3) spaces for each service bay, with minimum of ten (10) spaces required.

(d) *Child day care center and kindergarten:* One (1) space for each two hundred (200) square feet of floor area.

(e) *Food store:* One (1) space for each one hundred (100) square feet of floor space.

(f) *Hotel, motel, and bed and breakfast inn:* One and twenty-five one hundredths (1.25) spaces for each unit.

(g) *Lodge, fraternal or social organization:* One (1) space for each one hundred (100) square feet of floor area.

(h) *Office and clinic:* One (1) space for each two hundred fifty (250) square feet of floor area.

(i) *Place of worship:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for public worship.

(j) *Recreational facilities:*

(1) *Without fixed seating:* One (1) space for each two hundred (200) square feet of floor area;

(2) *With fixed seating:* One (1) space for each three (3) seats.

(k) *Restaurant:* One (1) space for each seventy-five (75) square feet of floor area.

(l) *Restaurant, drive-through, without seating area for patrons:* One (1) space for each one hundred (100) square feet of floor area, but not less than ten (10) spaces.

(m) *Retail uses, personal service uses, and other commercial and general business uses, but not including food stores:* Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.

(n) *School, private elementary and middle:* Two (2) spaces for each classroom.

(o) *School, private high:* Five (5) spaces for each classroom.

(p) *School, commercial vocational:* Ten (10) spaces for each classroom.

(q) *Shopping center:* Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.

(r) *Theater, funeral home, and other places of assembly:* One space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for seating.

(s) *Temporary outdoor social, religious, entertainment or recreation activity or flea market:* One (1) space for each one hundred (100) square feet of space used for such activity.

Sec. 2Y-10. Lot Coverage.

The lot coverage of each lot shall not exceed eighty (80) percent.

Sec. 2Y-11. Landscaping Requirement for Parking Lots.

See **Section 4-20**, Landscaping requirements for parking lots.

DIVISION 2Z. C-2 (GENERAL COMMERCIAL) DISTRICT

Sec. 2Z-1. Scope of Provisions.

The provisions contained within this section are the regulations of the C-2 (General Commercial) District.

Sec. 2Z-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the C-2 (General Commercial) District is as follows:

(a) To provide convenient general business and commercial service areas within the county for all residents;

(b) To provide for the development of new general commercial districts where so designated on the comprehensive plan;

(c) To assure that the uses authorized within the C-2 (General Commercial) District are those uses which are designed to serve the general business and commercial service needs of the county.

Sec. 2Z-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the C-2 (General Commercial) District:

(a) Animal hospital, veterinary clinic, pet supply store, animal grooming shop, and boarding and breeding kennel.

(b) Art gallery and art supply store.

(c) Automobile, boat, and trailer sales and service as follows:

(1) Automobile and truck sales.

(2) Automobile repair and paint shop.

(3) Automobile service station.

(4) Automobile, truck, and trailer lease and rentals.

(5) Automobile, truck, and trailer lease and rentals as accessory to an automobile service station.

(6) Automobile upholstery shop.

(7) Automobile wash service.

(8) Boat sales.

(9) Minor automobile repair and maintenance.

(10) Retail automobile parts and tire store.

(11) Storage yard for damaged automobiles or confiscated automobiles.

(12) Tire retreading and recapping.

(13) Trailer salesroom and sales lot.

(d) Bank, credit union and other similar financial institution.

(e) Check cashing establishment.

(f) Commercial recreation and entertainment:

(1) Adult entertainment establishments. (See also **Section 4-2**).

(2) Adult service facility.

(3) Bowling alley.

(4) Drive-in theater.

(5) Go-cart concession.

(6) Golf course.

(7) Golf driving range or batting cage facility.

(8) Miniature golf course.

(9) Movie theater.

(10) Recreation grounds and facilities.

(11) Recreational facilities carried on wholly within a permanently enclosed building.

(12) Tennis center, club and facilities.

(g) Communications uses, as follows:

(1) Radio and television broadcasting station.

(2) Telephone business office.

(h) Community facilities, as follows:

(1) Cultural facilities.

(2) Noncommercial club or lodge.

(3) Fraternal club or lodge.

(4) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(i) Construction contractors, as follows:

(1) General building contractor.

(2) Heavy construction contractor.

(3) Special trade contractor.

(j) Dwellings, as follows:

(1) Shelter for homeless persons.

(2) Transitional housing facility.

(k) Education uses as follows:

(1) Vocational school.

(2) Private elementary, middle or high school.

(3) Specialized non-degree schools.

(l) Lodging, as follows:

(1) Hotel.

(2) Motel.

(m) Manufacturing uses, as follows:

(1) Light malt beverage manufacturer.

(2) Light manufacturing establishment.

(n) Office uses as follows:

(1) Accounting office.

(2) Engineering and architectural office.

(3) Financial services office.

(4) Insurance office.

(5) Legal office.

(6) Medical office.

(7) Real estate office.

(o) Pawn shop.

(p) Place of worship.

(q) Printing establishments, as follows:

(1) Bookbinding and related work.

(2) Photoengraving, typesetting, electrotyping and stereotyping.

(3) Publishing and printing establishment.

(r) Restaurant, drive-through restaurant facilities, and restaurant accessory to a motel.

(s) Retail sales as follows:

(1) Apparel and accessories store.

(2) Book, greeting card, and stationery store.

(3) Camera and photographic supply store.

(4) Commercial greenhouse or plant nursery.

(5) Convenience store.

(6) Farm and garden supply store.

(7) Florist.

(8) Food stores including bakeries.

(9) Fuel dealers, manufacturers and wholesalers.

(10) Furniture, home furnishings and equipment store.

(11) General merchandise store.

(12) Gift, novelty, and souvenir store.

(13) Hardware store.

(14) Hobby, toy and game store.

(15) Jewelry store.

(16) Music and musical equipment store.

(17) News dealer and newsstand.

(18) Office supplies and equipment store.

(19) Pharmacy and drug store.

(20) Quick copy printing store.

(21) Retail liquor store, both independent stores and stores accessory to hotels, motels and high-rise office buildings.

(22) Shopping center.

(23) Specialty store.

(24) Sporting goods and bicycle sales.

(25) Variety store.

(26) Video tape sales and rental store.

(t) Services, personal, as follows:

(1) Barbershop, beauty shop, and similar personal service establishments.

(2) Business service establishment.

(3) Coin-operated laundry and dry-cleaning store and pickup station.

(4) Dry-cleaning plant.

(5) Funeral home.

(6) Linen and diaper service, garment pressing, alteration and repair.

(7) Outdoor advertising service.

(8) Personal care home, congregate.

(9) Personal care home, family.

(10) Personal care home, group.

(11) Personal care home, registered.

(12) Photographic studios.

(u) Services, repair, as follows:

(1) Heavy repair service and trade shop.

(2) Home appliance repair and related service.

(3) Jewelry repair store.

(4) Radio, television and home electronics repairs.

(5) Reupholstery, furniture and major appliance repair.

(6) Shoe repair store.

Sec. 2Z-4. Accessory Uses and Structures.

The following accessory uses of land and structures shall be authorized in the C-2 (General Commercial) District:

(a) Accessory uses and structures incidental to any authorized use.

(b) Signs and outdoor advertising in accordance with the provisions of the City's Sign Ordinance and this Chapter.

Sec. 2Z-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Telecommunications tower or antenna, subject to requirements of **Section 4-47**.

(2) Temporary outdoor sales of merchandise.

(3) Art shows, carnival rides and special events of community interest.

(4) Rodeos, horse shows, carnivals, athletic events and community fairs.

(5) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days

duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.

(b) *Special exception permit from the zoning board of appeals:* None.

(c) *Special land use permit from City Council:*

(1) Buildings in excess of two (2) stories in height.

(2) Temporary outdoor sales, seasonal.

Sec. 2Z-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the C-2 (General Commercial) District:

(a) *Lot width:* All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage.

(b) *Minimum lot area:* Thirty thousand (30,000) square feet.

(c) *Minimum setback requirements:*

(1) *From public street:*

a. *Front yard setback:* Seventy-five (75) feet.

(2) *Interior side yard:* Twenty (20) feet, five (5) feet of which shall be planted and landscaped.

(3) *Rear yard:* Thirty (30) feet.

Sec. 2Z-7. Transitional Buffer Zone Requirement.

Where a lot in the C-2 (General Commercial) District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining residential use.

Sec. 2Z-8. Height of Buildings and Structures.

The maximum height of any building or structure shall not exceed two (2) stories and thirty-five (35) feet. Buildings exceeding two (2) stories in height shall be permitted only upon approval of a special land use permit by the City Council. Buildings in excess of three (3) stories must be approved by the department of fire and rescue services to assure adequacy of fire protection facilities and services.

Sec. 2Z-9. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the C-2 (General Commercial) District are as follows:

(a) *Adult entertainment establishments and adult service facilities:* One (1) parking space for each seventy-five (75) square feet of floor area in the building.

(b) *Automobile repair garage:* One (1) space for each one hundred fifty (150) square feet of floor space.

(c) *Automobile service station:* Three (3) spaces for each service bay, with minimum of ten (10) spaces required.

(d) *Bowling alley:* Five (5) spaces for each alley.

(e) *Food store:* One (1) space for each one hundred (100) square feet of floor space.

(f) *Hotel and motel:* One and twenty-five one-hundredths (1.25) spaces for each unit.

(g) *Lodge, fraternal or social organization:* One (1) space for each one hundred (100) square feet of floor area.

(h) *Office and clinic:* One (1) space for each two hundred fifty (250) square feet of floor area.

(i) *Place of worship:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for public worship.

(j) *Public swimming pool, golf course, neighborhood recreation center, or similar use:* Twenty (20) spaces except that an eighteen-hole golf course shall have forty (40) spaces.

(k) *Private swimming pool, golf course, neighborhood recreation center, or similar use:* One (1) space for each five (5) members but no less than twenty (20) spaces except that golf courses shall provide a minimum of twenty (20) spaces for each nine (9) holes.

(l) *Recreational facilities:*

(1) *Without fixed seating:* One (1) space for each two hundred (200) square feet of floor area.

(2) *With fixed seating:* One (1) space for each three (3) seats.

(m) *Restaurant:* One (1) space for each seventy-five (75) square feet of floor area, but not less than ten (10) spaces.

(n) *Restaurant, drive-through, without seating area for patrons:* One (1) space for each one hundred (100) square feet of floor area, but not less than ten (10) spaces.

(o) *Retail uses, personal service uses, and other commercial and general business uses, but not including food stores:* Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.

(p) *School, private elementary and middle:* Two (2) spaces for each classroom.

(q) *School, private high:* Five (5) spaces for each classroom.

(r) *Schools and colleges, including trade and vocational schools:* Ten (10) spaces for each classroom.

(s) *Shopping center:* Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.

(t) *Theater, auditorium, funeral home, gymnasium, stadium and other places of assembly:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for seating.

(u) *Temporary outdoor social, religious, entertainment or recreation activity or flea market:* One (1) space for each one hundred (100) square feet of space used for such activity.

Sec. 2Z-10. Lot Coverage.

The lot coverage of each lot shall not exceed eighty (80) percent.

Sec. 2Z-11. Landscaping requirement for parking lots.

See **Section 4-21**, Landscaping requirements for parking lots.

DIVISION 2AA. M (INDUSTRIAL) DISTRICT.

Sec. 2AA-1. Scope of Provisions.

The provisions contained within this section are the regulations of the M (Industrial) District.

Sec. 2AA-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the M (Industrial) District is as follows:

(a) To provide areas for the establishment of businesses engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment and the sale and distribution of such goods, merchandise or equipment in locations so designated in the comprehensive plan;

(b) To assure that all establishments located within the M (Industrial) District operate in compliance with the noise standards contained in this Chapter and that any negative noise impact resulting from the use of land within the M (Industrial) District is contained within the boundaries of said district and does not create noise problems for adjoining residential, office or commercial districts;

(c) To assure that M (Industrial) districts are so located that transportation access to major thoroughfares and freeways is available.

Sec. 2AA-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the M (Industrial) District:

(a) Agriculture and forestry uses as follows:

(1) Agricultural produce stand.

(2) Commercial greenhouse or plant nursery.

(3) Dairy.

(4) Field crops, production of.

(5) Fruits, tree nuts, and vegetables, production of.

(6) Livestock.

(7) Temporary or portable sawmills.

(b) Animal care facilities as follows:

(1) Animal hospital and veterinary clinic.

(2) Boarding and breeding kennel.

(3) Dog grooming shop.

(c) Automotive and boat and trailer sales and service uses as follows:

(1) Automobile and truck sales establishment.

(2) Automobile parking lots or parking garages, commercial.

(3) Automobile repair and paint shop.

(4) Automobile service station.

(5) Automobile, truck, and trailer lease and rental establishment.

(6) Automobile, truck, and trailer lease and rental establishment, as an accessory use to an automobile service station.

(7) Automobile upholstery shop.

(8) Automobile wash service.

(9) Boat sales establishment.

(10) Minor automobile repair and maintenance shop.

(11) Retail automobile parts and tire store.

(12) Tire retreading and recapping establishment.

(13) Trailer salesrooms and sales lot.

(d) Building materials and farm equipment establishments as follows:

(1) Electrical supply store.

(2) Farm equipment establishment.

(3) Lumber, hardware, and other building materials establishment.

(4) Paint, glass, and wallpaper store.

(5) Plumbing and heating equipment dealer.

(e) Check cashing establishment.

(f) Child day care center.

(g) Commercial recreation and entertainment establishments as follows:

(1) Adult entertainment establishments. (See also **Section 4-2**).

(2) Adult service facilities.

(3) Recreational facilities and entertainment activities carried on wholly within permanently enclosed buildings.

(h) Communications facilities as follows:

(1) Radio and television broadcasting station.

(2) Telephone business office.

(i) Community facilities as follows:

(1) Golf course and clubhouse, private.

(2) Neighborhood recreation center or swimming pool.

(3) Noncommercial club or lodge.

(4) Fraternal club or lodge.

(5) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(j) Construction contractors as follows:

(1) General building contractor.

(2) Heavy construction contractor.

(3) Special trade contractor.

(k) Education:

(1) College and university industry-associated research and training facilities.

(2) Vocational school.

(3) Private elementary, middle, or high school.

(l) Lodging uses as follows:

(1) Hotel.

(2) Motel.

(m) Manufacturing, as follows:

(1) Light malt beverage manufacturer.

(2) Light manufacturing establishment.

(n) Places of worship.

(o) Printing establishments, as follows:

(1) Bookbinding and related establishments.

(2) Photoengraving, typesetting, electrotyping and stereotyping.

(3) Publishing and printing establishment.

(p) Restaurant, drive through.

(q) Restaurant where accessory to a motel.

(r) Retail trade establishments, as follows:

(1) Accessory retail sales and services.

(2) Fuel and ice dealers, manufacturers and wholesalers.

(3) Incidental retail sales of goods produced and processed on the premises.

(4) Retail liquor store, as accessory use to hotel, motel, and high-rise office building.

(s) Services, personal, as follows:

(1) Barbershop and beauty shop.

(2) Business service establishment.

(3) Dry cleaning plant.

(4) Funeral home.

(5) Laundry and dry cleaning pickup station.

(6) Linen and diaper service, garment pressing, alteration and repair.

(7) Miscellaneous personal services.

(8) Outdoor advertising services.

(9) Power laundries.

(10) Research and testing facilities and laboratories.

(t) Services, repair, as follows:

(1) Heavy repair services and trade shop.

(2) Home appliance repair and related service.

(3) Jewelry repair.

(4) Light repair service.

(5) Radio and television repair.

(6) Reupholstery, furniture and major appliance repair.

(u) Services, medical and health, as follows:

(1) Private ambulances and medical services.

(2) Clinic and pharmacy.

(3) Medical and dental laboratory.

(4) Offices of health service practitioners.

(5) Nursing care facilities.

(v) Services, other, as follows:

(1) Engineering and architectural office.

(2) Finance, real estate, insurance office and financial institution.

(w) Transportation and storage uses as follows:

(1) Automobile parking.

(2) Heliport.

(3) Self-storage warehouse.

(4) Storage yard.

(5) Taxi stand and dispatching agency.

(6) Transportation equipment and vehicle storage and maintenance.

(7) Warehousing and storage.

(x) Wholesale trade as follows:

(1) Wholesale sales office.

(2) Wholesale trade and distribution establishment.

Sec. 2AA-4. Accessory Uses and Structures.

The following accessory uses of land and structures shall be authorized in the M (Industrial) District:

(a) Accessory uses and structures incidental to any authorized use, including a single dwelling unit or mobile home to be used to house a security person on the premises.

(b) Signs and outdoor advertising in accordance with the provisions of the City's Sign Ordinance and this Chapter.

Sec. 2AA-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Telecommunications tower or antenna, subject to requirements of **Section 4-47**.

(2) Temporary outdoor sales of merchandise.

(3) Art shows, carnival rides and special events of community interest.

(4) Rodeos, horse shows, carnivals, athletic events and community fairs.

(5) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.

(b) *Special exception permit from the zoning board of appeals:* None.

(c) *Special land use permit from City Council:*

(1) Bus or rail freight or passenger terminal.

(2) Crematory.

(3) Mines and mining operations, quarries, asphalt plants, gravel pits, and sand pits.

(4) Railroad car classification yards and team truck yards.

(5) Temporary outdoor sales, seasonal.

(6) Truck stop.

(7) Truck terminal.

Sec. 2AA-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the M (Industrial) District:

(a) *Lot width:* All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage.

(b) *Minimum lot area:* Thirty thousand (30,000) square feet.

(c) *Minimum setback requirements:*

(1) *From public street:*

a. *Front yard:* Seventy-five (75) feet.

b. *Side yard:* Twenty (20) feet, except where transitional buffer zone is required.

(2) *Rear yard:* Thirty (30) feet, except where transitional buffer zone is required.

Sec. 2AA-7. Transitional Buffer Zone Requirement.

Where a lot in the M (Industrial) District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than seventy-five (75) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining residential use.

Sec. 2AA-8. Lot Coverage.

The lot coverage of each lot shall not exceed eighty (80) percent.

Sec. 2AA-9. Height of Buildings and Structures.

No building or structure shall exceed five (5) stories in height. Buildings exceeding five (5) stories in height shall be permitted only upon approval of a special land use permit by the City Council.

Sec. 2AA-10. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the M (Industrial) District are as follows:

(a) *Adult entertainment establishments and adult service facilities:* One (1) parking space for each seventy-five (75) square feet of floor area in the building. (See **Section 4-2**, Adult entertainment establishments).

(b) *Ambulance services, delivery services and other similar services:* One (1) parking space for each vehicle plus one (1) additional space for each two (2) administrative or service employees.

(c) *Automobile repair garages:* One (1) space for each one hundred fifty (150) square feet of floor space.

(d) *Automobile service stations:* Three (3) spaces for each service bay, with minimum of ten (10) spaces required.

(e) *Bowling alleys:* Five (5) spaces for each alley.

(f) *Child day care centers:* One (1) space for each two hundred (200) square feet of floor area.

(g) *Funeral homes and other places of assembly:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for seating.

(h) *Hotels and motels:* One hundred and twenty-five hundredths (1.25) spaces for each unit.

(i) *Industrial, manufacturing, and commercial establishments not involving retail sales:* One (1) space for each two thousand (2,000) square feet of floor area.

(j) *Lodges, fraternal or social organizations:* One (1) space for each one hundred (100) square feet of floor area.

(k) *Nursing care facilities, and similar institutional uses:* One (1) space for each two (2) beds.

(l) *Offices and clinics:* One (1) space for each two hundred fifty (250) square feet of floor area.

(m) *Place of worship:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for public worship.

(n) *Public swimming pools, golf courses, neighborhood recreation centers, or similar uses:* Twenty (20) spaces except that an eighteen-hole golf course shall have forty (40) spaces.

(o) *Private swimming pools, golf courses, neighborhood recreation centers, or similar uses:* One (1) space for each five (5) members but no less than twenty (20) spaces except that golf courses shall provide a minimum of twenty (20) spaces for each nine (9) holes.

(p) *Recreational facilities:*

(1) *Fixed seating:* One (1) space for each two hundred (200) square feet of floor area.

(2) *With fixed seating:* One (1) space for each three (3) seats.

(q) *Restaurants:* One (1) space for each seventy-five (75) square feet of floor area, but not less than ten (10) spaces.

(r) *Restaurants, drive-through, without seating area for patrons:* One (1) space for each one hundred (100) square feet of floor area, but not less than ten (10) spaces.

(s) *Retail uses, personal service uses, and other commercial and general business uses:* Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.

(t) *Schools, private elementary and middle:* Two (2) spaces for each classroom.

(u) *Schools, private high:* Five (5) spaces for each classroom.

(v) *Schools and colleges, including trade and vocational schools:* Ten (10) spaces for each classroom.

(w) *Temporary outdoor social, religious, entertainment or recreation activity or flea market:* One (1) space for each one hundred (100) square feet of space used for such activity.

(x) *Wholesale or jobbing establishments and similar uses:* One (1) space for each two hundred (200) square feet of floor area devoted to sales or display plus one (1) space for each two thousand (2,000) square feet of gross storage area.

Sec. 2AA-11. Noise Limitations.

All uses authorized and permitted within the M (Industrial) District shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

Sec. 2AA-12. Landscaping Requirement for Parking Lots.

See **Section 4-21** Landscaping requirements for parking lots.

DIVISION 2BB. M-2 (INDUSTRIAL) DISTRICT

Sec. 2 BB-1. Scope of Provisions.

The provisions contained within this section are the regulations of the M-2 (Industrial) District.

Sec. 2BB-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the M-2 (Industrial) District is as follows:

(a) To provide areas for manufacturing, warehousing and distribution facilities at locations so designated in the comprehensive plan;

(b) To assure that all businesses located within the M-2 (Industrial) District operate in compliance with the noise standards contained in this Chapter and that any negative noise impact resulting from the use of land within the M-2 (Industrial) District is contained within the boundaries of said district and does not create noise problems for adjoining residential, office or commercial districts;

(c) To assure that industrial districts are so located that transportation access to major thoroughfares and freeways is available.

Sec. 2BB-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the M-2 (Industrial) District:

(a) Agriculture and forestry uses as follows:

(1) Dairy.

(2) Livestock sales pavilion or farmer's market.

(3) Temporary or portable sawmill.

(b) Animal care facilities as follows:

(1) Animal hospital and veterinary clinic.

(2) Boarding and breeding kennel.

(c) Automotive and boat and trailer sales and service uses as follows:

(1) Automotive repair and paint shop.

(2) Automobile, truck, and trailer lease and rental establishment.

(d) Commercial recreation and entertainment as follows:

(1) Coliseum or stadium.

(2) Drive-in theater.

(3) Fairground and amusement park.

(4) Golf or baseball driving range.

(5) Miniature golf course.

(6) Recreation grounds and facilities.

(7) Adult Entertainment Establishments (See also **Section 4-2**)

(e) Community facilities as follows:

(1) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(f) Construction contractors, as follows:

(1) General building contractor.

(2) Heavy construction contractor.

(3) Special trade contractor.

(g) Education uses as follows:

(1) Vocational school.

(h) Heavy manufacturing establishments as follows:

(1) Alcohol or alcoholic beverage manufacture.

(2) Automobile and truck manufacture.

(3) Brick, clay, tile or concrete products manufacture.

(4) Cement, lime, gypsum or plaster of Paris manufacture.

(5) Chemical manufacture, inorganic and organic.

(6) Distillation of bones and glue manufacture.

(7) Dye works.

(8) Fabricated metal manufacture.

(9) Fat rendering and fertilizer manufacture.

(10) Ice manufacturing plant.

(11) Industrial establishments engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment, or the wholesaling or distribution of said goods, merchandise or equipment.

(12) Leather manufacture and processing.

(13) Paper and paper pulp manufacture.

(14) Rubber and plastics manufacture.

(15) Sugar refineries.

(16) Transportation equipment manufacture.

(i) Light manufacturing establishment.

(j) Retail sales as follows, but not including adult service facility:

(1) Incidental retail sales of goods produced and processed on the premises.

(k) Services, other, as follows:

(1) Engineering and architectural office.

(l) Services, personal, as follows:

(1) Funeral home.

(m) Transportation and storage uses as follows:

(1) Automobile parking.

(2) General aviation airport.

(3) Heliport.

(4) Self-storage warehouse.

(5) Storage yard.

(6) Transportation equipment and vehicle storage and maintenance.

(7) Warehousing and storage.

(n) Wholesale trade as follows:

(1) Petroleum bulk station.

(2) Wholesale trade and distribution establishment.

Sec. 2BB-4. Accessory Uses and Structures.

The following accessory uses of land and structures shall be authorized in the M-2 (Industrial) District:

(a) Accessory uses and structures incidental to any authorized use.

(b) Signs and outdoor advertising in accordance with the provisions of the City's Sign Ordinance and this Chapter.

Sec. 2BB-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) Special administrative permit from director of public works:

(1) Telecommunications tower or antenna, subject to requirements of **Section -47**.

(2) Art shows, carnival rides and special events of community interest.

(3) Rodeos, horse shows, carnivals, athletic events and community fairs.

(4) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one such fourteen-day time period within any calendar year.

(b) Special exception permit from the zoning board of appeals: None.

(c) Special land use permit from City Council:

(1) Automobile wrecking yard or junk yard.

(2) Biomedical waste disposal facility, disposal facility, landfill, materials recovery center, solid waste disposal facility, solid waste landfill, private industry solid waste disposal facility, recovered materials processing facility, solid waste handling facility, solid waste thermal treatment technology facility, and disposal facility for hazardous and/or toxic materials including radioactive materials.

(3) Crematory.

(4) Explosive manufacture or storage.

(5) Industrial or business service activities which utilize, manufacture, or process radioactive materials which emit or could emit radioactive levels of one thousand (1,000) curies or more and are licensed by the radiological health division of the Georgia Department of Human Resources.

(6) Intermodal freight terminal, bus or rail freight or passenger terminal, or truck terminal.

(7) Manufacturing operations not housed within a building.

(8) Mines and mining operations, quarries, asphalt plants, gravel pits, and sand pits.

(9) Petroleum refining.

(10) Railroad car classification yards and team truck yard.

(11) Railroad classification and repair yard.

(12) Smelting of metal ores or drop forge industry.

(13) Storage yard for damaged or confiscated automobiles.

(14) Temporary outdoor sales, seasonal.

(15) Truck stop.

(16) Utility generation facilities.

Sec. 2BB-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the M-2 (Industrial) District:

(a) *Lot width:* All lots shall have at least one hundred fifty (150) feet of frontage as measured along the public street frontage.

(b) *Minimum lot area:* Two (2) acres for all heavy industrial uses and two (2) acres for all uses permitted by special land use permit; one (1) acre minimum lot size for all other uses.

(c) Minimum setback requirements:

(1) From public street:

a. *Front yard:* Seventy-five (75) feet.

b. *Side yard:* Twenty (20) feet, except where transitional buffer zone is required.

(2) *Rear yard:* Thirty (30) feet, except where transitional buffer area is required.

Sec. 2BB-7. Transitional Buffer Zone Requirement.

Where a lot in the M-2 (Industrial) District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than one hundred (100) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining residential use.

Sec. 2BB-8. Lot Coverage.

The lot coverage of each lot shall not exceed eighty (80) percent.

Sec. 2BB-9. Height of Buildings and Structures.

No building or structure shall exceed five (5) stories in height. Buildings exceeding five (5) stories in height shall be permitted only upon approval of a special land use permit by the City Council.

Sec. 2BB-10. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the M-2 (Industrial) District are as follows:

(a) *Ambulance service, delivery service and other similar services:* One (1) parking space for each vehicle plus one (1) additional space for each two (2) administrative or service employees.

(b) *Funeral home, and other places of assembly:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for seating.

(c) *Automobile repair garage:* One (1) space for each one hundred fifty (150) square feet of floor space.

(d) *Heavy and light industrial, manufacturing, and commercial establishments not involving retail sales:* One (1) space for each two thousand (2,000) square feet of floor area.

(e) *Offices:* One (1) space for each two hundred fifty (250) square feet of floor area.

(f) *Place of worship:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for public worship.

(g) *Public swimming pool, golf course, neighborhood recreation center, or similar use:* Twenty (20) spaces except that an eighteen-hole golf course shall have forty (40) spaces.

(h) *Private swimming pool, golf course, neighborhood recreation center, or similar use:* One (1) space for each five (5) members but no less than twenty (20) spaces except that golf courses shall provide a minimum of twenty (20) spaces for each nine (9) holes.

(i) *Recreational facilities* :

(1) *Without fixed seating:* One (1) space for each two hundred (200) square feet of floor area;

(2) *With fixed seating:* One (1) space for each three (3) seats.

(j) *Retail uses-incidental, personal service uses, and other commercial and general business uses:* Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.

(k) *Temporary outdoor social, religious, entertainment or recreation activity or flea market:* One (1) space for each one hundred (100) square feet of space used for such activity.

(l) *Vocational school:* Ten (10) spaces for each classroom.

(m) *Wholesale or jobbing establishments and similar uses:* One (1) space for each two hundred (200) square feet of floor area devoted to sales or display plus one (1) space for each two thousand (2,000) square feet of gross storage area.

(n) *Sexually Oriented Businesses*: One (1) parking space for each seventy-five (75) square feet of floor area in the building.

Sec. 2BB-11. Noise Limitations.

All uses authorized and permitted within the M-2 (Industrial) District shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

Sec. 2BB-12. Landscaping Requirement for Parking Lots.

See **Section 4-21**, Landscaping requirements for parking lots.

Sec. 2BB-13. Signs.

Signs are allowed in accordance with the provisions of the City's Sign Ordinance and this Chapter.

DIVISION 2CC. PC (PEDESTRIAN COMMUNITY) DISTRICT

Sec. 2CC-1. Scope of Provisions.

The provisions within this division regulate the Pedestrian Community (PC) District. This division establishes the procedures and criteria to use when amending the official zoning maps to accommodate PC District zoning classifications.

Sec. 2CC-2. Statement of Purpose and Intent.

The purpose and intent of PC District regulations are to encourage the development of comprehensively planned, pedestrian-oriented, and human-scaled places. The PC District is to permit the flexible and compatible arrangement of residential, commercial, office, institutional, and civic uses, while preserving the significant and valuable features of the natural and artificial environment. The development of a PC District should achieve the following public objectives:

(a) To maintain harmony of scale, intensity, and design with surrounding development;

(b) To provide for a variety of housing types and styles within a residential component;

(c) To facilitate easy and pedestrian-friendly access to compatible and neighboring commercial, civic, recreational, and institutional uses;

(d) To design and arrange structures, buildings, streets and open spaces to create an inviting, walkable, human-scale environment;

(e) To incorporate the significant and valuable environmental, historic, and archeological features of the zoning district into design of the pedestrian-community;

(f) To provide the efficient and effective use of land within the pedestrian-community;

(g) To strengthen the diversity and sense of residential harmony within the pedestrian-community;

(h) To provide for connectivity of streets and communities and reduce the dependence on automobile uses by increasing the ease of movement and opportunities for alternative modes of travel; and

(i) To encourage 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:

(1) Use of building silhouette: pitch and scale of rooflines;

(2) Use of additional facade detail: proportion of facade elements, doorways, projections and insets; window scale and pattern; creation of strong shadow lines as decorative elements;

(3) Use of unified setbacks from property lines;

(4) Use of landscaping to unify buildings and define space; and

(5) Use of compatible building materials.

Sec. 2CC-3. General Standards and Procedures.

(a) *Three subdistricts.* The PC District shall consist of three (3) subdistricts known as PC-1, PC-2 and PC-3. The rezoning to and development of PC-1, PC-2 and PC-3 subdistricts shall be governed by the procedures set forth in **Sections 2CC-14, 2CC-15 and 2CC-16**, respectively.

(b) *Unified ownership and control.* Applicants for rezoning to the PC District shall include the written identification of the owner(s) of the property subject to the rezoning and shall include the legal entity or individual(s) who will exercise control of the land development process. More than one (1) developer may participate in the development of a parcel within a PC District, subject to all the terms and conditions of approved development plans for the entire PC District.

(c) *Phasing.* All stages of a proposed multiple-phasing of a PC District land development and construction must be identified in the initial PC District rezoning application. Each stage and phase of the PC District land development and must meet the requirements of this Chapter and division so that the County governing authority has all of the information and detailed plans required by this section to approve all phases of the development at the time the initial zoning ordinance amendment is sought by the applicant. Major changes, as defined in **Section 5A-25**, to the phases of a land development and construction shall require an application for an amendment to the zoning ordinance, review by the

Community Council and planning commission, and the approval by the City Council at a public hearing.

(d) *Plan application requirements.* In addition to requirements of an application to amend the official zoning maps (**Article V**, **Division 5A**, of this Chapter), each application for rezoning to the PC District shall meet the applicable provisions of the City's subdivision regulations and of this Chapter. In addition, each application for the PC District shall include the following:

(1) Ten (10) copies of a site plan drawn to a designated scale of not less than one inch equals one hundred feet (1" = 100'), certified by a professional engineer or land surveyor licensed by the State of Georgia, presented on a sheet having a maximum size of 24" × 36", and one (1) 8 1/2" × 11" reduction of the plan. If presented on more than one (1) sheet, match lines shall clearly indicate where the several sheets join. Such plan shall contain the following information:

(A) Boundaries of the entire property proposed to be included in the PC District development, with bearings and distances of the perimeter property lines;

(B) Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics;

(C) Location, size and dimensions in length and width of all landscape areas, transitional buffers, and open space;

(D) Existing topography with a maximum contour interval of five (5) feet and a statement indicating whether it is an air survey or field run;

(E) Delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or City of Dunwoody;

(F) The delineation of any jurisdictional wetlands as defined by Section 404 of the Federal Clean Water Act;

(G) Approximate delineation of any significant historic or archeological feature, grave, object or structure marking a place of burial if known, and a statement indicating how the proposed development will impact it;

(H) A delineation of all existing structures and whether they will be retained or demolished;

(I) Location of all proposed uses, lots, buildings, building types and building entrances;

(J) Height and setback of all buildings and structures;

(K) Areas and development density for each type of proposed use;

(L) Location, size, and number of all on-street and off-street parking spaces, including a shared parking analysis, if shared parking is proposed;

(M) Identification of site access points and layout, width of right-of-way and paved sections of all internal streets;

(N) Conceptual plans for drainage with approximate location and estimated size of all proposed stormwater management facilities and a statement as to the type of facility proposed;

(O) Development density and lot sizes for each type of use;

(P) Areas to be held in joint ownership, common ownership or control;

(Q) Identification of site access points and layout, width of right-of-way and paved sections of all internal streets;

(R) Location of proposed sidewalks and bicycle facilities trails, recreation areas, parks, and other public or community uses, facilities, or structures on the site;

(S) A conceptual layout of building designs including elevations showing architectural details of proposed buildings, exterior materials, all of which shall demonstrate that the proposed design is in compliance with all of the requirements of the PC District regulations;

(T) Conceptual layout of utilities and location of all existing or proposed utility easements having a width of ten (10) feet or more;

(U) Standard details of signs, sidewalks, streetlights, driveways, medians, curbs and gutters, landscaped areas, fencing, grating, street furniture, bicycle lanes, streets, alleys, and other details demonstrating compliance with the PC District regulations; and

(V) Seal and signature of professional preparing the plan.

(2) A written statement explaining how the proposed PC District development will meet the standards of this division, including the objectives of **Section 4-61.2**. If not previously included on the plan required by **Section 4-61.3**, the written statement shall also include the type of PC subdistrict requested, the number of acres in each land use, the number of dwelling units by type, the gross residential density, the commercial density, the common open space acreage, the anticipated number, type and size of recreational facilities and other public amenities, and the legal mechanism for protecting and maintaining common open space.

(3) For parcels zoned PC-1 and PC-3, a multi-modal access plan, prepared at a scale not greater than 1"=100', to demonstrate a unified plan of continuous access to and between all structures in the proposed development and adjacent properties. The multi-modal access plan shall cover the entire proposed development along with public rights of way of adjoining streets and any other property lying between the subject property and the nearest public streets on all sides. Connections to available transportation modes, such as driveways, sidewalks, and bike paths shall be shown along adjacent streets and those entering adjoining properties. Safe and convenient pedestrian pathways shall be provided from sidewalks along streets to each structure entrance, including pedestrian access routes across parking lots and between adjacent buildings within the same development. Where an existing or planned public transportation station or stop is within one thousand two hundred fifty (1,250) feet from the nearest boundary of the subject property, the access plan shall show how pedestrians may safely travel from such station or stop to the subject property. Where an existing or planned bike path is located within one thousand five hundred (1,500) feet from the nearest boundary of the subject property, the access plan shall show how safe, continuous and convenient bicycle access shall be provided to the subject property.

Sec. 2CC-4. Accessory Uses, Buildings, and Structures.

Accessory uses and structures incidental to any authorized use, as defined in **Section 4-1** of this Code, are authorized.

Sec. 2CC-5. Special Permits.

If not specifically allowed as a permitted use in the applicable PC subdistrict, the following uses may be authorized by special permits of the type indicated:

(a) Special administrative permit from director of development:

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) Special exception from zoning board of appeals:

(1) Utility structure necessary for transmission or distribution of service in compliance with the requirements of **Section 4-380**.

(c) Special land use permit from the City Council, subject to the applicable criteria of **Section 5B**:

(1) Adult day care facility.

(2) Child day care facility.

(3) Home stay bed and breakfast residence.

(4) Kindergarten.

(5) Personal care home, group.

(6) Personal care home, congregate.

(7) Place of worship.

(8) Private elementary, middle or high school.

(9) Telecommunications towers.

Sec. 2CC-6. Lot Area and Yard Requirements.

(a) Minimum lot area, width, and coverage for authorized structures in the PC District shall be as follows:

(1) Single-family detached dwelling:

(A) *Minimum lot area:* Four thousand five hundred (4,500) square feet.

(B) *Minimum lot width:* Fifty (50) feet.

(C) *Maximum lot coverage:* Fifty-five (55) percent of the individual lot.

(2) Single-family attached dwelling:

(A) *Minimum lot area:* Three thousand two hundred fifty (3,250) square feet.

(B) *Minimum lot width:* Twenty-five (25) feet.

(C) *Maximum lot coverage:* Eighty (80) percent of the individual lot.

(3) Two-family dwelling:

(A) *Minimum lot area:* Five thousand five hundred (5,500) square feet.

(B) *Minimum lot width:* Sixty (60) feet.

(C) *Maximum lot coverage:* Fifty-five (55) percent of the individual lot.

(4) Multi-family dwelling:

(A) *Minimum lot area:* Twenty-one thousand seven hundred eighty (21,780) square feet.

(B) *Minimum lot width:* One hundred (100) feet.

(C) *Maximum lot coverage:* Sixty-five (65) percent of the individual lot.

(5) Commercial/office/civic building:

(A) *Minimum lot area:* Three thousand five hundred (3,500) square feet.

(B) *Minimum lot width:* Twenty-five (25) feet.

(C) *Maximum lot coverage:* Eighty (80) percent of the individual lot.

(b) Yard requirements:

(1) Single-family detached dwelling on a new street:

(A) *Front yard:* shall be no less than ten (10) feet and no more than twenty-five (25) feet. Where dwellings have front entry garages, the front of the garage shall be set back at least twelve (12) feet from the front yard line.

(B) *Minimum interior side yard:* Seven and one-half (7.5) feet on each side.

(C) *Minimum side yard along side street on corner lot:* Fifteen (15) feet.

(D) *Minimum rear yard:* Twenty (20) feet.

(2) Single-family attached dwelling on a new street:

(A) *Front yard:* shall be no less than ten (10) feet and no more than twenty (20) feet.

(B) *Minimum side yard:* Fifteen (15) feet on each side.

(C) *Minimum rear yard:* Fifteen (15) feet.

(3) Two-family dwelling on a new street:

(A) *Front yard:* shall be no less than ten (10) feet and no more than twenty-five (25) feet. Where dwellings have front entry garages, the front of the garage shall be set back at least twenty-two (22) feet from the front property line.

(B) *Minimum interior side yards:* Seven and one-half (7.5) feet on each side.

(C) *Minimum side yard along side street on corner lot:* Fifteen (15) feet.

(D) *Minimum rear yard:* Twenty (20) feet.

(4) Multi-family dwelling on a new street:

(A) *Front yard:* shall be no less than ten (10) feet and no more than twenty (20) feet.

(B) *Minimum side yard:* Fifteen (15) feet on each side.

(C) *Minimum rear yard:* Fifteen (15) feet.

(5) Non-residential buildings on a new street:

(A) *Front yard:* shall be a minimum of zero (0) feet and a maximum of fifteen (15) feet.

(6) *Residential dwellings on existing streets:* New residential structures on existing streets shall match the front yard setbacks of existing structures on adjoining properties, as described in this subsection. When a lot is located on a block where sixty (60) percent or more of the lots on the same block have residential structures, and where there are existing buildings fronting on the same street and within the same zoning district within seventy-five (75) feet of the side lot lines of such new residential structure, the front yard setbacks of the new residential structure shall be the average of front yard setbacks of existing residential structures on the lots within seventy-five (75) feet of the side lot lines of the lot for the new residential structure. If the lot is unable to meet said averaging due to a lack of the required adjacent residential development then the yard requirements of 27-649.6(b) as applicable to new streets shall apply.

(7) *Non-residential buildings on existing streets:* New non-residential structures on existing streets shall match the front yard setbacks of existing structures on adjoining properties as described in this subsection. When a lot is located within a block where sixty (60) percent or more of the lots within said block have non-residential development, and where there are existing structures fronting on the same street and within the same zoning district within seventy-five (75) feet of the side lot lines of such new non-residential structures, the front yard setbacks generally shall be the average of front yard setbacks of non-residential structures on lots within one hundred (100) feet of the side lot lines of the lot. If the lot is unable to meet said averaging, then the yard requirements of 27-649.6(b), as applicable to new streets, shall apply.

Sec. 2CC-7. Transitional Buffer Zone Requirements.

Where a lot on the external boundary of a PC District is used for non residential purposes and adjoins the boundary of any property outside the district that is zoned for any R-zoning classification, RM-zoning classification, MHP-zoning classification, or TND-zoning classification, a transitional buffer zone of not less than fifty (50) feet in width shall be provided and maintained in a natural state or so as to maintain an effective visual screen. Said transitional buffer zone shall not be paved or otherwise covered with non-pervious surfaces and shall not be used for parking, loading, storage or any other use, except that portions of the transitional buffer zone may be utilized for installation of utilities when necessitated by the development, and when the applicant shows that the utilities cannot be located outside of the transitional buffer zone. Water detention ponds shall not be located within the transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone.

Sec. 2CC-8. Design Requirements.

(a) The front facades of all principal residential and non-residential structures shall be oriented to a public street and sidewalk.

(b) The front facades of non-residential structures shall not be oriented toward a parking lot.

(c) Non-residential structures shall use doorways, windows, and other openings in the facade of the building to break up the mass of each building.

(d) Non-residential structures shall provide fenestration for a minimum of seventy-five (75) percent of the length of the building frontage along the sidewalk, beginning at a point not more than three (3) feet above the public sidewalk and for a height not less than ten (10) feet above the sidewalk.

(e) Non-residential structures shall not exceed a maximum continuous length of ten (10) feet of facade without fenestration.

(f) New residential structures and new non-residential structures shall maintain the architectural character which are in their immediate surroundings.

Sec. 2CC-9. Streets.

(a) All streets within the PC District shall be public streets. Private streets will not be allowed. Streets shall comply with the requirements of public streets found in the City's subdivision regulations and other applicable sections of this Code.

(b) Streets shall be designed to create an interconnected system of grid-patterned roads, modified only to accommodate topographical conditions.

(c) All sides of a residential street in the PC District shall contain nine-foot wide sidewalks, consisting of a four-foot wide street tree planting zone measured from the back of the curb and a five-foot wide pedestrian zone. In the mixed use component of the PC-3 subdistrict, sidewalks shall be a minimum of thirteen (13) feet, consisting of a four-foot wide street tree planting zone measured from the back of the curb and a nine-foot wide pedestrian zone.

Sec. 2CC-10. Maintenance of Common Land.

(a) In an application for the PC District zoning designation, each applicant shall provide the proposed legal mechanism in which all land held in common and used for open space, common open space or greenspace purposes shall be protected in perpetuity. The legal mechanisms may include deed restrictions, homeowner associations, common areas held in common ownership or control, or any other legal creation, and shall be reviewed and approved by the county attorney as meeting each of the following mandatory requirements:

(1) That all land held in common shall remain undivided and undeveloped, in perpetuity;

(2) That all subsequent property owners of property within the parcel and development are placed on notice of this development restriction through the deed records of City of Dunwoody Superior Court;

(3) That all land held in common will be properly maintained and insured with no liability or maintenance responsibilities accruing to the county;

(4) That a legal mechanism exists for notice of deficiencies in maintenance of the land held in common, correction of these deficiencies, and assessment and liens against the properties for the costs of the correction of these deficiencies by a third party or the county;

(5) That the legal mechanism be created and implemented prior to the sale of any individual properties within the PC District parcel; and

(6) That all requirements of the legal mechanism chosen by the applicant and approved by the county attorney be specified on the final plat and recorded with the clerk of the superior court of City of Dunwoody.

(b) When an applicant for a PC District zoning designation chooses to utilize a homeowners association in order to comply with the requirements of **subsection (a)** of this section, the applicant, in addition to meeting all of said requirements, shall provide for all of the following:

(1) Mandatory and automatic membership in the homeowners association as a requirement of dwelling unit and real property ownership;

(2) All residential owners shall have equal access and right of use to all common and shared facilities;

(3) A fair and uniform method of assessment for dues, maintenance and related costs;

(4) Where appropriate, party wall maintenance and restoration in the event of damage or destruction;

(5) Perpetual and continued maintenance of land held in common and liability through the use of liens or other means in the case of default; and

(6) That all required covenants, declarations and restrictions be filed with the clerk of the superior court of City of Dunwoody.

Sec. 2CC-11. Off-Street Parking.

(a) Off-street parking requirements for uses and structures are authorized and permitted, as follows:

(1) *Adult day care facility:* Four (4) spaces.

(2) *Child day care facility:* Four (4) spaces.

(3) *Dwellings:*

(A) *Single-family detached:* Two (2) spaces.

(B) *Single-family attached:* Two (2) spaces.

(C) *Multi-family:* One (1) space for every dwelling unit and one-half (0.5) parking space for each bedroom.

(4) Elementary, middle or high school:

(A) *Elementary, middle school:* Two (2) spaces for each classroom.

(B) *High school:* Five (5) spaces for each classroom.

(5) *Kindergarten:* One (1) space per two hundred (200) square feet of floor area.

(6) *Neighborhood recreation club:* One (1) space for each five (5) members, but no less than twenty (20) spaces.

(7) *Personal care home, congregate:* One (1) space for every four (4) authorized residents.

(8) *Personal care home, family:* Four (4) spaces.

(9) *Personal care home, group:* Four (4) spaces.

(10) *Personal care home, registered:* Four (4) spaces.

(11) *Place of worship:* One (1) space for each five (5) seats in the largest assembly room used for public worship or where fixed seats are not used, one (1) space for each fifty (50) square feet of floor space in the largest assembly room used for public worship.

(12) *Other uses:* One (1) parking space for every three hundred (300) square feet of gross building area.

(b) Shared-parking is encouraged and may result in permitted reductions of off-street parking requirements. Parking facilities within the parcel may be shared if multiple uses cooperatively establish and operate parking facilities and if these uses generate parking demands primarily when the remaining uses are not in operation, so that the above stated off-street parking requirements for each use are met or exceeded during said use's operational hours. Applicants may make application to the director of planning for authorization for shared-parking. Applicants shall include proof of a written formal shared-parking agreement between all applicants.

(c) All parking lots for commercial, office, civic, institutional, or public uses shall be located at the rear or side of the building. If located at the side, the lot shall be screened through the use of solid street walls or landscaping to reduce visual impact. Street walls shall be a minimum of five (5) feet in height and a maximum of six (6) feet in height and shall provide a minimum of eighty (80) percent opacity. Street walls shall not consist of chain link fencing with plastic inserts. Acceptable materials for street walls will include, but not be limited to, wood slats, brick or pierced brick garden walls.

Sec. 2C-12. Signs.

All PC Districts shall comply with the requirements of the City's Sign Ordinance of this Code. Additionally, ground signs shall be monument style signs with a base and framework made of brick or stone.

Sec. 2CC-13. Relation of PC District Regulations to Subdivision or Other Regulations.

The PC District regulations shall apply to all PC Districts. To the extent the subdivision or other regulations impose additional requirements beyond those contained in this division, such additional requirements also shall apply. Where there are conflicts between the PC District regulations and land subdivision requirements contained in the City's subdivision regulations or other regulations within this Code, the PC District regulations shall control. If the City Council approves an application to rezone property to a PC District zoning classification and such approval complies with all the applicable requirements of the PC District regulations, then the approved plan shall be considered and treated as a preliminary plat, as defined by the City's subdivision regulations of this Code.

Sec. 2CC-14. Development Standards for PC-1 District.

The PC-1 District should form a smooth transition between existing residential areas and higher density residential and commercial uses. In addition to the standards set forth above, the following standards and criteria shall apply to PC-1 Districts.

(a) PC-1 Districts shall meet each of the following criteria:

(1) The parcel shall be located within areas zoned and developed as low to medium density single-family residential neighborhoods;

(2) The parcel shall contain one (1) or more of the following environmentally sensitive site features that warrant protection through the use of a clustering design within an overall lower density setting: wetlands; scenic views; forested areas; surface water; historic or archeological features; unique topography; and

(3) Development of the parcel would support a long-term strategy of protecting the character of existing neighborhoods and providing for compatible growth consistent with the comprehensive land use plan.

(b) The following principal uses and structures shall be authorized in the PC-1 District:

(1) Residential uses as follows:

(A) Dwelling, single-family detached.

(B) Personal care home, family.

(C) Personal care home, registered.

(D) Dwelling, single-family attached.

(E) Dwelling, two-family.

(2) Commercial and office uses authorized in **Section 2-X** (Neighborhood Shopping District).

(3) Open space(s) and common open space(s).

(4) Community meeting and recreation facilities, including but not limited to, swimming pools, tennis courts, outdoor play areas, bikeways, walking trails, picnic pavilions, and clubhouses.

(5) Accessory dwelling units. Accessory dwelling units shall meet all of the following standards:

(A) The accessory dwelling unit shall be on the same lot as the principal dwelling unit to which it is accessory.

(B) The accessory dwelling unit may be attached to, or detached from, the principal dwelling unit.

(C) The accessory dwelling unit shall be subject to the setbacks and height requirements of the underlying zoning district for the principal dwelling unit, provided that a detached accessory dwelling unit shall not be closer than ten feet to a side or rear lot line.

(D) A detached accessory dwelling unit shall be located to the rear of the principal dwelling unit.

(E) The accessory dwelling unit shall conform to all applicable standards for building, plumbing, electrical, mechanical, fire, health, and other applicable codes for residential units.

(F) Each lot shall contain no more than one (1) accessory dwelling unit.

(G) The property owner, who shall include titleholders and contract purchasers, must occupy either the principal dwelling unit or the accessory dwelling unit as their residence.

(H) The accessory dwelling unit shall be a minimum size of three hundred (300) square feet and a maximum size of six hundred (600) square feet.

(I) The accessory dwelling unit shall be designed so that the appearance of the building remains similar to that of a single-family residence.

(J) The maximum height of the accessory dwelling unit shall be twenty (20) feet or the height of the primary structure, whichever is less.

(c) Within the PC-1 District, the number of residential dwelling units and the amount of non-residential development (excluding open spaces and common open spaces) shall be determined as follows:

(1) Residential density on any parcel designated PC-1 District, with single-family dwelling units, shall not exceed five (5) dwelling units per acre, excluding accessory dwelling units.

(2) Residential density on any parcel designated PC-1 District with single-family attached and two-family dwelling units shall not exceed eight (8) dwelling units per acre.

(3) Single-family attached and two-family dwelling units shall not exceed twenty (20) percent of total housing units within the entire parcel.

(4) Non-residential uses shall not exceed twenty (20) percent of the total acreage of entire parcel.

(5) Non-residential construction shall not commence unless certificates of occupancy have been issued for thirty (30) percent of the planned residential development.

(d) Building height shall not exceed thirty-five (35) feet, however any building combining ground-level retail with office above shall not exceed forty-five (45) feet in building height.

(e) The minimum size of each dwelling unit shall be as follows:

(1) *Single-family detached or attached:* One thousand two hundred (1,200) square feet excluding authorized accessory units.

(2) *Two- and three-family dwellings:* One thousand two hundred (1,200) square feet per dwelling unit.

(f) Individual non-residential uses shall not exceed fifteen thousand (15,000) square feet of the building footprint.

(g) Open space and common open space shall comply with all of the following requirements:

(1) A minimum of twenty (20) percent of the PC-1 District parcel shall be open space.

(2) A minimum common open space shall be a contiguous one (1) acre and this one (1) acre of common open space shall count towards the twenty (20) percent requirement set forth above.

(3) A minimum of eighty (80) percent of the required open space shall be in the form of common open space and shall include, but shall not be limited to, one (1) or more of the following forms:

(A) Designated historic and archeological sites.

(B) Environmental corridors.

(C) Protected natural areas and conservation buffers.

(D) Parks and squares.

(E) Streams, ponds and other water bodies.

(F) Active recreation facilities.

(G) Passive recreation pathways (other than sidewalks) and linear parks.

(H) Plazas or pedestrian promenades.

(4) No more than twenty (20) percent of common open space shall consist of impervious surface areas.

(5) Seventy-five (75) percent of all housing units on the parcel shall be within one thousand three hundred twenty (1,320) linear feet of common open space measured in a straight line from the closest edge of the housing unit to the closest edge of the common open space.

Sec. 2CC-15. Development Standards for PC-2 District.

The PC-2 District should reinforce or extend existing commercial centers and mixed-use neighborhoods and promote the redesign and revitalization of underused commercial areas. In addition to the general standards set forth above, the following standards and criteria shall apply to all PC-2 Districts.

(a) PC-2 Districts shall meet each of the following criteria:

(1) Adjacent to or set within an existing commercial or employment node within the County.

(2) Extend or reinforce an existing, surrounding mix of higher density housing, commercial or office uses.

(3) Support the revitalization of underused commercial areas, including stand-alone shopping centers or a combination of strip development and single-use buildings containing offices, multi-family housing, and service and retail uses.

(4) Have sufficient transportation access (an ability to connect easily to the existing road network and transit system) and infrastructure capacity to support a dense mix of residential and non-residential activity.

(5) Support a desired long-term growth strategy to concentrate multiple activities within areas of the county designated by the comprehensive plan for denser residential or commercial uses or mixed use or other areas as deemed appropriate by the county.

(b) The following principal uses and structures shall be authorized in the PC-2 District:

(1) All uses authorized in the NS (Neighborhood Shopping) District.

(2) All uses authorized in C-1 (Local Commercial) District except those uses identified in **Sections 24-3(a), 24-3(c)(1), (3), (4), (5), (6), (8), (9), 24-3(j), 24-3(l), v(o), and 24-3(r)**, as amended.

(3) All uses authorized in the OI (Office-Institution) District except those uses identified in **Sections 2T-3(b)(1), (3), (6), 2T-3(c), 2T-3(e), 2T-3(f)(3), 2T-3(l), 2T-3(i)(1), 2T-3(j)(4) and 2T-3(a)**, as amended.

(4) All uses authorized in C-2 (General Commercial) District except those uses identified in **Sections 2Z-3(a), 2Z-3(c)(1), (2), (4), (5), (6),**

(7), (8), (10), (11), (12), 2Z-3(f)(1), (2), (5), 2Z-3(i), 27-598(m), 2Z-3(o), 2Z-3(s)(9), and 2Z-3(u)(1).

(5) Residential uses, as follows:

(A) Dwelling, single-family detached.

(B) Personal care home, family.

(C) Personal care home, registered.

(D) Dwelling, single-family attached.

(E) Dwelling, two-family.

(F) Dwellings, multi-family.

(G) Accessory dwelling units.

(H) Live-work units.

(6) Accessory dwelling units shall meet all of the following standards:

(A) The accessory dwelling unit shall be on the same lot as the principal dwelling unit to which it is accessory.

(B) The accessory dwelling unit may be attached to, or detached from, the principal dwelling unit.

(C) The accessory dwelling unit shall be subject to the setbacks and height requirements of the underlying zoning district for the principal dwelling unit, provided that a detached accessory dwelling unit shall not be closer than ten (10) feet to a side or rear lot line.

(D) A detached accessory dwelling unit shall be located to the rear of the principal dwelling unit.

(E) The accessory dwelling unit shall conform to all applicable standards for building, plumbing, electrical, mechanical, fire, health, and other applicable codes for residential units.

(F) Each lot shall contain no more than one (1) accessory dwelling unit.

(G) The property owner, who shall include titleholders and contract purchasers, must occupy either the principal dwelling unit or the accessory dwelling unit as their residence.

(H) The accessory dwelling unit shall be a minimum size of three hundred (300) square feet and a maximum size of six hundred (600) square feet.

(I) The accessory dwelling unit shall be designed so that the appearance of the building remains similar to the architectural character of the principle dwelling unit.

(J) The maximum height of the accessory dwelling unit shall be twenty (20) feet or the height of the primary structure, whichever is less.

(7) Live-work units shall meet all of the following standards:

(A) Uses shall be compatible with residential use and shall not produce or create noise, smoke, vibrations, smells, electrical interference, or fire hazards that would unreasonably interfere with residential uses. Permitted uses shall include:

(i) Accounting office.

(ii) Planning, engineering or architectural office.

(iii) Financial services office.

(iv) Insurance office.

(v) Legal office.

(vi) Counseling office.

(vii) Real estate office.

(viii) Information processing uses.

(ix) Tutorial/educational services.

(x) Fine arts studios and/or galleries.

(xi) Photography studios.

(xii) Consulting services.

(B) The maximum number of employees on the premises shall be two (2), in addition to the occupants of the residential space.

(C) The unit shall not accommodate more than two (2) customers at a time and shall limit operation to the hours of 9:00 a.m. and 5:00 p.m.

(D) The minimum size of the live-work unit shall be one thousand two hundred (1,200) square feet with at least one-third (1/3) of the unit designated for residential space.

(E) The residential space shall be occupied by the owner of record or tenant.

(8) Open space(s) and common open space(s).

(9) Community meeting and recreation facilities, including but not limited to, swimming pools, tennis courts, outdoor play areas, bikeways, walking trails, picnic pavilions, and clubhouses.

(c) The number of residential dwelling units and the amount of non-residential development (excluding open spaces and common open spaces) shall be determined in PC-2 District as follows:

(1) Residential density in the PC-2 District shall not exceed sixty (60) dwelling units per acre, excluding accessory dwelling units.

(2) A minimum of thirty (30) percent of the parcel shall be used for residential uses.

(3) A minimum of ten (10) percent of the parcel shall be used for non-residential uses.

(4) Individual non-residential uses shall not exceed fifty thousand (50,000) square feet per parcel. The building footprint area for each individual use shall not exceed twenty-five thousand (25,000) square feet.

(5) The building height of buildings in the residential component shall not exceed thirty-five (35) feet, except where buildings combine ground-level retail or office with multi-family housing units in the same building, the height of such building shall not exceed sixty (60) feet.

(d) The minimum height of non-residential buildings shall be twenty-six (26) feet.

(e) No building height shall exceed sixty (60) feet.

(f) The minimum size of each dwelling unit shall be as follows:

(1) *Single-family detached or attached:* One thousand (1,000) square feet excluding authorized accessory units.

(2) *Multi-family dwellings:*

(A) *One bedroom:* Six hundred fifty (650) square feet.

(B) *Two bedroom:* Eight hundred (800) square feet.

(C) *Three or more bedrooms:* One thousand (1,000) square feet.

(3) *Two- and three-family dwellings:* One thousand two hundred (1,200) square feet.

(g) Open space and common open space shall comply with all of the following requirements:

(1) A minimum of ten (10) percent of the PC-2 District parcel shall be open space.

(2) A minimum of eighty (80) percent of the required open space shall be in the form of common open space and shall include, but shall not be limited to, one (1) or more of the following forms:

(A) Environmental corridors.

(B) Courtyards.

(C) Plazas.

(D) Pedestrian walkways.

(E) Outdoor seating areas.

(F) Child-care outdoor spaces.

(3) No more than twenty (20) percent of common open space shall consist of impervious surface areas.

Sec. 2CC-16. Development Standards for PC-3 District.

The PC-3 District should provide for a complete and sustainable mixed use, pedestrian-oriented community. In addition to general standards and criteria set forth above, the following standards and criteria shall apply to all PC-3 Districts.

(a) PC-3 Districts shall meet each of the following criteria:

(1) Site characteristics that allow for an interconnected transportation network (streets, paths, greenways) both within the parcel and to surrounding areas.

(2) Provide a center of retail, employment, and community identity for existing residential areas.

(3) Support a long-term growth strategy of attracting and organizing new growth within areas of the county designated by the comprehensive plan for denser residential or commercial uses or mixed use or other areas as deemed appropriate by the county.

(b) The PC-3 District shall consist of at least two (2) distinct site components:

(1) A mixed-use component, which shall consist of the required number of residential units and at least two (2) of the following types of uses: commercial, office or civic uses. The mixed-use component shall constitute at least ten (10) percent of the total acreage of the PC-3 District.

(2) The residential use component shall constitute at least fifty (50) percent of the PC-3 District parcel.

(c) Commercial or office uses within a PC-3 District may be on the exterior of the parcel, but shall be connected to nearby residential areas through a network of streets and sidewalks or paths, such that fifty (50) percent of all housing units in the residential component are within one thousand three hundred twenty (1,320) lineal feet of the boundary of the mixed use component measured in a direct line

from the closest boundary of the mixed use component to the closest edge of each housing unit.

(d) The following principal uses and structures shall be authorized in the PC-3 District:

(1) All uses authorized in the OI (Office-Institution) District except those uses identified in **Sections 2T-3(b)(1), (3), (6), 2T-3(c), 2T-3(e), 2T-3(f)(3), 2T-3(l), 2T-3(i)(1), 2T-3(j), 2T-3(a)**.

(2) All uses authorized in the OCR (Office-Commercial-Residential) District.

(3) All uses authorized in C-2 (General Commercial) District except those uses identified in **Sections 2Z-3(a), 2Z-3(c)(1), (2), (4), (5), (6), (7), (8), (10), (11), (12), 2Z-3(f)(1), (2), (5), 2Z-3(i), 2Z-3(m), 2Z-3(o), 2Z-3(s)(9), and 2Z-3(u)(1)**.

(4) Residential uses, as follows:

(A) Dwelling, single-family detached.

(B) Personal care home, family.

(C) Personal care home, registered.

(D) Dwelling, single-family attached.

(E) Dwelling, two-family.

(F) Dwellings, multi-family.

(G) Accessory dwelling units.

(H) Live-work units.

(5) Accessory dwelling units shall meet all of the following standards:

(A) The accessory dwelling unit shall be on the same lot as the principal dwelling unit to which it is accessory.

(B) The accessory dwelling unit may be attached to, or detached from, the principal dwelling unit.

(C) The accessory dwelling unit shall be subject to the setbacks and height requirements of the underlying zoning district for the principal dwelling unit, provided that a detached accessory dwelling unit shall not be closer than ten (10) feet to a side or rear lot line.

(D) A detached accessory dwelling unit shall be located to the rear of the principal dwelling unit.

(E) The accessory dwelling unit shall conform to all applicable standards for building, plumbing, electrical,

mechanical, fire, health, and other applicable codes for residential units.

(F) Each lot shall contain no more than one (1) accessory dwelling unit.

(G) The property owner, who shall include titleholders and contract purchasers, must occupy either the principal dwelling unit or the accessory dwelling unit as their residence.

(H) The accessory dwelling unit shall be a minimum size of three hundred (300) square feet and a maximum size of six hundred (600) square feet.

(I) The accessory dwelling unit shall be designed so that the appearance of the building remains similar to that of a single-family residence.

(J) The maximum height of the accessory dwelling unit shall be twenty (20) feet or the height of the primary structure, whichever is less.

(6) Live-work units shall meet all of the following standards:

(A) Uses shall be compatible with residential use and shall not produce or create noise, smoke, vibrations, smells, electrical interference, or fire hazards that would unreasonably interfere with residential uses. Permitted uses shall include:

(i) Accounting office.

(ii) Planning, engineering or architectural office.

(iii) Financial services office.

(iv) Insurance office.

(v) Legal office.

(vi) Counseling office.

(vii) Real estate office.

(viii) Information processing uses.

(ix) Tutorial/educational services.

(x) Fine arts studios and/or galleries.

(xi) Photography studios.

(xii) Consulting services.

(B) The maximum number of employees on the premises shall be two (2), in addition to the occupants of the residential space.

(C) The unit shall not accommodate more than two (2) customers at a time and shall limit operation to the hours of 9:00 a.m. and 5:00 p.m.

(D) The minimum size of the live-work unit shall be one thousand two hundred (1,200) square feet with at least one-third (1/3) of the unit designated for residential space.

(E) The residential space shall be occupied by the owner of record or tenant.

(7) Open space(s) and common open space(s).

(8) Community meeting and recreation facilities, including but not limited to, swimming pools, tennis courts, outdoor play areas, bikeways, walking trails, picnic pavilions, and clubhouses.

(e) The number of residential dwelling units and the amount of non-residential development (excluding open spaces and common open spaces) shall be determined as follows:

(1) Within the residential component:

(A) Residential density shall not exceed thirty (30) dwelling units per acre, excluding accessory dwelling units.

(B) The residential component shall contain at least two (2) different permitted housing types (detached, attached, or multi-family)

(C) Single-family attached and multi-family dwellings shall not exceed fifty (50) percent of the total housing units in the residential component.

(D) Nonresidential uses shall not exceed twenty (20) percent of the acreage of the residential component.

(E) Individual nonresidential uses within the residential component shall not exceed fifteen thousand (15,000) square feet in building footprint area.

(2) Within the mixed use component:

(A) Residential density shall not exceed one hundred twenty (120) dwelling units per acre, excluding accessory dwelling units.

(B) A minimum of thirty (30) percent of the parcel of the mixed-use component shall be used for residential purposes.

(C) A minimum of ten (10) percent of the mixed-use component shall be used for nonresidential uses.

(D) Individual nonresidential uses within the mixed-use component shall not exceed fifty thousand (50,000) square feet in parcel. The building footprint area for each individual

use shall not exceed twenty-five thousand (25,000) square feet.

(f) The height of buildings in the mixed-use component shall be as follows:

(1) The minimum building height shall be twenty-six (26) feet.

(2) No building height shall exceed one hundred twenty (120) feet.

(g) The building height of buildings in the residential component shall not exceed thirty-five (35) feet, except where buildings combine ground-level retail or office with multi-family housing units above then the height of such a building shall not exceed one hundred twenty (120) feet.

(h) The minimum size of each dwelling unit shall be as follows:

(1) In the residential component:

(A) *Single-family detached or attached:* One thousand two hundred (1,200) square feet with the exception of accessory dwelling units.

(B) *Multi-family dwellings:*

(i) *One bedroom:* Six hundred fifty (650) square feet.

(ii) *Two bedroom:* Eight hundred (800) square feet.

(iii) *Three or more bedrooms:* One thousand (1,000) square feet.

(iv) *Two- and three-family dwellings:* One thousand two hundred (1,200) square feet.

(2) In the mixed-use component:

(A) *Single-family detached or attached:* One thousand (1,000) square feet with the exception of accessory units.

(B) *One bedroom:* Six hundred fifty (650) square feet.

(C) *Two bedroom:* Eight hundred (800) square feet.

(D) *Three or more bedrooms:* One thousand (1,000) square feet.

(E) *Two- and three-family dwellings:* One thousand two hundred (1,200) square feet.

(i) Open space and common open space shall comply with all of the following requirements:

(1) A minimum of twenty (20) percent of the PC-3 District parcel shall be open space.

(2) A minimum of five (5) percent of the PC-3 District parcel shall be a park or a square.

(3) The residential component of the PC-3 District parcel shall have at least one (1) square or park that is a minimum of one (1) acre in size.

(4) The mixed-use component of a PC-3 District parcel shall have at least one (1) square that is a minimum of twenty thousand (20,000) square feet in size.

(5) A minimum of eighty (80) percent of the required open space shall be in the form of common open space and shall include, but shall not be limited to, one (1) or more of the following forms:

(A) Designated historic and archeological sites.

(B) Environmental corridors.

(C) Protected natural areas and conservation buffers.

(D) Parks and squares.

(E) Streams, ponds and other water bodies.

(F) Active recreation facilities.

(G) Passive recreation pathways (other than sidewalks) and linear parks.

(H) Plazas or pedestrian promenades.

(6) Seventy-five (75) percent of all housing units on the parcel shall be within one thousand three hundred twenty (1,320) feet of common open space measured in a straight line from the closest edge of the housing unit to the closest edge of the common open space.

ARTICLE III. OVERLAY DISTRICT REGULATIONS

DIVISION 3A. OVERLAY DISTRICTS

Sec. 3A-1. Overlay Districts Generally.

Overlay districts are supplemental to the zoning district classifications established in **Article II** of this Chapter. All development and building permits for lots located within any overlay district shall meet all of the requirements of the base zoning district in which they are located and in addition shall meet all of the requirements of the overlay district applicable to said lot. Where there are conflicts between overlay district regulation and other regulations contained in the Code, the overlay regulation shall govern. Where the overlay district regulation is equally restrictive with other regulations in the Code, the overlay district regulation shall govern.

DIVISION 3B. ENVIRONMENTALLY SENSITIVE LAND OVERLAY REGULATIONS

Sec. 3B-1. Environmentally Sensitive Lands; Purpose and Intent.

The City Council finds that there are land areas within the county within which regulations supplemental to those regulations imposed by the underlying zoning district should be imposed in order to preserve or protect environmental elements unique to said land area. The

intent and purpose of the City Council in establishing such environmentally sensitive land overlay regulations is as follows:

(a) To reduce hazards to life and protect structures and uses from damage which may be caused by construction on or use of land which is unsafe or unsuitable for development;

(b) To protect land, public infrastructure and waters of the county from damages caused by improper use or construction on land which has physical, environmental or aesthetic limitations for development;

(c) To maintain and enhance natural land features which are environmentally significant or which constitute a natural resource of importance to the county at large, including especially Arabia Mountain and the valleys, ridges and areas of significant views surrounding said mountain;

(d) To maintain and protect significant and important archaeological resources of the county;

(e) To enhance public access to and enjoyment of the county's streams, creeks, and all other watercourses;

(f) To implement the policies of the comprehensive plan related to the protection and enjoyment of natural resources; and

(g) To identify specific resources so as to enable property owners to execute conservation easements and secure tax and other advantages therefrom.

Sec. 3B-2. Creation of Overlay Zoning Districts for Environmentally Sensitive Lands.

To carry out the purposes and provisions of this Chapter, Environmentally Sensitive Land Overlay Districts are hereby authorized to be established. Said overlay districts shall be implemented by district regulations particularly tailored to the specific land areas to be protected and shall be accompanied by an official zoning map amendment identifying said land area. Said map amendment and regulations shall be superimposed upon the underlying zoning district classification and shall apply to such land area in addition to the underlying district regulations.

Sec. 3B-3. Scope of Protection.

Within environmentally sensitive land areas, the City Council may adopt overlay zoning regulations as follows:

(a) To regulate the height of buildings and structures;

(b) To regulate the amount of land permitted to be cleared, graded and improved and to authorize density bonuses and internal and external transfers of development rights so as to protect specified land areas containing significant archaeological or environmental resources;

(c) To protect viewsheds through the imposition of reasonable height and development standards for buildings and structures within such viewsheds;

(d) To encourage and facilitate private or public conservation easements so as to promote the purposes and intent of the district;

(e) To impose limitations on the total amount of impervious surface which is permitted within such overlay zones and limitations on development or uses within such highly sensitive zones; and

(f) To enact other development restrictions or bonuses and incentives which are designed to protect the resources defined in such overlay districts while authorizing reasonable and economically feasible uses of such lands.

DIVISION 3C. DUNWOODY VILLAGE OVERLAY DISTRICT

Sec. 3C-1. Applicability of Regulations.

This division establishes standards and procedures that apply to any development, use, alteration, structure, or natural growth on any lot or portion thereof which is in whole or in part contained within the boundaries of the Dunwoody Village Overlay District.

Sec. 3C-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the Dunwoody Village Overlay District is as follows:

(a) To implement the policies and objectives of the City of Dunwoody Comprehensive Plan 2008-2028 and the policies and objectives of the Dunwoody Commercial Core Design Guidelines;

(b) To ensure that new developments and additions to existing buildings are compatible with the Village/Colonial architectural style that is characteristic of the district;

(c) To strengthen the identity of the Dunwoody commercial core as the heart of the Dunwoody neighborhood;

(d) To create new opportunities for public open spaces and gathering spaces in the commercial core of Dunwoody;

(e) To assure that new developments within the commercial core are pedestrian-friendly and provide places for civic activities; and

(f) To improve the visual appearance, increase property values, and reduce vacancy rates within the Dunwoody Village.

Sec. 3C-3. District Boundaries.

The boundaries of the Dunwoody Village 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 **Chapter 1 of the Code of Ordinance**.

Sec. 3C-4. Principal Uses and Principal Structures.

The principal uses of land and structures which are allowed in the Dunwoody Village Overlay District are as provided by the applicable zoning district, subject to the limitations and standards contained within this division.

Sec. 3C-5. Accessory Uses and Accessory Structure.

The accessory uses of land and structures which are allowed in the Dunwoody Village Overlay District are as provided by the applicable zoning district, subject to the limitations and standards contained within this division.

Sec. 3C-6. Architectural Regulations.

The following architectural regulations shall apply to all uses and structures, within the Dunwoody Village Overlay District:

(a) *Exterior materials.* The exterior portions of any building that are visible from the public right of way shall comply with the following requirements:

(1) Siding material shall consist of red brick, which is the preferred material, or, in the alternative, white/cream painted horizontal lap siding. Lap siding shall be wood or a material that exhibits wood-like properties such as cementitious lap siding. Vertical siding, stucco, external insulating finishing system ("EIFS"), metal siding, metal trim, vinyl siding, vinyl trim, marble siding, marble trim, stone siding, stone trim, exposed concrete, and block are prohibited.

(2) Siding material shall be consistent and uniform. Siding shall be predominantly brick or predominantly lap siding. Buildings with brick on the front face only and buildings with first floor brick and second floor lap siding are prohibited.

(3) All exposed bricks shall be approximately eighteen (8) inches wide by three (3) inches deep by two and two-thirds (2 2/3) inches high and shall not be laid in a definition of stackbond. All joints shall be tooled. Brick panel veneer systems are permitted.

(4) The maximum allowable exposure on lap siding is eight (8) inches.

(5) The roof shall be constructed of material that resembles asphalt shingles. Slate roofs are permissible. Roofs shall be black or a dark shade of gray. Standing seam roofs, built-up roofs, and metal roofs are prohibited.

(6) Applied trim materials shall consist of red brick, painted wood, or other painted materials that exhibit wood-like properties. Metal, vinyl, stucco, block stone and concrete are prohibited, provided however, that wrought iron handrails are permitted. Non-brick trim colors shall be equal to or similar to colors available in Martin Senour Williamsburg Paint.

(7) Foundations with greater than an eight-inch exposure shall be covered in red brick veneer. Exposed block, stone, stucco and concrete are prohibited.

(b) *Roofs.* The roof of any building that is visible from the public right of way shall comply with the following requirements:

(1) Gabled roofs, hipped roofs, mansard roofs, or combinations thereof are permitted. Flat roofs, curving roofs, and shed roofs are prohibited.

(2) Roofs shall comply with **Section 3C-3.6(a)(5)**.

(3) Roof overhangs of not less than eight (8) inches and not greater than sixteen (16) inches shall be provided. Gabled ends may be flush.

(4) Eave lines shall be consistent, largely unbroken, and horizontal. All eaves shall be architecturally detailed with one or more of the following elements: dental molding, crown molding, built-up fascia, or frieze board. The total width of fascias/cornices and rake trim shall be no less than seven and one-quarter (7-1/4) inches.

(5) Roofs shall contain at least one (1) roof projection for every one-hundred (100) lineal feet of building frontage. Roof projections may include cupolas, dormers, balustrade walks, chimneys, or gables.

(c) *Massing.* The massing of all buildings shall comply with the following requirements:

(1) Any building that is longer than one-hundred (100) feet shall be designed so as to appear as multiple structures through the use of varied roof forms, building projections, or architectural details.

(2) The apparent exterior floor-to-floor height of each story of a building shall be limited to twelve (12) feet. Individual floors shall be delineated on the building facade through the use of window placement and horizontal details. Interior floor-to-floor heights may exceed twelve (12) feet.

(3) No primary eave line shall be greater than twenty-five (25) feet above grade.

(4) Buildings shall have at least one (1) building projection on the front facade below the eave line. Building projections consist of stoops, bay windows, covered porches, extruded entrances, and pedestrian arcades. With the exception of pedestrian arcades, building projections shall not extend more than six (6) feet from the face of the building.

(5) Primary building walls shall be rectilinear and simplified in form. With the exception of bay projections, curved walls or non-ninety-degree corners are prohibited. Front facades shall have a predominant plane from the ground to the eave and shall not be dominated by building projections.

(6) Buildings that are longer than one hundred (100) feet shall provide no less than ten (10) lineal feet of pedestrian arcade or covered porch.

(7) Porches and arcade columns shall be not less than six (6) feet wide in any direction. Metal columns are prohibited. Columns shall

contain a base and a capital and shall generally align with story heights. Two-story columns are prohibited.

(d) *Fenestration.* The fenestration of all buildings visible from the public right of way shall comply with the following requirements:

(1) Doors shall be compatible with the Village/Colonial style. All-glass doors and flush doors are prohibited. Solid doors shall be six-panel and shall contain sidelights or a transom window. Windowed doors shall contain a solid border a minimum of six (6) inches wide and shall also contain mullions or divided lights not exceeding twelve (12) inches in any direction.

(2) Individual doors shall be of a single color and shall be equal to or similar to colors available in Martin Senour Williamsburg Paint. Doors shall not be stained, naturally finished, or uncolored aluminum.

(3) Primary doors shall not exceed forty-two (42) inches in width and eighty-four (84) inches in height. Oversized doors are prohibited.

(4) All windows shall be vertically proportioned with a height to width ratio between 3:2 and 5:2. Transom windows are not subject to vertical proportions and do not count in the overall window proportion. Vertical windows may be ganged to create storefront windows but shall be limited to twenty-five (25) feet sections with a five (5) foot minimum of unbroken wall space in between. Slit windows, strip windows, and ribbon windows are prohibited.

(5) Windows shall be provided on at least ten (10) percent of the front facade but no more than fifty (50) percent of the front facade. Blank facades are prohibited. Windows shall generally be spaced in an even rhythm. Windowless sections of the front facade shall not exceed thirty (30) feet in width.

(6) All windows shall be rectilinear, provided however, that arch top windows are permitted. Triangular or otherwise angular windows are prohibited. Round windows are permitted as accent windows in locations such as gables.

(7) Primary windows shall be at least twenty-four (24) inches wide and at least thirty-six (36) inches tall. Picture windows shall be no wider than five (5) inches and no taller than seven and one half (7 1/2) feet.

(8) All windows shall have the appearance of mullions or divided lights. Panes shall be rectilinear, generally square in proportion, and shall not exceed twelve (20) inches in any direction. Diagonal panes are not permitted except in arch windows.

(9) Shutters shall be constructed of wood or a material with wood-like properties other than vinyl, shall be sized to fit the window, and shall have horizontal slats. Shutter colors shall be equal to or similar to colors available in Martin Senour Williamsburg Paint.

(10) All windows shall have sill and header trim details.

(11) The bottom of windows shall be at least twenty (20) inches above grade.

Sec. 3C-7. Sidewalk and Pedestrian Crosswalks.

The following sidewalks and pedestrian crosswalks and regulations shall apply to all uses and within the Dunwoody Village Overlay District:

(a) Public sidewalks shall be located adjacent to all public streets and shall be a minimum of fifteen (15) feet wide. This fifteen (15) foot wide area shall include a five-foot street furniture zone and a ten (10) foot clear walking area. The five-foot street furniture zone shall be used for locating streetlights, street trees, benches and trash receptacles. Ground cover and decorative pavers shall be installed between these elements.

(b) Pedestrian walkways shall be located on private property and shall be located at all building entrances. All buildings shall provide a ten (10) foot minimum pedestrian zone between the building and parking area. The pedestrian zone shall contain walkways, planting areas, plazas, and similar landscaped spaces. All pedestrian walkways shall be a minimum of five (5) feet wide.

(c) All public sidewalks and pedestrian walkways shall be continuous where possible and shall connect to other pedestrian areas through painted or raised crosswalks.

(d) All major intersections shall have well-defined pedestrian crossings including a red brick inlay walking area and pedestrian crossing signs. Traffic signals shall have mast arms.

(e) All utilities shall be placed under ground.

(f) The front entrance of all buildings shall be easily and safely accessible to pedestrians from the public sidewalk through a combination of pedestrian walkways and crosswalks.

(g) Covered sidewalks that are a part of the building and that are located within the buildable area of the lot are encouraged where possible. Such covered sidewalks may be used for outdoor seating and dining and as terraces and arcades.

(h) In multi-tenant retail buildings, a continuous, unimpeded walkway shall be provided to connect all business entrances.

Sec. 3C-8. Landscaping.

The following landscaping regulations shall apply to all uses and structures with the Dunwoody Village Overlay District:

(a) Each lot shall provide a planted area or areas in the front yard near the building entrance that consists of a total area no less than five (5) percent of the building area. Such planted area or areas may consist of grassed areas, linear beds along the building, raised planters, and similar landscaped areas.

(b) The landscaping on each lot shall contain at least one (1) of the following landscape elements: flowerbed, shrubs, or three (3) inch caliper tree.

(c) With the exception of trees, landscape elements including shrubs shall not exceed four (4) feet in height.

(d) Street trees are required along all public streets. Street trees shall be planted a minimum of forty (40) feet on center within a five-foot street furniture zone at the back of the curb. Street trees shall be planted in four (4) feet by four (4) feet minimum iron tree grates, and shall be no less than ten (10) feet in height and three (3) inches in caliper. Street trees shall be limbed to seven (7) feet above the sidewalk. Street trees shall be oak, elm, maple, or zelkova.

(e) All medians shall be landscaped with plant material that does not interfere with vehicle safety. Concrete-only means are prohibited.

Sec. 3C-9. Lighting.

The following lighting regulations shall apply to all permitted uses within the Dunwoody Village Overlay District are as follows:

(a) All lots shall provide streetlights, parking lights, pedestrian lights, and indirect building lights. With the exception of indirect building lights, all light fixtures shall be of a design that is compatible with the Village/Colonial style. All freestanding exterior light fixtures shall be black or dark green.

(b) Public streetlights shall be provided along public streets at a maximum of forty (40) feet on-center within the street furniture zone and shall be evenly spaced along the block face. Street light standards shall contain banner arms for season and special event banners and shall contain hanging flower baskets.

(c) All utilities shall be placed under ground.

(d) Parking lights shall be provided in all parking areas, shall not exceed twenty-five (25) feet in height, shall have light fixtures that project downward, and shall be spaced in a uniform manner so as to provide full lighting for the parking area.

(e) Pedestrian lights shall be provided within high-volume pedestrian areas and around public and private open space. Pedestrian lights shall be spaced a maximum of twenty-five (25) feet apart and shall be evenly spaced so as to provide full lighting for pedestrian areas.

(f) Indirect building lighting shall be provided and shall be located a maximum of ten (10) feet from the subject building. Such lighting shall not be located so as to impair vehicular traffic safety and shall not be directly across any pedestrian areas of travel.

Sec. 3C-10. Parking.

The following parking regulations shall apply to all uses within the Dunwoody Village Overlay District are as follows:

(a) Each lot shall provide no less than one parking space for each five hundred (500) square feet of floor area and no more than two (2) parking spaces for each five hundred (500) square feet of floor area.

(b) Parking areas shall be separated from buildings by a planted area or other landscaped area that is no less than ten (10) feet in width.

(c) Shared parking is encouraged and may be authorized by the director of planning. Applicants may make application to the director of planning for authorization for a special exception for shared parking. Said applications shall be considered and decided by the director of planning pursuant to the standards and procedures set forth in **Section 5D-13**.

(d) Parking lots shall be landscaped in accordance with the requirements of **Section 4-21**.

(e) The use of bicycle racks is encouraged. When placed in a parking lot, the bicycle racks shall be provided at a ratio of two bicycle racks for each twenty (20) parking spaces. Bicycle racks shall be located near building entries. The racks shall be equal to or similar to Urban Accessories Circle Bike Rack Model D.

Sec. 3C-11. Public Areas, Curb Cuts, and Service Areas.

The following regulations apply to the public areas, curb cuts, and service areas for the Dunwoody Village Overlay District.

(a) Public plazas and outdoor dining areas are encouraged. Such areas shall be protected from vehicular traffic by location, vegetation, and landscape walls and shall be easily accessible to pedestrians.

(b) All dumpsters and other building service areas shall be located where they are concealed from view from the public right of way. All dumpsters shall be concealed with secured gates and vegetative or solid screening.

(c) Curb cuts along public streets shall be minimized and shall be shared with adjacent development where possible. Curb cuts shall be permitted only where twenty-five (25) feet away from a curb cut on an adjoining property, and shall not be permitted within one hundred (100) feet of the intersection of any two (2) public streets. Curb cuts shall not exceed a width of twenty-four (24) feet.

Sec. 3C-12. Street Furniture.

The following regulations apply to street furniture for the Dunwoody Village Overlay District are as follows:

(a) At least one (1) bench and one (1) trash receptacle per seven thousand five hundred (7,500) square feet of retail area shall be provided on each lot and shall be located no more than fifty (50) feet from a building entry.

(b) All benches and trash receptacles shall be accessible from a building entrance by a pedestrian walkway. Benches and trash receptacles shall be used in conjunction with other pedestrian amenities such as planters, landscaped areas, and outdoor tables. Benches and trash receptacles shall not contain signs.

(c) Benches shall be Victory Stanley "Classic" or "Traditional" series or similar and shall be constructed of non-corrosive, weather-resistant material. Bench colors shall be natural wood stain, black, or dark green. Neon colors are prohibited. Benches shall be firmly anchored to the ground.

(d) Trash receptacles shall be Victor Stanley "Concourse" series or similar and shall be constructed of non-corrosive, weather-resistant material. Wood is prohibited. Trash receptacles shall be black or dark green. Neon colors are prohibited. Trash receptacles shall be firmly anchored to the ground.

Sec. 3C-13. Signs Regulations.

All lots in the Dunwoody Village Overlay District shall comply with all requirements of the City's Sign Ordinance subject to the following additional regulations:

(a) Signs shall be designed so as to be compatible with the Village/Colonial style that is characteristic of the Dunwoody Village area;

(b) All ground signs shall be monument style signs with a base and framework made of brick;

(c) Free-standing signs shall not be permitted in the Main Street Zone as defined on the Dunwoody Overlay District Map, described in **Section 3C-3**, on frontages where any portion of the principal structure is located within thirty-two (32) feet of the front property line;

(d) For lots containing nine (9) or fewer store fronts, ground signs shall not exceed six (6) feet in height and eight (8) feet in width;

(e) For lots containing nine (9) or fewer store fronts, ground signs shall not exceed thirty-two (32) square feet in sign area;

(f) For lots containing nine (9) or fewer store fronts, signs shall be located no more than thirty-two (32) feet from the principal building;

(g) For lots containing ten (10) or more store fronts, ground signs shall not exceed ten (10) feet in height and eight (8) feet in width;

(h) For lots containing ten (10) or more store fronts, ground signs shall not exceed fifty-four (54) square feet in sign area;

(i) Wall signs shall be located on the primary building facade and within fifteen feet (15) of the primary building entrance;

(j) Window signs are prohibited;

(k) Banners are prohibited;

(l) Signs shall have a matte finish consistent with a wood or wood-like appearance;

(m) Sign colors shall be equal to or similar to colors available in Martin Senour Williamsburg Paint;

(n) All signs shall be indirectly lighted;

(o) Internally lighted neon, gas, colored, flashing, animated, marquee, sound emitting, fluorescent, rotating or otherwise moving signs are prohibited; and

(p) Sign shape and lettering shall be limited as follows:

(1) All signs shall be rectangular, circular, or oval in proportion.

(2) Sign facing shall be flat in profile and shall not exceed a thickness of eight (8) inches.

(3) Signs with more than two (2) faces are prohibited.

(4) Sign lettering shall consist of block lettering in which individual letters do not exceed eighteen (18) inches in height.

(5) Sign lettering material shall be of a material that will not permit the passage of light through the lettering.

Sec. 3C-14. Design Guidelines

The planning director or designee is authorized to create, administer, and amend Design Guidelines for the Dunwoody Village Overlay District. These guidelines provide acceptable architectural design controls, landscaping, detail drawings, signage, fencing, lighting, street and site furniture, and grating. These guidelines shall be used to promote proper design criteria for the overlay district and shall guide the planning director in deciding whether a proposed design complies with the requirements of this overlay district.

Sec. 3C-15. Plans Required; Certificates of Compliance.

(a) *Plans required.* Prior to the issuance of any land disturbance permit, building permit, or sign permit, the applicant shall submit to the director of planning an application, full plans including a site plan, landscaping plan, building design including elevations and architectural details of proposed buildings, exterior materials and colors, and plans and elevations of all signs, all of which shall demonstrate that the proposed design is in compliance with all of the requirements of this Dunwoody Village Overlay District and the underlying zoning classification.

(b) *Fees.* Plans shall be accompanied by an application and payment of a fee in an amount determined by the City of Dunwoody City Council.

(c) *Review.* The director of planning shall review each application for compliance with all requirements of the Dunwoody Village Overlay District and the underlying zoning classification. Where the director determines that said plans comply with the requirements of the Dunwoody Village Overlay District a certificate of compliance shall be issued in the form of the director or the director's designee signing the plans and drawings after which the applicant shall then apply for land disturbance, building or signs permits. Where the director determines that said plans do not comply with the requirements of this Chapter, then the director shall notify the applicant in writing stating the manner in which said applicant fails to comply with such requirements. All applications shall be considered and decided by the director of planning within thirty (30) days of receipt of a complete application. Any appeal of the director of planning's

decision in this regard shall be to the zoning board of appeals pursuant to **Section 5D-12**.

ARTICLE IV. SUPPLEMENTAL REGULATIONS

The regulations contained within this **Article IV** shall apply to all zoning districts within City of Dunwoody except as otherwise specified herein.

Sec. 4-1. Accessory Buildings, Structures, and Uses.

The following provisions apply to accessory buildings, structures, and uses of land that are incidental to authorized and permitted uses:

(a) All accessory buildings, accessory structures, and accessory uses of land, including off-street parking, shall be located on the same lot as the principal building(s) to which they are accessory.

(b) No accessory building or structure shall be constructed upon a lot until construction of the principal building has commenced.

(c) All accessory buildings or structures shall be located in the rear yard of the lot. No accessory building or structure shall be located closer than ten (10) feet to a side or rear lot line in any district. Basketball goals attached to the principal residential structure or erected adjacent to and abutting the driveway of the principal residential structure shall be allowed in the front yard but not within the right-of-way of a public street. No such basketball goal shall be erected in such a manner that the play area for the basketball goal is located within any portion of a public right-of-way.

(d) No accessory building or structure in a nonresidential district shall be used by other than employees of the owner, lessee or tenant of the premises, unless otherwise allowed by provisions of this Chapter.

(e) Except as otherwise provided herein within the R-200 district, accessory buildings in single-family residential districts shall not be used as separate dwelling units and shall not contain a bedroom or kitchen or other food preparation facility of any kind. Further no such accessory building shall be rented or occupied for gain, and no accessory structure or building shall be used for a home occupation.

(f) Where the rear yard of a corner lot adjoins the side yard of a lot in a residential district, no accessory building or structure shall be located closer than twenty-five (25) feet to the rear property line and no closer to the side street right-of-way line than the principal building.

(g) Where an accessory building or structure is attached to the principal building by a breezeway, passageway or similar means, the accessory building or structure shall comply with the yard requirements of the principal building to which it is accessory.

(h) Swimming pools, as accessory structures in a residential district, shall be measured from the decking or closest part of the pool structure to the applicable

property line. Accessory swimming pools shall be authorized only after written approval from the board of health pursuant to applicable regulations.

(i) Accessory buildings, structures and uses authorized in an apartment complex include a leasing office, post office, clubroom, health club or exercise facilities, laundry facilities, child care center and similar facilities for the use of residents of the complex.

(j) The floor area of an accessory building(s) in single-family and two- and three-family residential districts shall not exceed the following maximum floor areas:

TABLE INSET:

Property Size	Maximum Floor Area
0 to 0.999 acres	900 square feet
1 to 4.999 acres	1,200 square feet
5 to 9.999 acres	2,000 square feet
10 or more acres	No size limit

Sec.4-2. Adult Entertainment Establishments.

(a) Purpose.

It is the purpose of the City of Dunwoody Zoning Ordinance to regulate land use by sexually oriented businesses in order to promote the health, safety, moral, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

(b) Findings and Rationale.

Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the City Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.,* 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); and

Daytona Grand, Inc. v. City of Daytona Beach, 490 F.3d 860 (11th Cir. 2007); *Artistic Entertainment, Inc. v. City of Warner Robins*, 331 F.3d 1196 (11th Cir. 2003): *Artistic*

Entertainment, Inc. v. City of Warner Robins, 223 F.3d 1306 (11th Cir. 2000); *Williams v. Pryor*, 240 F.3d 944 (11th Cir. 2001); *Williams v. A.G. of Alabama*, 378 F.3d 1232 (11th Cir. 2004); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *Gary v. City of Warner Robins*, 311 F.3d 1334 (11th Cir. 2002); *Ward v. County of Orange*, 217 F.3d 1350 (11th Cir. 2002); *Boss Capital, Inc. v. City of Casselberry*, 187 F3d 1251 (11th Cir. 1999); *David Vincent, Inc. v. Broward County*, 2000 F.3d 1325 (11th Cir. 200); *Sammy's of Mobile, Ltd. v. City of Mobile*, 140 F.3d 993 (11th Cir. 1998); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999); *This That And The Other Gift and Tobacco, Inc. v. Cobb County*, 285 F.3d 1319 (11th Cir. 2002): *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Grand Faloon Tavern, Inc. v. Wicker*, 670 F.2d 943 (11th Cir. 1982); *International Food & Beverage Systems v. Ft. Lauderdale*, 794 F.2d 1520 (11th Cir. 1986); *5634 E. Hillsborough Ave., Inc. v. Hillsborough County*, 2007 WL 2936211 (M.D. Fla. Oct. 4, 2007), *aff'd*, 2008 WL 4276370 (11th Cir. Sept. 18, 2008) (per curiam); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *Gammon v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *High Five Investments, LLC v. Floyd County*, No. 4:06-CV-190, R. 128 (N.D. Ga. Mar. 14, 2008); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); and

Fairfax MK, Inc. v. City of Clarkston, 274 Ga. 520 (2001); *Morrison v. State*, 272 Ga. 129 (2000); *Sewell v. Georgia*, 233 S.E.2d 187 (Ga. 1977), *dismissed for want of a substantial federal question*, 435 U.S. 982 (1978) (sexual devices); *Flippen Alliance for Community Empowerment, Inc. v. Brannan*, 601 S.E.2d 106 (Ga. Ct. App. 2004); *Oasis Goodtime Emporium I, Inc. v. DeKalb County*, 272 Ga. 887 (2000); *Chamblee Visuals, LLC v. City of Chamblee*, 270 Ga. 33 (1998): *World Famous Dudley's Food & Spirits, Inc. v. City of College Park*, 265 Ga. 618 (1995); *Airport Bookstore, Inc. v. Jackson*, 214 (1978);

And based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas – 1986: Indianapolis, Indiana – 1984; Garden Grove, California – 1991; Houston, Texas – 1983, 1997: Phoenix, Arizona – 1979, 1995-98; Chattanooga, Tennessee – 1999-2003; Los Angeles, California – 1977; Whittier, California – 1978; Spokane, Washington – 2001; St. Cloud, Minnesota – 1994; Littleton, Colorado – 2004; Oklahoma City, Oklahoma – 1986; Dallas, Texas – 1997; Ft. Worth, Texas – 2004; Kennedale, Texas – 2005; Greensboro, North Carolina – 2003; Amarillo, Texas – 1977; Jackson County, Missouri – 2008; New York, New York Times Square – 1994; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota).

The City Council finds:

(1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.

(2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.

(3) Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the City's rationale for this ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the City's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the City. The City finds that the cases and documentation relied on in this ordinance are reasonably believed to be relevant to said secondary effects.

The City hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the judicial opinions and reports related to such secondary effects.

(c) <u>Definitions</u>

1. "Adult Entertainment Establishment" or "*Sexually Oriented Business*" means an "adult bookstore or adult video store," an "adult cabaret," an "adult motion picture theatre," a "semi-nude model studio," or a "sexual device shop."

2. "*Adult Bookstore or Adult Video Store*" means a commercial establishment which, as one of its substantial business activities, offers for sale or rental for any form of consideration any one or more of the following items: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas." A "substantial business activity" exits where the commercial establishment meets any one or more of the following criteria:

i. At least 25% of the establishment's displayed merchandise consists of the foregoing items, or

ii. At least 25% of the wholesale value of the establishment's displayed merchandise consists of the foregoing items, or

iii. At least 25% of the retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of the foregoing items, or

iv. At least 25% of the establishment's revenues derive from the sale or rental, for any form of consideration, of the foregoing items, or

v. The establishment maintains at least 25% of its interior business space for the display, sale, and/or rental of the foregoing items (aisles and walkways used to access said items shall be included in "interior business space" maintained for the display, sale, or rental of said items), or

vi. The establishment maintains at least five hundred square feet (500 sq. ft.) of its interior business space for the display, sale, and/or rental of the foregoing items (aisles and walkways used to access said items shall be included in "interior business space" maintained for the display, sale, or rental of said items) and limits access to the premises to adults only; or

vii. The establishment offers for sale or rental at least one thousand (1000) of the foregoing items *and* limits access to the premises or to the portion of the premises occupied by said items to adults only; or

viii. The establishment regularly advertises itself or holds itself out, using "adult," "XXX," "sex," "erotic," or substantially similar language, as an establishment that caters to adult sexual interests; or

ix. Maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or specified "anatomical areas."

3. "*Adult Cabaret*" means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, regardless of whether alcoholic beverages are served, which regularly feature persons who appear semi-nude.

4. "*Adult Motion Picture Theater*" means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of "specified sexual activities"

or "specified anatomical areas" are regularly shown to more than five persons for any form of consideration.

5. "*Semi-Nude Model Studio*" means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

   This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a modeling class operated:

   i. By a college, junior college, or university supported entirely or partly by taxation;

   ii. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

   iii. In a structure:

      1. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

      2. Where, in order to participate in a class a student must enroll at least three days in advance of the class.

6. "*Semi-Nude or State of Semi-Nudity*" means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a bikini, dress, blouse, shirts, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

7. *"Nudity or a State of Nudity*" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

8. "*Sexual Device Shop*" means a commercial establishment that regularly features sexual devices. This definition shall not be construed to include any pharmacy, drug store, medical clinic, any establishment primarily dedicated to providing medical or healthcare products or services, or any establishment that does not restrict access to its premises or a portion of its premises to adults only.

9. "*Sexual Device*" means any three (3) dimensional object designed and marketed for stimulation of the male or female human genitals, anus, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

10. "*Interior Business Space*" means the floor area inside a sexually oriented business that is visible or accessible to patrons for any reason, excluding restrooms.

11. "*Characterized by*" means describing the essential character or quality of an item. As applied in this ordinance, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

12. "*City*" means the City of Dunwoody, Georgia.

13. "*Operate or Cause to Operate*" shall mean to cause to function or to put or keep in a state of doing business. "Operator" means any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

14. "*Person*" shall mean individual, proprietorship, partnership, corporation, association, or other legal entity.

15. "*Premises*" means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a sexually oriented business license.

16. "*Regularly*" means the consistent and repeated doing of an act on an ongoing basis.

17. "*Specified Anatomical Areas*" means and includes:

    i. Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and

    ii. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

18. "*Specified Sexual Activity*" means any of the following:

i. Intercourse, oral copulation, masturbation or sodomy; or

ii. Excretory functions as a part of or in connection with any of the activities described in (i) above.

(d) Standards for Sexually Oriented Businesses.

Sexually oriented businesses are subject to the following standards:

1. It shall be unlawful to establish, operate, or cause to be operated a sexually oriented business in the City of Dunwoody, unless said sexually oriented business is at least:

i. 500 feet from any parcel in the City of Dunwoody zoned R-200, R-150, R-30,000, R-20,000, R-100, R-85, R-75, R-60, R-A5, R-50, R-A8, R-CH, R-CD, R-DT, RM-150, RM-100, RM-85, RM-75, RM-HD, MHP, TND, or NCD ;

ii. 600 feet from any business in the City of Dunwoody licensed by the State of Georgia to sell alcohol on the premises; and

iii. 1000 feet from any house of worship or a public or private elementary or secondary school in the City of Dunwoody.

For the purpose of this subsection, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest point on a boundary line of the sexually oriented business parcel to the closest point on a boundary line of any parcel in the City of Dunwoody zoned R-200, R-150, R-30,000, R-20,000, R-100, R-85, R-75, R-60, R-A5, R-50, R-A8, R-CH, R-CD, R-DT, RM-150, RM-100, RM-85, RM-75, RM-HD, MHP, TND, or NCD. Measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of the structure containing the sexually oriented business to the closest part of any structure in the City of Dunwoody occupied by a house of worship, public or private elementary or secondary school, or a business licensed by the State of Georgia to sell alcohol on the premises.

2. All sexually oriented businesses shall submit with the application for a building or occupancy permit a certified boundary survey by a licensed surveyor of the site and the property lines of surrounding properties

identifying the use of properties at or within 1000 feet of the boundary lines of the subject property.

3. Each sexually oriented business shall provide off-street parking spaces as required by the applicable zoning district.

Sec. 4-4. Air Pollution.

Every use shall be so operated as to minimize the emission into the air of dirt, dust, fly ash or any other solid matter which causes damage to property or harm or discomfort to persons or animals at or beyond the lot line of the property on which the use is located.

Sec. 4-5. Animal Care Facilities.

(a) *Animal hospitals and veterinary clinics.* Any structure used as an animal hospital or veterinary clinic shall be located and the activities conducted at least one hundred (100) feet from any property zoned or used for residential purposes. When located within a shopping center, the use shall be adequately soundproofed and odor proofed so as not to create a nuisance; no boarding shall be allowed unless required in connection with medical treatment; and no outside runs or kennels shall be authorized.

(b) *Boarding and breeding kennels.* All structures used as boarding or breeding kennels shall be located and activities conducted at least one hundred (100) feet from any property zoned or used for residential purposes.

(c) *Dog grooming shop*s. All structures used as dog grooming shops shall be located and activities conducted at least one hundred (100) feet from any property zoned or used for residential purposes.

(d) *Noncommercial kennels.* All noncommercial kennels shall be located on a site of not less than two (2) acres. All structures shall be located at least two hundred (200) feet from any property line. All facilities shall be constructed and activities conducted in accordance with rules and regulations promulgated by the City Council for noncommercial kennels.

(e) *Household pets.* Except as is otherwise herein provided in the R-200 District, in any residential district within the county a person may keep not more than three (3) household pets on each lot which is two (2) acres or less in size. On any lot exceeding two (2) acres in size, a person may keep one (1) additional household pet for each additional acre above two (2) acres up to a maximum of ten (10) household pets. Litters of animals of not more than six (6) months of age shall not be counted for the purpose of calculating the total number of household pets on a lot.

Sec. 4-6. Amateur Radio Service Antenna Structure.

Amateur radio service antenna structures are a permitted accessory use in single-family residential districts provided that no such antenna structure, including any support upon which it may be constructed, shall exceed a combined height of seventy (70) feet. Amateur radio service antenna structures exceeding seventy (70) feet in height shall be permitted only by special land use permit subject to all of the requirements of **Section5E** of this Chapter. Amateur radio service

antenna structures shall be located a distance of at least one-half (1/2) the height of the tower from all property lines.

Sec. 4-7. Automobile, Wash Service.

Automobile wash services shall provide a paved area on the lot for the storage of vehicles awaiting service. This paved area shall be equal to one-third (1/3) of the practical hourly capacity of the wash machines. Wastewater from all automobile wash services shall drain directly into the public sanitary sewer unless otherwise approved by the City of Dunwoody Health Department.

Sec. 4-8. Automotive Sales and Service; Boat and Trailer Sales and Service.

(a) *Automobile and truck sales.* No vehicle parked for sale or service shall be located within a street right-of-way. No other retail use shall be combined with automobile and truck sales. The lot shall be no less than one (1) acre in area.

(b) *Automobile repair and paint shops.* Automobile repair and paint shops shall not be permitted within three hundred (300) feet of any property used for a school, park, playground or hospital. All activities shall be carried on entirely within an enclosed building and the use shall not be established on a lot which is either adjacent to or directly across the street from any R or RM district.

(c) *Automobile service stations.* Unless otherwise permitted within the applicable zoning district, major automobile repair in association with an automobile service station shall not be permitted. Gasoline pumps and other service facilities shall be set back not less than thirty (30) feet from the street right-of-way line, provided however, that canopies covering such gasoline pumps shall be set back not less than fifteen (15) feet from the street right-of-way line.

(d) *Automobile, truck and trailer lease and rental.* Where a lot is used for automobile, truck and trailer lease and rental, all vehicles shall be set back at least thirty (30) feet from the street right-of-way. All parking areas shall be clearly marked and no automobile, truck or trailer shall be parked outdoors other than within these marked parking areas, except when being serviced. The lot shall be no less than one (1) acre in area but such lot size requirement shall be reduced to one-half (1/2) acre in area if the owner of the affected automobile, truck and trailer lease and rental entity provides written proof to the planning director or designee that one hundred (100) or more of the owner's vehicles available for lease or rental are registered in City of Dunwoody. If the lot is one-half (1/2) acre in area, at no time shall the number of vehicles parked on the lot exceed twenty-five (25) vehicles.

(e) *Automobile, truck and trailer lease and rental where accessory to an automobile service station.* Where the lease and rental of automobiles, trucks and trailers is a use which is accessory to an automobile service station, the following requirements shall apply:

(1) The lot shall be no less than one (1) acre in area.

(2) Parking areas for automobiles, trucks or trailers which are available for lease or rental shall be located only in the side or rear yard.

(f) *Automobile wrecking yards or junkyards.* Automobile wrecking yards and junkyards shall be enclosed by a wall not less than eight (8) feet in height. No activity and no vehicle storage associated with such uses shall be conducted within one hundred (100) feet of any property line or within two hundred (200) feet of any property zoned or used for residential purposes. The use shall not be permitted within three hundred (300) feet of any property used for a school, park, playground or hospital. The incidental sale of automobile parts removed from vehicles on the site shall be permitted.

(g) *Boat and boat trailer sales.* All boats and boat trailers shall be set back at least thirty (30) feet from the street right-of-way line.

(h) *Minor automobile repair and maintenance establishments.* All minor automobile repair and maintenance establishment operations, including the servicing of vehicles, storage of materials and similar activities connected with the use, shall be conducted entirely within an enclosed building. In a shopping center minor automobile repair and maintenance is permitted only as a part of an automobile service station.

(i) *Automobile parts and tire stores, retail sales.* Unless otherwise authorized or permitted within the applicable zoning district, the following limitations apply to the conduct of retail sale of automobile parts and tire stores:

(1) There shall be no dismantling of vehicles on the premises to obtain automobile parts;

(2) There shall be no automobile parts installation other than the installation of tires and the installation of minor accessory parts.

(3) Major automobile repair shall not be permitted in connection with these uses.

(j) *Storage yards for damaged or confiscated automobiles.* The following provisions shall apply to storage yards for damaged or confiscated automobiles:

(1) The use shall be enclosed by a wall which is not less than eight (8) feet in height which provides visual screening.

(2) No dismantling, repair or other activity shall be conducted on the premises.

(3) The use shall be located at least one thousand (1000) feet from any residential district or use.

(4) Automobiles shall not be held longer than provided by state and county law.

(k) *Trailer salesrooms and sales lots.* All vehicles shall be set back at least thirty (30) feet from the street right-of-way line.

Sec. 4-9. Buildings on Single-Family and Duplex Lots.

In all single-family detached residential districts and in the R-DT district only one (1) principal building, together with its customary accessory uses, shall occupy each lot.

Sec. 4-10. Check Cashing Establishments.

The following provisions apply to check cashing establishments whether designed as a primary use or as a part of a shopping center:

(a) This use shall be permitted only on a parcel of land which has direct access to a major thoroughfare.

(b) This use shall not be permitted within one thousand (1,000) feet of an existing check cashing establishment, pawn shop, or liquor store.

(c) This use shall operate only as an independent use and shall not be combined with any other use.

Sec. 4-11. Child Day Care Facility.

Each child day care facility, shall be subject to the following requirements:

(a) Each child day care facility shall provide not less than thirty (30) square feet of indoor play area for each child, based on maximum permissible enrollment.

(b) Each child day care facility shall provide not less than one hundred (100) square feet of outdoor play area for each child, based on maximum permissible enrollment.

(c) All required outdoor play areas shall be enclosed by a fence or wall not less than four (4) feet in height.

(d) Each child day care facility shall provide off-street parking spaces as required by the applicable zoning district and an adequate turnaround on the site.

(e) Not more than fifty (50) percent of the floor area of a residence may be used for a child day care facility.

(f) The exterior appearance of any residential structure for which a special land use permit for a child day care facility is approved by the City Council shall be maintained as a residential structure and no signs other than those otherwise authorized within the applicable zoning district shall be erected, and no cut-outs, animals characters, or other graphics shall be affixed to the exterior of the structure or displayed upon the premises.

(g) No child day care facility shall be located within one thousand (1,000) feet of another child day care facility.

(h) No child day care facility may be established and operated in the county until a permit to do so has been obtained in accordance with the procedures set forth below.

(1) Permit application. Persons seeking to operate a child day care facility in the county must file a permit application with the public works department. Each application shall also be accompanied by the applicant's affidavit certifying the maximum number of children that will be served simultaneously and that the proposed child care facility will meet and be operated in accordance with all applicable state laws

and regulations and with all ordinances and regulations of the county. The public works department may require clarification or additional information from the applicant that is deemed necessary by the county to determine whether the proposed service will meet applicable laws, ordinances and regulations.

(2) Notwithstanding the above provisions, if a proposed child care facility is subject to the requirement that the applicant obtain a certificate of registration from the state department of human resources, and even though the application may have been approved under the provisions of this section, a permit for the operation of such facility shall not be issued until proof has been submitted by the applicant that the certificate of registration has been obtained.

Sec. 4-12. Child Day Care Center.

Each child day care center shall be subject to the following requirements:

(a) All required outdoor play areas shall be enclosed by a fence or wall not less than four (4) feet in height.

(b) Each child day care center shall provide off-street parking spaces as required by the applicable zoning district and an adequate turnaround on the site.

Sec. 4-13. Kindergarten.

Each kindergarten shall be subject to the following requirements:

(a) All required outdoor play areas shall be enclosed by a fence or wall not less than four (4) feet in height.

(b) Each kindergarten shall provide off-street parking spaces as required by the applicable zoning district and an adequate turnaround on the site.

Sec. 4-14. Adult Day Care Facility.

Each adult day care facility shall be subject to the following requirements:

(a) All outdoor recreation areas shall be enclosed by a fence or wall not less than four (4) feet in height.

(b) Each adult day care facility shall provide off-street parking spaces as required by the applicable zoning district and an adequate turnaround on the site.

(c) No adult day care facility shall be located within one thousand (1,000) feet of another adult day care facility.

(d) No adult day care facility may be established and operated in the county until a permit to do so has been obtained in accordance with the procedures set forth below.

(1) Permit application. Persons seeking to operate an adult day care facility in the county must file a permit application with the public works department. Each application shall also be accompanied by the applicant's affidavit certifying the maximum number of adults that will be served simultaneously and that the proposed adult day care facility

will meet and be operated in accordance with all applicable state laws and regulations and with all ordinances and regulations of the county. The public works department may require clarification or additional information from the applicant that is deemed necessary by the county to determine whether the proposed service will meet applicable laws, ordinances and regulations.

(2) Notwithstanding the above provisions, if a proposed adult day care facility is subject to the requirement that the applicant obtain a certificate of registration from the state department of human resources, and even though the application may have been approved under the provisions of this section, a permit for the operation of such facility shall not be issued until proof has been submitted by the applicant that the certificate of registration has been obtained.

Sec. 4-15. Adult Day Care Center.

Each adult day care center shall be subject to the following requirements:

(a) All outdoor recreation areas shall be enclosed by a fence or wall not less than four (4) feet in height.

(b) Each adult day care center shall provide off-street parking spaces as required by the applicable zoning district and an adequate turnaround on the site.

Sec. 4-16. Commercial Recreation and Entertainment.

The following shall apply to commercial recreation and entertainment uses:

(a) Art shows, carnival rides and special events of community interest. Art shows, carnival rides and similar events of community interest may be approved by the Director of Planning by special administrative permit, subject to the following requirements in NS, C-1, C-2, M and M-2 districts:

(1) For a time period not exceeding fourteen (14) days;

(2) The activity shall be conducted at least one hundred (100) feet from any residential district;

(3) No living accommodations on-site;

(4) Employees shall be uniformed and identified;

(5) Security or off-duty police officers on-site during operating hours;

(6) Portable toilets provided;

(7) Site plan to determine compliance with all zoning ordinance requirements.

(b) Rodeos, horse shows, carnivals, athletic events, and community fairs may be approved by the director of public works by special administrative permit, subject to the following requirements in C-2, M and M-2 districts:

(1) For a time period not exceeding fourteen (14) days;

(2) All buildings, structures and activities associated with such use shall be set back at least five hundred (500) feet from the boundary of any residential district;

(3) All buildings, structures and activities associated with such use shall be set back at least two hundred (200) feet from any property line;

(4) The minimum lot area for any such use shall be twenty (20) acres;

(5) Employees shall be uniformed and identified;

(6) Security or off-duty police officers on-site during operating hours;

(7) Sanitary facilities to be provided;

(8) Site plan to determine compliance with all zoning ordinance requirements.

(c) Drive-in theaters. The following provisions shall apply to drive-in theaters:

(1) The theater screen, projection booth or other buildings shall be set back not less than fifty (50) feet from any property line.

(2) Driving and parking areas shall be paved.

(3) Ingress and egress from a public street shall be so designed and constructed as to provide for safe traffic movement.

(4) Central loudspeakers shall be prohibited.

(5) The theater screen shall not be visible from any freeway or principal or major arterial street.

(6) The theater shall be enclosed by a six-foot screening fence and shall provide a buffer area ten (10) feet in width.

(d) Fairgrounds and amusement parks. The following provisions shall apply to fairgrounds and amusement parks:

(1) All buildings and structures associated with such uses shall be set back not less than two hundred (200) feet from any property line.

(2) Such uses shall not be permitted within five hundred (500) feet of a residential district.

(3) Such facilities shall be enclosed by a six-foot screening fence.

(e) Golf driving ranges and batting cage facilities. The following provisions shall apply to golf driving ranges and batting cage facilities:

(1) Such uses shall be enclosed by a six-foot screening fence and a buffer area ten (10) feet in width to screen adjacent property.

(2) Central loudspeakers shall be prohibited.

(3) Lighting shall be established in such a way that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways.

(f) Miniature golf courses. The following provisions shall apply to miniature golf courses:

(1) Such uses shall be enclosed by a six-foot screening fence and a buffer ten (10) feet in width to screen adjacent property.

(2) Central loudspeakers shall be prohibited.

(3) Lighting shall be established in such a way that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways.

(g) Golf courses. The following provisions shall apply to golf courses:

(1) Such uses shall be enclosed by a screening fence six (6) feet in height to screen adjacent property.

(2) Except for emergency purposes loudspeakers shall be prohibited.

(3) Lighting shall be established in such a way that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways.

(h) Recreation grounds, fishing lakes and other related facilities. The following provisions shall apply to recreation grounds and facilities:

(1) Such uses shall be enclosed by a screening fence six (6) feet in height to screen adjacent property.

(2) Central loudspeakers shall be prohibited.

(3) Lighting shall be established in such a way that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways.

(i) Tennis centers, clubs and facilities. The following provisions shall apply to tennis centers, clubs and facilities:

(1) Such uses shall be enclosed by a screening fence six (6) feet in height to screen adjacent property.

(2) Central loudspeakers shall be prohibited.

(3) Lighting shall be established in such a way that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways.

(j) Go-cart concessions. The following provisions shall apply to go-cart concessions:

(1) All buildings and structures associated with such use shall be set back not less than two hundred (200) feet from any property line.

(2) Such use shall not be permitted within five hundred (500) feet of the boundary of a residential district.

(3) Such use shall be enclosed by a six-foot wall.

(4) The maximum motor size of any cart used shall not exceed five (5) horsepower.

(5) The maximum area occupied by the facility shall not exceed forty thousand (40,000) square feet.

Sec. 4-17. Construction Contractors, Outdoor Storage.

There shall be no indoor or outdoor storage of construction equipment, construction materials, or construction vehicles in any zoning district other than C-2, M, and M-2, except on a lot for which a valid development or building permit has been issued by the director of public works and where construction work is actively being undertaken.

Sec. 4-18. Height Requirements.

The height limitations established in this Chapter shall not apply to the following:

(a) No new construction of a single-family detached dwelling shall exceed thirty-five (35) feet measured from the vertical distance from the front door threshold of the proposed residential structure to the highest point of the roof of the structure

(b) Except in the airport compatible use overlay district, the height limitations established in this chapter shall not apply to the following:

(i) Barns, silos or other farm structures when located on farms; belfries, cupolas and domes, chimneys; and flagpoles.

(ii) Bulkheads, elevator penthouses, water tanks and scenery lofts and similar structures, provided that these structures shall not cover more than twenty-five (25) percent of the total roof area of the building which the structures are located.

(iii) Telecommunications towers and antennas otherwise permitted by this Chapter by special administrative permit or permitted by special land use permit by the City Council pursuant to **Section 4-47**.

Sec. 4-19. Home Occupations and Private Educational Uses.

The following provisions shall apply to home occupations. Private educational uses shall only be required to comply with **subsections (a), (b), (c), (d) and (h)**:

(a) There shall be no exterior evidence of the home occupation.

(b) No use shall create noise, dust, vibration, odor, smoke, glare or electrical interference that would be detectable beyond the dwelling unit.

(c) The use shall be conducted entirely within the dwelling unit and only persons living in the dwelling unit shall be employed at the location of the home occupation.

(d) No more than twenty-five (25) percent of the dwelling unit and in no case more than five hundred (500) square feet, whichever is less, may be used for the conduct of the home occupation.

(e) No use shall involve public contact on the property and no article, product or service shall be sold on the premises other than by telephone.

(f) No materials or equipment shall be stored on the premises upon which the home occupation is located, except where such materials and equipment are stored entirely within the residence.

(g) No vehicle other than a passenger automobile, passenger van, or passenger truck shall be used in the conduct of a home occupation, and no other vehicle shall be parked or stored on such premises.

(h) No home occupation shall be operated so as to create or cause a nuisance.

(i) Home occupation shall not include the use of a dwelling unit for the purpose of operating any automobile repair establishment, taxi service, van service, limousine service, wrecker service, car wash, or ammunition or firearms sales establishment.

Sec. 4-20. Home Stay Bed and Breakfast Residence.

Home stay bed and breakfast residences may be undertaken only upon approval of a special land use permit by the City Council and with all of the following additional requirements:

(a) The home stay bed and breakfast residence shall be occupied by the owner or renter of the dwelling used for such purpose;

(b) Such use shall have a lot area of not less than twenty thousand (20,000) square feet and a floor area within the dwelling unit of not less than two thousand five hundred (2,500) square feet;

(c) No separate kitchen facilities shall be used or authorized;

(d) In addition to providing the off-street parking required for the dwelling unit, there shall also be provided at least one (1) off-street parking space for each bedroom used as a part of the home stay bed and breakfast residence;

(e) No signs or advertising are permitted to identify or advertise the existence of the home stay bed and breakfast residence;

(f) The residential character of the dwelling shall be maintained;

(g) Such use shall comply with all other applicable provisions of the City of Dunwoody Code of Ordinances; and

(h) Meals shall be served only to members of the family and to persons who are renting rooms pursuant to an approved special land use permit for home stay bed and breakfast residence.

(i) Business and accounting records of the facility shall be made available to the county upon request to verify compliance with regulations.

(j) No individual shall stay for longer than seven (7) days and shall not re-register within thirty (30) days.

Sec. 4-21. Landscaping Requirements for Parking Lots.

All accessory surface parking lots and authorized parking lots within the RM-150, RM-100, RM-85, RM-75, RM-HD, OI, O-I-T, OD, NS, C-1, C-2, M, and M-2 Districts which contain a total of twenty (20) or more parking spaces which are constructed subsequent to the adoption of this Chapter shall comply with the following requirements:

(a) Each such parking lot shall have a minimum of ten (10) percent of the total lot area of the parking lot in landscaped space.

(b) Non-continuous barrier curbs shall be installed around the perimeter of the parking lot and around landscaped areas that are required herein, except where the perimeter abuts an adjacent building or structure and except at points of ingress and egress into the facility, so as to prevent encroachment of vehicles onto adjacent property, rights-of-way, sidewalks and landscaped areas.

(c) Where required, barrier curbs shall be a minimum of six (6) inches in height and a minimum of six (6) inches in width and shall be permanent in nature. Barrier curbs shall be concrete or stone. Such curbs shall be securely installed and maintained in good condition.

(d) Where the end of a parking space abuts a landscaped area, barrier curbs may be placed in the parking space at a maximum of two (2) feet from the end of the parking space. This two-foot wide area may have the pavement removed, and be developed as part of the required landscaped area.

(e) A minimum of one (1) tree per eight (8) parking spaces shall be included in the required landscaped areas. For the purpose of satisfying this requirement, existing trees that are three (3) inches or more in caliper as measured at a height of thirty-six (36) inches above ground level shall be considered to be equivalent to one (1) or more newly planted trees on the basis of one (1) tree for each three (3) inches of caliper.

(f) In addition to trees, ground cover shall also be provided in order to protect tree roots and to prevent erosion. Ground cover shall consist of shrubs, ivy, liriope, pine bark mulch, or other similar landscaping material.

(g) Shrubs shall be maintained at a maximum height of two and one-half (2 1/2) feet, except where such shrubs are screening the parking surface from an adjacent residential area.

(h) In the event that landscaped areas are in the interior of a parking lot, they shall be a minimum of six (6) feet in width and six (6) feet in length, with a minimum area of thirty-six (36) square feet.

(i) Continuous landscaped buffer strips shall be constructed along sidewalks and public rights-of-way where surface parking lots are adjacent to such sidewalks or public right-of-way except at points of ingress or egress into the facility. Such landscaped buffer strips shall be in a minimum of ten (10) feet in

width and shall contain, in addition to ground cover, trees planted a maximum of forty (40) feet on center along the entire length.

(j) Newly planted trees shall be a minimum of three (3) inches in caliper as measured at a height of six (6) inches above ground level, shall be a minimum of ten (10) feet in height, shall have a forty-foot minimum mature height, and shall be drought tolerant. Trees shall be planted at a minimum of thirty inches from any barrier curb, so as to prevent injury to trees from vehicle bumpers. A minimum of seventy-five (75) percent of the trees planted pursuant to these requirements shall be deciduous hardwood shade trees.

(k) Where landscaped areas are located adjacent to vehicle overhangs, the trees shall be planted in line with the side stripes between parking spaces in order to avoid injury to trees by vehicle bumpers.

(l) All landscaped areas shall be properly maintained in accordance with approved landscape plans. In the event that a tree or any plant material dies, it shall be replaced within twelve (12) months so as to meet all requirements of this section and to allow for planting in the appropriate planting season.

(m) All trees planted pursuant to the requirements of this **Section 4-21** shall be counted for the purpose of meeting the tree planting and tree replacement requirements imposed by the City's tree Protection Ordinance.

Sec. 4-22. Lighting.

Lighting in all districts shall be established in such a way that no direct light is cast upon or adversely affects adjacent properties and roadways. This section shall not apply to lighting established by governmental authority within public rights-of-way.

Sec. 4-23. Loading Space and Loading Berth Requirements, Off-Street.

Off-street loading spaces and off-street loading berths shall be provided as follows:

(a) Each loading space shall be no less than twelve (12) feet by thirty-five (35) feet by fourteen (14) feet overhead clearance. Each loading berth shall be no less than twelve (12) feet by fifty-five (55) feet by fourteen (14) feet overhead clearance. Each loading space and each loading berth shall have sufficient maneuvering space on-site so as to prevent interference with pedestrian or vehicular circulation on public street and sidewalks.

(b) Loading spaces and loading berths shall be provided as follows:

(1) Retail operations, including restaurants and other retail uses within hotels and office buildings, with a total gross floor area of twenty thousand (20,000) square or more shall provide one (1) loading berth for each forty thousand (40,000) square feet of floor area or fraction thereof and one (1) loading space for each twenty thousand (20,000) square feet of floor area or fraction thereof.

(2) Retail uses including all first floor nonresidential uses with a gross floor area of less than twenty thousand (20,000) square feet, and all wholesale and light industrial operations with a gross floor area of

less than ten thousand (10,000) square feet shall provide one (1) loading space.

(3) Office buildings and hotels with a gross floor area of one hundred thousand (100,000) square feet or more devoted to such use shall provide one (1) loading berth for each one hundred thousand (100,000) square feet of floor area or fraction thereof.

(4) Industrial and wholesale uses with a gross floor area of ten thousand (10,000) square feet or greater shall provide loading berths as follows:

a. 10,000--40,000 square feet: 1 berth.
b. 40,001--100,000 square feet: 2 berths.
c. 100,001--160,000 square feet: 3 berths.
d. 160,001--240,000 square feet: 4 berths.
e. 240,001--320,000 square feet: 5 berths.
f. 320,001--400,000 square feet: 6 berths.
g. 400,001 or more square feet: 6 berths plus one additional berth for each additional 90,000 square feet or fractional thereof in excess of 400,001 square feet.

Sec. 4-24. Lots.

All lots created after enactment of this Chapter shall conform in all respects to the minimum requirements set forth in the district in which such lot is located, to all other applicable requirements of this Chapter, and any other requirements of the City's codes.

Sec. 4-25. Lots, Corner.

On corner lots the side having the least street frontage shall be deemed to be the front of the lot for the purpose of applying required yards and setbacks.

Sec. 4-26. Lots Served by Septic Tanks, Minimum Area.

Any lot which is to be served by an individual septic tank shall have an area of not less than that required by state and county health regulations. The site location on the lot of the facility shall be approved by the county board of health in accordance with applicable board of health regulations.

Sec. 4-27. Lots with Well and Septic Tank.

Any lot upon which both an individual well and septic tank are to be provided shall have a minimum area of not less than that required by state and county health regulations. The site location on the lot of these facilities shall be approved by the county board of health in accordance with applicable board of health regulations.

Sec. 4-28. Mines, Mining, Quarries, Gravel Pits, Borrow Pits, and Sand Pits.

The following regulations apply to the use of land as a mine, mining operation, quarry, gravel pit, borrow pit, and sand pit:

(a) *Removal or extraction of dirt, sand and soil.* The following provisions apply to removal or extraction of dirt, sand and soil:

(1) The removal area shall be completely enclosed with a wall or fence not less than six (6) feet in height.

(2) Drainage plans and a plan for the redevelopment of the site when the removal is completed shall be submitted with the application for a development permit.

(3) The use shall not be established within one thousand (1000) feet of a residential use or three hundred (300) feet of any other use.

(4) This subsection shall not prohibit the removal of earth and rock and filling and grading in any district done for land development purposes, upon issuance of a development permit in accordance with the provisions of this Chapter.

(b) *Quarry and mining.* The following provisions apply to use of any parcel of land for a quarry, mine or mining operation:

(1) All improved and maintained entrances shall be fenced and locked during nonbusiness hours. The property shall be adequately posted as is required by state law and notice of such posting shall be filed with the director of public works.

(2) Operators shall comply with state department of natural resources, surface mining land reclamation program rules and regulations, and the mining permit number issued by the state shall be filed with the director of public works.

(3) A blasting limit of two (2) inches per second peak particle velocity as measured from any of three (3) mutually perpendicular directions in the ground adjacent to off-site buildings shall not be exceeded.

(4) An air blast limit of one hundred twenty-eight (128) decibels (linear-peak) measured adjacent to off-site residential buildings shall not be exceeded.

(5) Seismographic and noise instrumentation shall be required for a minimum of one (1) blast per three-month period. The records of such instrumentation and records of all blasts, including total charge weight, charge weight per delay, charge depth, date and time, location and meteorological conditions, shall be retained by the operator for a period of not less than two (2) years. All non-instrumented blasts shall be in compliance with the recommended scaled distance, as defined by the United States Department of the Interior, Bureau of Mines Bulletin 656, entitled "Blasting Vibrations and Their Effects on Structures." This scale distance is 50 = D/W1/2 where D is the distance to the building and W is the maximum charged weight of the explosive per delay.

(c) *Reuse or reclamation plans required.* Prior to the issuance of any development permit for any, mine, mining, quarry, gravel pit, or sand pit, the

applicant shall provide to the Director of Planning a reuse or reclamation plan which meets all requirements of the City of Dunwoody Code of Ordinances.

Sec. 4-29. Moving Buildings, Requirements for.

No dwelling unit or other permanent structure shall be moved within or into the county unless, when relocated, it meets all requirements of the Code of Ordinances of City of Dunwoody and is first approved by the Director of Planning.

Sec. 4-30. Noise Limitations.

(a) *Short title.* This section shall be known and may be cited as the noise ordinance of City of Dunwoody, Georgia.

(b) *General purposes.*

(1) City of Dunwoody seeks to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life, by adopting this section. Nothing in this section is intended to deter individuals from lawfully exercising the individual right to freedom of speech or any other freedom guaranteed under the Constitutions of the United States of America or of the State of Georgia.

(2) This section applies to all noises, sounds, and tones emitting from all property categories originating within the unincorporated limits of the county. Such property categories include, specifically:

a. Residential districts;

b. Commercial districts;

c. Industrial districts;

d. Multi-use properties;

e. Public and private right-of-ways;

f. Public uses;

g. Multi-family dwelling units; and

h. Public and private parks and open spaces.

(3) This section applies to all noises, sounds, and tones received at all property categories, except industrial districts, that originate within the unincorporated limits of the county.

(4) This section applies only to noises, sounds, and tones about which a complainant has lodged a complaint. Sound level measurements for determining compliance shall be conducted only on the property of the complainant regardless of the existence of other receptors in closer proximity to the noise source under investigation.

(c) *Maximum permissible sound levels.*

(1) *Maximum permissible sound level limits by receptor property dB(A)*

TABLE INSET:

Residential district 7:00 a.m. -- 10:00 p.m. Noise Sensitive facility	Residential district 10:00 p.m. -- 7:00 a.m.	Commercial district 24 hours	Industrial district 24 hours
60	50	65	75

a. *Continuous sound:*

1. No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property within residential districts, commercial districts, industrial districts, multi-use properties, public and private right-of-ways, public uses and multi-family dwelling units in such a manner as to create a sound level that exceeds the sound level limits listed in **subsection (c)(1)** of this section as measured at any location at or within the property line of the receptor property. Sound pressure levels in excess of those established in **subsection (c)(1)** of this section shall constitute prima facie evidence that such sound is in violation of this section.

2. If the residential receptor property or noise sensitive facility is within two hundred (200) feet of a commercial or industrial zone, or within an OCR district, the permissible sound level limit of the residential receptor property or noise sensitive facility is increased by five (5) dB(A) between the hours of 7:00 a.m.--10:00 p.m.

b. *Impulsive sound:*

1. Between 7:00 a.m. and 10:00 p.m., impulsive sounds which occur less than ten (10) times in an hour shall not equal or exceed twenty (20) decibels above the permissible sound level limits in **subsection (c)(1)** of this section. Impulsive sound which repeats ten (10) or more times in any hour shall not exceed the permissible sound level limits in **subsection (c)(1)** of this section.

2. Between the hours of 10:00 p.m. and 7:00 a.m., impulsive sounds which occur less than four (4) times in an hour shall not equal or exceed twenty (20) decibels above the permissible sound level limits in **subsection (c)(1)** of this section. Impulsive sound which repeats four (4) or more times in any hour shall not exceed the permissible sound level limits in **subsection (c)(1)** of this section.

c. *Steady pure tones*: If the sound source under investigation is a mechanical device, and is emitting a sound with a steady tonal quality, the permissible sound level limits in **subsection (c)(1)** of this section shall be reduced by five (5) dB(A). Such sound sources include, but are not limited to heating, ventilating or air-conditioning units, refrigeration units, and transformers; however, this provision shall not apply to residential air-conditioning units.

(2) *Amplified sound reproduction device maximum permissible sound level limits indoors across a real property line dB(C) above ambient.*

TABLE INSET:

Residential district 7:00 a.m. -- 10:00 p.m. Noise Sensitive facility	Residential district 10:00 p.m. -- 7:00 a.m.	All Other Times
3	5	10

a. *Amplified sound:*

1. If the source of sound is an amplified sound reproduction device, and the complainant states that the use of the device is disturbing within their residence then the noise enforcement officer may take sound level measurements within the residence of the complainant.

2. No person shall cause, suffer, allow, or permit the operation of any amplified source of sound in such a manner that it raises the total sound levels by the permissible sound level limits set forth in **subsection (c)(2)** of this section when measured within the residence of a complainant. These sound level measurements shall be conducted with the sound level meter set for "C" weighting, "fast" response. Such measurements shall not be taken in areas that receive only casual use such as hallways, closets and bathrooms.

3. For the purposes of these measurements, the ambient sound level is that sound level which is measured in the residence when the sound source under investigation is not prominent, or in a room on the same floor that is relatively unaffected by the sound source under investigation.

(d) *Noise control administrator.* There shall be created a noise control administrator who shall be the police chief or designee who shall have the power to:

(1) Coordinate the noise control activities of all departments in City of Dunwoody and cooperate with all other public bodies and agencies to the extent practicable;

(2) Review the actions of City of Dunwoody and advise the county of the effect, if any, of such actions on noise control;

(3) Review public and private projects, subject to mandatory review or approval by other departments or boards, for compliance with this section;

(4) Promulgate and publish rules and procedures to establish techniques for measuring noise, and to provide for clarification, interpretation, and implementation of this section;

(5) Review at least every three (3) years the provisions of this section and recommend revisions consistent with technology to reduce noise, or to address new sound sources within City of Dunwoody, provided, however, that failure to review and/or recommend revisions shall not affect the validity of the provisions then in effect;

(6) Delegate the duties of the noise control officer to any duly qualified individual according to the provisions of **subsection (e)** of this section.

(e) *Noise control officers.*

(1) Where the provisions of this section require the measurement of sound with the use of a sound level meter, noise control officers shall make such measurement. A person shall be qualified to be a noise control officer if the person meets the criteria set forth by the noise control administrator and completes, at a frequency specified by the noise control administrator, a noise certification and re-certification course which has been approved by the administrator. When no measurement of the sound level is necessary to determine whether a sound is in violation of the provisions of this section, or when the level of sound measured by a noise control officer is in violation of the provisions of this section, any noise control officer or police officer having jurisdiction in the area where the violation takes place, may issue a citation/summons for the violation of this section returnable to the recorder's court of City of Dunwoody. Penalties for violations of this section will be governed by **subsection (o)** of this section.

(2) Noise control officers shall cooperate and assist any police officer in measuring sound to determine if same is in violation of this section.

(f) *Procedures for the determination of sound levels.*

(1) Insofar as practicable, sound will be measured while the source under investigation is operating at normal, routine conditions and, as necessary, at other conditions, including but not limited to, design, maximum and fluctuating rates. All noise measurements shall be made at or within the property line of the impacted site, unless otherwise directed in this section. When instrumentation cannot be placed at or within the property line, the

measurement shall be made as close thereto as is reasonable. For the purposes of this section, noise measurements are measured on the A- or C- weighted sound scale, as applicable, of a sound level meter of standard design and quality having characteristics established by ANSI.

(2) The sound level meter and calibrator must be re-certified annually at a laboratory approved by the noise control administrator. A field check of meter calibration and batteries must be conducted before and after every set of measurements, and at least every hour as necessary.

(3) Total and neighborhood residual sound level measurements shall be taken in accordance with procedures established and approved by the noise control administrator. Calculation of source sound levels shall conform with accepted practice established by ANSI.

(g) *Exceptions.* The maximum decibel levels established in **subsections (c)(1)** and **(c)(2)** of this section shall not apply to any of the following noise sources:

(1) Agricultural activities;

(2) Sound by public safety vehicles, emergency signaling devices, or authorized public safety personnel for the purpose of alerting persons to the existence of an emergency;

(3) Noise from an exterior burglar alarm of any building, provided such burglar alarm shall terminate its operation within five (5) minutes of its activation if the sound is uninterrupted or ten (10) minutes if intermittent;

(4) Noise from any automobile alarm, provided such burglar alarm shall terminate its operation within five (5) minutes of its activation if the sound is uninterrupted or ten (10) minutes if the sound is intermittent;

(5) The generation of sound in situations within the jurisdiction of the Federal Occupational Safety and Health Administration;

(6) Noise resulting from any practice or performance sponsored by or associated with the educational process administered by a recognized institution of learning, including, but not limited to band, choir, and orchestral performances between the hours of 7:00 a.m. and 11:00 p.m.;

(7) Noise that results from, arises out of or stems from the occurrence of a professional sporting event or organized sports league;

(8) Unamplified bells, chimes or carillons while being used in conjunction with signaling the time of the day between the hours of 7:00 a.m.--10:00 p.m.;

(9) Unamplified bells, chimes or carillons while being used in conjunction with on-going religious services between the hours of 7:00 a.m.--10:00 p.m.;

(10) Emergency work;

(11) National Warning System (NAWAS): systems used to warn the community of attack or imminent public danger such as flooding, explosion or hurricane;

(12) Noise of aircraft operations, where federal regulations preempt the local regulation of such specific operations;

(13) Public celebrations such as marches, parades or any other event sanctioned by federal, state or local government(s);

(14) Surface carriers engaged in commerce by railroad;

(15) Sound from the travel of properly muffled motor vehicles on a public right-of-way;

(16) Events with amplified sound that are operating within the time and volume parameters set forth in an approved special administrative permit.

(h) *Restricted uses and activities.* Notwithstanding the provisions of **subsection (c)(1)** of this section and the exceptions above, the following standards shall apply to the activities or sources of sound set forth below:

(1) Non-commercial or non-industrial power tools used for landscaping and yard maintenance shall not be operated between the hours of 10:00 p.m. and 7:00 a.m., unless such activities can meet the applicable limits set forth in **subsection (c)(1)** of this section. All motorized equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in **subsection (c)(1)** of this section do not apply to non-commercial or non-industrial power tools and landscaping and yard maintenance equipment.

(2) Commercial or industrial power tools used for landscaping and yard maintenance shall be operated with a muffler. All motorized equipment used in these activities shall not be operated on a residential property or within two hundred fifty (250) feet of a residential property line, between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 10:00 p.m. and 8:00 a.m. on weekends, unless:

a. Such activities are deemed emergency work; or

b. Such activities meet the limits set forth in **subsection (c)(1)** of this section.

At all other times, the limits set forth in **subsection (c)(1)** of this section do not apply to commercial or industrial power tools and landscaping and yard maintenance equipment.

(3) Construction and demolition activity shall not be performed between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 10:00 p.m. and 8:00 a.m. on weekends, unless:

a. Such activities are deemed emergency work; or

b. Such activities meet the limits set forth in **subsection (c)(1)** of this section.

c. This provision shall not apply if the noise control administrator determines that the loss or inconvenience that would result to any party in interest is of such a nature as to warrant special

consideration. In such cases, the noise control administrator may grant a renewable permit for a period not to exceed ten (10) days for this work to be done within the hours of 10:00 p.m. to 7:00 a.m.

(4) The testing of burglar or fire alarms shall not exceed five (5) minutes in duration, and shall not occur between the hours of 10:00 p.m. and 8:00 a.m. Fire drills may be conducted outside of these hours no more than once a month, and with prior notification to all residential properties within two hundred fifty (250) feet of the property line where the testing will take place. At all times during these tests, the limits set forth in **subsection (c)(1)** of this section do not apply.

(5) Domesticated or caged non-farm animals may not make any vocalizations for more than fifteen (15) minutes without interruption or more than thirty (30) minutes if intermittent. These time limits do not apply if the vocalizations are given as a warning to the presence of an intruder. At all times, the limits set forth in **subsection (c)(1)** of this section do not apply.

(6) Personal or commercial vehicular music amplification or reproduction equipment, including, but not limited to boom cars, shall not be operated in such a manner as to be plainly audible at a distance of fifty (50) feet in any direction from the equipment between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m. such equipment shall not be operated in such a manner that it is plainly audible at a distance of twenty-five (25) feet in any direction.

(7) Boom boxes, or any similar device, shall not be operated in a public place or public right-of-way in such a manner as to be plainly audible at a distance of fifty (50) feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., such equipment shall not be operated in such a manner that it is plainly audible at a distance of three (3) feet in any direction.

(8) The provisions of **subsections (h)(1)** and **(2)** of this section do not apply to power tools or motorized equipment operated in association with the upkeep and maintenance of any public or private golf course, provided that all such power tools and motorized equipment are equipped with mufflers or are operated in conjunction with a device or system for lessening the sounds produced.

(i) *Initiation of applications; requests for temporary relief or stays; requests for variances.*

(1) Any person requesting temporary relief or a stay from the enforcement of this section shall apply for a special administrative permit for a period of time not to exceed thirty (30) days. The noise control administrator has discretion to consider and grant or deny the special administrative permit, pursuant to the procedures and standards contained in this section if strict enforcement of this section will result in exceptional and undue hardship to the applicant. Under no circumstances shall the noise control administrator

grant a stay of enforcement of this section for more than sixty (60) days within any six-month period.

(2) All requests for variances shall be filed with the zoning board of appeals and shall be governed by **Section 5D et seq.** No variance shall be issued for amplified noise measured under **subsection (c)(2)** of this section.

(3) No special administrative permit or variance shall be granted for amplified noise described in **subsection (h)(6)** and **(7)** of this section.

(4) No special administrative permit or variance shall be authorized to delete, modify, or change in any manner any requirement enacted as a condition of zoning or as a condition of a special land use permit imposed by the City Council or the zoning board of appeals.

(j) *Successive applications.* An application for a variance affecting all or a portion of the same property shall not be submitted more than once every twenty-four (24) months measured from the date of the final decision by the zoning board of appeals. The zoning board of appeals may waive or reduce this twenty-four-month time interval by board action if the time interval between the date of said denial and any subsequent application affecting the same property is no less than six (6) months. The limitations in this section shall not apply to special administrative permits.

(k) *Application forms; filing of applications; application fees.* Applications for special administrative permits and variances shall be filed on forms provided by the noise control administrator and shall not be considered authorized or accepted unless complete in all respects. The City Council shall establish application fees.

(l) *Application forms; criteria.* Applications for special administrative permits shall include all of the following information:

(1) The nature and location of the noise source for which such application is made;

(2) The reason for which the permit or variance is requested, including the hardship that will result to the applicant, his/her client, or the public, if the permit or variance is not granted;

(3) The nature and intensity of noise that will occur during the period of the permit or variance; and

(4) A description of the noise control measures to be taken by the applicant to minimize noise and the impacts occurring therefrom.

(5) The name, address and means of contacting a responsible party during the hours of operation for which the permit or variance is issued.

(m) *Issuance of special administrative permits; required enumerated conditions.* Upon issuance of a special administrative permit, the noise control administrator shall enumerate the conditions of the permit including, but not limited to:

(1) Specific dates and times for which the permit is valid, not to exceed thirty (30) days;

(2) Sound level limits that may not be exceeded at the nearest affected residential district or noise sensitive property.

(n) *Revocation.*

(1) The noise control administrator may revoke special administrative permits if the terms of the permit are violated.

(2) A special administrative permit may be revoked by the noise control administrator, and the issuance of future special administrative permits withheld, if there is a:

a. Violation of one (1) or more conditions of the permit;

b. Material misrepresentation of fact in the permit application; or,

c. Material change in any of the circumstances relied upon by the noise control administrator in granting the permit.

(o) *Fines.*

(1) A conviction of a violation of the provisions of this section shall be punished by a minimum fine of one hundred dollars ($100.00), which may be combined with any other authorized penalty within the City's Code.

(2) If the activity or condition constituting the violation has been the subject of an enforcement action against the violator in the immediately preceding six (6) months, the minimum fine shall be five hundred dollars ($500.00), which may be combined with any other authorized penalty within the City's Code.

(3) If the activity or condition constituting the violation has been the subject of three (3) or more enforcement actions against the violator in the immediately preceding twelve (12) months, the minimum fine shall be eight hundred dollars ($800.00), which may be combined with any other authorized penalty within **Section 5D-12** of the Code.

(4) Violations of this section are continuous with respect to time; therefore, each day the violation continues is a separate offense.

(p) *Appeals.* Appeals of any special administrative permit decision made by the noise control administrator, his or her designee, or any officer authorized to enforce the provisions of this section shall be to the zoning board of appeals pursuant to **Section 5D-12 et seq.**

(q) *Inconsistent provisions.* Insofar as the provisions of this section are inconsistent with any other provision of any other title of the ordinance or any rule or regulation of any government agency of the county, then the provisions of this section shall control.

Sec. 4-31. Open Space.

Open space areas required to be established by this Chapter shall be permanently maintained as open space and appropriately landscaped with trees, shrubs, flowers, grass, stones, rocks or other landscaping materials. These areas may not be used for vehicular access, parking or similar uses except as otherwise permitted in this Chapter.

Sec. 4-32. Outdoor Storage of Materials, Supplies, Equipment or Vehicles.

The following regulations shall apply to outdoor storage of materials, supplies, equipment or vehicles:

(a) In the O-D, O-I, NS and C-1 districts there shall be no outdoor storage of materials, supplies, equipment or vehicles.

(b) In the C-2, M and M-2 districts outdoor storage shall be at least fifty (50) feet from the street right-of-way and shall be screened so as not to be visible at ground level from any adjoining property or from the public street.

Sec. 4-33. Parking Garage, Commercial.

Commercial automobile parking garages may include gasoline pumps if located entirely within the parking garage structure.

Sec. 4-34. Parking Regulations, Off-Street Parking Spaces.

Off-street parking spaces shall be provided in accordance with the following requirements:

(a) Each application for a development permit or building permit other than for a detached single-family residence shall be accompanied by a parking plan showing all required off-street parking spaces, driveways, and the internal circulation system for each such parking lot.

(b) All parking lots and spaces shall conform to the following requirements:

(1) Each parking space and parking lot shall have access to a public street.

(2) Each parking space and parking lot, including all internal circulation driveways, shall comply with the requirements of the City of Dunwoody Code of Ordinances. All vehicles shall be parked only on a paved surface.

(3) Each parking space shall be not less than one hundred fifty-three (153) square feet and not less than eight and one-half (8 1/2) feet wide and eighteen (18) feet deep. In any required parking lot consisting of twenty (20) or more parking spaces, forty (40) percent of such spaces may be small car spaces each of which shall be not less than one hundred twenty (120) square feet and not less than eight (8) feet wide and fifteen (15) feet deep. Each parking lot shall have adequate space for the parking and unparking of each car and for internal circulation within said parking lot.

(4) Each parking lot and parking space shall be separated from the public street or public sidewalk by wheel bumpers and a planted strip at least ten (10) feet in width, except that parking lots consisting of twenty (20) or more spaces shall comply with the requirements of **Section 4-21** of this Chapter.

(5) All parking lots and parking spaces shall conform to the geometric design standards of the Institute of Traffic Engineers.

(6) Parking and loading shall not be permitted within required front yard setbacks in any RM and OI district, except in the O-I-T district. Parking and loading shall be permitted within the required front yard set backs in the O-I-T district where provision of adequate parking spaces within the rear yard is impractical.

(7) Parking shall not be permitted within the front yard in any R district except within a driveway or in a carport or garage. Within any R district not more than thirty-five (35) percent of the total area between the street right-of-way line and the front of the principal building shall be paved. On any lot where adequate width exists so as meet the geometric design standards of the Institute of Traffic Engineers, a circular driveway shall be permitted, subject to the total driveway coverage herein. However, no parking spaces or parking bays shall be established within any such front yard.

(8) No parking area or lot shall be used for the sale, repair, dismantling, servicing, or long-term storage of any vehicle or equipment unless located within a district which otherwise permits such use.

(9) The parking of business vehicles within R districts other than ordinary passenger vehicles shall be within a garage or carport or within a side or rear yard. The parking of any business vehicle other than a passenger automobile, passenger van, or passenger truck shall not be permitted in any residential district.

(10) All parking lots within the RM-150, RM-100, RM-85, RM-75, RM-HD, OI, O-I-T, OD, NS, C-1, C-2, M, and M-2 Districts which contain a total of twenty (20) or more parking spaces shall conform to all of the requirements of **Section 4-21** of this Chapter.

(c) In any case where the district regulation does not specify an off-street parking requirement for a use that is authorized or permitted within any such district, then the most restrictive off-street parking requirement within that district regulation shall apply.

Sec. 4-35. Pawn Shops.

The following provisions apply to pawn shops whether designed as a primary use or as a part of a shopping center:

(a) This use shall be permitted only on a parcel of land which has direct access to a major thoroughfare.

(b) This use shall not be permitted within one thousand (1,000) feet of an existing pawn shop or check cashing establishment.

Sec. 4-36. Places of Worship, Convents; Monasteries; Temporary Religious Meetings; General Requirements.

The following subsections shall apply to places of worship, convents and monasteries and their related uses, as defined within this Code:

(a) When located in a residential district, any building or structure established in connection with places of worship, monasteries or convents shall be located at least seventy-five (75) feet from any property line, except where the adjoining property is zoned for nonresidential use, the setback for any building or structure shall be no less than twenty (20) feet for a side-yard and no less than thirty (30) feet for a rear-yard.

(b) When located in a residential district, the required setback from any property line that adjoins a street right-of-way shall be the front-yard setback for the applicable residential district.

(c) When located in a residential district, the parking areas and driveways for any such uses shall be located at least twenty (20) feet from the boundaries of any property line, with a visual screen, e.g., a six-foot fence or sufficient vegetation established within that area.

(d) Places of worship, convents and monasteries in residential districts shall be located on a minimum lot area of three (3) acres and shall have frontage of at least one hundred (100) feet along a public street.

(e) Places of worship, convents and monasteries in residential districts shall be located only on a major or minor thoroughfare.

(f) The establishment of sites and tents for temporary religious meetings requires the grant of a special administrative permit by the director of planning. Such tents or sites for any specific location may not be used for a cumulative period of more than fourteen (14) days during any calendar year.

(g) Any uses, buildings or structures operated by a place of worship that are not specifically included within the definition of place of worship must fully comply with the applicable zoning district regulations, including, but not limited to, any requirement for a special land use permit.

(h) Any use, building or structure operated by a place of worship that is included within the definition of a place of worship must comply with the applicable supplemental regulations found in **Sections 4-1**.

(i) Any place of worship, convent or monastery located on a street other than a major or minor thoroughfare shall be a legal non-conforming use if constructed pursuant to a development permit issued between July 30, 1970 and April 13, 1999.

(j) **Subsections (d)** and **(e)**, above, shall only apply to places of worship, convents and monasteries developed or established after July 29, 1970.

Sec. 4-37. Private Elementary, Middle and High School.

The minimum lot size for private elementary, middle and high school for which an application for special land use permit is filed, shall be as follows:

(a) *Elementary school:* Five (5) acres plus one (1) additional acre for each one hundred (100) students based on the design capacity of the school.

(b) *Middle school:* Twelve (12) acres plus one (1) additional acre for each one hundred (100) students based on the design capacity of the school.

(c) *High school:* Twenty (20) acres plus one (1) additional acre for each one hundred (100) students based on the design capacity of the school.

Sec. 4-38. Utility Structure Necessary for the Transmission or Distribution of Service.

Any utility structure necessary for the transmission or distribution of service, whether an authorized use or a permitted use, shall provide security fencing and landscaping to lessen the visual impact of such structures on adjoining property. Noise resulting from temporary construction activity pursuant to a valid development or building permit, that is not a part of the usual and ongoing operation of the use on the site, that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the requirements of this section. Such structures shall be built only within the buildable area of any lot where permitted or authorized and shall meet all requirements of the district in which such structure facility is located.

Sec. 4-39. Relatives' Residence in Single-Family Residential Districts.

A second kitchen facility may be constructed and used within a single-family residence for the exclusive use of relatives of the real property owner subject to the following restrictions:

(a) The real property owner must live in the single-family residence.

(b) Relatives must be related by blood, marriage or law.

(c) The area of the second kitchen facility shall not exceed the area of the main kitchen facility.

(d) Access to the relatives' living area shall be required from the interior of the residence, although secondary access to the exterior of the dwelling is not prohibited.

(e) Paved off-street parking shall be provided for additional vehicles as needed. Permits for the second kitchen facility shall not be issued until such time as the real property owner has applied to and received from the director of public works a relative residence permit. The relative residence permit shall be in recordable form and, upon execution, shall be recorded in the office of the clerk of the superior court. The director of public works shall provide a copy of each such permit to the City of Dunwoody Board of Tax Assessors. The unit shall be removed when it is vacated by the relative(s) for whom the unit was installed.

Sec. 4-40. Regional Impact, Developments of; Area Plan Review.

Where any application for a development or building permit is received by the director of public works which constitutes a development of regional impact or an area plan review, the

director of public works shall forward said application to the Atlanta Regional Commission for such review and shall make no final decision on said application until the review by the commission is complete within the time limit specified by state law. Where any application for an amendment to the official zoning map(s) or an application for a special land use permit is received by the director of planning constitutes a development of regional impact or an area plan review, the director of planning shall forward said application to the Atlanta Regional Commission for such review and shall provide to the City Council the findings of the Atlanta Regional Commission prior to their final decision on any such application.

Sec. 4-41. Satellite Television Antennae.

No satellite television antenna shall be erected, constructed or used except in conformance with the following regulations:

(a) *Satellite television antennae location*. Satellite television antennae shall be located as follows:

(1) In any office, commercial, industrial, or multifamily residential district, such satellite television antenna may be located, anywhere in the buildable area of the lot or on a building thereon, subject to applicable zoning district setback regulations.

(2) In any other district satellite television antennae shall be located only to the rear of any principal structure. If usable communication signals cannot be obtained from the rear location, the satellite television antenna may be located in the side yard. Both locations shall be subject to applicable zoning district setbacks or regulations.

(3) In the event that usable satellite television communication signals cannot be received by locating the antenna in the rear or to the side of the principal structure, such antenna may be placed in the front yard or on the roof of the dwelling, provided that the diameter does not exceed eighteen (18) inches and that approval of the director of public works shall be obtained prior to such installation. The director of public works shall issue such a permit only upon a showing by the applicant that usable communication signals are not receivable from any location on the property other than the location selected by the applicant.

(b) *Height limitations, screening, and grounds.* Satellite television antennae shall comply with the following regulations:

(1) In any district other than office, commercial, industrial, or multifamily residential, a satellite television antenna shall not exceed thirty-six (36) inches in diameter.

(2) A ground-mounted satellite television antenna shall not exceed twenty (20) feet in height including any platform or structure upon which said antenna is mounted or affixed. All non-ground-mounted satellite television antennae shall not exceed eighteen (18) feet in height.

(3) If usable satellite signals cannot be obtained from an antenna installed in compliance with the height limitation imposed by (2) above,

such satellite television antennae may be installed at a greater height, provided that said greater height is approved by the director of public works. Such approval shall be granted only upon a showing by the applicant that installation at a height greater is necessary for the reception of usable communication signals. Under no circumstances shall said antennae exceed the height of the elevation of the ridge line of the principal structure.

(4) Except in office, commercial, industrial, or multifamily residential districts, satellite television antennae shall be screened to reduce visual impact from surrounding properties at street level and from public streets.

(5) All satellite television antennae shall meet all manufacturers' specifications, be located on non-combustible and corrosion-resistant material, and be erected in a secure, wind-resistant manner.

(6) All satellite television antennae shall be adequately grounded for protection against a direct strike of lightning pursuant to the requirements of the County Electrical Code.

Sec. 4-42. Service Areas for Nonresidential Uses.

All service areas for nonresidential uses shall be established so as not to infringe upon any yard requirement and shall be visually screened from adjacent residential properties.

Sec. 4-43. Signs and Outdoor Advertising.

Signs and outdoor advertising shall be in accordance with the provisions of this Chapter and the City's Sign Ordinance.

Sec. 4-44. Site Plan Preparation.

Site plans and other development plans required to be submitted under the provisions of this Chapter shall be prepared only by those currently registered for such work in accordance with applicable state law; no plans for structures shall be prepared by other than a currently state-registered architect or engineer.

Sec. 4-45. Storage Yards, Exterior.

Exterior storage yards (but not including the parking of vehicles for sale or lease) shall not be permitted in any district except the C-2, M and M-2 districts. In C-2, M and M-2 districts, these storage yards shall be enclosed by a screening fence not less than six (6) feet in height.

Sec. 4-46. [Reserved.]

Sec. 4-47. Telecommunications Towers and Antennas.

The following regulations shall apply to all telecommunications towers and antennas within City of Dunwoody:

(a) *Findings, purpose and intent.* City of Dunwoody finds that the number, height, design characteristics and location of telecommunications towers and antennas in the county directly affect the public health, safety and general welfare. The county finds that such structures are likely to substantially increase in number

in the immediate future. The county further finds that such structures, when inappropriately located, have the potential to pose a danger to surrounding property owners and the general public and substantially detract from the beauty and aesthetic appearance of the county. The county finds that there is a substantial need directly related to the public health, safety and welfare to comprehensively address those concerns through the adoption of regulations. The purpose and intent of the governing authority of City of Dunwoody in enacting this section are as follows:

(1) Encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the county;

(2) Encourage the joint use of new and existing tower sites;

(3) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;

(4) Minimize adverse visual and aesthetic effects of towers through careful design, siting, and vegetative screening;

(5) Avoid potential damage to adjacent properties and personal injury from tower failure and falling ice and debris through engineering, careful siting of tower structures, and other requirements;

(6) Ensure compliance with applicable federal statutes and regulations;

(7) Lessen traffic impacts on surrounding residential areas;

(8) Allow new towers in residential areas only if a comparable site is not available in a nonresidential area; and

(9) Comply with all necessary and relevant requirements of the Telecommunications Act of 1996, as amended.

(b) *Compliance required.* It shall be unlawful for any person to erect, install, construct, enlarge, move, alter or convert any telecommunications tower or antenna or cause the same to be done within City of Dunwoody except in accordance with the provisions of this section. In addition, except as otherwise specifically provided herein, all towers and antennas shall also comply with all regulations applicable to the zoning district in which said tower or antenna is located and any permits authorizing said towers or antennas.

(c) *Regulations.* The following regulations shall apply to all telecommunication towers and antennae, including those permitted by special administrative permit within a zoning district and those permitted by special land use permit:

(1) In addition to meeting all of the development standards required by the zoning district within which the tower or antenna is proposed to be located, all telecommunications towers or antennae shall be set back as follows:

a. Any tower or antenna located within any zoning district where permitted by special administrative permit shall be set back from all property lines which adjoin any other zoning district boundary in which telecommunications towers or antennae are also permitted by special administrative permit a distance of one-third of the combined height of the tower and antenna or one hundred (100) feet, whichever is greater, except that where any such adjoining property is used for residential use then said telecommunications tower or antenna shall be set back from any such off-site structure in residential use, including any accessory structure designed for regular human use, a distance of one-half (1/2) the combined height of the tower and antenna or two hundred (200) feet, whichever is greater;

b. Any tower or antenna located within any zoning district where permitted by special administrative permit which adjoins any residential district shall be set back from any property line of any such adjoining residential district a distance of one-half (1/2) the combined height of the tower and antenna, or two hundred (200) feet, whichever is greater; and

c. Any telecommunications tower or antenna which is approved by special land use permit by the City Council to be located within any residential district shall provide setbacks as required by the City Council in their grant of the special land use permit, but in no case shall the set back from any property line be less than two hundred (200) feet.

(2) Telecommunications towers and antennas shall either maintain a galvanized steel finish or, subject to any applicable standards of the Federal Aviation Administration or Federal Communications Commission, be painted a neutral color, so as to reduce visual obtrusiveness. Said requirement shall not apply to an alternative tower structure.

(3) At a tower site, the design of the buildings and related structures shall, to the maximum extent possible, use materials, colors, textures, screening and landscaping that will blend the tower facilities to the natural setting and built environment.

(4) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment shall be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(5) Towers shall not be artificially lighted, unless required by the Federal Aviation Administration, Federal Communications Commission

or other applicable authority. If lighting is required, such lighting shall be to the minimum applicable standards so as to minimize the disturbance to the surrounding views.

(6) Telecommunications towers and antennas shall be entirely enclosed by a security fence not less than six (6) feet in height. Towers shall be equipped with an appropriate anti-climbing device. This requirement shall not apply to alternative tower structures provided equivalent alternative security measures are installed.

(7) In addition to any other landscaping or buffer requirements that may apply, telecommunications towers and antennas shall be landscaped with plant material that effectively screens the tower site from adjacent uses. Existing tree growth and natural land forms on-site shall be preserved to the maximum extent possible. At a minimum, a landscaped strip ten (10) feet in width shall be provided around the perimeter of the site. Said requirement shall not apply to alternative tower structures.

(8) Telecommunications towers and antennas shall be constructed to the minimum height necessary to accomplish their required telecommunications purpose.

(9) The environmental effects of radio frequency emissions shall not serve as a basis to approve, deny or otherwise regulate a telecommunications tower or antenna to the extent said emissions comply with Federal Communications Commission regulations concerning said emissions.

(10) All decisions by the county or its officials denying a request to place, construct or modify a telecommunications tower or antenna shall be in writing and supported by a written record documenting the reasons for the denial and the evidence in support thereof. All such decisions shall be made within a reasonable time from the date a completed application is duly filed with the appropriate department. Applications in all cases where the telecommunications tower or antenna is a use which may be authorized by special administrative permit shall be made to and decided by the Director of Planning pursuant to all standards and requirements contained within this section and any other applicable section of this Chapter. Applications in all cases where the telecommunications tower or antenna is a use which may be authorized by special land use permit shall be made to and decided by the City Council pursuant to all standards and requirements contained within this section, in **Section 5B** of this Chapter, and any other applicable requirement of this Chapter.

(11) Each applicant requesting a special administrative permit for a telecommunications tower or antenna shall provide to the director of public works as a part of the application for special administrative permit and each applicant requesting a special land use permit for a telecommunications tower or antenna shall provide to the director of

planning as a part of the application for special land use permit an inventory of its existing towers that are either within the jurisdiction of the governing authority or within one-quarter mile of the boundaries thereof, including information regarding the location, height and design of each tower. The Director of Planning, as the case may be, may share such information with other applicants applying for special administrative permits or special land use permits under the requirements of this Chapter or with other organizations seeking to locate a telecommunications tower or antenna within the jurisdiction of City of Dunwoody, provided, however, that the Director of Planning are not, by sharing such information, in any way representing or warranting that such sites are available or suitable. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Director of Planning in the case of application for a special administrative permit or the City Council in the case of application for a special land use permit that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence shall be submitted at the time of application for special administrative permit or special land use permit, as the case may be, which demonstrates that no existing tower or structure can accommodate the applicant's proposed antenna and may consist of the following:

a. No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.

b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable.

f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

(12) The placement of additional buildings or other supporting equipment necessarily required in connection with an otherwise

authorized telecommunication tower or antenna is specifically authorized.

(13) Any telecommunications antenna or tower that is not operated for a continuous period of 6 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within ninety (90) days of receipt of notice from the governing authority notifying the owner of such abandonment.

Sec. 4-48. Temporary Buildings, Use and Construction of.

Temporary buildings, except where herein otherwise specifically permitted, shall not be allowed in any district except temporary buildings used in conjunction with construction work or pending completion of a permanent building for a period not to exceed one (1) year. Such time period may be extended upon approval by the Director of Planning. Such temporary buildings shall be sited and permitted in any district upon approval of the Director of Planning. Such temporary buildings shall be removed when the construction has been completed.

Sec. 4-49. Temporary Outdoor Sales of Merchandise.

Temporary outdoor sales of merchandise, including flea markets, may be authorized upon approval of a special administrative permit by the director of public works in the C-1, C-2 and M districts pursuant to the following requirements:

(a) Any applicant for a permit for temporary outdoor sales of merchandise shall have the written authorization of the owner of the property to use the property for temporary outdoor sales of merchandise;

(b) No such temporary outdoor sales of merchandise shall be conducted on public property, within any public right-of-way and no display or sales area shall be located within fifty (50) feet of the street;

(c) All applicants for a permit for such temporary outdoor sales of merchandise shall obtain a business license;

(d) No such temporary outdoor sales of merchandise shall be approved for a time period exceeding three (3) consecutive days;

(e) No special administrative permit for temporary outdoor sales of merchandise shall be approved for the same lot or any portion thereof for a total of more than six (6) days in any calendar year; and

(f) Except as authorized herein by special administrative permit for temporary outdoor sales of merchandise, all other sales of merchandise shall be conducted within a permanent building which has a floor area of not less than three hundred (300) square feet and which complies with the requirements of this Chapter and all other applicable parts of the Code of Ordinances of City of Dunwoody.

(g) These uses shall be permitted only on developed lots.

(h) No temporary buildings, shacks or tents shall be permitted in connection with this use.

(i) All activities incident to this use shall be limited to daylight hours only.

(j) All displays and equipment incident to this use shall be removed nightly.

(k) No operator, employee or representative shall solicit directly to the motoring public.

(l) As a part of the application a location map for the activity shall be provided.

Sec. 4-50. Temporary Outdoor Sales, Seasonal.

Temporary outdoor seasonal retail sales and services, such as sale of plants, flowers, farm produce or seasonal greenery may be permitted in NS, C-1, C-2, M, and M-2 districts, and as an accessory use to a place of worship, upon approval of a special administrative permit by the director of planning or a duly authorized representative thereof pursuant to the following requirements:

(a) Any applicant for a special administrative permit for temporary outdoor seasonal retail sales and services shall have the written authorization of the owner of the property to use the property for temporary outdoor seasonal retail sales and services;

(b) No such temporary outdoor seasonal retail sales and services shall be conducted on public property or within any public right-of-way.

(c) No such temporary outdoor seasonal retail sales and services shall be approved for a time period exceeding forty-five (45) consecutive days;

(d) No single special administrative permit for temporary outdoor seasonal retail sales and services shall be approved for the same lot or any portion thereof for a total of more than ninety (90) days in any calendar year;

(e) These uses shall be permitted only on lots that have adjacent to them hard surface parking with a curb cut;

(f) No operator, employee or representative shall solicit directly to the motoring public;

(g) As a part of the application for a special administrative permit for temporary outdoor seasonal retail sales and services, a plat of the site that indicates parking shall be provided.

Sec. 4-51. Traffic and Street Improvements, Curb Cuts, and Visibility Requirements.

The following regulations shall apply to all lots hereinafter developed:

(a) Each building shall be located on a lot or parcel that abuts a public street or private street.

(b) Where this Chapter measures minimum building setback lines and frontages, or imposes development standards in connection with, or with reference to public streets, such measurements or standards set forth in the district regulations, the supplemental regulations or elsewhere in the Code of City of Dunwoody shall apply similarly for property abutting a private street where such private street has been approved by the planning commission. Nothing in this

article is intended to authorize any kind of development on a private street that would not be authorized where there was a public right of way.

(c) Curb cuts for driveways serving as entrances and exits to private property within any district other than an R district shall not be located within fifty (50) feet of any intersection or within forty (40) feet of another curb cut. No curb cut shall be greater than forty (40) feet in width and no closer than twenty (20) feet to any property line, except where approved by the director of public works. The determination of need for any such improvement shall be based upon traffic warrant standards utilized by the Federal Highway Administration and the Georgia Department of Transportation.

(d) Any applicant for any development or building permit for any lot or parcel of land fronting on any roadway that is classified as a state route by the Georgia Department of Transportation shall obtain the preliminary approval of both the City of Dunwoody Public Works Department and the Georgia Department of Transportation prior to beginning any construction of any type.

(e) No fence, wall, building, structure, sign, plant material, or other obstruction of any kind shall be maintained within fifteen (15) feet of the intersection of the rights-of-way lines of any two (2) streets extended, or of a street intersection with a railroad right-of-way line.

Sec. 4-52. Trailers, Parking of.

In a residential district, no trailer, recreational vehicle, travel trailer, camper, pickup coach, motorized home, boat trailer or boat shall be permitted to be parked in front of the principal structure or within twenty (20) feet of the rear lot line, unless it is parked or stored completely within an enclosed garage or roofed carport.

Sec. 4-53. Transitional Buffer Zone.

Transitional buffer zones required by this Chapter shall be established and permanently maintained as follows:

(a) The natural topography of the land shall be preserved and natural growth shall not be disturbed except where necessary to remove dead or diseased trees and undergrowth. However, a slope easement may be cleared and graded where required to prevent soil erosion upon approval of the director of public works and such easement shall cover no more than twenty (20) percent of the required transitional buffer zone and shall be immediately replanted upon completion of easement improvements. It is the intent that such work be conducted in such a manner as to avoid disturbance of the soil within the dripline of trees within said transitional buffer zone.

(b) When the conditions described in paragraph (a) above of this section cannot be met by reason of prior removal of or lack of trees and plant material, a landscape planting plan shall be prepared and implemented to provide the necessary visual screening. Said landscape planting plan shall consist of evergreen shrubs and trees not less than six (6) feet in height, or shrubs which will in normal growth attain a height of six (6) feet within three (3) years. Said plan

shall be so designed as to result in a visual screen with sufficient density and height to form a visual barrier and to diffuse the transmission of sound.

(c) Any grading or construction adjacent to the transitional buffer zone shall be conducted far enough away from the transitional buffer zone so as avoid disturbance to or encroachment upon the transitional buffer zone.

(d) Access shall be provided as required for utilities and to assure adequacy of fire protection services.

Sec. 4-54. Walls, Fences and Retaining Walls.

(a) No wall, fence, and retaining wall shall be more than eight (8) feet in height. No wall or fence shall be constructed in any public right-of-way except upon approval of the director of public works. No wall or fence in a front yard in a residential district shall exceed four (4) feet in height. When this Chapter requires a wall or fence to be constructed, the wall or fence shall be completed prior to issuance of a certificate of occupancy for the principal structure.

(b) *Restrictions on retaining walls in single–family districts*. Newly constructed retaining walls in single family residential districts shall not be higher than four (4) feet; however existing retaining walls may be repaired and replaced so long as the height of the repaired or replaced wall does not increase in height over the original height of the wall. The distance between a retaining wall and the property line on all lots with single-family detached dwellings shall be equal to half of the distance between the property line and the required set back line.

(1) If exceptional topographical restrictions exist on the lot in context with the adjoining property which were not created by the applicant or owner and it is established to the satisfaction of the planning director or designee that no practical alternative design of such wall is feasible, then the planning director may grant a maximum two (2) foot increase in height of the applicable height requirement set forth in this section of such retaining wall. Applicant shall provide to the planning director or designee a certified field run site plan or a topographical map certified by an engineer or landscape architect with the application for a variance.

(2) If exceptional topographical restrictions exist on the lot in context with the adjoining property which were not created by the applicant or owner and it is established to the satisfaction of the zoning board of appeals that no practical alternative design of such wall is feasible, the zoning board of appeals may allow the height of retaining walls to be greater than six (6) feet and/or vary the distance between the side property line and the required setback line for retaining walls. No variance shall be granted to allow the height of a retaining wall above eight feet (8). In addition to the materials otherwise required for a variance in Article V Division 5D, an applicant shall provide a certified field run site plan or a topographical map certified by an engineer or landscape architect with the application for a variance.

Sec. 4-55. Yard Requirements.

The following regulations shall apply relating to yard requirements:

(a) *Average setback.* When a lot (or lots) is (are) located within a block where sixty (60) percent or more of the lots within said block have been developed, and where there are existing buildings fronting on the same street and within the same zoning district within seventy-five (75) feet of the side lot lines of such vacant lot (or lots), then set back averaging shall be required. The minimum required building set back line for said vacant lot (or lots) shall be determined by averaging the existing building set backs of buildings within seventy-five (75) feet of the side lot lines of such vacant lot (or lots). The minimum setback for additions to existing structures may be the average of the existing set backs.

(b) *Double frontage lots.* Lots which adjoin a public street in the front and rear shall provide the minimum required front yard on each street.

(c) *Corner lots.* Corner lots shall provide required front yard setbacks along all public street frontages.

(d) *Projections into yards.*

(1) Every part of a required yard shall be open to the sky and unobstructed except for the ordinary projections of sills, belt courses, cornices, eaves, chimneys, buttresses and other ornamental and architectural features, provided that these features do not project more than three (3) feet into any required yard.

(2) An open, unenclosed porch or hard-surfaced terrace, steps, stoops and similar fixtures of a building may project into a required front yard or rear yard for a distance not to exceed ten (10) feet, and into a side yard to a point not closer than 5 feet from any side lot line.

(3) Notwithstanding other provisions of this Chapter, fences, walls, hedges, and driveways may be permitted in any required yard, provided that no fence, wall or hedge along the street sides of corner lots shall violate the corner visibility provisions of this Chapter.

(e) *Spacing between buildings for attached buildings in the R-A5 and R-A8 districts, and for all multifamily buildings in RM-150, RM-100, RM-85, RM-75, RM-HD, and multifamily buildings authorized or permitted in O-I and C-1:*

(1) Yards shall be provided as is required within the applicable zoning district requirements.

(2) Structures which are front face to front face, back face to back face, or front face to back face shall be not less than sixty (60) feet apart. Structures which are side face to side face shall not be less than twenty (20) feet apart. Structures which are side face to front face or back face shall be not less than forty (40) feet apart.

(3) No structure shall exceed two hundred fifty (250) feet in length along any elevation.

(4) Spacing between buildings within a single site, or the width of side and rear yards for all high-rise multifamily buildings within the RM-HD, O-I and C-1 districts, shall be the greater of the district requirement or the yard required by application of the following formula: D= 4 + s + L/10, in which D is the depth of the required spacing, s is the number of stories in the building, and L is the length of the building wall.

Sec. 4-56. Interim Development Controls.

The following shall apply to interim development controls:

(a) *Intent.* The intent of the City Council in enacting this section is to authorize and provide minimum procedures and standards for the imposition of interim development controls in situations in which the immediate temporary maintenance of the status quo or the immediate imposition of certain interim regulations is necessary for the protection of the public health, safety and welfare. The City Council finds that imposition of such controls may be necessary when current code provisions relating to a particular area, district, use, building, structure, permit or procedure are found to be nonexistent or deficient due to newly recognized or changing conditions, when existing code provisions do not adequately address said deficiencies, and when study or review may determine a need for new regulations that are appropriate and necessary to address the problem(s) identified.

(b) *Minimum standards.* The City Council may impose interim development controls on specific areas, districts, uses, buildings, structures, permits, or procedures. Such controls shall be imposed without the necessity for strict compliance with the procedural requirements otherwise required of such regulations, provided they are imposed by an ordinance that conforms to each of the following standards:

(1) A specific finding stating in detail the necessity for the rapid imposition of interim development controls, including but not limited to identification of the harm, risks or hazards to the public health, safety and welfare that would occur in the absence of such controls;

(2) A specific plan mandating study, review, and/or drafting of new regulations to resolve the problem(s) identified;

(3) A provision setting forth with specificity the interim regulatory controls that will be put in place consistent with the intent of this section; and

(4) A provision specifying the period of time during which the interim regulatory controls will be in effect and demonstrating the necessity for said time frame. No interim development control ordinance shall be in place for a period of time exceeding one hundred eighty (180) days, provided that said ordinance may be extended by resolution for an additional period of time not exceeding ninety (90) days when said extension is necessary to resolve the problems identified.

Sec. 4-57. Cross-District Use of Land and Structures Prohibited.

Off-street parking, driveways or any other building, structure or use of land, including any accessory use or structure, shall be permitted only on land in which the zoning district classification authorizes the principal use to which the parking or driveway or other building, structure or use of land, including any accessory use or structure, is accessory.

Sec. 4-58. Shelters for Homeless Persons and Transitional Housing Facilities.

No shelter for homeless persons and no transitional housing facility shall be designed to exceed a capacity of twenty (20) persons.

Sec. 4-59. [Reserved.]

Sec. 4-60. Condominiums.

The following rules and regulations shall apply to any application for a zoning permit to allow the development of a condominium with four (4) or more residential units:

(a) The condominium shall be developed to include condominium instruments that include provisions providing the following:

(1) A limit to the total number of residential units occupied by non-owners via lease to a maximum of thirty (30) percent of the total number of residential units and an express definition of the term "lease" as the regular occupancy of a unit by any person other than the owner, for which the owner receives any consideration or benefit including, but not limited to, a fee, service, gratuity or emolument;

(2) A requirement that all leases of residential units be in writing in a form approved by the condominium association and include provisions providing the following: (1) a requirement that non-owner residents abide by the covenants, bylaws, and rules and regulations adopted pursuant thereto; (2) an acknowledgement that non-owner residents agree to be personally obligated for the payment of all assessments and other charges against the owner, which become due during the term of the lease or become due as a consequence of the non-owner resident's activities; (3) an acknowledgement that a non-resident owner who is delinquent in the payment of assessments or other fees consents to the assignment of any rent due from his or her tenant during the period of delinquency and the non-owner resident shall pay same to the condominium association as requested by the condominium association;

(3) A requirement that non-resident owners and/or non-owner residents of residential units submit copies of their leases to the condominium association, and report the names of all non-owner residents to the condominium association; and

(4) A statement that the condominium association shall provide documents and/or information to the county to comply with any requests made by the county pursuant to **Section 4-61**.

(b) To ensure that the zoning requirements above are met, upon the request of the county, condominium associations shall provide the following documents and/or information to the county's planning director:

(1) A copy of the condominium instruments evidencing the inclusion of the above listed requirements;

(2) A copy of the financial records, including but not limited to the operating budget;

(3) A copy of the leases submitted to the condominium association by individual owners evidencing the inclusion of the above listed requirements;

(4) A list of the units that are being leased and the names of the corresponding non-owner residents; and

(5) The county may require compliance with additional conditions to include but not be limited to the installation of separate and independent metering of water, gas, electricity, heat, and air conditioning services to each individual unit within the condominium and the installation of devices to allow the termination of the delivery of those services to an individual unit within the condominium, without disturbing the delivery of those services to any other unit within the condominium.

(c) Violations of this section are continuous with respect to time; therefore, each day the violation continues is a separate offense. Violations of this section shall be governed by the general penalty provisions of this Code, including **Section 6B-2**.

Sec. 4-61. Conservation Subdivision regulations--Purpose and Intent.

The City Council desires to promote and encourage creative residential planning and development within the county while at the same time protecting critical components of established residential areas. The board finds that certain of the county's land areas, due to various environmental and economic factors, may lend themselves to innovative groupings of residential lots and structures in a way that will preserve unique environmental features as well as being consistent with the comprehensive land use plan and the Green DeKalb Initiative that provides greenspace areas and preserves existing natural trees and vegetation. The City Council, therefore, establishes the following administrative procedures applicable to lots within residentially zoned districts that meet specified criteria and standards and can be developed in cluster or other innovative designs without negatively affecting nearby properties or the county at large. The goals of the conservation subdivision regulations are:

(1) To provide a residential development that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land;

(2) To conserve significant areas of greenspace within single-family residential zoning categories;

(3) To promote interconnected greenways and corridors throughout the community and adjacent communities;

(4) To promote construction of convenient landscaped walking trails and bike paths both within the subdivision and connected to neighboring communities, business, and facilities to reduce reliance on automobiles;

(5) To improve water quality and reduce runoff and soil erosion by reducing the total amount of clearing, grading, and paving, within the total area of a development;

(6) To increase the accessibility of greenspace and recreational areas, while maintaining the total number of homes in a density-neutral manner as allowed in the underlying zoning classification so long as designed consistent with current City of Dunwoody standards;

(7) To provide a clear, direct and timely process that allows all interested parties an opportunity to verify that the proposal is in compliance with the conservation subdivision regulations;

(8) To preserve natural features, specimen trees, historic buildings, archaeological sites and a sense of community; and

(9) To encourage efficient community design that reduces infrastructure maintenance and public service costs borne by the county;

(10) To encourage street designs that reduce traffic speeds and reliance on main arteries.

Sec. 4-61.1. Same--Eligible Property.

(a) *Zoning classification.* Only lots zoned R-200, R-150, R-100, R-85, or R-75 are eligible for consideration as a conservation subdivision.

(b) *Minimum size of tract.* Only parcels containing a minimum of ten (10) acres are eligible for consideration as a conservation subdivision.

(c) *Public sanitary sewer.* Only parcels to be served by the public sanitary sewer system are eligible for consideration as a conservation subdivision.

Sec. 4-61.2. Same--Applications.

Any property owner that desires to have lots zoned R-200, R-150, R-100, R-85, or R-75 designated, as a conservation subdivision shall submit two (2) sketch plats for review by county officials in accordance with the process established in the City's subdivision regulations of this Code. Both sketch plats shall conform to all requirements set forth in this Code, including the City's subdivision regulations; however, the conservation subdivision sketch plat shall also comply with the requirements of the conservation subdivision regulations.

Sec.4-61.3. Same--Approval Process.

The proposed conservation subdivision sketch plat shall be submitted contemporaneously with the traditional sketch plat described in the City's subdivision regulations of this Code and both sketch plats shall be considered in accordance with the plat approval process set forth in the City's subdivision regulations of this Code. In addition to the review standards contained in the City's subdivision regulations, before the conservation subdivision sketch plat is forwarded to the planning commission for consideration, the planning director shall ensure that:

(1) The proposed conservation subdivision sketch plat complies with all standards contained in this Code;

(2) The conservation subdivision sketch plat is density-neutral and does not in any way exceed the density of the traditional sketch plat; and

(3) The conservation subdivision sketch plat complies with any and all previously approved conditions of zoning or special permits issued by the county.

Sec. 4-61.4. Same--Lot Width; Lot Area; Setbacks.

(a) If a property owner agrees to allot greenspace in the manner described in the conservation subdivision regulations and the conservation sketch plat is approved in accordance with the plat approval process in the City's subdivision regulations of this Code, the subdivision is then designated as an official conservation subdivision of City of Dunwoody, Georgia, and shall be subject to the following reduced zoning requirements. However, a property owner shall not be allowed to subdivide property pursuant to the reduced requirements in this section if appropriate greenspace is not allotted and if the conservation subdivision sketch plat is not finally approved in accordance with the approval process in the City's subdivision regulations of this Code.

(b) The following requirements shall apply to lots designated as a conservation subdivision:

(1) *Lot width:* All lots shall have a width of at least sixty (60) feet as measured at the required front yard building setback line.

(2) *Minimum lot area:* Eight thousand (8,000) square feet.

(3) *Minimum yard adjacent to public street:*

(A) From major thoroughfares: Fifty (50) feet.

(B) From minor thoroughfares: Forty (40) feet.

(C) From collector streets: Thirty-five (35) feet.

(D) From other streets: Twenty (20) feet.

(4) *Interior side yard setbacks:* Seven and one-half (7.5) feet.

(5) *Rear yard:* Twenty (20) feet.

Sec. 4-61.5. Same--Minimum Exterior Requirements.

The building setback requirements from an existing public street, side yard and rear yard on lots that abut the exterior property line of a conservation subdivision shall not be less than the requirements of the underlying zoning district unless the property owner establishes an additional area of greenspace that is fifty (50) feet in width adjacent to and immediately abutting the exterior property boundary. Such fifty-foot greenspace shall be in addition to the required greenspace described in **Section61.8**.

Sec. 4-61.6. Same--Development Standards and Permitted Uses.

(a) In addition to the development standards required by this Code, all of the following general development standards shall apply to a conservation subdivision:

(1) Grassed playing fields, village greens, stormwater management facilities, trails, bikeways, paths and greenways as submitted and approved shall be installed prior to the recording of the conservation subdivision final plat;

(2) Only those permitted uses allowed in the underlying zoning district shall be allowed in a conservation subdivision; and

(3) All conservation subdivisions must strictly comply with the City of Dunwoody Tree Protection Ordinance.

(b) Greenspace may consist of and be designed for the following uses only:

(1) Natural undisturbed areas;

(2) Natural areas that preserve the one hundred-year floodplain;

(3) Grassed playing fields for active recreation;

(4) Village greens for community gathering places;

(5) Natural trails and green ways;

(6) Natural bikeways and paths;

(7) Asphalt or concrete bikeways and paths with a maximum width of eight (8) feet; and/or

(8) Natural and landscaped stormwater management facilities located on soils particularly suited to such uses.

(c) Applicants are encouraged to place the following features into greenspace:

(1) Floodplains;

(2) Streams and stream buffers;

(3) Wetlands;

(4) Rock outcroppings;

(5) Steep slopes;

(6) Mature wooded areas;

(7) Specimen trees;

(8) Historic structures or sites; and

(9) Sites of archeological significance.

Sec.4-61.7. Same--Calculation and Design of Greenspace.

The required greenspace to be protected in a conservation subdivision shall be calculated as follows and shall meet each of the following standards and requirements:

(1) The allotted greenspace in a conservation subdivision must comprise at least twenty (20) percent of the property in the subdivision;

(2) The allotted greenspace must comprise a minimum aggregate area of two (2) acres;

(3) At least fifty (50) percent of the allotted greenspace must be contiguous with a minimum width of fifty (50) feet, however irregularly shaped parcels of less than fifty (50) feet in width may be allowed if so approved by the planning commission;

(4) Village greens and trails do not have to comply with the minimum width requirement set forth in **Section 61.6(a)(3)** above.

a. Any tower or antenna located within any zoning district where permitted by special administrative permit shall be set back from all property lines which adjoin any other zoning district boundary in which telecommunications towers or antennae are also permitted by special administrative permit a distance of one-third of the combined height of the tower and antenna or one hundred (100) feet, whichever is greater, except that where any such adjoining property is used for residential use then said telecommunications tower or antenna shall be set back from any such off-site structure in residential use, including any accessory structure designed for regular human use, a distance of one-half (1/2) the combined height of the tower and antenna or two hundred (200) feet, whichever is greater;

b. Any tower or antenna located within any zoning district where permitted by special administrative permit which adjoins any residential district shall be set back from any property line of any such adjoining residential district a distance of one-half (1/2) the combined height of the tower and antenna, or two hundred (200) feet, whichever is greater; and

c. Any telecommunications tower or antenna which is approved by special land use permit by the City Council to be located within any residential district shall provide setbacks as required by the City Council in their grant of the special land use permit, but in no case shall the set back from any property line be less than two hundred (200) feet.

(5) To calculate the greenspace required for designation as a conservation subdivision, each square foot of lot size reduction allowed in **Section 61.5** shall require the property owner to dedicate a corresponding square foot of land area as greenspace. The dedicated greenspace shall be no less than the total reduction in lot size allowed pursuant to the conservation subdivision regulations;

(6) No impervious surface, except (1) a historic building(s) or historic site(s); and (2) asphalt or concrete bikeways and paths with a maximum width of eight (8) feet, may be considered in the greenspace calculation; asphalt or concrete paths and bikeways must protect greenspace features. Paths requiring grading must not damage critical root zones of specimen trees. Impervious surfaces are prohibited within the seventy-five-foot stream buffer.

(7) A maximum of twenty (20) percent of the required greenspace may include wetlands and rock outcroppings;

(8) Preservation of historic buildings or sites may be included in greenspace if intended to be for the common use and benefit of all residents of the subdivision;

(9) A maximum of twenty (20) percent of greenspace may be comprised of utility easement areas (such as, but not limited to, overhead transmission lines, underground gas lines, and sewer lines) unless such easements were to be used as part of platted lots in the traditional sketch plat. Utility easement areas in greenspace must remain unfenced and open to the residents of the subdivision, unless safety concerns dictate otherwise;

(10) Greenspace shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe, convenient access to the greenspace;

(11) Greenspace shall connect with other greenspace areas and trails on adjacent or nearby property where possible;

(12) Only storm water management facilities that consist primarily of natural solutions shall be permitted in greenspace. Natural solutions include but are not limited to stormwater retention ponds, constructed wetlands, bioretention areas, biofilters and enhanced swales. If stormwater management facilities are located in greenspace, tree removal must be kept to a minimum and a complete and comprehensive landscape plan must be approved by the county arborist;

(13) Grassed playing fields may be included in greenspace if reasonably level and shall be required in any Conservation Subdivision that contains one hundred (100) or more units. In a conservation subdivision that contains between one hundred (100) and two hundred (200) units, the grassed playing field must be a minimum of one (1) acre in size. In any conservation subdivision that contains two hundred (200) units or more, the grassed playing field must be a minimum of two (2) acres in size or there must be a minimum of two (2) grassed playing fields that are each one (1) acre in size. However, no grassed playing fields may be located within any wetland, stream buffer, or rock outcropping. Formal active recreation areas should not be credited toward greenspace. Grassed playing fields should not include ball fields for organized league play with outdoor lighting, bleachers, concession areas;

(14) All grading is prohibited within a stream buffer, floodplain, wetland, rock outcropping in greenspace and all clearing must comply with all requirements set forth in this Code;

(15) Minimal grading is allowed in greenspace only for:

(A) Grassed playing fields and village greens;

(B) As needed for utility easements; or

(C) As needed for the creation of paths designed to enhance passive recreation opportunities such as walking or biking.

(16) During construction, the stream buffer, rock outcropping, wetlands, and floodplain areas in greenspace shall be inaccessible to all development related activities other than minimal access to construct a sewer line if necessary, and shall otherwise be protected by a four-foot orange tree save fence, which shall only be removed upon completion of all construction and landscaping activities.

(17) Grading should not damage roots of trees remaining in greenspace areas. No specimen trees shall be damaged or removed in order to create village greens, grassed playing fields or paths, unless approved by the county arborist.

Sec. 4-61.8. Same--Ownership, Control, and Maintenance of Required Greenspace.

(a) *Program for unified control.* Each applicant under the conservation subdivision regulations shall provide a legal mechanism for unified control of the entire parcel, for review and approval by the county attorney. During the development process, more than one (1) builder may participate in the development of the approved plan so long as each parcel of land remains subject to:

(1) Any zoning conditions imposed on the property;

(2) Any terms and conditions on the approved preliminary plat; and

(3) Terms and conditions associated with any special land use permit or any special administrative permit.

(b) *Maintenance and protection of land held in common.* Each applicant shall present as a part of the application under the conservation subdivision regulations a legal mechanism under which all land to be held in common and used for greenspace purposes shall be protected in perpetuity. Such legal mechanism shall be approved by the county attorney, prior to the approval of the conservation subdivision, and may include deed restrictions, homeowner associations, common areas held in common ownership or control, conservation easements held by a land trust meeting the requirements of state law, assuring in perpetuity each of the following mandatory requirements:

(1) That all land held in greenspace shall remain undivided and shall not be subdivided or removed from joint access or benefit in perpetuity;

(2) That all subsequent property owners in perpetuity within said conservation subdivision be placed on notice of this development restriction through the deed records of City of Dunwoody Superior Court;

(3) That all land held as greenspace will be properly maintained to county standards and ensure that no liability or maintenance responsibilities shall accrue to the county;

(4) That a legal mechanism exists for notice of deficiencies in maintenance of the land held as greenspace, 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 county;

(5) That the legal mechanism be created and implemented prior to or at the time of recording the final plat and the sale of any individual properties within the conservation subdivision; and

(6) That all requirements of the legal mechanism chosen by the applicant and approved by the county attorney shall be specified on the final plat and recorded with the Clerk of Superior Court of City of Dunwoody.

(c) When an applicant for a conservation subdivision chooses to utilize a homeowners' association in order to comply with the requirements of this section, the applicant, in addition to meeting all of said requirements, shall provide for all of the following:

(1) That all owners have equal access and right of use to all greenspace and that mandatory and automatic membership in the homeowners' association is a requirement of dwelling unit ownership for all homeowners and their successors;

(2) A fair and uniform method of assessment and collection/payment for dues, maintenance and related costs;

(3) The homeowners' association shall have lien authority to ensure the collection of dues from all members;

(4) Perpetual and continued maintenance and liability by the homeowners' association of land held as greenspace; and

(5) That all required covenants, declarations and restrictions shall be filed with the Clerk of the Superior Court of City of Dunwoody.

Sec. 4-62. Special Events Facility.

A special events facility shall provide one (1) parking space for each 100 square feet on floor area within the facility. Parking shall be provided on-site.

Sec. 4-63. Solid Waste Facility Regulations.

(a) The City Council shall not approve any amendment to the zoning maps, the comprehensive land use map or any application for a special land use permit if such landfill is not in compliance with the applicable requirements of Georgia's Comprehensive Solid Waste Management Act, O.C.G.A. § 12-8-20 et seq., and as may hereafter be amended.

(b) The City Council shall not approve any amendment to the zoning maps, the comprehensive land use map or any application for a special land use permit unless the applicant obtains written verification from the Georgia Environmental Protection Division of the Georgia Department of Natural Resources that the landfill complies with or is not yet required to comply with all the applicable requirements set forth in the Comprehensive Solid Waste Management Act.

(c) As used in this section the term "landfill" means a disposal facility, a materials recovery facility, a solid waste handling facility, a solid waste landfill, a private industry solid waste disposal facility, a solid waste handling facility, a solid waste thermal treatment technology facility, and a disposal facility for biomedical waste, hazardous and/or toxic materials including radioactive materials as all such terms are defined in O.C.G.A. § 12-8-22 and as may hereafter be amended.

Sec. 4-64 . Elevation of Residential Thresholds.

The following standards shall apply to single-family detached dwellings:

(a) *Replacement of a single-family detached dwelling.* The proposed front door threshold elevation for any new single-family detached dwelling shall not be more than two (2) feet higher than the front door threshold elevation of the residential structure that existed on the lot prior to demolition. If no such dwelling existed on the same lot, then the proposed front door threshold elevation for any new single-family detached residence on the lot shall not be more than two (2) feet higher than the average elevation of the existing natural grade at the front building line. If the new construction would require alteration or eradication of the original threshold, then the original elevation shall be measured and certified by a licensed surveyor or engineer.

(b) *Sewer Conditions*. If the existing residence or lot is not connected to county sewer and if the applicant for a building permit establishes to the satisfaction of the planning director that the proposed residence is unable to be connected to county sewer within the allowable front door threshold height, then the Community Development Director or designee may , upon the recommendation of the Public Works Director or designee, grant a maximum three (3) feet increase in threshold height above the threshold elevation allowed by Section 4-64(a) above allowing for gravity flow into the existing sewer tap. In addition to the materials otherwise required for a variance, sewer line elevations shall be submitted by the applicant.

(c) *Topographical conditions.* If exceptional topographical restrictions exist on the subject lot in context with the adjoining properties that were not created by the owner or applicant, then the planning director or designee may grant a maximum three (3) feet increase in threshold height above the threshold elevation allowed by Section 4-64(a). The applicant shall provide a site plan, including topography, certified by an engineer or landscape architect.

(d) *Threshold Averaging.* The proposed front door threshold elevation for new single family detached dwellings may exceed the threshold elevation allowed by Section 4-64(a) if the applicant for a building permit establishes that the elevation of the front door threshold of the proposed residential structure does not exceed the average elevation of the front door thresholds of the residential structures on both lots immediately adjacent to the subject lot. When using threshold averaging, the height of the new residence shall not exceed thirty-five (35) feet measured as the vertical distance from the front door threshold of the proposed residential structure to the highest point of the roof of the structure. In order to threshold average, certification of the threshold elevation shall be provided by a licensed surveyor or engineer to the planning director or designee.

(e) Building plans for a single-family detached dwelling shall submit building plans for review and approval prior to issuance of a building permit. Plans shall contain

all information necessary to determine compliance with building code and city code.

ARTICLE V. ADMINISTRATION

DIVISION 5A. OFFICIAL ZONING MAP, TEXT, AND COMPREHENSIVE PLAN LAND USE MAP AMENDMENTS

Sec. 5A-1. Initiation of Amendments.

The text of this Chapter, the official zoning maps, and the comprehensive plan land use maps may be amended by the City Council pursuant to a proposed ordinance introduced by one (1) or more members of the City Council or by official action of the planning commission. In addition, amendments to the official zoning maps and the comprehensive plan land use maps may be initiated upon application by the owner(s) of the subject property or the authorized agent of the owner(s). Before enacting any amendment to this Chapter, the official zoning maps, or the comprehensive plan land use maps the City Council shall provide for the public notice and public hearings required by this Chapter.

Sec. 5A-2. Planning Commission Established; Membership; Terms.

There is hereby established a City of Dunwoody Planning Commission consisting of seven (7) members, whose qualifications and guidelines shall be dictated by Chapter 2 ("Administration") of the City of Dunwoody Code of Ordinances. If a provision of Chapter 2 of the City Code is in conflict with any portion of the City of Dunwoody Zoning Ordinance as it pertains to the Planning Commission, Chapter 2 of the City Code shall control.

Sec. 5A-3. Planning Commission to Hold Public Hearing and Make Recommendation on All Proposed Amendments.

No amendment to the text of this Chapter, the official zoning map, or the comprehensive plan land use maps shall become effective unless it has been submitted to the planning commission for public hearing and recommendation pursuant to the requirements of this division and this Chapter.

Sec. 5A-4. Reserved.

Sec. 5A-5. Secretary of Planning Commission; Staff Support.

The planning commission shall appoint a secretary who may be an officer or employee of the governing authority or of the planning commission. The director of the department of planning, or the director's designee, may serve as secretary of the county planning commission as directed by the Mayor of the City of Dunwoody. The secretary shall provide support to the planning commission reasonable and necessary to accomplish said commissions' duties. The secretary of the planning commission shall provide the members of the planning commission all information submitted to, or generated by, county staff on each proposed amendment, which the commission considers, including: a copy of the application and all supporting materials; all other written communications given to the staff either in support of or in the opposition to the

amendment; and the proposed amendment. The secretary shall be responsible for permanently maintaining the records of the planning commission.

Sec. 5A-6. Filing of Applications; Amendments of Filed Applications.

(a) All applications for amendments to the comprehensive plan land use maps and the official zoning map shall be filed with the director of planning on forms provided by the department of planning. The processing of said applications shall be based upon an annual schedule prepared by the department of planning and adopted by the City Council. No application shall be considered an authorized application unless complete in all respects. No application shall be amended later than the required deadline for advertising in the legal organ of the county prior to the scheduled hearing before the planning commission, except as provided for in this code section. There shall be no refund of application fees after the planning department has accepted an application.

(b) The following shall constitute a major amendment to an application:

(1) The movement of any building or structure adjacent to an exterior boundary line, closer to the boundary line of the property;

(2) Any increase in the number of dwelling units or any increase in the total amount of floor space of any nonresidential building;

(3) Any decrease in the minimum size of residential units;

(4) Any decrease in the buffer requirements;

(5) Any increase in the height of any building or structure;

(6) Any change in the proportion of floor space devoted to different authorized uses;

(7) Any change in the zoning classification requested; or

(8) Any change in the land use plan classification that increases the density of the proposed use.

(c) Any major amendment submitted after the required deadline for advertising in the legal organ of the county prior to the scheduled hearing before the planning commission shall be deferred by the City Council for a full-cycle review. The amended application must comply with the requirements of this Chapter as if it where a new application, for the purpose of publication, review, notice and hearings, including review by the Community Council and planning commission, also known as a full-cycle review. However, such amended application shall not be a new application for any other purposes. An amendment to an application shall not change the original filing date of that application. An amended application shall not require a new application fee.

(d) A minor amendment shall be defined as any amendment that is not included within the definition of a major amendment.

(e) Any minor amendment submitted after the required deadline for advertising in the legal organ of the county prior to the scheduled hearing before the planning commission shall be deferred until the next regularly scheduled City Council' meeting and reviewed

for recommendations by the planning department, law department and development department, unless such minor amendment has been so previously reviewed.

Sec. 5A-7. Types of Applications.

Applicants seeking amendment to the official zoning map may request to change their property from one zoning district classification to another zoning district classification with no further conditions proposed, or may include the following proposed conditions as a part of their application:

(a) Written conditions; or

(b) Site plan(s), architectural rendering(s), elevation(s), photograph(s), or other graphic representation(s) of proposed conditions; or

(c) Any combination of (a) and (b) above.

(d) Any site plan filed as a proposed condition of a zoning amendment shall be prepared, signed and sealed by an architect, landscape architect or engineer licensed in the State of Georgia.

Sec. 5A-8. Amendments to Official Zoning Map; Application Forms.

Each applicant seeking an amendment to the official zoning map shall complete all questions and requested materials contained within the required application form and shall provide the following information:

(a) Survey plat of subject property, prepared and sealed within the last ten (10) years by a professional engineer, landscape architect or land surveyor registered in the State of Georgia. Said survey plat shall:

(1) Indicate the complete boundaries of the subject property and all buildings and structures existing thereon;

(2) Include a notation as to whether or not any portion of the subject property is within the boundaries of the one hundred-year floodplain; and

(3) Include a notation as to the total acreage or square footage of the subject property.

(b) Name, mailing address and phone number of all owners of the property which is the subject of the application for zoning amendment.

(c) Signed and notarized affidavit of all owners of the subject property authorizing the filing of the application for zoning amendment, and where applicable, the signed and notarized affidavit of the owner(s) of the subject property authorizing an applicant or agent to act on their behalf in the filing of the application for zoning amendment. The application also shall contain the mailing address and phone number of any applicant or agent who is authorized to represent the owner(s) of the subject property.

(d) Written legal description of property.

(e) Statement of current zoning classification of property and classification which applicant is seeking in the official zoning map amendment.

(f) A written, documented, detailed analysis of the impact of the proposed zoning map amendment with respect to each of the standards and factors specified in **Section 5A-12**.

Sec. 5A-9. Amendments to Comprehensive Plan Land Use Maps; Application Forms; Criteria.

Each applicant seeking an amendment to the comprehensive plan land use maps shall complete all questions and requested materials contained within the required application form and shall provide the following information:

(a) Survey plat of subject property, prepared and sealed within the last ten years by a professional engineer, landscape architect or land surveyor registered in the State of Georgia. Said survey plat shall:

(1) Indicate the complete boundaries of the subject property and all buildings and structures existing thereon;

(2) Include a notation as to whether or not any portion of the subject property is within the boundaries of the one hundred-year floodplain; and

(3) Include a notation as to the total acreage or square footage of the subject property.

(b) Name, mailing address and phone number of all owners of the property which is the subject of the application for comprehensive plan land use map amendment.

(c) Signed and notarized affidavit of all owners of the subject property authorizing the filing of the application for comprehensive plan land use map amendment, and where applicable, the signed and notarized affidavit of the owner(s) of the subject property authorizing an applicant or agent to act on their behalf in the filing of the application for comprehensive plan land use map amendment. The application also shall contain the mailing address and phone number of any applicant or agent who is authorized to represent the owner(s) of the subject property.

(d) Written legal description of property.

(e) Statement of current comprehensive plan land use map classification of property and land use classification which applicant is seeking in the comprehensive plan land use map amendment.

(f) Complete written response to each of the following standards and factors for evaluating applications for amendments to the comprehensive plan land use maps:

(1) Whether the proposed land use change will permit uses that are suitable in view of the use and development of adjacent and nearby property;

(2) Whether the proposed land use change will adversely affect the existing use or usability of adjacent or nearby property;

(3) Whether the proposed land use change will result in uses which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools;

(4) Whether the amendment is consistent with the written policies in the comprehensive plan text.

(5) Whether there are environmental impacts or consequences resulting from the proposed change.

(6) Whether there are impacts on properties in an adjoining governmental jurisdiction in cases of proposed changes near county boundary lines.

(7) Whether there are other existing or changing conditions affecting the use and development of the affected land areas which support either approval or denial of the proposed land use change.

(8) Whether there are impacts on historic buildings, sites, districts or archaeological resources resulting from the proposed change.

Sec. 5A-10. Application Fees.

The application fees for amendments to the official zoning maps and comprehensive plan land use maps shall be as established by ordinance by the City Council.

Sec. 5A-11. Initiation of Ordinance for Amendment.

Upon receipt of a complete application for an amendment to the official zoning maps or the comprehensive plan land use maps the secretary shall prepare a proposed ordinance to change the subject property from its existing zoning district classification or existing comprehensive plan land use map classification to the zoning district classification or land use classification for which the application is filed. Said proposed ordinance shall be referred to the planning commission for public hearing and recommendation pursuant to the requirements of this Chapter and presented to the City Council for decision at their next scheduled zoning meeting agenda.

Sec. 5A-12. Standards and Factors Governing Review of Proposed Amendments to Official Zoning Map.

The following standards and factors are found to be relevant to the exercise of the county's zoning powers and shall govern the review of all proposed amendments to the official zoning map:

(a) Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

(b) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties.

(c) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

(d) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.

(e) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

(f) Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources.

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

Sec. 5A-13. Conditions.

Conditions may be requested by an applicant, recommended by the planning department and planning commission, and imposed by the City Council, as a part of any proposed change to the official zoning map, in accordance with the following requirements:

(a) Conditions may be imposed so as to ameliorate the effect(s) of the proposed developmental change for the protection or benefit of neighboring persons or properties consistent with the purpose and intent of the district(s) involved, and the goals and objectives of the comprehensive plan and state law. No condition shall be imposed which reduces the requirements of the district(s) involved. All conditions shall be of sufficient specificity to allow lawful and consistent application and enforcement. All conditions shall be supported by a record that evidences the relationship between the condition and the impact of the developmental change. No condition in the form of a development exaction for other than a project improvement shall be imposed within the meaning of the Georgia Development Impact Fee Act, as amended.

(b) A condition, whether recommended by a commissioner, the applicant, or any other person or entity, placed upon an application after the required deadline for advertising in the legal organ of the county prior to the scheduled hearing before the planning commission shall be treated as an amendment to the application and shall follow the requirements of **Section 5A-6**.

(c) Once imposed, conditions shall become an integral part of the approved amendment and shall be enforced as such. Changes to approved conditions shall be authorized only pursuant to **Section 5A-25** of this Chapter.

Sec. 5A-14. Staff Analysis, Findings of Fact, and Recommendation on Applications to Amend the Official Zoning Map and Text; Time Limit Regarding Amendments.

The staff of the department of planning shall conduct a site inspection on all applications for zoning map amendments and shall investigate and prepare an analysis of each proposed ordinance to amend the text of this Chapter and each proposed ordinance to amend the official zoning map. The findings and recommendations of the staff shall be made based on each of the standards and factors contained in **Section 5A-12**. In any recommendation of approval of any application for an amendment, the planning staff may recommend the imposition of conditions in accordance with **Section 5A-13**. The staff shall present its findings and recommendations in written form to the planning commission and the City Council. Copies of the written findings and recommendations of the staff shall be reasonably made available to the public.

Sec. 5A-15. Staff Analysis, Findings of Fact, and Recommendation on Applications to Amend the Comprehensive Plan Land Use Maps.

The staff of the department of planning shall conduct a site inspection and shall investigate and prepare an analysis of each proposed application to amend the comprehensive plan land use maps. The findings and recommendations of the staff shall be made based on each of the standards and factors contained in **Section 5A-9**. Said staff shall present its findings and recommendations in written form to the planning commission and the City Council. Copies of the written findings and recommendations of the staff shall be reasonably made available to the public.

Sec. 5A-16. Notice of Applications Filed.

The secretary shall, no later than twenty-one (21) days following each closing date for receipt of applications, provide to the City Council a list of all applications and amendments filed. The listing of applications shall be reasonably made available to the public.

Sec. 5A-17. **Reserved.**

Sec. 5A-18. Notice of Public Hearings.

(a) For any zoning decision initiated by the county, at least fifteen (15) but not more than forty-five (45) days prior to the date of the public hearing before the City Council, the county shall cause to be published within a newspaper of general circulation within the territorial boundaries of the county a notice of the hearing. The notice shall state the time, place, and purpose of the hearing.

(b) For any zoning decision initiated by a party other than the county, notice of the public hearing shall be provided as follows:

(1) Written notice of the proposed zoning decision shall be mailed by via first class mail by the planning director or designee to all property owners within two hundred fifty (250) feet of the boundaries of the subject property, as such property owners are listed on the tax records of the City of Dunwoody, at least fifteen (15) days before the public hearing before the planning commission and not more than forty-five (45) days prior to the date of the public hearing before the City Council, which states the nature of the proposed change, and the date, time, and place of the public hearing before the planning commission and the City Council; and

(2) The director of the department of planning or the director's designee must post at least one sign on the road frontage on the subject property at least fifteen (15) days before the hearing before the planning commission and not more than forty-five (45) days prior to the date of the public hearing before the City Council.

(A) At least one (1) sign shall be posted on each street on which the subject property has frontage. One (1) additional sign shall be posted for each additional five hundred (500) feet of frontage or fraction thereof in excess of five hundred (500) feet of frontage on each street on which the subject property has frontage.

(B) Signs shall be double-faced and posted so that the face of the sign is at a right angle to the street to allow the signs to be read by the traveling public in both directions. All signs shall be no smaller than six (6) square feet with lettering on the signs at least two (2) inches in size.

(C) The sign shall state the nature of the proposed zoning decision and the date, time and place of the public hearing before the planning commission and the City Council. The planning director, or designee, shall sign an affidavit attesting to the posting of signs in accordance with the requirements herein, and shall photograph each sign as evidence of its proper posting.

(3) The county shall cause a notice of the public hearing regarding the proposed zoning decision to be published in a newspaper of general circulation within the county at least fifteen (15) days prior to the hearing before the planning commission and not more than forty-five (45) days prior to the public hearing before the City Council. The notice shall include the date, time and place of the hearing before the planning commission and the public hearing before the City Council, the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property.

Sec. 5A-19. Consistency with Comprehensive Plan Land Use Maps; Public Hearing for Official Zoning Map Amendment Applications and Comprehensive Plan Land Use Maps.

No amendment to the text of this Chapter or the official zoning maps shall become effective unless it is consistent with the comprehensive plan land use maps. In any case where an application for an amendment to the official zoning maps is filed which would first require an amendment to the comprehensive plan land use maps pursuant to the requirements of the division, the planning commission and the City Council may conduct a public hearing on the proposed amendment to the comprehensive plan land use and the proposed amendment to the official zoning map in accordance with the rules of procedure adopted pursuant to **Section 5A-4**.

Sec. 5A-20. Action by the Planning Commission.

The secretary shall provide the members of the planning commission complete information on each proposed amendment which the commission considers including: a copy of the application and all supporting materials; all other written communications given to the staff either in support of or in opposition to the amendment; and the written report and recommendation of the planning staff on each proposed amendment. After conduct of a public hearing with public notice as is required by this division, the Planning Commission shall vote its recommendations as required by Chapter 2, Article 4, Section 8 of the City Code. In its recommendation of any application for an amendment, the planning commission may recommend the imposition of conditions in accordance with **Section 5A-13**. All findings and recommendations of the planning commission relating to amendments to the official zoning maps and amendments to the text of this Chapter shall be made based on each of the standards and factors contained in **Section 5A-12**. All recommendations of the planning commission relating to amendments to the comprehensive plan land use maps shall be made based on each of the standards and factors contained in **Section 5A-9**. The secretary of the planning commission

shall make and maintain a written record of the planning commission's investigation and recommendations, which record shall be a public record.

Sec. 5A-21. Action by the City Council.

Following review and recommendation from the planning commission, the City Council, after conduct of a public hearing with public notice as is required by this division, shall vote to approve the proposed ordinance, approve the proposed ordinance with conditions, deny the proposed ordinance, defer the proposed ordinance, or, upon request of the applicant, permit withdrawal of the proposed ordinance without prejudice. No proposed ordinance to amend the text of this Chapter and no proposed ordinance to amend the official zoning map shall be approved except by the majority vote of the members of the City Council. In the approval of any proposed ordinance to amend the official zoning map, the City Council may impose conditions in accordance with **Section 5A-13**. For each proposed ordinance to amend the official zoning map, the analysis submitted by the applicant, if any, the record prepared by the planning department, and the record prepared by the planning commission shall be presented in written form to and reviewed by each member of the City Council. A limited supply of said findings shall be available at the public hearing and available upon request to the public. All decisions of the City Council relating to each proposed ordinance to amend the text of this Chapter and each proposed ordinance to amend the official zoning map shall be made based on each of the standards and factors contained in **Section 5A-12**. All decisions of the City Council relating to amendments to the comprehensive plan land use maps, shall be made based on each of the standards and factors contained in **Section 5A-9**. Any proposed amendment or any proposed substitute ordinance considered by the City Council shall be presented in written form prior to being voted on by the board.

Sec. 5A-22. Withdrawal of Application by Applicant; Filing of Ordinances by City Council.

Applications shall not be withdrawn prior to the meeting of the City Council after they have been filed for advertising for public hearing before the planning commission. Application fees shall be forfeited in any case where the City Council permits the withdrawal of an application.

Sec. 5A-23. Clerk of Commission to Provide Signed Copy of Ordinance to Director of Planning for Modification of Zoning Maps.

The clerk of the commission shall, within ten (10) days from action of the City Council on each proposed ordinance to amend the text of this Chapter and each proposed ordinance to amend the official zoning map, provide to the director of planning a signed and certified copy of each such ordinance. The director of planning shall thereafter cause the official zoning maps to be changed in accordance with any such approved ordinance.

Sec. 5A-24. Successive Applications.

An application for an amendment to the comprehensive plan land use maps or the official zoning maps affecting all or a portion of the same property shall not be submitted more than once every twenty-four (24) months measured from the date of final decision by the City Council. The City Council may waive or reduce this twenty-four-month time interval by resolution, provided that if the application to amend the official zoning maps was denied by the City Council, the time interval between the date of said denial and any subsequent application or

amendment affecting the same property shall be no less than six (6) months. This twenty-four-month time interval shall not apply to amendments initiated by the City Council, provided that if such a proposed amendment to the official zoning map was denied by the City Council, the time interval between the date of said denial and any subsequent application or amendment shall be no less than six (6) months.

Sec. 5A-25. Modifications and Changes to Conditional Zoning Amendments.

The director of planning shall have sole authority to approve minor changes to conditions attached to an approved zoning amendment. Minor changes are those that implement only slight alterations to the approved conditions, made necessary by actual field conditions at the time of development, that do not alter the impact of the development on nearby properties nor the intent or integrity of the conditions as originally imposed. Any request for minor change of conditions shall be made in written form to the director of planning. If an approved site plan exists, the request for minor change shall be accompanied by four copies of the revised site plan. Any major change to conditions attached to an approved zoning amendment shall require an application and hearing before the planning commission and the City Council as is required in this **Section 5A** for amendments to the official zoning map generally. Without limiting the meaning of the phrase, the following shall be deemed to constitute "major change" for purposes of interpreting this section:

(a) The movement of any building or structure adjacent to an exterior boundary line, closer to the boundary line of the property;

(b) Any increase in the number of dwelling units or any increase in the total amount of floor space of any nonresidential building;

(c) Any decrease in the minimum size of residential units imposed in the original conditional zoning amendment;

(d) Any change in any buffer requirement(s) imposed in the original conditional zoning amendment;

(e) Any increase in the height of any building or structure; or

(f) Any change in the proportion of floor space devoted to different authorized uses.

DIVISION 5B. SPECIAL LAND USE PERMITS

Sec. 5B-1. Special Land Use Permits Generally.

A special land use permit is a means by which the City Council gives special consideration, pursuant to a clear set of standards and criteria, to those types of uses which may or may not be compatible with uses and structures authorized as of right within a particular zoning district. Special land use permits are required for uses that have operational characteristics and/or impacts that are significantly different from the zoning district's principal authorized uses and therefore require individual review pursuant to the standards and criteria set forth in this division and Chapter. Special land use permit applications shall be authorized only for those uses specifically listed in the applicable zoning district regulations as permitted by special land use permit. An applicant desiring to apply for a special land use permit authorized within a district contained within this Chapter shall file an application with the department of

planning in accordance with this division. The City Council, following recommendation by the planning commission, shall determine whether the proposed use, in the particular location contemplated, meets the standards and criteria set forth in this division and Chapter. Such uses may further require, and the City Council shall be authorized to impose, special conditions in order to assure their compatibility with surrounding uses and to minimize adverse impacts of the use on surrounding property.

Sec. 5B-2. Initiation of Applications; Public Hearing before Planning Commission.

Special land use permit applications may be initiated upon application by the owner(s) of the subject property or the authorized agent of the owner(s). Before deciding on any special land use permit pursuant to the requirements set forth in this division and Chapter, the City Council shall provide for public notice and a public hearing thereon as is required by this division. No application for a special land use permit shall be decided by the City Council unless it has been submitted to the planning commission for public hearing and recommendation pursuant to the requirements of this division and this Chapter.

Sec. 5B-3. Application Forms; Filing of Applications; Plans Required.

Applications for special land use permits shall be made on forms published and provided by and shall be filed with the department of planning. Each applicant shall complete all questions and requested materials contained within the required application form and shall provide all of the following information:

(a) Survey plat of subject property, prepared within the last ten (10) years by a professional engineer, landscape architect or land surveyor registered in the State of Georgia. Said survey plat shall:

(1) Indicate the complete boundaries of the subject property and all buildings and structures existing thereon;

(2) Include a notation as to whether or not any portion of the subject property is within the boundaries of the one hundred-year floodplain; and

(3) Include a notation as to the total acreage or square footage of the subject property.

(b) Name, mailing address and phone number of all owners of the property which is the subject of the application for special land use permit;

(c) Signed and notarized affidavit of all owners of the subject property authorizing the filing of the application for special land use permit, and where applicable, the signed and notarized affidavit of the owner(s) of the subject property authorizing an applicant or agent to act on their behalf in the filing of the application for special land use permit. The application also shall contain the mailing address and phone number of any applicant or agent who is authorized to represent the owner(s) of the subject property;

(d) Written legal description of property.

(e) Statement of current zoning classification of property, the proposed use of the property, and the specific reference within the applicable zoning district classification which authorizes application for said use by special land use permit.

(f) A written, documented analysis of the impact of the proposed special land use permit with respect to each of the criteria contained in **Section 5B-13** and, where applicable to the use proposed, also the criteria contained in **Section 5B-14**.

(g) Complete and detailed site plan of the proposed use prepared, signed and sealed by an architect, landscape architect or engineer licensed in the State of Georgia, showing the following:

(1) All buildings and structures proposed to be constructed and their location on the property;

(2) Height of proposed building(s);

(3) Proposed use of each portion of each building;

(4) All driveways, parking areas, and loading areas;

(5) Location of all trash and garbage disposal facilities;

(6) Setback and buffer zones required in the district in which such use is proposed to be located;

(7) Landscaping plan for parking areas.

Sec. 5B-4. Application Fees.

Application fees shall be as established by ordinance by the City Council.

Sec. 5B-5. Staff Analysis, Findings of Fact, and Recommendation on Each Application.

Applications shall be filed on forms provided by the department of planning and shall not be considered an authorized application unless complete in all respects. The staff of the department of planning shall conduct a site inspection and shall prepare an analysis of each application for special land use permit and shall present its findings and recommendations in written form to the planning commission. No application shall be amended later than the required deadline for advertising by the legal organ of the county prior to the scheduled hearing before the planning commission. Staff recommendations on each application for special land use permit shall be based on the criteria contained in **Section 5B-13** and in addition, where applicable to the use proposed, to the criteria contained in **Section 5B-14**.

Sec. 5B-6. Initiation of Ordinance for Application for Special Land Use Permit.

Upon receipt of a complete application for a special land use permit, the secretary shall prepare a proposed ordinance to grant the proposed special land use permit and said proposed ordinance shall be referred to the planning commission for public hearing and recommendation pursuant to the requirements of this Chapter and presented to the City Council at their next scheduled zoning meeting agenda.

Sec. 5B-7. Notice of Applications Filed.

The secretary shall provide to the City Council, no later than twenty-one (21) days following the monthly closing date for receipt of applications, a list of all applications for special land use permit. The listing of applications shall be reasonably made available to the public.

Sec. 5B-8. **Reserved.**

Sec. 5B-9. Notice of Public Hearings.

Notice of public hearing on any proposed application for a special land use permit shall be provided as is required in **Section 5A-18** of this Chapter.

Sec. 5B-10. Action by the Planning Commission.

The secretary shall provide the members of the planning commission complete information on each proposed application for special land use permit which the commission considers including a copy of the application and all supporting materials, all communications and other writings either in support of or in opposition to the application, and the written report and recommendation of the secretary applying the required criteria in **Section 5B-13** and **Section 5A-14**, where applicable, to each application. The planning commission, after conduct of a public hearing with public notice as is required by **Section 5A-18** of this Chapter, shall vote its recommendation to the City Council. The planning commission may recommend approval of the application, approval of the application with conditions, denial of the application, or deferral of the application. The planning commission may recommend the imposition of conditions based upon the facts in a particular case in accordance with **Section 5A-13**. The planning commission recommendation on each application shall be based on a determination as to whether or not the applicant has met the criteria contained in **Section 5A-13**, the criteria contained in **Section 5A-14** where applicable to the use proposed, and the requirements of the zoning district in which such use is proposed to be located.

Sec. 5B-11. Withdrawal of Application by Applicant; Filing of Ordinances by City Council.

Applications may not be withdrawn after they have been filed for advertising for public hearing before the planning commission.

Sec. 5B-12. Action by the City Council.

The City Council, after conduct of the public hearing with public notice required by this division, shall vote to approve the application, approve the application with conditions, deny the application, defer the application, or, upon request of the applicant, to permit withdrawal of the application without prejudice. The City Council may impose conditions based upon the facts in a particular case in accordance with **Section 5A-13**. The decision of the City Council on each application for special land use permit shall be based on a determination as to whether or not the applicant has met the criteria contained in **Section 5A-13**, the criteria contained in **Section 5B-14** where applicable to the use proposed, and the requirements of the zoning district in which such use is proposed to be located. The City Council shall specify the length of time of the duration of each such special land use permit which is approved.

Sec. 5B-13. Special Land Use Permit; Criteria to be Applied.

The following criteria shall be applied by the department of planning, the planning commission, and the City Council in evaluating and deciding any application for a special land use permit. No application for a special land use permit shall be granted by the City Council unless satisfactory provisions and arrangements have been made concerning each of the following factors, all of which are applicable to each application:

(a) Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located;

(b) Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district;

(c) Adequacy of public services, public facilities, and utilities to serve the use contemplated;

(d) Adequacy of the public street on which the use is proposed to be located and whether or not there is sufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area;

(e) Whether or not existing land uses located along access routes to the site will be adversely affected by the character of the vehicles or the volume of traffic generated by the proposed use;

(f) Ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency;

(g) Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust, or vibration generated by the proposed use;

(h) Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use;

(i) Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.

(j) Whether or not the proposed plan is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located;

(k) Whether or not the proposed use is consistent with the policies of the comprehensive plan;

(l) Whether or not the proposed plan provides for all required buffer zones and transitional buffer zones where required by the regulations of the district in which the use is proposed to be located;

(m) Whether or not there is adequate provision of refuse and service areas;

(n) Whether the length of time for which the special land use permit is granted should be limited in duration;

(o) Whether or not the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings;

(p) Whether the proposed plan will adversely affect historic buildings, sites, districts, or archaeological resources;

(q) Whether the proposed use satisfies the requirements contained within the supplemental regulations for such special land use permit.

(r) Whether or not the proposed building as a result of its proposed height will create a negative shadow impact on any adjoining lot or building.

Sec. 5B-14. Additional Criteria for Specified Uses.

In addition to the criteria contained in **Section 5B-13** above, which each applicant for special land use permit is required to meet, the following additional criteria shall apply to the uses specified below. No application for a special land use permit for the uses specified below shall be granted by the City Council unless it is determined that in addition to meeting the requirements contained within the zoning district in which such property is located and the criteria contained in **Section 5B-13** above, satisfactory provisions and arrangements have been made concerning each of the following factors:

(a) *Telecommunications towers and antennas.* In determining whether to authorize a special land use permit for a telecommunication tower or antenna, the City Council shall also consider each of the following factors:

(1) Height of the proposed tower;

(2) Proximity of the tower to residential structures;

(3) Nature of uses on adjacent and nearby properties;

(4) Surrounding topography;

(5) Surrounding tree cover and foliage;

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

(7) Compliance with all requirements specified in **Section 4-47**.

(b) *Mine, mining operation, gravel pit, quarry, or sand pit.* In determining whether to authorize a special land use permit for a mine, mining operation, gravel pit, quarry, or sand pit, the City Council shall also consider each of the following factors:

(1) Whether the type and volume of traffic associated with such use will cause congestion in the streets and will create noise and vibration along streets used for residential purposes.

(2) Whether the applicant has provided a soil erosion control plan and a reuse or reclamation plan which meets the requirements of City of Dunwoody and of the Georgia Surface Mining Act, O.C.G.A. § 12-4-70 et seq., as amended, and the Rules of Department of Natural Resources, **Chapter 391-3-3**, as amended; and

(3) Whether or not the applicant meets the requirements of noise limitations in **Section 4-30**.

(c) *Child day care facility.* In determining whether to authorize a special land use permit for a child day care facility, the City Council shall also consider each of the following factors:

(1) Whether there is adequate off-street parking for all staff members and for visitors to the child day care facility.

(2) Whether the proposed off-street parking areas and the proposed outdoor play areas can be adequately screened from adjoining properties so as not to adversely impact any adjoining land use.

(3) Whether there is an adequate and safe location for the dropping off and picking up of children at the child day care facility.

(4) Whether the character of the exterior of the proposed structure will be compatible with the residential character of the buildings in the district in which the child day care facility is proposed to be located.

(d) *Biomedical waste disposal facilities, disposal facilities, landfills, materials recovery centers, county solid waste disposal facilities, county solid waste landfills, private industry solid waste disposal facilities, recovered materials processing facilities, solid waste handling facilities, solid waste thermal treatment technology facilities, and disposal facilities for hazardous and/or toxic materials including radioactive materials.* In determining whether to authorize a special land use permit for a biomedical waste disposal facility, disposal facility, landfill, materials recovery center, county solid waste disposal facility, county solid waste landfill, private industry solid waste disposal facility, recovered materials processing facility, solid waste handling facility, solid waste thermal treatment technology facility, or disposal facility for hazardous and/or toxic materials including radioactive materials, the City Council shall also consider each of the following factors:

(1) A showing that the proposed use does not pose any potential negative impact resulting from air pollution, degradation of soil and/or water quality, noise, odor, or other negative environmental effects;

(2) A showing that the proposed use will not have a deleterious effect on use of land and value of existing housing in adjacent and nearby neighborhoods;

(3) A showing that the proposed use will not create a negative traffic impact on any adjacent or nearby residential street(s) resulting from truck and other vehicular traffic associated with the facility; and

(4) A showing that the proposed use does not represent an over-concentration of such uses in the area.

(e) *Truck stops.* The following provisions apply to truck stops whether designed as primary uses or as part of planned industrial centers.

(1) These uses shall be permitted only within one thousand (1,000) feet of an interstate highway interchange.

(2) These uses shall be permitted only on parcels of ten (10) acres or more.

(3) These uses shall not be permitted within one thousand (1,000) feet of any property used for a school, park, playground, church, day care center, or community center unless such facility is located in an M or M-2 district.

(4) These uses shall not be permitted within one thousand (1,000) feet of any R or RM district.

(5) Entrance drives for truck stop facilities shall not be closer than three hundred (300) feet from any point of an interstate highway interchange.

(6) These uses shall meet state and federal environmental guidelines and requirements.

Sec. 5B-15. The City Clerk shall Provide a Signed Copy of Ordinance to Director of Planning to be Noted on Official Zoning Maps.

The City clerk shall, after action by the City Council on any special land use permit application, provide to the director of planning a signed, certified copy of each such ordinance. The director of planning shall cause the official zoning maps to be appropriately annotated to reflect the approval of any such ordinance granting a special land use permit by the City Council.

Sec. 5B-16. Successive Applications.

An application for a special land use permit affecting all or a portion of the same property shall not be submitted more than once every twenty-four (24) months measured from the date of final decision by the City Council. The City Council may waive or reduce this twenty-four-month time interval by resolution, provided that if the application for a special land use permit was denied by the City Council, the time interval between the date of said denial and any subsequent application affecting the same property shall be no less than six (6) months.

Sec. 5B-17. Transfer of Special Land Use Permits.

A special land use permit, including the site plan and any conditions imposed at the time of the grant of the special land use permit by the City Council, is granted to a person, corporation or other legal entity. A special land use permit may be transferred from one person, corporation, or other legal entity to another person, corporation, or other legal entity upon application to the director of planning. Any such application by any person, corporation, or other legal entity to transfer a special land use permit shall be accompanied by an affidavit of the proposed transferee certifying that the new owner or operator is familiar with and will abide by the approved site

plan and all of the conditions, if any, imposed by the City Council at the time of the grant of the special land use permit.

Sec. 5B-18. Compliance upon Denial.

In such case that an application to the board is initiated due to an existing violation of this Chapter and such application is denied, the violation shall be required to cease within thirty (30) days of such denial or as specified by the board if a greater time period is required. The maximum extension of time the board may grant for correction shall not exceed ninety (90) days.

DIVISION 5C. SPECIAL ADMINISTRATIVE PERMITS

Sec. 5C-1. Special Administrative Permits Generally.

The Director of Planning is hereby authorized to consider and decide requests for special administrative permits specifically authorized in any zoning district classification or specifically authorized in **Article IV**. All such requests for special administrative permits shall be filed in writing on forms promulgated by the director of planning and the director of public works.

Sec. 5C-2. Standards for Special Administrative Permits.

Each application for special administrative permit specifically authorized in this Chapter shall be considered and decided by that official, either the Director of Planning to whom the authority to consider and decide said permit is delegated herein. All applications filed for special administrative permit with the director of planning and the director of public works shall be considered and decided pursuant to the standards contained in **Section 5B-13** of this Chapter. All special administrative permits approved by the Director of Planning shall specify the length of time of the duration of each such special administrative permit.

Sec. 5C-3. Time Limitations.

All applications for special administrative permits shall be considered and decided pursuant to the standards in the zoning ordinance by the authorized official no later than thirty (30) days from the receipt of a complete application for such special administrative permit, unless an extension of time is agreed to by the applicant and the applicable authorized official.

DIVISION 5D. VARIANCES, SPECIAL EXCEPTIONS, AND APPEALS

Sec. 5D-1. Zoning Board of Appeals Established.

There is hereby established a City of Dunwoody Board of Zoning Appeals consisting of seven (7) members, whose qualifications shall be dictated by Chapter 2 ("Administration") of the City of Dunwoody Code of Ordinances. If a provision of Chapter 2 of the City Code is in conflict with any portion of the City of Dunwoody Zoning Ordinance as it pertains to the Board of Zoning Appeals, the provisions of Chapter 2 of the City Code shall control.

Sec. 5D-2. **Reserved.**

Sec. 5D-3. Meetings of the Board.

The board shall set its meeting times pursuant to Chapter 2, Article 4 of the City Code.

Sec. 5D-4. Rules of Procedure.

The board shall conduct its meetings in accordance with the procedures contained in this division and Chapter. The board shall further adopt rules of procedure governing the conduct of its meetings pursuant to the requirements of Chapter 2, Article 4 of the City Code.

Sec. 5D-5. **Reserved.**

Sec. 5D-6. **Reserved.**

Sec. 5D-7. **Reserved.**

Sec. 5D-8. Secretary.

The director of planning or the director's designee may serve as secretary to the board as directed by the City Manager. The secretary shall make tape recordings and keep minutes of the proceedings of the board, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its official actions and evidence submitted, all of which shall be filed in the office of the planning department and shall be a public record. Permanent and complete records of the proceedings and decisions of the board shall be maintained.

Sec. 5D-9. Application Forms; Filing of Applications; Application Fees.

Applications for appeals, variances and special exceptions shall be filed on forms provided by the department of planning and shall not be considered authorized or accepted unless complete in all respects. Application fees shall be as established by the City Council.

Sec. 5D-10. Staff Analysis, Findings of Fact, and Recommendation on Each Application for Variance and Special Exception.

The staff of the department of planning shall conduct a site inspection of and shall prepare an analysis of each application for variance and special exception applying the criteria and standards set forth in this division appropriate to each such application. Said staff shall present its findings and recommendations in written form to the board at least seven (7) days prior to the public hearing thereon.

Sec. 5D-11. Testimony.

All testimony before the board shall be taken as if under oath regardless of whether or not a formal oath or affirmation is administered. The chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses by subpoena.

Sec. 5D-12. Power and Duty of the Board to Hear Appeals of Decisions of Administrative Officials.

The zoning board of appeals shall have the power and duty to hear and decide appeals where it is alleged by the appellant that there is error in any final order, requirement, or decision made by an administrative official based on or made in the enforcement of the zoning ordinance. A failure to act shall not be construed to be an order, requirement or decision within the meaning of this division. All such appeals shall be heard and decided following the notice requirements of **Section 5D-17**, and pursuant to the following criteria and procedural requirements:

(a) *Appeals of decisions of administrative officials.* Appeals may be filed by any person aggrieved by, or by any county official, department, board or agency

affected by, any final order, requirement, or decision of an administrative official, based on or made in the enforcement of the zoning ordinance, by filing with the secretary of the board an application for appeal specifying the grounds thereof, within fifteen (15) days after the action appealed from was taken. A failure to act shall not be construed to be an order, requirement or decision within the meaning of this division. A person shall be considered aggrieved for purposes of this subsection only if:

(1) Said person or said person's property was the subject of the action appealed from; or

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

(b) *Appeal stays all legal proceedings.* An appeal stays all legal proceedings in furtherance of the action appealed from unless the official from whom the appeal is taken certifies to the board, after notice of appeal has been filed, that by reasons of facts stated in the certificate, a stay would, in that official's opinion, cause imminent peril to life and property. In such a case, proceedings shall be stayed only by a restraining order granted by the Superior Court of City of Dunwoody on notice to the officer from whom the appeal is taken and on due cause shown.

(c) *Time of hearing.* The board shall fix a reasonable time for the hearing of the appeal and give notice thereof pursuant to the requirements of **Section 27-917** as well as due notice to the parties in interest. Any party may appear at the hearing in person, by an agent, by an attorney or by a written documentation.

(d) *Decision of the board.* Following the consideration of all testimony, documentary evidence, and matters of record, the board shall make a determination on each appeal. The board shall decide the appeal within a reasonable time but in no event more than sixty (60) days from the date of the hearing. An appeal shall be sustained only upon an expressed finding by the board that the administrative official's action was based on an erroneous finding of a material fact, or that the administrative official acted in an arbitrary manner. In exercising its powers, the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all the powers of the administrative official from whom the appeal was taken and may issue or direct the issuance of a permit provided all requirements imposed by all other applicable laws are met.

Sec. 5D-13. Power and Duty of the Board to Hear Applications for Special Exceptions to Reduce or Waive Off-Street Parking or Loading Space Requirements.

The zoning board of appeals shall hear and decide applications for special exceptions to reduce or waive required off-street parking or loading spaces in accordance with the provisions and standards of this section and without further compliance with the standards set forth in **Section 5D-16(b)**. All such applications shall be heard and decided based on the notice requirements of **Section 5D-17**. The board may waive or reduce the required number of parking

spaces or the required number of loading spaces in any district only upon an expressed finding that:

(a) The character of the use of the building(s) is such as to make unnecessary the full provision of parking or loading spaces; or

(b) The lot upon the building(s) is located is within one thousand (1,000) feet of the boundary of a MARTA Rapid Transit Station.

(c) The provision of the full number of parking spaces would have a deleterious affect on a historic building, site, district or archaeological resource.

Sec. 5D-14. Power and Duty of the Board to Hear Applications for Variances; Limitations of Authority of Board.

The zoning board of appeals shall hear and decide applications for variances from the strict application of the regulations of this Chapter where the strict application of any regulation enacted under said Chapters would result in exceptional and undue hardship upon the owner of such property. In determining whether or not to grant a variance, the board shall apply the criteria specified in **Section 5D-17** below to the facts of each case. The board may attached reasonable conditions to any approved variance or special exception in accordance with **Section 5A-13**. Once imposed, conditions shall become an integral part of the approved variance or special exception and shall be enforced as such. No changes to an approved condition attached to a variance or special exception shall be authorized except by re-application to the board in full accordance with the provisions of this division. No variance shall be granted by the board to:

(a) Allow a structure or use not authorized in the applicable zoning district or a density of development that is not authorized within such district;

(b) Allow an increase in maximum height of building;

(c) Allow any variance which conflicts with or changes any requirement enacted as a condition of zoning or of a special land use permit by the City Council;

(d) Vary the requirements for an off premises sign which decreases the applicable development standard by thirty (30) percent or more, or to grant more than two (2) variances for a specific parcel of property for an off-premises sign during a five-year period of time;

(e) Reduce, waive or modify in any manner the minimum lot width and minimum lot area where the lot has been conditionally zoned to a specific site plan;

(f) Reduce, waive or modify in any manner the minimum lot area established by the City Council for any use permitted by special land use permit or by special exception;

(g) Extend the time period for a temporary outdoor social, religious, entertainment or recreation activity approved by the director of public works;

(h) Permit the expansion or enlargement of any nonconforming use of land, nonconforming use of land and buildings in combination, nonconforming use of

land and structures in combination, or nonconforming use requiring special land use permit;

(i) Permit the reestablishment of any nonconforming use of land, nonconforming use of land and buildings in combination, nonconforming use of land and structures in combination, or nonconforming use requiring special land use permit where such use has lapsed pursuant to the requirements and limitations of **Section 5E** of this Chapter; or

(j) Permit customer contact for a home occupation authorized by this Chapter.

Sec. 5D-15. Criteria to be Used by the Board in Deciding Applications for Variances and Special Exceptions.

No relief may be granted or action taken under the terms of this division unless such relief can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of this Chapter and the comprehensive plan text. The zoning board of appeals shall apply the following criteria to the types of applications specified below as follows:

(a) Variances from the provisions or requirements of this Chapter shall be authorized only upon making all of the following findings:

(1) By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic conditions, which were not created by the owner or applicant, the strict application of the requirements of this Chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district;

(2) The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located;

(3) The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located;

(4) The literal interpretation and strict application of the applicable provisions or requirements of this Chapter would cause undue and unnecessary hardship; and

(5) The requested variance would be consistent with the spirit and purpose of this Chapter and the City of Dunwoody Comprehensive Plan text.

(b) Special exceptions shall be authorized only upon making a finding that the application conforms to all of the requirements of **Section 5B-13**.

(c) In lieu of the requirements set forth in **subsection (a)**, requests for variances from the provisions of the noise ordinance set forth in **Section 4-30**, the

zoning board of appeals shall be authorized to grant variances only upon making all of the following findings:

(1) By reason of exceptional conditions, which were not created by the owner or applicant, the strict application of **Section 4-30** would deprive the property owner of rights and privileges enjoyed by other property owners in the same residential, commercial or industrial district;

(2) The requested variance does not go beyond the minimum necessary to afford relief, and the applicant has exhausted the best practical noise control measures, such as those promulgated by INCE, without being able to conform to the noise levels established in **Section 4-30**;

(3) The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located;

(4) The literal interpretation and strict application of the applicable provisions or requirements of **Section 4-30** would cause undue and unnecessary hardship; and

(5) The requested variance would be consistent with the purposes of the **Section 4-30** and shall not exceed:

a. Ten (10) dB(A) beyond what is allowed by the **Section 4-30** during the hours of 7:00 am to 10:00 p.m.; and

b. Five (5) dB(A) beyond what is allowed by **Section 4-30** during the hours of 10:00 p.m. to 7:00 a.m.

Sec. 5D-16. Notice of Public Hearings.

Notice of public hearing before the board on any application for appeal, variance, or special exception shall be provided as follows:

(a) Written notice of the nature of the proposed application, and the date, time, and place of the public hearing before the board shall be mailed by first class mail to all property owners within two hundred fifty (250) feet of the boundaries of the subject property as measured by use of the official zoning maps, and as such property owners are listed on the tax records of the City of Dunwoody, at least fifteen (15) days before the public hearing before the board;

(b) Signs shall be posted within the public right-of-way or on the subject property at least fifteen (15) days before the hearing before the board. One (1) sign shall be posted for each five hundred (500) feet of street frontage or fraction thereof along each street on which the subject property has frontage. Signs shall be double-faced and posted so that the face of the sign is at a right angle to the street in order that said signs can be read by the traveling public in both directions. The lettering on the signs shall be at least one (1) inch in size and the sign shall state the nature of the proposed application and the date, time and place of the public hearing before the board; and

(c) Notice of the nature of the proposed application and the date, time and place of the public hearing before the board shall be published in the newspaper of general circulation within the county in which are carried the legal advertisements of the county at least fifteen (15) days prior to the date of the hearing before the board and not more than forty-five (45) days prior to the date of the hearing before the board.

Sec. 5D-17. Decision by Board.

Each application presented to the board regarding a variance or special exception shall be scheduled for a public hearing within sixty (60) days of the filing of a complete application and shall be supported by findings and conclusions which shall be a part of the record established by the board for each application. The board may adopt the findings of fact of the staff, or they may adopt the findings of fact of the staff with modifications, or they may adopt a separate set of facts developed by the board.

Sec. 5D-18. Compliance with Standards upon Denial.

In such case that an application to the board is initiated due to an existing violation of this Chapter and such application is denied, the violation shall be required to be corrected within ten (10) to thirty (30) days of such denial or as specified by the board if a greater time period is required. The maximum extension of time the board may grant for correction shall not exceed thirty (30) to ninety (90) days.

Sec. 5D-19. Successive Applications.

An application for a variance or special exception affecting all or a portion of the same property which was denied by the zoning board of appeals shall not be submitted more than once every twenty-four (24) months measured from the date of final decision by the zoning board of appeals. The zoning board of appeals may waive or reduce this twenty-four-month time interval by resolution provided that if the application for a variance or special exception was denied by the zoning board of appeals, the time interval between the date of said denial and any subsequent application or amendment affecting the same property shall be no less than six (6) months.

Sec. 5D-20. Appeals of Decisions of the Zoning Board of Appeals.

All appeals of all final decisions of the board under the provisions of this Chapter shall be as follows:

(a) Any person aggrieved by a final decision of the board, or any officer, department, board or agency affected by such decision, may seek review of such decision by petitioning the Superior Court of DeKalb County for a writ of certiorari, setting forth plainly the alleged errors. Such petition shall be filed within thirty (30) days after the final decision of the board is rendered.

(b) Notice to board. In any such petition filed, the zoning board of appeals shall be designated the respondent in certiorari and City of Dunwoody the defendant in certiorari. The secretary of the zoning board of appeals shall be authorized to acknowledge service of a copy of the petition and writ for the zoning board of appeals as respondent. Service upon the county as defendant shall be as otherwise provided by law. Within the time prescribed by law, the zoning board of appeals shall cause to be filed with the clerk of DeKalb Superior Court a duly certified

record of the proceedings had before the board, including a transcript of the evidence heard before it, if any, and the decision of the board.

Sec. 5D-21. Administrative Variances and Special Exceptions.

(a) The director of planning is hereby authorized to consider and grant or deny, pursuant to the procedures and standards contained in this section, a variance or a special exception from the following regulations:

(1) Reduce by variance any front, side or rear yard setback by an amount not to exceed ten (10) percent of the district requirement, but not including any transitional buffer zone or any setback which is a condition of zoning or special land use permit, pursuant to the standards specified in **Section 5D-16**.

(2) Reduce by variance the required spacing between buildings in districts where multiple buildings are authorized on a single lot in an amount not to exceed ten (10) percent of the requirement, but not in an amount which is less than the minimum requirement imposed by of the City of Dunwoody Code of Ordinances, pursuant to the standards specified in **Section 5D-16**.

(3) Reduce by special exception the off-street parking or loading requirements imposed by this Chapter in an amount not to exceed ten (10) percent of the district requirement, pursuant to the standards specified in **Section 5D-13(a)**.

(4) Reduce by special exception the off-street parking requirements imposed by this Chapter for any lot which is located within one thousand (1,000) feet of the boundary of a MARTA Rapid Transit Station in an amount not to exceed twenty-five (25) percent of the district requirement, pursuant to the standards specified in **Section 5D-13(b)**.

(5) Increase by variance the retaining wall height as set forth in Section 4-54(b) by an amount not to exceed two (2) feet.

(6) Increase by variance the distancing requirements for retaining walls as set forth in Section 4-54 (b) by an amount not to exceed two (2) feet.

(7) Increase by variance the elevation of front door thresholds as set forth in Sec. 4-64

(a) Any request for an administrative variance or a special exception permitted by this section shall be filed in writing with the director of planning. The director shall review and decide upon each such application pursuant to the applicable standards referred to in each subsection above, and shall make a written decision on each such application no later than thirty (30) days from the date such application was filed. Notice of an application for an administrative variance shall be posted by the applicant on the subject property within ten (10) days of the filing of the application.

(i) At least one (1) sign shall be posted on each street on which the subject property has frontage. One (1) additional sign shall be posted for each additional five hundred (500) feet of frontage or fraction thereof in excess of five hundred (500) feet of frontage on each street on which the subject property has frontage.

(ii) Signs shall be a minimum of twenty two (22) inches by twenty-four (24) inches in size and contain the following information: address, nature of variance request, date of submittal of application, and planning and development department contact information.

(iii) The applicant shall sign an affidavit attesting to the posting of signs in accordance with the requirements herein, and shall provide a dated photograph of each sign as evidence of its proper posting.

No administrative variance or special exception shall be authorized to delete, modify, or change in any manner any condition imposed by the board of commissioners or the zoning board of appeals.

DIVISION 5E. NONCONFORMING USES

Sec. 5E.1. Statement of Intent and Purpose.

Within the districts established by this Chapter, or by amendments that may later be adopted, there exist lots, uses of land, uses of land and buildings, uses of land and structures, and characteristics of buildings and structures which were lawful before this Chapter was adopted or amended, but which would be prohibited under the terms of this Chapter or future amendment. Such nonconforming uses are hereby declared to be incompatible with authorized and permitted uses in the districts involved. It is the intent of the City Council to require the cessation of certain of these nonconformities, and to permit others to continue until they are otherwise removed or cease. It is further the board's intent that nonconformities not be used as grounds for adding other buildings, structures, or uses of land prohibited by this Chapter, and that no such building, structure, or use of land shall be enlarged, expanded, moved, or otherwise altered in a manner that increases the degree of nonconformity.

Sec. 5E-2. Nonconforming Use of Land.

The nonconforming use of land may be continued, but no such nonconforming use of land which has been discontinued for a continuous period of six (6) months shall be reestablished unless such cessation is a direct result of governmental action impeding access to the property. Such nonconforming use of land shall not be enlarged, expanded, moved, or otherwise altered in any manner that increases the degree of nonconformity.

Sec. 5E-3. Nonconforming Lot of Record.

A nonconforming lot of record in a residential district may be used for a single-family residence without the need for a variance from the zoning board of appeals.

Sec 5E-4. Nonconforming Use of Land and Buildings in Combination and Nonconforming Use of Land and Structures in Combination.

The following regulations apply to the nonconforming use of land and building(s) in combination and the nonconforming use of land and structure(s) in combination:

(a) Such uses of land and buildings or land and structures may be continued, but no such use which has been discontinued for a continuous period of six (6) months shall be reestablished unless such cessation is a direct result of governmental action impeding access to the property.

(b) Such uses of land and buildings or land and structures, or any such building or structure, shall not be enlarged, expanded, moved, or otherwise altered in any manner that increases the degree of nonconformity.

(c) A nonconforming use of a building may be extended into those interior parts of a building which were manifestly designed for such use prior to the enactment of this Chapter.

Sec. 5E-5. Nonconforming Characteristics of Buildings and Structures.

Any building or structure with nonconforming characteristics which is occupied by a conforming use shall not be enlarged, expanded, moved, or otherwise altered in any manner that increases the degree of nonconformity.

Sec. 5E-6. Nonconforming Uses Requiring Special Administrative Permit, Special Exception or Special Land Use Permit.

No nonconforming use, building or structure requiring a special administrative permit, special exception or special land use permit under the terms of this Chapter, including any use, building or structure that was authorized as of right prior to the adoption of this Chapter but would require a special administrative permit, special exception, or special land use permit upon the adoption of this Chapter, shall be enlarged, expanded, moved, or otherwise altered in any manner except after application for and approval of a special administrative permit, special exception or special land use permit. Normal repair and maintenance of buildings and structures is authorized without the need for special permits. No such use, building, or structure which has been discontinued for a continuous period of six (6) months shall be reestablished unless such cessation is a direct result of governmental action impeding access to the property.

Sec. 5E-7. Reconstruction of Buildings or Structures which are Defined as Nonconforming Use of Land and Building or Nonconforming Use of Land and Structure.

Any building or structure constituting a nonconforming use of land and building(s) or nonconforming use of land and structure(s) which has been damaged by fire or other cause, may be reconstructed and used as it was prior to damage if said reconstruction is completed within two (2) year of the date of the damage, except that if said building or structure has been declared by the director of public works to have been damaged to an extent exceeding sixty (60) percent of its fair market value at the time of destruction, then any repair, reconstruction or new construction shall conform to all of the requirements of the district in which said building or structure is located.

Sec. 5E-8. Strengthening and Restoring to Safe Condition of Buildings and Structures.

Nothing in this Chapter shall prevent the strengthening or restoration to a safe condition of any part of any building or structure declared unsafe by the director of public works.

Sec. 5E-9. Buildings and Structures where Construction has Begun.

To avoid undue hardship, nothing in this Chapter shall be deemed to require a change in the plans, construction, or designated use of any building or structure for which development or building permits were lawfully applied for or issued, or preliminary or final subdivision plats were lawfully approved, prior to the effective date of this Chapter or amendment thereto, provided: (i) such permit or approval has not by its own terms expired prior to such effective date; (ii) actual building construction is commenced prior to the expiration of such permit or approval; (iii) actual building construction is carried on pursuant to said permit or approval and limited to and in strict accordance with said permit or approval; and (iv) no renewals or extensions of said permit or approval shall be authorized.

Sec. 5E-10. Prior Variances, Special Exceptions, and Special Permits Authorized.

Variances, special exceptions, and special permits lawfully authorized and granted prior to the effective date of this Chapter shall continue to be utilized provided the terms of said authorization are followed.

ARTICLE VI. ENFORCEMENT AND PENALTIES

DIVISION 6A. ADMINISTRATION AND ENFORCEMENT

Sec. 6A-1. Administration and Enforcement.

The Planning Director shall be responsible for the interpretation, administration and enforcement of the provisions of this Chapter, except with regard to the current zoning status of property as specified in **Section 1-9**.

Sec. 6A-2. Development Permits.

Unless otherwise exempted by this article, a development permit shall be required for any proposed use of land or buildings in order to assure compliance with all provisions of this Chapter and all other county ordinances and regulations before any building permit is issued or any improvement, grading, or alteration of land or buildings commences.

Sec. 6A-3. Building Permits and Certificates of Occupancy Required.

A building permit and a certificate of occupancy shall be obtained prior to occupancy of any building or structure.

Sec. 6A-4. Applications for Permits and Certificates of Occupancy.

All applications for development permits, building permits, and certificates of occupancy shall be made to the City Manager or his/her designee.

Sec. 6A-5. Development and Building Permits; Plans Required.

The Director of Planning shall be responsible for determining whether applications for development permits and building permits required by this Chapter comply with the

requirements of this Chapter, and no development permit shall be issued without certification that plans conform to applicable zoning regulations.

(a) *Plans required.* All applications for development permits shall be accompanied by complete plans which shall be drawn to scale, filed in duplicate, and which shall contain the following information:

(1) The name and signature of the author, and the author's address and telephone number;

(2) Plans shall show the actual shape and dimensions of the lot to be built upon, based on an actual survey by a professional engineer or land surveyor registered in the State of Georgia;

(3) Plans shall show all required building setback lines, buffer zones, and open space required by this Chapter;

(4) Plans shall show the exact sizes and locations on the lot of the buildings and accessory buildings then existing and the lines within which the proposed building or structure shall be erected or altered;

(5) Plans shall show the current zoning classification of the property including zoning conditions and zoning variances, if any;

(6) Plans shall show the existing or intended use of each building or part of building, and the number of families or housekeeping units the building is designed to accommodate;

(7) Plans shall show such other information as may be required by the director of public works with regard to the lot and neighboring lots as may be necessary to determine and provide for the application of and enforcement of the requirements of this Chapter.

(b) One (1) copy of the plans shall be returned to the owner when the plans have been approved by the director of public works.

(c) Approval of the preliminary subdivision plat and compliance with all applicable provisions of the subdivision regulations of the Code of the City of Dunwoody and in this Chapter shall constitute approval of the development permit for a subdivision.

(d) Development permits for individual structures within approved residential subdivisions or developments shall not be required.

Sec. 6A-6. Issuance of Development Permits.

In no case, shall a development permit issued for the use, construction or alteration of any land or building if the land or building as proposed to be used, constructed or altered would be in violation of any of the provisions of this Chapter or any other ordinances and laws of the county or the state, except as provided herein. Development permits issued on properties for which any variance or special exception has been approved by the board of zoning appeals shall be in compliance with all of the terms and conditions of such approval. Development permits issued on properties for which any special land use permit has been approved by the City Council shall be in compliance with all of the terms, conditions, and site plans related to such approval.

Development permits issued on properties in the classification TND (Traditional Neighborhood Development) District shall be in compliance with the final plans approved by the director of planning. Development permits issued on properties for which conditional zoning is approved shall be in compliance with the approved statement of zoning conditions for such application. Minor alterations of conditions shall be authorized only in accordance with the provisions of **Section5A-25** of this Chapter.

Sec. 6A-7. Duration of Validity of Development Permits.

A development permit shall be valid for two (2) years from its issuance subject to the following provisions:

(a) If the work authorized in any development permit has not begun within ninety (90) days from the date of issuance thereof, the permit shall expire.

(b) If the work described in any development permit has not been substantially completed within two (2) years of the date of issuance thereof, the permit shall expire.

(c) Written notice of the expiration shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed until a new development permit has been obtained.

Sec. 6A-8. Building Inspection.

Building inspection duties with respect to this Chapter shall include, but not be limited to:

(a) Issuance of building permits in accordance with all provisions of this Chapter and only after the department has issued a development permit.

(b) Making field inspections to determine that the building or structure being constructed, reconstructed or structurally altered or used is being pursued in accordance with the site plan for which a development and building permit has been issued. These inspections and reports of findings shall be made within two (2) working days of the date that an inspection is requested by the developer. When a violation is found to exist, the director of public works shall immediately initiate appropriate legal action to ensure compliance.

(c) Ensuring that all construction has been completed in accordance with all applicable requirements of the Code of City of Dunwoody prior to allowing occupancy.

Sec. 6A-9. Records.

The City Manager or his/her designee shall maintain records of all official administrative actions. The director shall further maintain records of all complaints filed pursuant to the requirements of this Chapter and of all actions taken with regard to such complaints, and of all violations discovered by whatever means, with remedial action taken and disposition of cases. All such records shall be public records.

Sec. 6A-10. Inspection; Right of Entry.

Upon presentation of county identification to the developer, contractor, owner, owner's agent, operator or occupants, county employees authorized by the director of public works may

enter during all reasonable hours any property for the purpose of making inspections to determine compliance with the provisions of this Chapter.

Sec. 6A-11. Inspection; Warrants.

The Director of Planning, in addition to other procedures provided, may obtain an inspection warrant under the conditions specified in this division. The warrant shall authorize the director of public works to conduct a search or inspection of property, either with or without the consent of the person whose property is to be searched or inspected, under the conditions set out in this section.

(a) Inspection warrants may be issued by the municipal court of the City when the issuing judge is satisfied that all of the following conditions are met:

(1) The person seeking the warrant must establish under oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection which includes that property or that there is probable cause for believing that there is a condition, object, activity, or circumstance which legally justifies such an inspection of that property.

(2) The issuing judge determines that the issuance of the warrant is authorized by this section.

(b) The inspection warrant shall be validly issued only if it meets all of the following requirements:

(1) The warrant is attached to the affidavit required to be made in order to obtain the warrant.

(2) The warrant describes, either directly or by reference to the affidavit, the property upon which the inspection is to occur and is sufficiently accurate that the executor of the warrant and the owner or possessor of the property can reasonably determine from it the property for which the warrant authorizes an inspection.

(3) The warrant indicates the conditions, objects, activities, or circumstances which the inspection is intended to check or reveal.

(4) The warrant refers, in general terms, to the ordinance provisions sought to be enforced.

Sec. 6A-12. Remedies.

In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of any provision of this Chapter, the City may, in addition to other remedies, and after due notice to the owner of the violation, issue a citation for violation of this Chapter requiring the presence of the violator in the recorder's court. The City may also in such cases institute injunction or other appropriate action or proceeding to prevent an unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate this violation or to prevent the occupancy of this building, structure of land. Where a violation of this Chapter exists with respect to a structure or land, the Director of Planning may,

in addition to other remedies, require that public utility service be withheld therefrom until such time as the structure or premises is no longer in violation of this Chapter.

Sec. 6A-13. Notice in Writing; Order to Stop Work; Revocation of Permits.

Whenever any building or premises is being constructed, used, or occupied contrary to the provisions of this Chapter, the Director of Planning may order the work stopped. The Director of Planning may revoke any building permit or certificate of occupancy for any land, building or this Chapter in order to protect the health, safety and general structure being constructed, used or occupied in violation of welfare of the residents of the county.

Sec. 6A-14. Fees.

Fees and charges for permits and inspections shall be as adopted by ordinance of the City Council.

Sec. 6A-15. Certificates of Occupancy.

Certificates of occupancy are required as follows and shall be issued by the Director of Planning or his/her designee only after all requirements of this Chapter and other applicable parts of the Code of City of Dunwoody have been met:

(a) *For new or altered structures and uses.* No person shall use or permit the use of any building, structure, or premises or part thereof hereafter created, erected, changed, converted, enlarged or moved, wholly or partly, in use or structure, until a certificate of occupancy reflecting use, extent and location shall have been issued to the owner or tenant by the director of public works. Where a building permit is involved, such certificate of occupancy shall show that the structure or use, or both, to the affected part thereof, are in conformance with the requirements of this Chapter. It shall be the duty of the director of public works to issue such certificate of occupancy if the director finds that all of the requirements of this Chapter have been met, and to withhold such certificate of occupancy if the director finds that all of the requirements of this Chapter have not been met.

(b) *Temporary certificates of occupancy.* A temporary certificate of occupancy for a part of a building or premises may be issued in accordance with the requirements of the Code of Dunwoody, and the City Manager or his/her designee may impose such additional conditions and safeguards as are necessary in the circumstances of the case to protect the safety of the occupants and of the general public.

(c) *Certificates of occupancy for existing uses or structures.* An owner may request a new certificate of occupancy for existing uses or structures. Said requests shall be in the form required by the City Manager and shall require all professional surveys or certifications required by said director to adequately comply with said request. The City Manager shall require as a part of said request, fees to process said requests as are established by the City Council. Upon review of the application and other relevant investigation by the City Manager, if in conformance with the requirements of this Chapter, the director of public works shall issue a certificate of occupancy for any buildings, premises or use,

certifying that the building, premises or use is in conformance with the requirements of this Chapter.

DIVISION 6B. VIOLATION AND PENALTIES

Sec. 6B-1. Violations of this Chapter.

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or use any land in the county, or cause the same to be done, contrary to or in violation of any of the provisions of this Chapter.

Sec. 6B-2. Penalties.

Any person, firm or corporation violating any of the provisions of this Chapter shall be deemed guilty of an offense and upon conviction in municipal court shall be punished as is provided of the Criminal Code of City of Dunwoody. Where any violation continues, each day's continuance of a violation shall be considered a separate offense. The owner of any buildings or premises or parts thereof, where anything in violation of this Chapter exists, and any architect, builder, contractor or any other agent of the owner, or any tenant, who commits or assists in the commission of any violation, shall be guilty of a separate offense. In addition, the county may revoke a City of Dunwoody business license of any entity found guilty of violating this Chapter in accordance with the procedures of this subsection for a period of time not to exceed five years, except to the extent prohibited by law.

Sec. 6B-3. Repeal of Conflicting Ordinances; Validity of Prior Approvals and Actions.

This Chapter is the zoning ordinance of the City, and all other conflicting ordinances or resolutions are hereby repealed, provided that nothing herein shall be construed as repealing the conditions of use, operation, or site development accompanying zoning approval(s) or permits issued under previous zoning ordinances or resolutions, provided further that modification or repeal of these past conditions of approval may be accomplished as authorized and provided by this Chapter. All variances and exceptions heretofore granted by the DeKalb County Board of Appeals shall remain in full force and effect, and all terms, conditions and obligations imposed by that Board of Appeals shall remain in effect insofar as required for the initiation of any proceedings against these violations and for the prosecution of any violations heretofore commenced.

Sec. 6B-4. Additional Legal Remedies.

In addition to all other actions and penalties authorized in this Chapter, the law department is hereby authorized to institute injunctive, abatement or any other appropriate judicial or administrative actions or proceedings to prevent, enjoin, abate, or remove any violations of this Chapter.

Sec. 6B-5. Severability.

In the event that any article, division, section, subsection, sentence, clause, paragraph or phrase of this Zoning Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no matter affect other articles, divisions, sections, subsections, sentences,

clauses, paragraphs or phrases of this Ordinances, which shall remain in full force and effect, as if the article, section, subsection, sentence, clause, paragraph or phrase so declared or adjudged invalid or unconstitutional was not originally a part thereof.