



## Zoning and Land Development Regulations Rewrite

### Draft Zoning Ordinance

January 11, 2012

## Summary of Key Issues/Changes

This is initial consolidated public review draft of Dunwoody's new zoning ordinance. It includes all material presented in modules 1, 2 and 3 and responds to many of the comments received to-date. The following table summarizes key issues and changes:

| Topic<br><a href="#">Ordinance Sec</a>                                     | What we Heard   | What we Did   |
|--|---|---|
| <b>Lot coverage in R districts</b><br><a href="#">27-4.30-B</a>            | Need additional lot coverage flexibility in single-dwelling districts   | Increased   |
| <b>Mixed use</b><br><a href="#">27-5.20</a><br><a href="#">27-5.10-B.7</a> | Need to better accommodate mixed-use development  | 1. Added new CR-1 (commercial-residential) mixed-use district<br>2. Added residential as allowed use in OCR district  |
| <b>Dunwoody Village Overlay</b><br><a href="#">27-7.20-I</a>               | Sidewalk and pedestrian zone requirements are confusing   | Rewrote provisions and added illustration   |
| <b>Dunwoody Village Overlay</b><br><a href="#">27-7.20-K</a>               | Need more intense, mixed -use, pedestrian-oriented approach for village core area   | Added new CR-1 (commercial-residential) mixed-use base district (Sec. <a href="#">27-5.10-B.7</a> ) and new form and design standards for DV-O district village core  |
| <b>Massage parlors</b><br><a href="#">27-8.40-A.1</a>                      | Need to define and regulate as "adult use"  | Defined; now regulated the same as other "adult uses"   |
| <b>Tattoo parlors</b><br><a href="#">27-8.40-A.2</a>                       | Need to define and regulate as "adult use"  | Defined; now regulated the same as other "adult uses"   |
| <b>Gold Brokers</b><br><a href="#">27-8.40-G.1</a>                         | Need to define and regulate similar to pawnshops and check cashing  | Defined; now regulated the same as checking cashing and other "convenient case businesses"  |
| <b>Community Gardens</b><br><a href="#">27-9.50</a>                        | Some limitations may be too strict and not reflect local practices  | Removed reference to growing season and maximum ground cover plant height   |
| <b>Food Trucks</b><br><a href="#">27-9.80</a>                              | Need to let "industry" review proposed regulations  | No input received; no changes incorporated since module 1   |
| <b>Residential infill</b><br><a href="#">27-9.170-B</a>                    | Consider supplementing existing infill height regulations with setback and other controls   | Added contextual setback regulations  |
| <b>Home Occupations</b><br><a href="#">27-10.30</a>                        | Widely varying views: many commented that all home occupations should be allowed as of right; others (strongly) suggested that anything involving customer contact should require public review/approval. | 1. Changed limit on number of customers present at one time from two to one<br>2. Teaching-related home occupations now permitted as of right; all other "type B" home occupations require administrative permit approval |
| <b>Residential composting</b><br><a href="#">27-10.60</a>                  | Some limitations may be too strict and not reflect local practices  | Increased allowed cubic volume of compost areas   |
| <b>Garage sales</b><br><a href="#">27-11.30-A</a>                          | Need basic regulations  | Added new regulations   |
| <b>Shared parking</b><br><a href="#">27-12.40-E</a>                        | Uncomfortable with widespread use of shared parking   | Draft now limits use of shared parking to those instances when at least 75% of required parking is provided on-site   |
| <b>Bicycle parking</b><br><a href="#">27-12.50</a>                         | Do not <i>require</i> bicycle parking   | Turned proposed requirements into incentives (reductions in motor vehicle parking)  |

| Topic<br><a href="#">Ordinance Sec</a>   | What we Heard   | What we Did  |
|--|---|--|
| <b>Neighbor meetings</b><br><a href="#">27-18.40</a><br><a href="#">27-19.40</a> | Need greater neighbor notification for neighbor communication summary   | Changed radius from 200 to 500 feet  |
| <b>Hearing notice</b><br><a href="#">27-18.60</a><br><a href="#">27-19.60</a>    | City should ensure adequate public notice even if not required by state law   | Provisions have been revised to reflect the existing zoning ordinance, which far exceeds the notice requirements mandated by state law |
| <b>Reporting of admin approvals</b><br><a href="#">27-23.100</a>                 | Need more transparency regarding administrative approvals; cd director should report on administrative approvals to planning commission and council | Add requirement  |

Other edits and technical changes have also been incorporated into the draft document. As with the previous modules, we have attempted to identify substantive revisions through the use of footnotes and occasional underline (new/changed material) and ~~striketrough~~ (deleted material) text. The absence of footnotes and identified redline changes is an indication that the provisions do not constitute a substantive modification, but most all of the provisions have been edited for internal consistency and clarity.

Please keep in mind that this is a public review *draft*. We expect to receive additional comments, suggestions and feedback and we welcome the opportunity to continue to improve upon the content. This version of the document will undergo at least one more round of revisions before becoming the subject of public hearings leading to its adoption. The next draft will also include drawings, photos and graphics to help illustrate the intent of various ordinance provisions.

We look forward to your continued review and continued involvement in the rewrite project.

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# PART I: INTRODUCTORY PROVISIONS

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# Article 1 Legal Framework

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## 27-1.10 Title and Components

- 27-1.10-A.** The official title of this chapter (chapter 27) is the *Zoning Ordinance of the City of Dunwoody, Georgia*. For convenience, it is referred to throughout this chapter 27 as the “zoning ordinance.”
- 27-1.10-B.** The zoning ordinance is comprised of the text of this chapter and the official zoning maps, both of which are maintained in the community development department. The text and the maps together constitute the zoning ordinance.

## 27-1.20 Authority

This zoning ordinance is enacted pursuant to the city's authority to adopt plans and exercise the power of zoning granted by the Ga. Const. art. IX, §II, ¶ IV; by the city's authority to enact regulations and exercise powers granted by the Ga. Const. art. IX, §II, ¶¶ II and III; by authority granted by the state, including but not limited to, the City Charter, 2008 General Assembly Senate Bill 82 2008 Ga. Laws \_\_\_\_\_ et seq.; by 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.

## 27-1.30 Applicability

- 27-1.30-A.** The regulations of this zoning ordinance apply to all buildings, structures, land and uses within the incorporated area of the city.
- 27-1.30-B.** All buildings and structures erected, all uses of land, water, buildings or structures established, all structural alterations or relocations of existing buildings, and all enlargements of, additions to, changes in and relocations of existing uses are subject to all regulations of this zoning ordinance that are applicable to the zoning district in which such buildings, structures, uses or land are located. Existing buildings, structures and uses that comply with the regulations of this zoning ordinance are subject to all regulations of this zoning ordinance. Existing buildings, structures and uses that do not comply with the regulations of this zoning ordinance are authorized to continue, subject to the nonconformity regulations of [Article 29](#).

## 27-1.40 Effective Date

The provisions of this zoning ordinance become effective on and compliance with its provisions becomes mandatory beginning [Effective Date to be Inserted], unless otherwise expressly stated in a specific provision of the zoning ordinance.

## 27-1.50 Purpose and Intent

This zoning ordinance is enacted by the mayor and city council in order to promote the public health, safety, morals and general welfare of the residents of the city and to help implement relevant provisions of the comprehensive plan and other adopted plans and policies.

### **27-1.60 General Prohibition**

No building or structure, and no use of any building, structure, land, or property, and no lot of record, may be established, constructed, expanded, altered, moved, diminished, divided, eliminated or maintained in any manner except in conformity with the provisions of this zoning ordinance.<sup>1</sup>

### **27-1.70 Minimum Requirements**

In their interpretation and application, the provisions of this zoning ordinance must be held to be the minimum requirements for the promotion of the public health, safety, morals and general welfare.

### **27-1.80 Compliance with Other Laws**

In addition to the requirements of this zoning ordinance, all uses and development must comply with all other applicable state and federal regulations, including requirements for licenses or permits.

### **27-1.90 Conflicting Provisions**

#### **27-1.90-A. State or Federal Regulations**

If the provisions of this zoning ordinance are inconsistent with those of the state or federal government, the more restrictive provision governs, to the extent allowed by law. The more restrictive provision is the one that imposes more stringent controls.

#### **27-1.90-B. Other City Regulations**

If the provisions of this zoning ordinance are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances or regulations of the city, the more restrictive provision governs unless otherwise expressly stated.

#### **27-1.90-C. Private Agreements and Covenants**

1. This zoning ordinance is not intended to interfere with, abrogate or annul any easement, covenant, deed restriction or other agreement between private parties. If the provisions of this zoning ordinance impose a greater restriction than imposed by a private agreement or covenant, the provisions of this zoning ordinance control.
2. Private restrictive covenants to which the city is not a party are not regulated by or enforced by the city.

#### **27-1.90-D. Repeal of Conflicting Ordinances**

All other ordinances or resolutions in conflict with this zoning ordinance are hereby repealed. This provision does not repeal conditions of use, operation, or site development accompanying zoning approvals or permits issued under previous zoning ordinances or resolutions. Modification or repeal of past conditions of approval may be accomplished as authorized and provided by this zoning ordinance.

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<sup>1</sup> Eliminated the following (redundant) provision: “No use of any land, building, structure or property is allowed unless expressly and specifically authorized in the subject zoning district.”



### **27-1.100 Severability**

The several provisions of this zoning ordinance are separable in accordance with the following rules:

- 27-1.100-A.** Should any court of competent jurisdiction adjudge any section or provision of this zoning ordinance to be invalid, such judgment does not affect the validity or continued application of zoning ordinance as a whole or any section or provision other than the sections or provisions specifically adjudged to be invalid.
- 27-1.100-B.** Should any court of competent jurisdiction adjudge as invalid the application of any section or provision of this zoning ordinance to a particular property, building or structure, such judgment does not affect the application of the section or provision to any other property, building or structure.<sup>2</sup>

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<sup>2</sup> The existing zoning ordinance includes two severability clauses. The one in Sec. 27-7 is proposed to be deleted.

## Article 2 Transitional Provisions

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### 27-2.10 General

The provisions of this article address the transition from the previous zoning ordinance (the one in effect before the effective date specified in Sec. [27-1.40](#)) to this zoning ordinance.

### 27-2.20 Applications, Permits and Approvals

- 27-2.20-A.** Any building, development or structure for which a building permit was issued or a complete permit application had been accepted for processing before [Insert Effective Date] may be completed in conformance with the issued building permit and other applicable permits and conditions, even if such building, development or structure does not fully comply with provisions of this zoning ordinance. If building is not commenced and completed within the time allowed under the original building permit, then the building, development or structure may be constructed, completed and occupied only if it complies with the standards of this zoning ordinance.
- 27-2.20-B.** Variances, special exceptions and special permits lawfully authorized and granted prior to effective date specified in Sec. [27-1.40](#) remain valid after the effective date specified in Sec. [27-1.40](#), provided the terms of the authorization are met.
- 27-2.20-C.** Applications for variances, special exceptions and special land use permits that were submitted in complete form and are pending approval on the effective date specified in Sec. [27-1.40](#) must be reviewed wholly under the terms of the zoning ordinance in effect immediately before the effective date specified in Sec. [27-1.40](#). Building permits for construction and development approved under such zoning approvals may be issued in accordance with Sec. [27-2.20-D](#).
- 27-2.20-D.** Building permits may be issued for construction or development approved under Sec. [27-2.20-B](#) and Sec. [27-2.20-C](#) even if such building, development or structure does not fully comply with provisions of this zoning ordinance. If building is not commenced and completed within the time allowed under the building permit, then the building, development or structure may be constructed, completed and occupied only if it complies with the standards of this zoning ordinance.
- 27-2.20-E.** When a use classified as a special use under this zoning ordinance exists as a special use, permitted use, nonconforming use or a lawful use by court decree on the effective date specified in Sec. [27-1.40](#), such use will be considered a lawfully established special use under this zoning ordinance. When any amendment to this zoning ordinance changes the classification of a permitted use to a special use, any use lawfully established before such amendment will be considered a lawfully established special use after the effective date of such amendment. A lawfully established existing use that is not allowed as a special use or permitted use in the district in which the use is now located will be considered a nonconforming use and will be subject to all applicable regulations of [Article 29](#).

### **27-2.30 Violations Continue**

- 27-2.30-A.** Any violation of the previous zoning ordinance will continue to be a violation under this zoning ordinance and be subject to penalties and enforcement under [Article 28](#).
- 27-2.30-B.** If the use, development, construction or other activity that was a violation under the previous ordinance complies with the regulations of this zoning ordinance, enforcement action will cease, except for collecting penalties for violations that occurred before the effective date specified in Sec. [27-1.40](#).
- 27-2.30-C.** The adoption of this zoning ordinance does not affect nor prevent any pending or future prosecution of, or action to abate, violations of the previous ordinance that occurred before the effective date specified in Sec. [27-1.40](#).

### **27-2.40 Nonconformities**

- 27-2.40-A.** Any nonconformity under the previous zoning ordinance will also be nonconformity under this zoning ordinance, as long as the situation that resulted in the nonconforming status under the previous regulation continues to exist.
- 27-2.40-B.** If a nonconforming situation under previous zoning regulations becomes conforming because of the adoption of this zoning ordinance, or any subsequent amendment to it, then the situation will no longer be considered a nonconformity.
- 27-2.40-C.** A violation under previously applicable zoning ordinances does not achieve (lawful) nonconforming status under this zoning ordinance merely by repeal of the previous zoning ordinance.

### **27-2.50 Expired, Obsolete and Converted Zoning Districts**

#### **27-2.50-A. R-CH Zoning**

Lots classified in the R-CH zoning district by the DeKalb County zoning code on April 12, 1999, before the existence of the city, will continue to be classified in the R-CH district. The R-CH zoning district regulations in effect in the county on April 12, 1999, and all applicable existing conditions of zoning, govern the development of the lots zoned R-CH. Lots zoned R-CH may be rezoned in accordance with the zoning map amendment procedures of [Article 18](#).

#### **27-2.50-B. R-CD Zoning**

Lots classified in the R-CD zoning district by the DeKalb County zoning code on April 12, 1999, before the existence of the city, will continue to be classified in the R-CD zoning district. The R-CD zoning district regulations in effect in the county on April 12, 1999, and all applicable existing conditions of zoning, govern the development of the lots zoned R-CD. Lots zoned R-CD may be rezoned in accordance with the zoning map amendment procedures of [Article 18](#).

#### **27-2.50-C. TND Zoning**

Lots classified in the TND zoning district by the DeKalb County zoning code after April 13, 1999, before the existence of the city, will continue to be classified in the TND zoning district. The TND zoning district regulations in effect in the county on April 27, 2004, and the applicable existing conditions of zoning, govern the devel-

opment of the lots identified in this subsection. Lots zoned TND may be rezoned in accordance with the zoning map amendment procedures of [Article 18](#).

**27-2.50-D. Conversion of Former PS Zoning<sup>3</sup>**

The former PS zoning district is deleted and replaced with the NS zoning district designation. PS zoning existing on the date of adoption of this section is converted to NS zoning.

**27-2.60 Status of Multi-unit Residential Buildings in the O-I District**

**27-2.60-A.** Except as expressly provided in this zoning ordinance, 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 multi-unit residential building that is 3 or more stories in height (sometimes referred to as a “high-rise apartment development”) on or before the effective date of the ordinance from which this section is derived will continue to be classified in the O-I district and will be allowed to develop and maintain 3-story or taller multi-unit residential buildings that are approved as required by law and that comply with all applicable conditions of zoning and any other applicable provisions of this zoning ordinance.

**27-2.60-B.** Those O-I-zoned lots occupied by 3-story or taller multi-unit residential buildings in lawful existence before the enactment of this section will without further action be considered a conforming use and will not be considered nonconforming under the nonconformity regulations of [Article 29](#). Those O-I-zoned lots with 3-story or taller multi-unit residential buildings in lawful existence before the enactment of this section also have the right to make interior structural alterations and exterior maintenance alterations within the limits of the building regulations of the municipal code, but no enlargement, extension or movement of the building is allowed.

**27-2.60-C.** A multi-unit residential building covered by this section that has been damaged by fire or other cause may be reconstructed and used as it was before the damage if the reconstruction is completed within 5 years of the date of the damage.

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<sup>3</sup> This PS-to-NS district conversion provision can probably be deleted.

## Article 3 Zoning Map

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### 27-3.10 Establishment

The location and boundaries of the zoning districts established by this zoning ordinance are depicted on and maintained as part of the city's geographic information system (GIS), under the direction of the community development director. This "zoning" geographic coverage layer constitutes the City of Dunwoody's official zoning map. The official zoning map—together with all notations, references, data and other information shown on the map—is adopted and incorporated into this zoning ordinance. It is as much a part of this zoning ordinance as if actually depicted within its pages.

### 27-3.20 Maintenance and Updates

The community development director is responsible for directing revisions to the official zoning map to reflect its amendment as soon as possible after the effective date of zoning map amendments. No unauthorized person may alter or modify the official zoning map. The community development director may authorize printed copies of the official zoning map to be produced, and must maintain digital or printed copies of superseded versions of the official zoning map for historical reference.

### 27-3.30 Interpretation of Zoning Maps

- 27-3.30-A.** The community development director is the final authority in determining the current zoning status of land, buildings and structures in the city.<sup>4</sup>
- 27-3.30-B.** Where uncertainty exists regarding the boundaries of zoning districts as shown on the official zoning maps, the following rules apply:
1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys must 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 must be construed as remaining at its previous location unless ownership of the closure or vacated area is divided other than at the center, in which case the boundary must be construed as moving to correspond with the ownership, but not beyond any previous right-of-way or easement line.
  2. Boundaries indicated as approximately following platted lot lines must be construed as following those lot lines.
  3. Boundaries indicated as following city limit lines must be construed as following the city limits.
  4. Boundaries indicated as following railroad lines must be construed to be mid-way in the railroad right-of-way.

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<sup>4</sup> This is a revision to Prior Ord. Sec. 27-14.

5. Boundaries indicated as following shorelines of bodies of water must be construed to follow those shorelines. Boundaries indicated as approximately following the centerlines of creeks, streams, rivers, or other predominantly linear bodies of water must be construed to follow those centerlines.
  6. Boundaries indicated as parallel to or concentric with, or extensions of features indicated in paragraphs 27-3.30-B.1 through 27-3.30-B.5, must construed to follow those features. Distances and dimensions not specifically indicated on the zoning maps must be determined from the zoning maps by the community development director.
  7. Where areas appear to be unclassified on the zoning maps, and classification cannot be established by the above rules and there is no other evidence of its existing or past classification, such areas must be considered to be classified R-100 until action is taken by the mayor and city council to amend the zoning maps.
- 27-3.30-C.** Where uncertainties continue to exist or further interpretation is required beyond that presented in the above subsections, the question must be presented to the mayor and city council to enact a clarifying ordinance and mayor and city council's action must be recorded on the zoning maps.

#### **27-3.40 Split-zoned Lots**

- 27-3.40-A.** The zoning map may not be amended to classify a single parcel of land into 2 or more base zoning districts. This provision does not apply to overlay zoning districts.
- 27-3.40-B.** Parcels may not be divided to create a split-zoned parcel of land (into more than one base zoning district classification). This provision does not apply to overlay zoning districts.<sup>5</sup>
- 27-3.40-C.** If an existing parcel of land is split into 2 or more zoning districts, each such portion of the split-zoned 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, is allowed unless the use, building or structure is expressly authorized or permitted within the subject zoning district.

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<sup>5</sup> "A" and "B" are new provisions.

## PART II: ZONING DISTRICTS

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## Article 4 Residential Zoning Districts

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### 27-4.10 General

#### 27-4.10-A. The Districts

The city's residential zoning districts are listed below. When this zoning ordinance refers to "residential" zoning districts, it is referring to these districts.

|                          | Zoning District <sup>6</sup>    | Map Symbol |
|--------------------------|---------------------------------|------------|
| Detached Single-dwelling | Single-dwelling Residential-150 | R-150      |
|                          | Single-dwelling Residential-100 | R-100      |
|                          | Single-dwelling Residential-85  | R-85       |
|                          | Single-dwelling Residential-75  | R-75       |
|                          | Single-dwelling Residential-60  | R-60       |
|                          | Single-dwelling Residential-50  | R-50       |
| Attached Single-dwelling | Single-dwelling Residential-A5  | RA-5       |
|                          | Single-dwelling Residential-A8  | RA-8       |
| Multi-dwelling           | Multi-dwelling Residential-150  | RM-150     |
|                          | Multi-dwelling Residential-100  | RM-100     |
|                          | Multi-dwelling Residential-85   | RM-85      |
|                          | Multi-dwelling Residential-75   | RM-75      |
|                          | Multi-dwelling Residential-HD   | RM-HD      |

#### 27-4.10-B. Purposes

##### 1. General

Dunwoody's residential zoning districts are primarily intended to create, maintain and promote a variety of housing and living opportunities for individual households and to help ensure consistency with the comprehensive plan. While the districts primarily accommodate residential use types, some nonresidential uses are also allowed, as indicated in the use table of Sec. [27-4.2027-4.20](#).

##### 2. Single-dwelling (R) Districts

When this zoning ordinance refers to "R" zoning districts, it is referring to the single-dwelling zoning districts: R-150, R-100, R-85, R-75, R-60, R-50, RA-5 and RA-8. The primary purposes of the R districts are as follows:<sup>7</sup>

- a. To help protect the established character of existing neighborhoods;
- b. To accommodate infill development that is in keeping with character of existing neighborhoods; and

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<sup>6</sup> R-200, R-190, R-DT and RMH are proposed to be deleted. No land is currently classified in any of these districts.

<sup>7</sup> All the existing single-dwelling district purpose statements are identical. This generalized statement replaces them all.



- c. To accommodate uses and structures designed to serve the housing, recreational, educational, religious and social needs of the neighborhood.

### 3. Multi-dwelling (RM) Districts

When this zoning ordinance refers to “RM” zoning districts, it is referring to the multi-dwelling zoning districts: RM-150, RM-100, RM-85, RM-75 and RM-HD. The primary purposes of the RM, multi-dwelling zoning districts are as follows:<sup>8</sup>

- a. To accommodate the development of multi-dwelling residential development in areas designated for such development by the comprehensive plan;
- b. To accommodate infill development that is in keeping with the physical character of existing neighborhoods; and
- c. To accommodate uses and structures designed to serve the housing, recreational, educational, religious and social needs of the neighborhood.

## 27-4.20 Uses Allowed

The following table identifies uses allowed in nonresidential and mixed-use zoning districts. See Sec. [27-8.10-D](#) for information about how to interpret the use table.<sup>9</sup>

| USES  | DISTRICTS |       |      |                 |      |      |      |      |        |                 | Supplemental Regulations |       |                          |
|---|-----------|-------|------|-----------------|------|------|------|------|--------|-----------------|--------------------------|-------|--------------------------|
|   | R-150     | R-100 | R-85 | R-75            | R-60 | R-50 | RA-5 | RA-8 | RM-150 | RM-100          |                          | RM-85 | RM-75                    |
| P = use permitted as of right   A = administrative permit req'd   E = special exception req'd   S = special land use permit req'd |           |       |      |                 |      |      |      |      |        |                 |                          |       |                          |
| RESIDENTIAL   |           |       |      |                 |      |      |      |      |        |                 |                          |       |                          |
| Household Living  |           |       |      |                 |      |      |      |      |        |                 |                          |       |                          |
| Detached house  |           |       |      | P               |      |      |      | P    |        | P               |                          |       | <a href="#">27-9.170</a> |
| Attached house  |           |       |      | —               |      |      |      | P    |        | P               |                          |       | <a href="#">27-9.20</a>  |
| Multi-unit building   |           |       |      | —               |      |      |      | —    |        | P               |                          |       | <a href="#">27-9.120</a> |
| Group Living  |           |       |      |                 |      |      |      |      |        |                 |                          |       |                          |
| Convent or monastery  |           |       |      | S               |      |      |      | S    |        | S               |                          |       |                          |
| Fraternity or sorority  |           |       |      | —               |      |      |      | —    |        | P               |                          |       |                          |
| Nursing home  |           |       |      | —               |      |      |      | —    |        | P               |                          |       |                          |
| Personal care home, registered (1–3 persons)  |           |       |      | P               |      |      |      | P    |        | P               |                          |       |                          |
| Personal care home, family (4–6 persons)  |           |       |      | P               |      |      |      | P    |        | P               |                          |       |                          |
| Personal care home, group (7–15 persons)  |           |       |      | —               |      |      |      | —    |        | P               |                          |       |                          |
| Personal care home, congregate (16 or more)   |           |       |      | S <sup>10</sup> |      |      |      | —    |        | P <sup>11</sup> |                          |       | <a href="#">27-9.150</a> |
| Rooming house   |           |       |      | —               |      |      |      | —    |        | P               |                          |       |                          |

<sup>8</sup> The existing multi-dwelling district purpose statements are nearly identical. This generalized statement replaces them all.

<sup>9</sup> This use table retains the use regulation approach of the current ordinance. Substantive changes are indicated with footnotes or underline (new/revised) or ~~striketrough~~ (deleted) text.

<sup>10</sup> Congregate personal care homes are currently allowed as a special use only in the R-100 district, not the other R districts. Sec. [27-9.150](#) limits such uses only to campus sites of at least 25 acres.

<sup>11</sup> Congregate personal care homes are not currently permitted in RM-150.

| USES  | DISTRICTS |       |                   |      |      |      |                   |      |                   |        | Supplemental Regulations |       |                          |
|---|-----------|-------|-------------------|------|------|------|-------------------|------|-------------------|--------|--------------------------|-------|--------------------------|
|   | R-150     | R-100 | R-85              | R-75 | R-60 | R-50 | RA-5              | RA-8 | RM-150            | RM-100 |                          | RM-85 | RM-75                    |
| P = use permitted as of right   A = administrative permit req'd   E = special exception req'd   S = special land use permit req'd |           |       |                   |      |      |      |                   |      |                   |        |                          |       |                          |
| Shelter, homeless   |           |       | —                 |      |      |      |                   | —    |                   | S      |                          |       | <a href="#">27-9.100</a> |
| Supportive living   |           |       | —                 |      |      |      |                   | —    |                   | P      |                          |       |                          |
| Transitional housing facility   |           |       | —                 |      |      |      |                   | —    |                   | S      |                          |       | <a href="#">27-9.100</a> |
| QUASI-PUBLIC & INSTIUTIONAL   |           |       |                   |      |      |      |                   |      |                   |        |                          |       |                          |
| Day Care  |           |       |                   |      |      |      |                   |      |                   |        |                          |       |                          |
| Day care facility, adult (6 or fewer persons)   |           |       | S                 |      |      |      | S                 |      | P                 |        |                          |       | <a href="#">27-9.70</a>  |
| Day care facility, adult (7 or more)  |           |       | —                 |      |      |      | —                 |      | P                 |        |                          |       | <a href="#">27-9.70</a>  |
| Day care facility, child (6 or fewer persons)   |           |       | S                 |      |      |      | S                 |      | P                 |        |                          |       | <a href="#">27-9.70</a>  |
| Day care facility, child (7 or more)  |           |       |                   |      |      |      |                   |      | P                 |        |                          |       | <a href="#">27-9.70</a>  |
| Educational Services  |           |       |                   |      |      |      |                   |      |                   |        |                          |       |                          |
| Kindergarten  |           |       | —                 |      |      |      | —                 |      | P                 |        |                          |       | <a href="#">27-9.110</a> |
| Schools, private elementary, middle or senior high  |           |       | S                 |      |      |      | S                 |      | S                 |        |                          |       | <a href="#">27-9.180</a> |
| Place of Worship  |           |       | S                 |      |      |      | S                 |      | S                 |        |                          |       | <a href="#">27-9.160</a> |
| Utility Facility, Essential   |           |       | E                 |      |      |      | E                 |      | E                 |        |                          |       | <a href="#">27-9.210</a> |
| COMMERCIAL  |           |       |                   |      |      |      |                   |      |                   |        |                          |       |                          |
| Communication Services  |           |       |                   |      |      |      |                   |      |                   |        |                          |       |                          |
| <a href="#">Telecommunication antenna, co-located</a>   |           |       | <a href="#">P</a> |      |      |      | <a href="#">P</a> |      | <a href="#">P</a> |        |                          |       | <a href="#">27-9.200</a> |
| Telecommunication tower   |           |       | —                 |      |      |      | —                 |      | S <sup>12</sup>   |        |                          |       | <a href="#">27-9.200</a> |
| Funeral and Interment Services  |           |       |                   |      |      |      |                   |      |                   |        |                          |       |                          |
| Cemetery, columbarium, or mausoleum   |           |       | S                 |      |      |      | S                 |      | S                 |        |                          |       |                          |
| Lodging   |           |       |                   |      |      |      |                   |      |                   |        |                          |       |                          |
| Bed and breakfast   |           |       | S                 |      |      |      | S                 |      | S                 |        |                          |       | <a href="#">27-9.30</a>  |
| Sports and Recreation, Participant  |           |       |                   |      |      |      |                   |      |                   |        |                          |       |                          |
| Neighborhood Recreation Club  |           |       | S                 |      |      |      | S                 |      | S                 |        |                          |       |                          |
| AGRICULTURE   |           |       |                   |      |      |      |                   |      |                   |        |                          |       |                          |
| Agriculture   |           |       |                   |      |      |      |                   |      |                   |        |                          |       |                          |
| <a href="#">Community Garden</a>  |           |       | <a href="#">P</a> |      |      |      | <a href="#">P</a> |      | <a href="#">P</a> |        |                          |       | <a href="#">27-9.50</a>  |
| <a href="#">Livestock</a>   |           |       | <a href="#">P</a> |      |      |      | —                 |      | —                 |        |                          |       |                          |
| <a href="#">Stables</a>   |           |       | <a href="#">P</a> |      |      |      | —                 |      | —                 |        |                          |       |                          |

## 27-4.30 Lot and Building Regulations

### 27-4.30-A. General

This section establishes basic lot and building regulations that apply in residential zoning districts. These regulations offer certainty for property owners, developers and neighbors about the limits of what is allowed; they are not to be construed as a guarantee that stated minimums and maximums can be achieved on every lot. Other factors, such as topography, the presence of protected resources, off-street park-

<sup>12</sup> Telecommunication towers are allowed in RM districts under the current ordinance. This was inadvertently omitted from the first draft of Module 2.

ing and other factors may work to further limit actual building and development potential.

#### 27-4.30-B. Single-Dwelling Districts

The lot and building regulations of the following table apply to all principal and accessory uses allowed in single-dwelling residential districts, unless otherwise expressly stated in this zoning ordinance. [Article 30](#) identifies exceptions to these regulations and rules for measuring compliance.<sup>13</sup>

| Regulation   | R-150            | R-100            | R-85             | R-75             | R-60             | R-50             | RA-5    | RA-8    |
|--|------------------|------------------|------------------|------------------|------------------|------------------|---------|---------|
| <b>Minimum Lot Area</b> (sq. ft.)                      | 43,560           | 15,000           | 12,000           | 10,000           | 8,000            | 6,000            | NA[1]   | NA[1]   |
| <b>Minimum Lot Frontage</b> (ft.) [2]                  | 150              | 100              | 85               | 75               | 60               | 50 <sup>14</sup> | 100[3]  | 100[3]  |
| <b>Maximum Density</b> (dwelling units per acre)       | NA               | NA               | NA               | NA               | NA               | NA               | 5       | 8       |
| <b>Minimum Building/Structure Setbacks</b> (ft.) [4]   |                  |                  |                  |                  |                  |                  |         |         |
| Street, Front and Side                                 | 45[5]            | 35[5]            | 35[5]            | 30[5]            | 30[5]            | 5[6]             | 5[6]    | 5[6]    |
| Side, Interior   | 20               | 10               | 8.5              | 7.5              | 7.5              | 7.5              | 15      | 15      |
| Side, Interior (accessory buildings/structures)        | 10               | 10               | 10               | 10               | 10               | 10               | 10[7]   | 10[7]   |
| Rear   | 40               | 40               | 40               | 40               | 40               | 30               | 30      | 30      |
| Rear (accessory buildings/structures)                  | 10               | 10               | 10               | 10               | 10               | 10               | 10      | 10      |
| <b>Maximum Lot Coverage</b> (%)                        | <del>25</del> 30 | <del>35</del> 40 | <del>35</del> 40 | <del>35</del> 40 | <del>35</del> 40 | <del>35</del> 40 | 50      | 50      |
| <b>Maximum Building Height</b> (ft.)                   |                  |                  |                  |                  |                  |                  |         |         |
| Principal Building                                     | 35               | 35               | 35               | 35               | 35               | 35               | 35      | 35      |
| Accessory Buildings/Structures <sup>15</sup>           | 20               | 20               | 20               | 20               | 20               | 20               | 20      | 20      |
| <b>Maximum Accessory Building Floor Area</b> (sq. ft.) |                  |                  |                  |                  |                  |                  |         |         |
| Lot area = 0 to 0.999 acres                            | 900              | 900              | 900              | 900              | 900              | 900              | 900     | 900     |
| Lot area = 1 to 4.999 acres                            | 1,200            | 1,200            | 1,200            | 1,200            | 1,200            | 1,200            | 1,200   | 1,200   |
| Lot area = 5 to 9.999 acres                            | 2,000            | 2,000            | 2,000            | 2,000            | 2,000            | 2,000            | 2,000   | 2,000   |
| Lot area = 10 or more acres                            | No max.          | No max.          | No max.          | No max.          | No max.          | No max.          | No max. | No max. |

- [1] Detached houses in RA-5 and RA-8 districts are subject to the lot and building regulations of the R-50 district.
- [2] Minimum lot frontage on cul-de-sac lots is 35 feet. Minimum lot width at the required street setback must equal the required minimum frontage requirement for non-cul-de-sac lot (e.g., 100 feet in R-100).
- [3] Minimum lot frontage applies to attached house projects, not individual dwelling units within the project.
- [4] ~~Corner lots are subject to street setbacks along all street frontages and to interior side setbacks along all other lot lines. Minimum rear (accessory) setback on reverse corner lot is 25 feet.~~
- [5] Add 5 feet for minimum setbacks from arterial streets.<sup>16</sup>
- [6] Street-facing garage facades must be setback at least 20 feet from back of curb or back of sidewalk, whichever is greater.
- [7] ~~Interior side setback applies only to end units in attached house projects. No interior side setback required for units in attached projects with common or abutting walls.~~

<sup>13</sup> [Article 30](#) will include rules governing how setbacks, building height and other lot and building dimensions are measured. It will also include exceptions to such rules (e.g., features allowed to encroach into setbacks or project above maximum height).

<sup>14</sup> Proposed change: currently 60 feet.

<sup>15</sup> Eliminated “or the height of the principal structure, whichever is less.”

<sup>16</sup> Existing ordinance includes different street setbacks from “major thoroughfares” and “minor thoroughfares.” The “minor thoroughfare” regulations have been used here.

### 27-4.30-C. Multi-Dwelling Districts

The lot and building regulations of the following table apply to all principal and accessory uses allowed in multi-dwelling residential districts, unless otherwise expressly stated in this zoning ordinance. [Article 30](#) identifies exceptions to these regulations and rules for measuring compliance.<sup>17</sup>

| Regulation  | MULTI-DWELLING DISTRICTS |               |               |               |                  |
|---|--------------------------|---------------|---------------|---------------|------------------|
|   | RM-150                   | RM-100        | RM-85         | RM-75         | RM-HD            |
| <b>Minimum Lot Area</b> (sq. ft.)                       |                          |               |               |               |                  |
| Detached House  | 6,000                    | 6,000         | 6,000         | 6,000         | 6,000            |
| Attached House  | NA                       | NA            | NA            | NA            | NA               |
| 2-unit Multi-unit Building                              | <u>9,000</u>             | <u>9,000</u>  | <u>9,000</u>  | <u>9,000</u>  | <u>9,000</u>     |
| 3-unit Multi-unit Building                              | <u>12,000</u>            | <u>12,000</u> | <u>12,000</u> | <u>12,000</u> | <u>12,000</u>    |
| 4+ unit Multi-unit Building                             | 87,120                   | 87,120        | 87,120        | 87,120        | 87,120           |
| <b>Maximum Density</b> [1] (dwelling units per acre)    | 6                        | 12            | 14            | 18            | 30               |
| <b>Minimum Lot Frontage</b> (ft.)                       |                          |               |               |               |                  |
| Detached Houses [2]                                     | 60                       | 60            | 60            | 60            | 60               |
| Attached House  | <u>100[3]</u>            | <u>100[3]</u> | <u>100[3]</u> | <u>100[3]</u> | <u>100[3]</u>    |
| Two-unit Building                                       | <u>75</u>                | <u>75</u>     | <u>75</u>     | <u>75</u>     | <u>75</u>        |
| Three-unit Building                                     | <u>85</u>                | <u>85</u>     | <u>85</u>     | <u>85</u>     | <u>85</u>        |
| Multi-dwelling (4+ unit) Buildings                      | 150                      | 100           | 100           | 100           | 100              |
| <b>Minimum Building/Structure Setbacks</b> (ft.) [4]    |                          |               |               |               |                  |
| Detached & Attached Houses, 2-unit and 3-unit Buildings |                          |               |               |               |                  |
| Street, Front   | 30                       | 30            | 30            | 30            | 30               |
| Street, Side <u>[5]</u>                                 | 15                       | 15            | 15            | 15            | 15               |
| Side, Interior  | 7.5                      | 7.5           | 7.5           | 7.5           | 7.5              |
| Side, Interior (accessory buildings/structures)         | 10                       | 10            | 10            | 10            | 10               |
| Rear  | 30                       | 30            | 30            | 30            | 30               |
| Rear (accessory buildings/structures)                   | 10                       | 10            | 10            | 10            | 10               |
| Multi-unit (4+ unit) Buildings                          |                          |               |               |               |                  |
| Street, Front and Side                                  | 35 <sup>18</sup>         | 35            | 35            | 35            | 35 <sup>19</sup> |
| Side, Interior  | 20[6]                    | 20[6]         | 20[6]         | 20[6]         | 20[6]            |
| Side, Interior (accessory buildings/structures)         | 10                       | 10            | 10            | 10            | 10               |
| Rear <u>[7]</u>   | 40[4]                    | 40[4]         | 40[4]         | 40[4]         | 40[4]            |
| Rear (accessory buildings/structures) <u>[7]</u>        | 10                       | 10            | 10            | 10            | 10               |
| <b>Maximum Lot Coverage</b> (%)                         | 35                       | 35            | 35            | 35            | 65               |
| <b>Maximum Building Height</b> (ft.)                    |                          |               |               |               |                  |
| Detached House, Two-unit or Three-unit Building         | 35                       | 35            | 35            | 35            | 35               |
| Multi-dwelling (4+unit) Building <sup>20</sup>          |                          |               |               |               |                  |

<sup>17</sup> [Article 30](#) will include rules governing how setbacks, building height and other lot and building dimensions are measured. It will also include exceptions to such rules (e.g., features allowed to encroach into setbacks or project above maximum height).

<sup>18</sup> This is a change. Current ordinance requires 45-foot street setback. Using a more standard 35-foot street setback for RM districts may help to create a more consistent streetscape and not force buildings to the rear where they would likely have greater impacts for abutting neighbors.

<sup>19</sup> This is a change. Current ordinance requires 50-foot street setback. Using a more standard 35-foot street setback for RM districts may help to create a more consistent streetscape and not force buildings to the rear where they would likely have greater impacts for abutting neighbors.

| Regulation   | MULTI-DWELLING DISTRICTS |         |         |         |         |
|--|--------------------------|---------|---------|---------|---------|
|  | RM-150                   | RM-100  | RM-85   | RM-75   | RM-HD   |
| As of right  | 35                       | 35      | 35      | 35      | 35      |
| With approval of fire rescue service                   | 48                       | 48      | 48      | 48      | 60      |
| Accessory Buildings/Structures                         | 20                       | 20      | 20      | 20      | 20      |
| <b>Maximum Accessory Building Floor Area (sq. ft.)</b> |                          |         |         |         |         |
| Lot area = 0 to 0.999 acres                            | 900                      | 900     | 900     | 900     | 900     |
| Lot area = 1 to 4.999 acres                            | 1,200                    | 1,200   | 1,200   | 1,200   | 1,200   |
| Lot area = 5 to 9.999 acres                            | 2,000                    | 2,000   | 2,000   | 2,000   | 2,000   |
| Lot area = 10 or more acres                            | No max.                  | No max. | No max. | No max. | No max. |

- [1] Applies only to attached house projects and multi-unit buildings with 4 or more dwelling units.
- [2] Minimum lot frontage for detached houses on cul-de-sac lots is 35 feet. Minimum lot width at the required street setback must equal the required minimum frontage requirement for non-cul-de-sac lot (e.g., 60 feet in RM-150).
- [3] Minimum lot frontage applies to attached house projects, not individual dwelling units within the project.
- [4] See also the building spacing regulations of Sec. [27-9.20](#).
- [5] Interior side setback applies only to end units in attached house projects. No interior side setback required for units in attached projects with common or abutting walls.
- [6] Minimum 50 feet abutting any single-dwelling residential (R) zoning district.
- [7] Corner lots are subject to street setbacks along all street frontages and interior side setbacks along all other lot lines.

#### 27-4.40 Other Regulations

Uses and development in residential zoning districts may be subject to other regulations and standards, including the following.

**27-4.40-A. Nonconformities**

See [Article 29](#).

**27-4.40-B. Accessory Uses and Structures**

See [Article 10](#).

**27-4.40-C. Parking**

See [Article 12](#).

**27-4.40-D. Landscaping and Screening**

See [Article 13](#).

**27-4.40-E. Signs**

See [Chapter 20](#) of the municipal code.

**27-4.40-F. Temporary Uses**

See [Article 11](#).

**27-4.40-G. Outdoor Lighting**

See [Article 14](#).

<sup>20</sup> Existing multi-dwelling building height limits are expressed in “stories.” This draft converts them to feet using 35 feet for 3-story, 48 feet for 4-story and 60 feet for 5-story.

# Article 5 Nonresidential and Mixed-use Zoning Districts

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## 27-5.10 General

### 27-5.10-A. The Districts

The city's nonresidential and mixed-use zoning districts are listed below.

|            | Zoning District <sup>21</sup>           | Map Symbol  |
|------------|---|-------------|
| Office     | Office-Institution                      | O-I         |
|            | Office-Institution-Transitional         | O-I-T       |
|            | Office –Distribution                    | O-D         |
|            | Office-Commercial-Residential           | OCR         |
| Commercial | Neighborhood Shopping                   | NS          |
|            | Local Commercial                        | C-1         |
|            | <u>Commercial-Residential Mixed-Use</u> | <u>CR-1</u> |
|            | General Commercial                      | C-2         |
| Industrial | Industrial                              | M           |

### 27-5.10-B. Purposes

#### 1. General

The nonresidential and mixed-use districts are generally intended to promote consistency with the comprehensive plan and provide opportunities for shopping, employment, entertainment and living.

#### 2. Office-Institution and Office-Institution-Transitional

The primary purposes of the O-I and O-I-T districts are as follows:

- To provide convenient locations for office and institutional uses;
- To provide locations for the development of cultural, recreational, educational and health service facilities; and
- To limit building heights to 2 stories in O-I-T zoned areas adjacent to single-dwelling residential districts.

#### 3. Office-Distribution

The primary purpose of the O-D district is to provide convenient locations for office and distribution establishments.

#### 4. Office-Commercial-Residential

The primary purposes of the OCR district are as follows:

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<sup>21</sup> R-200, R-190, R-DT and RMH are proposed to be deleted. No land is currently classified in any of these districts.

- a. To provide for economic development within the city through redevelopment of parcels of land that have been used in the past for commercial and light industrial uses but that have become obsolete and now offer an opportunity for establishing new moderate-intensity mixed-use developments consisting of a combination of office, commercial and residential uses;
- b. To promote redevelopment and new development in an environment that is pedestrian-oriented and that provides employment, shopping, entertainment and living opportunities in close proximity thereby reduces auto dependency; and
- c. To encourage the conversion of vacant commercial and industrial buildings into mixed-use projects.

**5. Neighborhood Shopping**

The primary purposes of the NS district are as follows:

- a. To provide convenient neighborhood retail shopping and service areas within the city;
- b. To provide for the development of new neighborhood shopping districts;
- c. To help ensure that the size and scale of neighborhood shopping centers and individual uses within shopping centers are compatible with the scale and character of surrounding neighborhoods; and
- d. To accommodate uses designed to serve the convenience shopping and service needs of the immediate neighborhood.

**6. Local Commercial**

The primary purposes of the C-1 district are as follows:

- a. To provide convenient local retail shopping and service areas within the city;
- b. To provide for the development of new local commercial districts; and
- c. To accommodate uses designed to serve the convenience shopping and service needs of groups of neighborhoods.

**7. Commercial-Residential Mixed-use**

The primary purposes of the CR-1 district are as follows:

- a. To provide convenient local retail shopping and service areas within a mixed-use (commercial-residential) setting;
- b. To provide for the development of new commercial-residential mixed-use districts; and
- c. To promote development patterns that accommodate residential, employment and entertainment within a walkable, mixed-use environment.

## 8. General Commercial

The primary purposes of the C-2 district are as follows:

- To provide convenient general business and commercial service areas within the city;
- To provide for the development of new general commercial districts; and
- To accommodate uses designed to serve the general business and commercial service needs of the city.

## 9. Industrial

The primary purposes of the M district are as follows:

- 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;
- To help ensure that establishments operate so as to not create adverse noise and other impacts on nearby residential, office, commercial and mixed-use districts; and
- To help ensure that M districts are located in areas with access to major arterials and freeways.

## 27-5.20 Uses Allowed

The following table identifies uses allowed in nonresidential and mixed-use zoning districts. See [27-8.10-D](#) for information about how to interpret the use table.<sup>22</sup>

| USES   | O-1                    | O-1-T     | O-D       | OCR      | NS        | C-1       | <del>CR-1</del> | C-2       | M         | Supplemental Regulations |
|--|------------------------|-----------|-----------|----------|-----------|-----------|-----------------|-----------|-----------|--------------------------|
| <i>P = use permitted as of right   A = administrative permit req'd   E = special exception req'd   S = special land use permit req'd</i> |                        |           |           |          |           |           |                 |           |           |                          |
| <b>RESIDENTIAL</b>   |                        |           |           |          |           |           |                 |           |           |                          |
| <b>Household Living</b>  |                        |           |           |          |           |           |                 |           |           |                          |
| Detached house   | -                      | P         | -         | -        | -         | -         | <u>==</u>       | -         | -         | <a href="#">27-9.170</a> |
| Multi-unit building  | <del>==</del> <u>S</u> | -         | -         | <u>S</u> | -         | -         | <u>S</u>        | -         | -         |                          |
| <u>Mixed-use building, vertical</u>  | <u>==</u>              | <u>==</u> | <u>==</u> | <u>P</u> | <u>==</u> | <u>==</u> | <u>P</u>        | <u>==</u> | <u>==</u> |                          |
| <b>Group Living</b>  |                        |           |           |          |           |           |                 |           |           |                          |
| Convent and monastery  | P                      | P         | -         | P        | -         | -         | <u>==</u>       | -         | -         | <a href="#">27-9.160</a> |
| Fraternity house, sorority house or residence hall   | P                      | -         | -         | -        | -         | -         | <u>==</u>       | -         | -         |                          |
| Nursing home   | P                      | P         | -         | -        | -         | -         | <u>==</u>       | -         | P         |                          |
| Personal care home, registered (1–3 persons)   | -                      | -         | P         | -        | P         | P         | <u>P</u>        | P         | -         |                          |
| Personal care home, family (4–6 persons)   | -                      | -         | P         | -        | P         | P         | <u>P</u>        | P         | -         |                          |
| Personal care home, group (7–15 persons)   | P                      | P         | P         | -        | P         | P         | <u>P</u>        | P         | -         |                          |
| Personal care home, congregate (16 or more)  | P                      | S         | P         | -        | P         | P         | <u>P</u>        | P         | -         |                          |

<sup>22</sup> This use table retain the use regulation approach of the current ordinance. Substantive changes are indicated with footnotes or underline (new/revised) or ~~strikethrough~~ (deleted) text.



| USES   | O-I      | O-I-T    | O-D      | OCR      | NS       | C-1      | CR-1     | C-2      | M        | Supplemental Regulations |
|--|----------|----------|----------|----------|----------|----------|----------|----------|----------|--------------------------|
| Shelter, homeless  | S        | S        | -        | -        | -        | P        | <u>P</u> | P        | -        | <a href="#">27-9.100</a> |
| Transitional housing facility                                    | S        | S        | -        | -        | -        | P        | <u>P</u> | P        | -        | <a href="#">27-9.100</a> |
| <b>QUASI-PUBLIC &amp; INSTITUTIONAL</b>                          |          |          |          |          |          |          |          |          |          |                          |
| <b>Ambulance Service</b>   | -        | -        | -        | -        | -        | P        | <u>P</u> | <u>P</u> | P        |                          |
| <b>Club or Lodge, Private</b>                                    | P        | P        | P        | -        | -        | P        | <u>P</u> | P        | P        |                          |
| <b>Cultural Exhibit</b>  | P        | P        | P        | -        | -        | P        | <u>P</u> | P        | -        |                          |
| <b>Day Care</b>  |          |          |          |          |          |          |          |          |          |                          |
| Day care facility, adult (6 or fewer persons)                    | -        | -        | P        | -        | -        | -        | <u>=</u> | -        | -        | <a href="#">27-9.70</a>  |
| Day care center, adult (7 or more)                               | -        | -        | P        | -        | -        | -        | <u>=</u> | -        | -        |                          |
| Day care facility, child (6 or fewer persons)                    | -        | -        | P        | -        | -        | -        | <u>=</u> | -        | -        |                          |
| Day care center, child (7 or more)                               | P        | P        | P        | P        | P        | P        | <u>P</u> | <u>P</u> | P        |                          |
| <b>Educational Services</b>                                      |          |          |          |          |          |          |          |          |          |                          |
| College or university  | P        | P        | P        | -        | -        | -        | <u>=</u> | -        | -        |                          |
| Kindergarten   | -        | -        | P        | P        | <u>P</u> | P        | <u>P</u> | <u>P</u> | -        | <a href="#">27-9.110</a> |
| Research and training facility, college or university affiliated | P        | P        | P        | -        | -        | -        | <u>=</u> | -        | P        |                          |
| School, private elementary, middle or senior high                | P        | P        | P        | P        | -        | P        | <u>P</u> | P        | P        | <a href="#">27-9.180</a> |
| School, specialized non-degree                                   | P        | P        | P        | P        | -        | P        | <u>P</u> | P        | P        |                          |
| School, vocational or trade                                      | P        | P        | P        | -        | -        | P        | <u>P</u> | P        | P        |                          |
| <b>Hospital</b>  | P        | -        | -        | -        | -        | -        | <u>=</u> | -        | -        |                          |
| <b>Place of Worship</b>  | P        | P        | P        | P        | P        | P        | <u>P</u> | P        | P        | <a href="#">27-9.160</a> |
| <b>Utility Facility, Essential</b>                               | E        | E        | P        | E        | E        | P        | <u>P</u> | P        | P        | <a href="#">27-9.210</a> |
| <b>COMMERCIAL</b>  |          |          |          |          |          |          |          |          |          |                          |
| <b>Adult Use</b>   |          |          |          |          |          |          |          |          |          |                          |
| Adult service facility   | -        | -        | -        | -        | -        | -        | <u>=</u> | P        | P        |                          |
| <u>Body art service</u>  |          |          |          |          |          |          |          | <u>P</u> | <u>P</u> |                          |
| Sexually oriented business                                       | P        | -        | -        | P        | -        | -        | <u>=</u> | P        | P        | <a href="#">27-9.190</a> |
| <b>Animal Services</b>   |          |          |          |          |          |          |          |          |          |                          |
| Animal care / boarding   | -        | -        | -        | <u>S</u> | <u>S</u> | P        | <u>P</u> | P        | P        | <a href="#">27-9.10</a>  |
| Animal grooming  | -        | -        | -        | P        | P        | P        | <u>P</u> | P        | P        | <a href="#">27-9.10</a>  |
| Animal hospital/veterinary clinic                                | -        | -        | -        | P        | P        | P        | <u>P</u> | P        | P        | <a href="#">27-9.10</a>  |
| <b>Communication Services</b>                                    |          |          |          |          |          |          |          |          |          |                          |
| Radio and television broadcasting stations                       | P        | P        | P        | -        | -        | P        | <u>P</u> | P        | P        |                          |
| Recording studios  | P        | P        | P        | -        | -        | P        | <u>P</u> | P        | P        |                          |
| Telecommunication tower  | A        | -        | A        | -        | S        | A        | <u>A</u> | A        | A        | <a href="#">27-9.200</a> |
| Telecommunication antenna, co-located <sup>23</sup>              | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <a href="#">27-9.200</a> |
| <b>Construction and Building Sales and Services</b>              |          |          |          |          |          |          |          |          |          |                          |
| Building or construction contractor                              | -        | -        | -        | -        | -        | -        | <u>=</u> | P        | P        |                          |
| Commercial greenhouse or plant nursery                           | -        | -        | -        | -        | -        | -        | <u>=</u> | P        | P        |                          |
| Electrical, plumbing and heating supplies and services           | -        | -        | -        | -        | -        | P        | <u>P</u> | -        | P        |                          |
| Lumber, hardware or other building materials establishment       | -        | -        | -        | -        | -        | P        | <u>P</u> | P        | P        |                          |

<sup>23</sup> This is a proposed change. Co-located antennas are currently subject to use permit approval (the same as towers). Change recommended due to recent federal legislation (Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012).

Article 5 | Nonresidential and Mixed-use Zoning Districts  
§27-5.20 | Uses Allowed

| USES   | O-I      | O-I-T    | O-D      | OCR             | NS       | C-1      | <del>CR-1</del> | C-2      | M        | Supplemental Regulations |
|--|----------|----------|----------|-----------------|----------|----------|-----------------|----------|----------|--------------------------|
| <b>Eating and Drinking Establishments</b>                              |          |          |          |                 |          |          |                 |          |          |                          |
| Restaurant, accessory to allowed office or lodging use                 | <u>P</u> | –        | –        | P               | –        | P        | <u>P</u>        | P        | P        |                          |
| Restaurant, drive-in or drive-through                                  | –        | –        | –        | –               | –        | P        | <u>P</u>        | P        | P        |                          |
| <u>Food truck</u>  | <u>A</u> | <u>A</u> | <u>A</u> | <u>A</u>        | <u>A</u> | <u>A</u> | <u>A</u>        | <u>A</u> | <u>A</u> | <a href="#">27-9.80</a>  |
| Other eating or drinking establishment <sup>24</sup>                   | –        | –        | –        | P               | P        | P        | <u>P</u>        | P        | –        |                          |
| <b>Entertainment and Spectator Sports</b>                              |          |          |          |                 |          |          |                 |          |          |                          |
| Auditorium or stadium  | –        | –        | –        | –               | –        | –        | <u>–</u>        | P        | P        |                          |
| Drive-in theater   | –        | –        | –        | –               | –        | –        | <u>–</u>        | P        |          |                          |
| Movie theater  | –        | –        | –        | P               | –        | –        | <u>–</u>        | P        | –        |                          |
| Special events facility  | –        | P        | –        | –               | –        | <u>P</u> | <u>P</u>        | <u>P</u> | –        |                          |
| <b>Financial Services</b>  |          |          |          |                 |          |          |                 |          |          |                          |
| Banks, credit unions, brokerage and investment services                | P        | P        | P        | P               | P        | P        | <u>P</u>        | P        | P        |                          |
| <del>Check-cashing establishment</del> <u>Convenient cash business</u> | –        | –        | –        | –               | –        | –        | <u>–</u>        | P        | –        | <a href="#">27-9.60</a>  |
| Pawn shop  | –        | –        | –        | –               | –        | –        | <u>–</u>        | P        | –        | <a href="#">27-9.140</a> |
| <b>Food and Beverage Retail Sales</b>                                  |          |          |          |                 |          |          |                 |          |          |                          |
| Liquor store (as principal use)  | –        | –        | –        | –               | –        | P        | <u>P</u>        | P        | P        |                          |
| Liquor store (accessory to lodging or 3+ story office)                 | –        | –        | P        | P               | –        | –        | <u>–</u>        | –        | –        |                          |
| Other food and beverage retail sales                                   | –        | –        | P        | P               | P        | P        | <u>P</u>        | P        | P        |                          |
| <b>Funeral and Interment Services</b>                                  |          |          |          |                 |          |          |                 |          |          |                          |
| Cemetery, columbarium, or mausoleum                                    | P        | P        | P        | –               | –        | –        | <u>–</u>        | –        | –        |                          |
| Crematory  | –        | –        | –        | –               | –        | –        | <u>–</u>        | –        | S        |                          |
| Funeral home or mortuary   | P        | –        | –        | –               | –        | P        | <u>P</u>        | P        | P        |                          |
| <b>Lodging</b>   | P        | –        | P        | <sup>25</sup> – | –        | P        | <u>P</u>        | P        | P        |                          |
| <b>Medical Service</b>   |          |          |          |                 |          |          |                 |          |          |                          |
| Home health care service   | P        | P        | –        | –               | –        | –        | <u>–</u>        | –        | –        |                          |
| Hospice  | P        | P        | –        | –               | –        | –        | <u>–</u>        | –        | –        |                          |
| Kidney dialysis center   | P        | P        | –        | –               | –        | –        | <u>–</u>        | –        | –        |                          |
| Medical and dental laboratory  | P        | P        | –        | P               | –        | P        | <u>P</u>        | –        | P        |                          |
| Medical office/ clinic <sup>26</sup>                                   | P        | P        | P        | P               | P        | P        | <u>P</u>        | P        | P        |                          |
| <b>Office or Consumer Service<sup>27</sup></b>                         | P        | P        | P        | P               | P        | P        | <u>P</u>        | P        | P        |                          |
| <b>Parking, Non-accessory</b>  | <u>S</u> | –        | P        | –               | –        | P        | <u>P</u>        | <u>P</u> | P        | <a href="#">27-9.130</a> |
| <b>Personal Improvement Service</b>                                    |          |          |          |                 |          |          |                 |          |          |                          |
| Barber shop, beauty shop, nail salon, day spa                          | <u>P</u> | –        | –        | P               | P        | P        | <u>P</u>        | P        | P        |                          |
| Other personal improvement service                                     | –        | –        | –        | –               | –        | P        | <u>P</u>        | P        | P        |                          |
| <b>Repair or Laundry Service, Consumer</b>                             |          |          |          |                 |          |          |                 |          |          |                          |
| Laundromat, self-service   | –        | –        | –        | P               | P        | P        | <u>P</u>        | P        | –        |                          |
| Laundry or dry cleaning drop-off/pick-up                               | <u>P</u> | –        | –        | P               | P        | P        | <u>P</u>        | P        | P        |                          |

<sup>24</sup> Need to confirm. Current ordinance lists only restaurant. This would expand to include all eating and drinking.

<sup>25</sup> Existing OCR district lists (only) motels and only when in mixed-use developments of at least 10 acres. Does this supplemental regulation need to be carried over?

<sup>26</sup> This combines existing “health services clinic” and “health service practitioner”

<sup>27</sup> Office use regulations are currently inconsistent. While engineering and architecture offices are permitted in all nonresidential districts, other types of office are permitted in some districts and not in other. This proposed approach, therefore, constitutes a slightly more permissive approach.

| USES  | O-I          | O-I-T        | O-D          | OCR          | NS           | C-1          | <del>CR-1</del> | C-2          | M            | Supplemental Regulations |
|---|--------------|--------------|--------------|--------------|--------------|--------------|-----------------|--------------|--------------|--------------------------|
| Other consumer repair or laundry service                  | -            | -            | -            | P            | P            | P            | <u>P</u>        | P            | P            |                          |
| <b>Research and Testing Services</b>                      | <u>P</u>     | -            | P            | P            | -            | -            | <u>II</u>       | P            | P            |                          |
| <b>Retail Sales</b>                                       |              |              |              |              |              |              |                 |              |              |                          |
| Retail sales of goods produced on the premises            | -            | -            | -            | -            | -            | -            | <u>II</u>       | -            | P            |                          |
| Shopping Center   | -            | -            | -            | P            | P            | P            | <u>P</u>        | P            | -            |                          |
| Other retail sales  | -            | -            | P            | P            | P            | P            | <u>P</u>        | P            | -            |                          |
| <b>Sports and Recreation, Participant</b>                 |              |              |              |              |              |              |                 |              |              |                          |
| Golf course and clubhouse, private                        | P            | P            | P            | -            | -            | -            | <u>II</u>       | P            | P            |                          |
| Health club   | -            | -            | P            | P            | P            | P            | <u>P</u>        | P            | P            |                          |
| Private park  | P            | P            | P            | -            | -            | -            | <u>II</u>       | -            | -            |                          |
| Recreation center or swimming pool, neighborhood          | P            | P            | P            | -            | -            | -            | <u>II</u>       | -            | P            |                          |
| Recreation grounds and facilities                         | -            | -            | P            | -            | -            | -            | <u>II</u>       | P            | -            |                          |
| Tennis center, club and facilities                        | P            | P            | P            | P            | -            | P            | <u>P</u>        | P            | -            |                          |
| Other participant sports and recreation (Indoor)          | <u>P</u>     | -            | -            | P            | -            | P            | <u>P</u>        | P            | -            |                          |
| Other participant sports and recreation (Outdoor)         | -            | -            | -            | -            | -            | -            | <u>II</u>       | P            |              |                          |
| <b>Vehicle and Equipment, Sales and Service</b>           |              |              |              |              |              |              |                 |              |              |                          |
| Car wash  | -            | -            | -            | -            | -            | <u>P</u>     | <u>P</u>        | <u>P</u>     | P            | <a href="#">27-9.40</a>  |
| Gasoline sales  | -            | -            | -            | -            | -            | P            | <u>P</u>        | P            | P            | <a href="#">27-9.90</a>  |
| Vehicle repair, minor                                     | -            | -            | -            | -            | -            | P            | <u>P</u>        | P            | P            | <a href="#">27-9.230</a> |
| Vehicle repair, major                                     | -            | -            | -            | -            | -            | -            | <u>II</u>       | P            | P            | <a href="#">27-9.220</a> |
| Vehicle sales and rental                                  | -            | -            | -            | -            | -            | P            | <u>P</u>        | P            | P            | <a href="#">27-9.240</a> |
| Vehicle storage and towing                                | -            | -            | -            | -            | -            | -            | <u>II</u>       | P            | P            | <a href="#">27-9.250</a> |
| <b>INDUSTRIAL</b>   |              |              |              |              |              |              |                 |              |              |                          |
| <b>Manufacturing and Production, Light</b>                | -            | -            | -            | -            | -            | -            | <u>II</u>       | P            | P            |                          |
| <del>Mining and Quarrying</del>                           | <del>-</del> | <del>-</del> | <del>-</del> | <del>-</del> | <del>-</del> | <del>-</del> |                 | <del>-</del> | <del>S</del> |                          |
| <b>Wholesaling, Warehousing and Freight Movement</b>      |              |              |              |              |              |              |                 |              |              |                          |
| Warehousing and storage                                   | -            | -            | P            | -            | -            | -            | <u>II</u>       | -            | -            |                          |
| Self-storage warehouse                                    | -            | -            | P            | -            | -            | -            | <u>II</u>       | -            | P            |                          |
| Storage yard and truck terminal                           | -            | -            | -            | -            | -            | -            | <u>II</u>       | -            | S            |                          |
| <b>AGRICULTURE AND TRANSPORTATION</b>                     |              |              |              |              |              |              |                 |              |              |                          |
| <b>Agriculture</b>  |              |              |              |              |              |              |                 |              |              |                          |
| Agricultural produce stand                                | -            | -            | -            | -            | -            | -            | <u>II</u>       | -            | P            |                          |
| <u>Community garden</u>                                   | P            | P            | P            | P            | P            | P            | <u>P</u>        | P            | P            | <a href="#">27-9.50</a>  |
| <del>Dairy</del>  | <del>-</del> | <del>-</del> | <del>-</del> | <del>-</del> | <del>-</del> | <del>-</del> |                 | <del>-</del> | <del>P</del> |                          |
| Crops, production of                                      | -            | -            | -            | -            | -            | -            | <u>II</u>       | -            | P            |                          |
| <del>Livestock</del>                                      | <del>-</del> | <del>-</del> | <del>-</del> | <del>-</del> | <del>-</del> | <del>-</del> |                 | <del>-</del> | <del>P</del> |                          |
| <b>Transportation</b>                                     |              |              |              |              |              |              |                 |              |              |                          |
| Heliport  | S            | -            | S            | -            | -            | S            | <u>S</u>        | -            | P            |                          |
| Stations and terminals for bus and rail passenger service | S            | -            | -            | -            | -            | -            | <u>II</u>       | -            | -            |                          |
| Taxi stand and taxi dispatching office                    | -            | -            | -            | -            | -            | P            | <u>P</u>        | -            | P            |                          |

## 27-5.30 Lot and Building Regulations

**27-5.30-A.** This section establishes basic lot and building regulations that apply in nonresidential and mixed-use zoning districts. These regulations offer certainty for property owners, developers and neighbors about the limits of what is allowed; they are not to be construed as a guarantee that stated minimums and maximums can be achieved on every lot. Other factors, such as topography, the presence of protected

resources, off-street parking and other factors may work to further limit actual building and development potential.

**27-5.30-B.** The lot and building standards of the following table apply to all principal and accessory uses allowed in nonresidential and mixed-use districts, unless otherwise expressly stated in this zoning ordinance. [Article 30](#) identifies exceptions to these regulations and rules for measuring compliance.

| Regulation                                       | O-I     | O-I-T              | O-D     | OCR              | NS        | C-1              | CR-1           | C-2              | M                     |
|--|---------|--------------------|---------|------------------|-----------|------------------|----------------|------------------|-----------------------|
| Minimum Lot Area (sq. ft.)                       | 20,000  | 20,000[1]          | 43,560  | 87,120           | 20,000    | 20,000           | <u>20,000</u>  | 30,000           | 30,000                |
| Minimum Lot Frontage (ft.)                       | 100     | 100                | 150     | 100              | 100       | 100              | <u>100</u>     | 100              | 100                   |
| Maximum Density (dwelling units per acre)        | NA      | NA                 | NA      | 30 <sup>28</sup> | NA        | NA               | <u>80</u>      | NA               | NA                    |
| <b>Minimum Building/Structure Setbacks (ft.)</b> |         |                    |         |                  |           |                  |                |                  |                       |
| Street, Front and Side                           | 50      | 40 <sup>29</sup>   | 75      | 50               | 50        | 50 <sup>30</sup> | <u>0</u>       | 50 <sup>31</sup> | 75                    |
| Side, Interior                                   | 20      | 20                 | 20      | 20               | 20        | 20               | <u>20[2]</u>   | 20               | 20                    |
| Rear   | 30      | 30                 | 30      | 40               | 30        | 30               | <u>30</u>      | 30               | 30                    |
| Maximum Lot Coverage (%)                         | 80      | 80                 | 80      | 80               | 80        | 80               | <u>80</u>      | 80               | 80                    |
| Maximum Building Height (stories/ft.)            | 5/70[3] | 2/35 <sup>32</sup> | 2/35[4] | 2/35[4]          | 2/25      | 2/35[4]          | <u>3/45[4]</u> | 2/35[4]          | 5/70[3] <sup>33</sup> |
| Maximum Building Floor Area (sq. ft.)            | NA      | NA                 | NA      | NA               | 50,000[5] | NA               | <u>NA</u>      | NA               | NA                    |

[1] Attached house developments are subject to a minimum lot area requirement of 4,000 square feet per dwelling unit.

[2] No interior side setback required abutting C-1, CR-1 or C-2-zoned lots.

[3] Buildings may exceed 3 stories in height only if approved by fire and rescue services. Buildings in excess of 5 stories or 70 feet in height may be approved only through the special land use permit procedures of [Article 19](#). Multi-unit residential and vertical mixed-use buildings that abut any attached single-dwelling residential district may not exceed 40 feet in height. Multi-unit residential buildings and vertical mixed-use buildings that abut any detached single-dwelling residential district may not exceed 35 feet in height.

[4] Buildings in excess of 2 stories or 35 feet in stated height limits may be approved through the special land use permit procedures of [Article 19](#). Buildings may exceed 3 stories in height only if approved by fire and rescue services.

[5] No individual building may exceed 50,000 sq. ft. (GSF). No multi-tenant center may exceed 100,000 sq. ft.

## 27-5.40 Other Regulations

Uses and development in nonresidential and mixed-use zoning districts may be subject to other regulations and standards, including the following.

### 27-5.40-A. Nonconformities

See [Article 29](#).

<sup>28</sup> The current ordinance establishes a maximum residential density limit, but does not actually list any allowed residential uses. Need to discuss status of residential/vertical mixed-use buildings in the nonresidential and mixed-use districts. This draft has been revised to expressly allow multi-unit residential and mixed-use buildings in the OCR district.

<sup>29</sup> This is a change. Minimum street side setback requirement is currently 50 feet, while “front” street setback is 40 feet.

<sup>30</sup> This is a change. Minimum front setback requirement is currently 75 feet, while side street setback is 50 feet.

<sup>31</sup> This is a change. Minimum front is currently 75 feet.

<sup>32</sup> The existing 2 story/35-foot limit seems odd. A 2-story building would rarely if ever be as tall as 35 feet.

<sup>33</sup> This is a slight change. Current regulation states maximum is 5 stories, and that buildings in excess of 5 stories may be approved as SLUP (no mention of 70 feet or fire and rescue approval of buildings over 3 stories)

**27-5.40-B. Accessory Uses and Structures**

See [Article 10](#).

**27-5.40-C. Parking**

See [Article 12](#).

**27-5.40-D. Landscaping and Screening**

See [Article 13](#).

**27-5.40-E. Signs**

See [Chapter 20](#) of the municipal code.

**27-5.40-F. Outdoor Storage**

See Sec. [27-16.10](#).

**27-5.40-G. Temporary Uses**

See [Article 11](#).

**27-5.40-H. Outdoor Lighting**

See [Article 14](#).

## Article 6 Special Purpose Zoning Districts

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### 27-6.10 **PC, Perimeter Center District**

RESERVED (future location of district(s) to accommodate PCID uses and development)

### 27-6.20 **PD, Planned Development District**

#### **27-6.20-A. Purpose and Administration of District<sup>34</sup>**

The PD, Planned Development district is intended to permit the planning and development of parcels of land that are suitable in location and character for the uses proposed as unified and integrated developments in accordance with detailed development plans. The PD district is intended to provide a means of accomplishing the following specific objectives:

1. To provide for development concepts not otherwise allowed within non-PD zoning districts;
2. To provide flexibility, unity and diversity in land planning and development, resulting in convenient and harmonious groupings of uses, structures and common facilities;
3. To accommodate varied type design and layout of housing and other buildings;
4. To allow appropriate relationships of open spaces to intended uses and structures;
5. To encourage innovations in residential, commercial, and industrial development and renewal so that the growing demands of the population may be met by greater variety in type, design, and layout of buildings and by the conservation and more efficient use of open space ancillary to those buildings;
6. To encourage a more efficient use of land and of public services, or private services in lieu thereof, and to reflect changes in the technology of land development so that resulting economies may benefit those who need homes;
7. To lessen the burden of traffic on streets and highways; and
8. To provide a procedure that can relate the type, design, and layout of residential, commercial, and industrial development to the particular site, thereby encouraging preservation of the site's natural characteristics.

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<sup>34</sup> These regulations come from a recent text amendment approved by the city.

**27-6.20-B. Establishing a Planned Development**

1. No PD district may be established without the concurrent approval of an overall development plan (ODP) by the mayor and city council, in accordance with Sec. [27-6.20-C](#).
2. The boundaries of each PD, upon approval, must be shown on the zoning map, must be in conformance with the adopted comprehensive plan and any adopted master plan, must be a minimum of 10 acres in area, and must be in compliance with the approved overall development plan.<sup>35</sup>
3. Once adopted, an ODP may be modified in the following ways:
  - a. The community development director has sole authority to approve minor changes to conditions attached to an approved PD zoning designation. 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 must be made in written form to the community development director. If an approved site plan exists, the request for minor change must be accompanied by 4 copies of the revised site plan.
  - b. Any major change to conditions attached to an approved PD zoning designation requires approval of a zoning map amendment in accordance with the procedures of [Article 18](#). Without limiting the meaning of the phrase, the following are deemed to constitute major changes for purposes of interpreting this section:
    - (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 imposed in the original conditional zoning amendment;
    - (4) Any change in any buffer requirement imposed in the original conditional zoning amendment;
    - (5) Any increase in the height of any building or structure; or
    - (6) Any change in the proportion of floor space devoted to different authorized uses.

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<sup>35</sup> Need to discuss the meaning/intent of this paragraph?

**27-6.20-C. Application of Regulations**

**1. Overall Development Plan**

Development of the PD is governed by overall development plan that designates the land uses of the PD. The ODP must be accompanied by development standards text, which may be approved as a condition of zoning, providing development standards and uses for the project that can vary, augment or limit the requirements of this zoning ordinance and the development regulations. The ODP must be submitted as a part of the PD rezoning application.

**2. At a minimum the ODP must include:**

- a.** Sketch plat;
- b.** Type and location of all intended uses;
- c.** Expected gross land areas of all intended uses including open space;
- d.** Gross floor area or residential unit size and number for all buildings or structures, including a statement pertaining to the appropriateness of the density and intensity of the suggested uses relative to policies and standards contained within the comprehensive plan;
- e.** architectural elevations of all proposed building sides, a description of the types of exterior treatments of buildings, a site plan to scale, density calculations;
- f.** circulation plan;
- g.** street documentation;
- h.** parking analysis;
- i.** a tree plan showing the existing trees on site that are 6 inches in diameter at breast height or greater for hardwoods and 16 inches in diameter at breast height for other trees;
- j.** existing site survey and a grading plan; and
- k.** any other information deemed necessary by staff for planning review.

**3. To the extent that the approved ODP and development standards for a PD contradict the development regulations and this zoning ordinance, the approved ODP for the PD district governs.**

**4. No changes in land use or density may be allowed in any approved and incorporated overall development plan or development standards text, except as subsequently approved pursuant to a rezoning of the property.**

**5. Due to the mixed-use nature of PD proposals, architectural compatibility must be determined based upon the context and guidance of the comprehensive plan and specific sub-area plan area in which the PD is located. As a part of the architectural design, a "four-sided" design philosophy must be used, materials used shall be enduring in their composition and include as the primary material, brick, stone or equivalent durable materials.**



6. Land uses within a PD district may be multiple in nature. The location and relationship of these uses must be as established in and conform to the policies and standards contained within the comprehensive plan and other appropriate adopted and approved plans and established as part of the ODP.

## Article 7 Overlay Zoning Districts

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### 27-7.10 General

#### 27-7.10-A. Establishment

Overlay zoning district regulations and overlay zoning district boundaries may be established or amended only in accordance with the amendment procedures of [Article 18](#).

#### 27-7.10-B. Interpretation

Overlay zoning district regulations apply in combination with underlying (base) zoning district regulations and all other applicable regulations of this zoning ordinance. When overlay district standards conflict with standards that would otherwise apply under this zoning ordinance, the regulations of the overlay zoning district govern. Otherwise, all applicable regulations of this zoning ordinance apply in overlay districts.

### 27-7.20 –DVO, Dunwoody Village Overlay

#### 27-7.20-A. Purpose and Intent<sup>36</sup>

The Dunwoody Village overlay district is primarily intended to implement the policies and objectives of the Comprehensive Plan and the Dunwoody Village Master Plan. It is further intended to help:

1. maintain and enhance the identity and image of the Dunwoody Village area;
2. accommodate and promote walkable, development patterns containing a complementary mix of land uses;
3. create new opportunities for public open spaces and gathering spaces in the commercial core of Dunwoody;
4. ensure that new development and substantial additions to existing buildings are compatible with the pre-1900 Mid Atlantic American Colonial Architecture that is characteristic of the district;
5. support efforts to create a vibrant shopping and entertainment area in which merchants and businesses thrive and grow, thereby helping to maintain property values and keeping vacancy rates low; and
6. maintain and enhance the area's role as a place for civic activities and public gatherings within well-designed open spaces.

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<sup>36</sup> Updated; no substantive changes.

**27-7.20-B. Redevelopment**

The city council anticipates that in the future a developer may desire to redevelop all or portions of the Dunwoody Village area, and that the type of redevelopment proposed may be difficult or impossible to carry out under the existing zoning. To accommodate and encourage large-scale redevelopment in accordance with the approved *Dunwoody Village Master Plan*, the city council may consider rezoning or planned development (PD) development proposals.

**27-7.20-C. Thresholds for Compliance<sup>37</sup>**

**1. Full Compliance**

Except as otherwise expressly stated by the specific provisions of this section (Sec. 27-7.20), permits for the following building and construction activities may be issued only if the entire building is determined to comply with the applicable regulations:

- a. Construction of a new building;
- b. Construction of building additions that result in a 10% or greater increase in the floor area or building coverage of the existing building;
- c. Exterior construction or remodeling with a total value of 10% or more of the county tax assessor's 100% assessed value of the existing improvements only; and
- d. Interior construction or remodeling with a total value of 25% or more of the county tax assessor's 100% assessed value of the existing improvements only.

**2. Partial Compliance**

Permits for exterior remodeling or building activities that do not trigger full compliance may be issued only if the portion of the building affected by the work is determined to be in compliance with all applicable overlay district regulations.

**27-7.20-D. Design Review<sup>38</sup>**

No land disturbance permit, building permit or sign permit may be issued for buildings or construction activities that are subject to one or more of the overlay district

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<sup>37</sup> These “thresholds” are new. Many of the existing regulations state that “all uses and structures” or “any building” (or similar wording) must comply. These proposed thresholds are being evaluated and additional calibration and adjustment may be required.

<sup>38</sup> Existing provisions establishing the design review advisory committee have been moved to [Article 26](#) (Review and Decision-making Bodies).

regulations of this section until the design review process of [Article 20](#)<sup>39</sup> has been completed.

## **27-7.20-E. Architecture and Design**

### **1. Exterior Materials**

- a. Exterior cladding material must consist of stone, earth tone brick (the preferred material) or white/cream painted horizontal lap siding. Lap siding must be wood, ~~or a material that exhibits wood-like properties, such as cementitious-fiber cement~~ lap siding or other substitute approved by the design review advisory committee because of its wood-like appearance and durability. If lap siding is used, the base of the structure must have brick or stone cladding from the grade to the first floor elevation. Vertical siding, stucco, external insulating finishing system (EIFS), metal siding, metal trim, vinyl siding, vinyl trim, marble siding, marble trim, exposed concrete and block are prohibited.
- b. Exterior siding material must be consistent and uniform on all exterior elevations. Siding material must be predominantly brick, stone or lap siding. Buildings and building additions with masonry on only ~~the front face~~ street-facing facades are prohibited. Buildings and building additions with first floor masonry and second floor lap siding are prohibited.
- c. All exposed bricks must be approximately 8 inches wide by 3 inches deep by 2.67 inches high and must be laid in a running bond. Engineer-size bricks and Flemish bond are ~~acceptable~~ also allowed. All joints must be tooled with grapevine joint, and mortar must be buff or ochre in color. Stone veneers must have ochre tooled mortar joints.
- d. When lap siding is used, the maximum allowable exposure on lap siding is 8 inches.
- e. Applied trim materials, cornice and window casings must consist of painted wood or ~~other painted~~ fiber cement materials or other substitute material approved by the design review advisory committee because of its wood-like appearance, durability and ability to hold paint ~~that exhibit wood-like properties~~. Metal, vinyl, stucco, block stone and concrete are prohibited, except that wrought-iron handrails are permitted. Nonmasonry trim colors ~~are limited to shall be equal to or similar to~~ colors available in the Martin Senour Williamsburg Paint Collection or similar approved alternatives.

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<sup>39</sup> No substantive change proposed; merely placing the existing (advisory) 14-day design review procedures with the other procedures.

- f. Exposed portions of the foundation must be covered in masonry veneer. Exposed block, stucco and concrete are prohibited.

## 2. Roofs

The following requirements apply to roofs visible from public rights-of-way, outdoor activity areas (e.g., seating areas) or other areas of the site intended for public access:

- a. Gabled roofs, hipped roofs, or combinations of such roof forms are permitted. Flat roofs and shed roofs are prohibited.
- b. Exterior roofing material is limited to asphalt (fiberglass) shingles, slate or cedar shake. Roofs must be black, a dark shade of gray or weathered wood color. All asphalt (fiberglass) shingles must be dimensional. Standing seam copper or bronze color metal roofs are permitted only as accents on porches or dormers.
- c. Roof overhangs must be at least 8 inches but not greater than 12 inches. Gabled ends may have either an overhang or a flush rake.
- d. Eave lines must be consistent, largely unbroken and horizontal. All eaves must 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 must be at least 9.25 inches.
- e. Roofs must contain at least one roof projection for every 75 lineal feet of building frontage. Roof projections may include cupolas, dormers, balustrade walks, chimneys or gables.

## 3. Building Massing<sup>40</sup>

- a. Buildings that are longer than 75 feet must be designed so as to appear as multiple structures through the use of varied roof forms, building projections or architectural details.
- b. Buildings that are longer than 100 feet must provide ~~no less than 10 lineal feet of~~ a pedestrian arcade or covered porch with minimum dimensions of 8 feet in any direction. Exterior ~~metal~~ columns are prohibited. Exterior ~~columns~~ must include a base and a capital, and must generally align with story heights. Two-story exterior columns are prohibited. All exterior columns must be traditional in style.

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<sup>40</sup> Removed (for now, at least) the seemingly confusing requirement that the front building façade “be no more than 10 feet from the required streetscape improvements.” (Sec. 27-1269(3)h)

- c. The apparent exterior floor-to-floor height of each story of a building may not exceed 12 feet. Individual floors must be delineated on the building facade through the use of window placement and horizontal details.
- d. Buildings must have at least one building projection on the front facade below the eave line. Building projections may consist of stoops, bay windows, covered porches, extruded entrances, ~~and~~ pedestrian arcades or other approved features.  
  
~~Building height is limited to 35 feet when measured from the first floor (street elevation floor) elevation to the peak of the highest ridge line. Cupolas or widow's walks are not considered roof and are not included in the height measurement.~~<sup>41</sup>
- e. Primary building walls must be rectilinear and simplified in form. Curved walls or non-90-degree corners are prohibited, except that bay projections may be allowed.

#### 4. Fenestration

The following requirements apply only to areas visible from public rights-of-way outdoor activity areas (e.g., seating areas) or other areas of the site intended for public access:

- a. Doors must be compatible with pre-1900 Mid Atlantic American Colonial Architecture style. All-glass doors and flush doors are prohibited. Solid doors must be six-panel and may have sidelights or a transom sashes. Windowed doors must contain a solid border, a minimum of 6-inch-wide panels, and must include mullions or divided lights not exceeding 12 inches in any direction. Mullions must be 1.25 inches in size. French, three-quarter glass or nine-light doors are allowed if they comply with the requirements of this paragraph.
- b. Individual doors must be of a single color and are limited to ~~shall be equal to or similar to~~ colors available in the Martin Senour Williamsburg Paint Collection or similar approved alternatives. Dark stained doors are allowed if the shade is equal to or darker than Minwax special walnut.<sup>42</sup>
- c. Primary doors may not exceed 42 inches in width and 96 inches in height. Larger doors are prohibited.
- d. Windows must be vertically proportioned standard sizes, with a minimum width of 28 inches and minimum height of 66 inches. Transom windows are not subject to vertical proportion requirements and do not count in

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<sup>41</sup> Removal of the overlay-district height limit would mean that underlying zoning would control. Removal of the 35-foot overlay district limit may be necessary for realization of master plan recommendations.

<sup>42</sup> Ideally, these types of manufacturer and product-specific specifications would be included in a non-codified manual or set of design “guidelines.”

the overall window proportion. Vertical windows may be grouped to create storefront windows but are limited to 15-foot sections with a minimum of 4 inch-mulls. Group windows must be separated by at least 5 feet of unbroken wall space. Slit windows, strip windows, and ribbon windows are prohibited. ~~Fixed windows may not be wider than five feet and no taller than six feet, six inches tall.~~

- e. Blank facades are prohibited. Windowless sections of the front facade may not exceed 20 feet in width. Windows and doors must be provided on at least 10% of the front facade but may not constitute no more than 50% of the total area of the front facade. For this purpose, windows must be measured at the sash and only the swinging part of the doors may be counted. Casing is not included in the measurement. Windows must generally be spaced in an even rhythm.
- f. All windows must be rectilinear double hung, provided that arch top and fixed sash windows are allowed. Triangular or otherwise angular windows are prohibited. Round windows are permitted as accent windows in locations such as gables. Louvered gable vents are allowed, but they must be rectilinear and surrounded by one-by-four and backband.
- g. All windows must have the appearance of mullions or divided lights. Mullions must be at least 1.25 inches in width. Panes must be vertical rectilinear, generally square in proportion. Diagonal panes are not permitted except in arch windows.  
~~All windows should be surrounded with casing (one by four and backband, one by six and backband, Howe casing and backband or Mrs. Jenny Casing and backband).~~
- h. Shutters must be constructed of wood or a substitute material approved by the design review advisory committee because of its wood-like appearance and durability.~~with wood-like properties other than vinyl.~~ Shutters must be sized to fit the window and include ~~with~~ horizontal slats or raised panels. Metal and vinyl shutters are prohibited. Shutter colors are limited to ~~shall be equal to or similar to~~ colors available in the Martin Senour Williamsburg Paint Collection or similar approved alternatives. Shutters must appear operable, with hinges and tie backs.
- i. All windows must have sill and header trim details. Cut brick jack arches must be installed on all windows visible from the street or parking lot.
- j. The bottom of windows must be at least 20 inches above grade.

#### **27-7.20-F. Signs**

~~All lots in the Dunwoody Village Overlay District shall comply with~~ All signs within the Dunwoody Village overlay district are subject to the requirements of the city's sign ordinance and ~~subject to~~ the following additional regulations:

1. Signs must be designed and constructed to be compatible with the architectural style that is characteristic of the Dunwoody Village overlay district area.
2. Ground signs must be monument-style signs with a brick base ~~and framework made of brick~~.  
~~Free standing signs shall not be permitted in the public right of way.~~<sup>43</sup>
3. For lots containing 9 or fewer storefronts, ground signs may not exceed 8 feet in height and 8 feet in width.
4. For lots containing 10 or more storefronts, ground signs may not exceed 12 feet in height and 8 feet in width.
5. Window signs may not exceed 2 square feet in area.
6. Banners are prohibited except for pole banners as permitted in Chapter 26 of the municipal code.
7. Signs must have a matte finish and be constructed of wood or other substitute material approved by the design review advisory committee because of its wood-like appearance and durability ~~have a wood-like appearance~~.
8. Sign colors, except for logos, are limited to ~~shall be equal to or similar to~~ colors available in the Martin Senour Williamsburg Paint Collection or similar approved alternatives.
9. All illuminated signs ~~shall must~~ be indirectly illuminated or halo lighted.
10. Neon, gas, colored, flashing, animated, marquee, sound emitting, fluorescent, rotating or otherwise moving signs are prohibited. ~~all visible neon is prohibited~~; This prohibition notwithstanding, a single LED or neon sign up to 2 square feet in area is allowed, provided that the sign does not employ any flashing, animation, movement or sound and provided that the sign may be illuminated only during hours in which the establishment is open for business.
11. Sign shape and lettering is limited as follows:
  - a. Sign facing must be flat in profile and may not exceed 8 inches in thickness.
  - b. Signs with more than 2 faces are prohibited.
  - c. Sign lettering and logo content may not exceed 18 inches in height.
12. Standard informational signs:
  - a. May not be more than 3 feet above grade;
  - b. May not exceed 6 square feet in area;

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<sup>43</sup> Provision is unnecessary.



- c. May not have more than 2 sign faces;
- d. May not be made from flexible materials, such as vinyl, cloth or paper;
- e. Must be free-standing and not attached to permanent or temporary structures;
- f. Must comply with the color standards of the district; and
- g. Must be maintained in good repair.

#### **Certificate of Occupancy**

~~Prior to the issuance of certificate of occupancy, the site must be inspected by the city and the design review advisory committee member, and a final compliance certificate issued by the community development director or designee after receiving any recommendations from the design review advisory committee. Any deficiencies must be corrected before the CO is issued.~~

#### **27-7.20-G. Parking and Circulation**

The parking and circulation regulations of [Article 12](#) apply within the Dunwoody Village overlay district except as modified by the following regulations:

1. ~~Each lot shall provide no less than one parking space for each 750 square feet of floor area and~~ New nonresidential buildings and nonresidential uses and additions to existing nonresidential buildings and nonresidential uses may not provide no more than ~~two~~ 3 parking spaces for each 750 per 1,000 square feet of floor area. This provision does not require that existing “excess” parking spaces be removed.
2. Parking areas must be separated from the main road by a minimum distance of 30 feet and include at least the landscaping required by Sec. [27-13.40](#). Wherever possible, parking must be confined to the rear of structures or be placed underground.

~~Sidewalks with a minimum width of 10 feet must be provided along all store fronts.~~

~~Parking areas shall be separated from buildings by a planted area or other landscaped area that is no less than 10 feet in width. Parking areas shall be separated from the main road by 30 feet and include a hedge/landscaping barrier to reduce the visibility of parked vehicles. Wherever possible, parking should be confined to the rear of structures or underground.~~

~~Shared parking is encouraged and may be authorized by the director of community development. Applicants may make application to the director for authorization for a special exception for shared parking. Said applications shall be~~

~~considered and decided by the director pursuant to the standards and procedures set forth in this section.~~<sup>44</sup>

~~The use of bicycle racks is required. Bicycle racks shall be located near building entries. The racks shall be inverted U shaped bike racks, either dark green in color or finished stainless steel. Racks shall accommodate a minimum of four bicycles.~~<sup>45</sup>

#### **27-7.20-H. Landscaping**

~~The landscaping and screening regulations of [Article 13](#) apply within the Dunwoody Village overlay district. See also [Sec. 27-7.20-I](#).~~

~~All landscape surveys and site plans shall be appropriately scaled drawings, prepared and sealed by a registered landscape architect or certified arborist.~~

~~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 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.~~

~~The landscaping on each lot shall contain the following landscape elements: flower beds, shrubs, and at least two, three-inch caliper trees.~~

~~With the exception of trees, landscape elements including shrubs shall not exceed four feet in height when mature.~~

~~No landscape plant material may interfere with vehicle safety and driver visibility. Plant material and placement should be approved by the city public works department prior to approval of the design review advisory committee. Concrete only medians are prohibited.~~

#### **Lighting**<sup>46</sup>

~~The following lighting regulations shall apply to all permitted uses within the Dunwoody Village Overlay District:~~

~~All lots shall provide streetlights, parking lights, pedestrian lights, and indirect building lights.~~

~~Public streetlights shall be provided along public rights of way, as specified in subsection (3) of this section.~~

~~Parking lights shall be provided in all parking areas where it is anticipated that parking usage will occur after dark. The owner shall submit designs for approval. If the fixtures exceed 15 feet in height, they shall project downward, and~~

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<sup>44</sup> A special overlay-based provision is no longer necessary. Shared parking is encouraged/allowed by general parking regulations of [Article 12](#).

<sup>45</sup> Special bicycle parking regulations are no longer necessary in light of new bicycle parking regulations of [Sec. 27-12.50](#).

<sup>46</sup> These provisions do not seem to be necessary in light of the extensive outdoor lighting regulations of [Article 14](#).

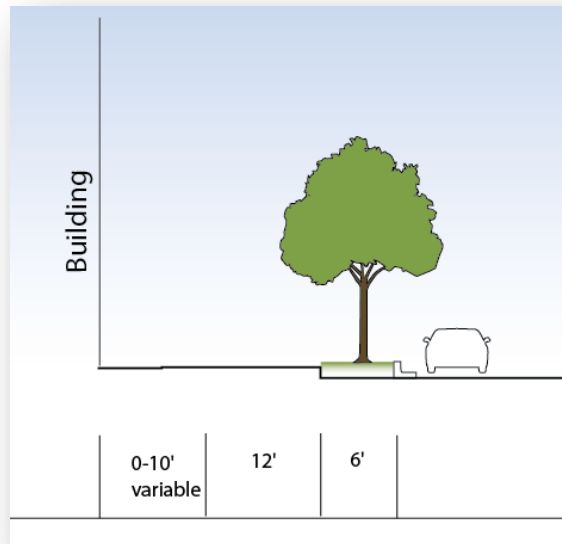
~~shall be spaced in a uniform manner so as to provide full lighting for the parking area.~~

~~Pedestrian lights shall be provided within high volume pedestrian areas, and around public and private open space as prescribed in section 27-1324~~

~~Lamps must be powered with energy efficient LED bulbs or comparable efficient technology.~~

#### **27-7.20-l. Streetscape and Pedestrian Amenities**

1. A minimum 6-foot wide landscape area must be established abutting the back of the curb along abutting streets. This landscape area must adjoin a minimum 12-foot wide sidewalk. Buildings must abut the sidewalk or be located within 10 feet of the sidewalk. If buildings are set back from the edge of the required 12-foot sidewalk, the setback area must include features such as outdoor dining and seating areas, plazas and landscaped open spaces that provide a safe, comfortable and active environment for pedestrians.



2. Street trees, spaced no more than 50 feet on center, must be provided in the required landscape area between the travel lanes and the sidewalk.
  - a. Maintenance of trees is the full responsibility of the owner of the adjacent site or the owner of the property on which the tree is located if it is located on private property.
  - b. Trees species must be selected from the city's approved street tree list, which is available in the community development department; alternative cultivars may be approved on a case-by-case basis with the approval of the city arborist.

- c. Trees must be at least 2.5-inch caliper and at least 8 feet in height at the time of planting. As street trees mature, they must be trimmed as necessary to provide a minimum vertical clearance of 7 feet above the sidewalk.
- 3. Pedestrian buffer zones with a minimum width of 10 feet must be provided abutting the sides and rear of all buildings. These areas provide a buffer between buildings and parking and service areas. The pedestrian buffer zones must contain walkways, planting areas, plazas, and similar pedestrian-oriented landscaped spaces. All pedestrian walkways within buffer zones must be at least 6 feet in width and finished with brick pavers or other approved accents or designs.
- 4. The front entrance of all buildings must be easily and safely accessible to pedestrians from the public sidewalk through a combination of pedestrian walkways and crosswalks. All entrances to crosswalks and sidewalks must include wheelchair ramps, per code.
- 5. Covered sidewalks that are a part of the building and that are located within the buildable area of the lot are encouraged. Such covered sidewalks may be used for outdoor seating and dining, and as terraces and arcades.
- 6. In multi-tenant retail buildings, a continuous, unimpeded walkway must be provided to connect all business entrances.
- 7. Sidewalks must conform to the following:
  - a. Sidewalks must be paved using concrete or alternative pervious material as approved by city staff.
  - b. Where a sidewalk exists conforming to the standards of this ordinance except for the width, the developer must supplement the existing sidewalk width, adding width to create a 12-foot sidewalk.
  - c. Streetscaping performed as a function of city-initiated redevelopment must provide a landscape area at least 6 feet in depth.
- 8. Lighting must conform to the following:
  - a. Pedestrian and street lighting must be placed in the landscape zone at intervals of 90 to 100 feet on center and must be equal distance from required street trees, in accordance with the Georgia Power Area-Wide Pedestrian Lighting Plan.
  - b. Pole height may not exceed 15 feet.
  - c. Streetlights must be “Generation ARC” by Cooper, 150 watt from Georgia Power. Light poles must be “Grandville” by Hapco from Georgia Power.
  - d. Poles and fixtures must be dark green in color.
- 9. Furniture must be provided as follows:

- a. Benches and trash and recycling receptacles must be installed every 250 feet along the public street and at each building entrance adjacent to a pedestrian walkway.
- b. Benches must be Victor Stanley Classic Model c-138 series. Bench colors must be natural wood stain, with dark green.
- c. Trash and recycling receptacles must be Victor Stanley Concourse series and must be firmly anchored to the ground.
  - (1) Maintenance of trash and recycling receptacles, including servicing, repair, and replacement, is the full responsibility of the nearest adjacent property owner.
  - (2) Recycling receptacles must be clearly identified with symbols and/or text indicating its intended use for recyclables.

**27-7.20-J. Public Areas, Service Areas and Retaining Walls**

1. Public plazas and outdoor dining areas must be easily accessible to pedestrians and provide protection from vehicular traffic by means of their location and design.
2. All dumpsters and other building service areas must be concealed from view of public rights-of-way, publicly accessible areas of the site and residential zoning districts. All dumpsters must be concealed with secured gates screening in accordance with Sec. [27-13.60](#).
3. Retaining walls must comply with the city building code. Visible areas of retaining wall must be covered with the face brick or stone of the downhill neighbor with a roll lock at the top. Horizontal wall expanses exceeding 20 feet must include offset pilasters with the same brick or stone rising 3 courses above the top of the adjoining wall and finished with a double course capital of the same brick or stone.
4. All utilities must be placed underground.

**27-7.20-K. Village Core Area**

The village core area form and design regulations of this subsection apply within designated village core area of the DV-O district to all new buildings. The regulations also apply to renovations of and additions to existing buildings within the village core area that result in an increase of 50% or more in the building' gross floor area. These requirements govern in the event of conflict with other DV-O district regulations.

**1. Build-to-Zone**

- a. The build-to zone is the area on the lot where a certain percentage of the front building facade must be located, measured as a minimum and maximum yard (setback) range from the edge of the right-of-way. The requirements are as follows:

|          | <u>Build-to-Zone</u>                                    |             |
|----------|---|-------------|
| <u>A</u> | <u>Minimum/maximum (feet)</u>                           | <u>0/10</u> |
| <u>B</u> | <u>Minimum percent of building in build-to-zone (%)</u> | <u>80</u>   |
|          | <u>Parking Setback</u>                                  |             |
| <u>C</u> | <u>Minimum (feet)</u>                                   | <u>30</u>   |

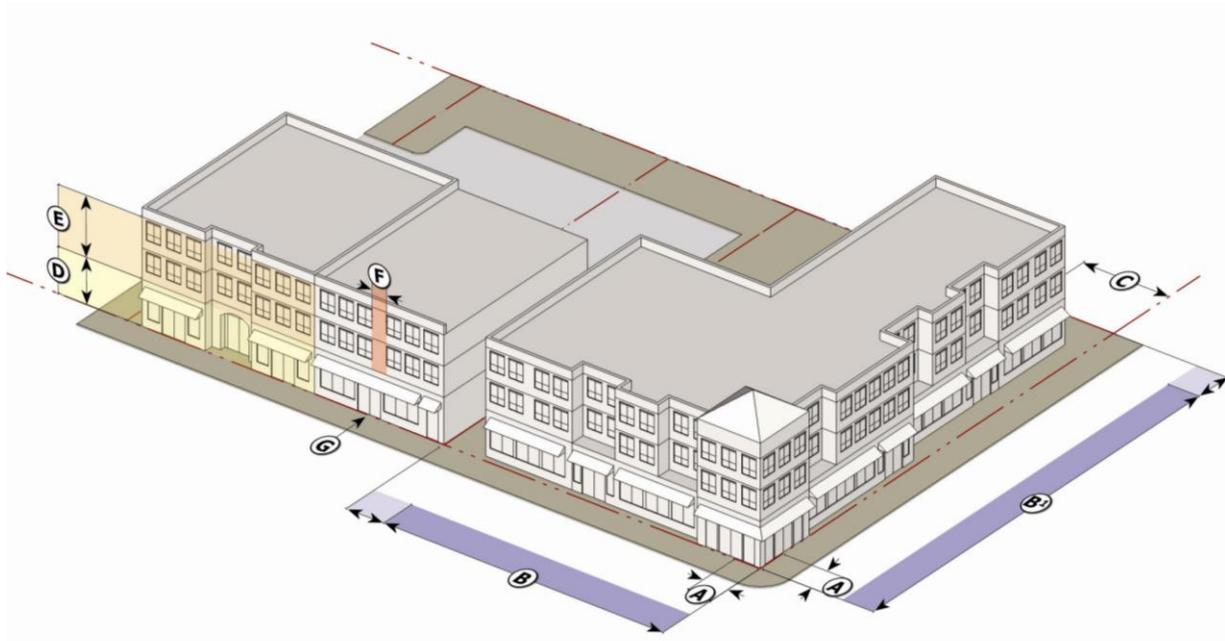
- b. The required percentage specifies the amount of the front building facade that must be located in the build-to zone, based on the width of the front building facade divided by the width of the lot.
- c. Outdoor open space, plazas and outdoor dining areas are counted as part of the building for the purpose of measuring compliance with build-to zone requirements, provided that:
- (1) The area does not exceed one-third the length of the building face or 35 feet, whichever is less; and
- (2) The area is no more than 35 feet in depth.
- d. On corner lots, the minimum requirement governing the minimum percent of building that must be in the build-to-zone may be reduced by 60% along one of the frontages, at the property owner's option, provided that a building facade must be placed in the build-to zone for the first 30 feet along each street extending from the corner (the intersection of the build-to-zones).

## 2. Transparency

- a. Transparency regulations govern the percentage of a street-facing building facade that must be covered by glazing (e.g., transparent windows and doors). The requirements are as follows:

|          | <u>Transparency</u>             |           |
|----------|---------------------------------|-----------|
| <u>D</u> | <u>Minimum ground story (%)</u> | <u>75</u> |
| <u>E</u> | <u>Minimum upper story (%)</u>  | <u>20</u> |

- b. The transparency of a ground story facade is measured between 2.5 and 12 feet above the adjacent sidewalk.
- c. The transparency of an upper-story facade is measured from top of the finished floor to the top of the finished floor above. When there is no floor above, upper-story transparency is measured from the top of the finished floor to the top of the wall plate.
- a-d. Glazed element must be clear and non-reflective and not be painted or tinted, provided that low-emission (Low-E) glass coatings are permitted.



*Illustration to be updated/replaced with one reflecting DV-O character*

### **3. Blank Wall Area**

- a.** Blank walls are areas on the exterior facade of a building that do not include a substantial material change; windows or doors; columns, pilasters or other articulation greater than 12 inches in depth. Blank wall limits are established as follows:

|                 |                                  |                  |
|-----------------|----------------------------------|------------------|
| <b><u>E</u></b> | Maximum blank wall length (feet) | <b><u>20</u></b> |
|-----------------|----------------------------------|------------------|

- b.** Blank wall area regulations apply in both a vertical and horizontal direction.

### **4. Street-facing Building Entrances (G)**

At least one street-facing building entrance must be provided. The building entrance must provide ingress and egress for residents and customers. Additional entrances off another street, pedestrian area or internal parking area are also permitted.

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## Article 8 Use Classifications

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### 27-8.10 General

This article contains a description of the use classification system used to classify principal uses in this zoning ordinance.

#### 27-8.10-A. Use Categories<sup>47</sup>

This zoning ordinance classifies principal land uses into 5 major groupings, which are referred to as use categories:

1. Residential
2. Quasi-Public and Institutional
3. Commercial
4. Industrial
5. Agricultural

#### 27-8.10-B. Use Subcategories

Each use category is further divided into more specific “subcategories.” Use subcategories classify principal land uses and activities based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered and site conditions.

#### 27-8.10-C. Specific Uses

Some use subcategories are further broken down to identify specific use, business or activity types that are regulated differently than the parent subcategory as a whole.

#### 27-8.10-D. Use Tables

The use tables in Sec. [27-4.20](#) and [27-5.20](#) identify uses allowed in residential districts and in nonresidential and mixed-use districts, respectively.

##### 1. Use Categories, Use Subcategories and Specific Use Types

The use categories and subcategories described in this article are identified in the first column of the use tables. In some cases, specific use types are listed in addition to the use categories and subcategories.

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<sup>47</sup> The use classification system of Article 8 is new, although it retains a close relationship with the use definitions of Dunwoody’s existing zoning ordinance. The specific use types of the current ordinance have been integrated into this proposed use classification framework. The proposed “group living” subcategory, for example, carries over definitions of various group living uses from the current ordinance.

**2. Permitted Uses**

Uses identified with a “P” in the use tables are permitted as-of-right in the subject zoning district, subject to compliance with all other applicable regulations of this zoning ordinance.

**3. Special Uses**

- a. Uses identified with an “S” in the use tables may be allowed if reviewed and approved in accordance with the special land use permit procedures of [Article 19](#). Special land uses are subject to compliance with any supplemental use regulations identified in the final column of the tables and with all other applicable regulations of this zoning ordinance.
- b. Uses identified with an “E” in the use tables may be allowed if reviewed and approved in accordance with the special exception procedures of [Article 22](#). Special exception uses are subject to compliance with any supplemental use regulations identified in the final column of the tables and with all other applicable regulations of this zoning ordinance.
- c. Uses identified with an “A” in the use tables may be allowed if reviewed and approved in accordance with the administrative permit procedures of [Article 23](#). Administrative permit uses are subject to compliance with any supplemental use regulations identified in the final column of the tables and with all other applicable regulations of this zoning ordinance.

**4. Prohibited Uses**

Uses identified with an “—” are expressly prohibited. Uses that are not listed in the use table and that cannot reasonably be interpreted to fall within the use categories described in this [Article 8](#) are also prohibited.

**5. Supplemental Use Regulations**

The final column of use table identifies supplemental regulations that apply to some uses. Unless otherwise expressly stated, compliance with such regulations is required regardless of whether the use is permitted as-of-right or requires any form of special use approval.

**27-8.10-E. Determination of Use Categories and Subcategories**

1. The community development director is authorized to classify uses on the basis of the use category and subcategory descriptions of this section.
2. When a use cannot be readily classified into a use category/subcategory or appears to fit into multiple categories/subcategories, The community development director is authorized to determine the most similar, and thus most appropriate, use category/subcategory based on the actual or projected characteristics of the principal use or activity in relationship to the use category and subcategory descriptions provided in this section. In making such determina-

tions, the community development director is authorized to consider all of the following:

- a. The types of activities that will occur in conjunction with the use;
  - b. The types of equipment and processes to be used;
  - c. The existence, number and frequency of residents, customers or employees;
  - d. Parking demands associated with the use; and
  - e. Other factors deemed relevant to a use determination.
3. If a use can reasonably be classified in multiple categories, subcategories or specific use types, the community development director must categorize the use in the category, subcategory or specific use type that provides the most exact, narrowest and appropriate match.
  4. If the community development director is unable to determine the appropriate use category for a proposed use, the community development director is authorized to deny the permit request.
  5. Community development director decisions on use determination matters may be appealed in accordance with the appeal procedures of [Article 24](#).

## **27-8.20 Residential Use Category**

The residential use category includes uses that provide living accommodations to one or more persons.

### **27-8.20-A. Household Living Category**

Residential occupancy of a dwelling unit by a household. When dwelling units are rented, tenancy is arranged on a month-to-month or longer basis. Dwelling units rented whole or in part for periods of less than one calendar month are not included in the household living category. They are considered a form of lodging (Sec. 27-8.40-J).

#### **1. Detached House**

A principal residential building containing one dwelling unit located on a single lot with private yards on all sides

#### **2. Attached House**

A residential building containing 2 or more dwelling units, each located on its own lot with a common or abutting wall along shared lot lines. Each dwelling unit has its own external entrance.

#### **3. Multi-unit Building**

A residential building, other than an attached house building, containing 2 or more dwelling units that share common walls and/or common floors/ceilings.

**4. Mixed-use Building, Vertical<sup>48</sup>**

A building in which commercial uses occupy the ground floor and dwelling units occupy one or more upper floors.

**27-8.20-B. Group Living**

Residential occupancy of a dwelling by other than a “household,” typically providing communal kitchen/dining facilities. Examples of group living uses include but are not limited to fraternities, sororities, convents, monasteries, nursing homes and the following specific use types:

**1. Nursing Home**

An establishment providing inpatient, skilled nursing and rehabilitative services to patients who require health care but not hospital services. Care is ordered by and under the direction of a physician.

**2. Personal Care Home**

A building in which housing, meals and 24-hour continuous oversight and care services are provided for one or more ambulatory adults and that is licensed as a personal care home by the Office of Regulatory Services of the State Department of Human Resources.

**a. Congregate Personal Care Home**

A personal care home that offers care to 16 or more persons.

**b. Family Personal Care Home**

A personal care home that offers care to at least 4 but not more than 6 persons.

**c. Group Personal Care Home**

A personal care home that offers care to at least 7 but not more than 15 persons.

**d. Registered Personal Care Home**

A personal care home that offers care to at least one but not more than 3 persons.

**3. Shelter, Homeless**

The provision of overnight housing and sleeping accommodations for one 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.

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<sup>48</sup> This proposed residential building type is not currently allowed in any existing districts.

**4. Supportive Living**

Four or more dwelling units in a single building or group of buildings that 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 24-hour watchful oversight, and that does not require licensure as a personal care home by the Office of Regulatory Services of the State of Georgia Department of Human Resources.<sup>49</sup>

**5. Transitional Housing Facility**

The provision of long-term but not permanent living accommodations for more than 6 persons who have no permanent residence and are in need of long-term housing assistance.

**27-8.30 Quasi-Public and Institutional Category**

The quasi-public and institutional use category includes educational, medical and religious institutions and other quasi-public uses. The quasi-public and institutional use category includes the following use subcategories:

**27-8.30-A. Ambulance Service**

Privately operated ambulance or emergency medical services.

**27-8.30-B. Club or Lodge, Private**

The use of a building or lot by a membership-based organization that restricts access to its facility to bona fide, dues-paying members and their occasional guests. Private clubs and lodges are characterized by definite membership qualifications, payment of fees and dues, regular meetings and a constitution and bylaws. Examples include country clubs and fraternal organizations. This subcategory does not include adult entertainment establishments or adult service facilities.

**27-8.30-C. Cultural Exhibit**

Museum-like preservation and exhibition of objects in one or more of the arts and sciences, museum exhibition of works of art.

**27-8.30-D. Day Care**

Uses providing care, protection and supervision for children or adults on a regular basis away from their primary residence for fewer than 24 hours per day.

**1. Adult Day Care Center**

A day care establishment operated by any person with or without compensation for providing for the care, supervision and oversight only during day-time

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<sup>49</sup> This definition was taken from the DeKalb County zoning ordinance. The term was used but not defined in the city's ordinance.

hours of 7 or more adults who are elderly, physically ill or infirm, physically handicapped or mentally handicapped.

**2. Adult Day Care Facility**

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

**3. Child Day Care Center**

A day care establishment operated by any person with or without compensation providing for the care, supervision and protection of 7 or more children who are under 18 years of age, without transfer of legal custody. Children who are related by blood, marriage, adoption or guardianship to the operators of the day care center must be included when computing the number of children within a child day care center. See also “kindergarten,” which is included in the educational services use classification.

**4. Child Day Care Facility**

A day care establishment operated by any person with or without compensation providing for the care, supervision and protection of 6 or fewer children who are under 18 years of age, without transfer of legal custody. Children who are related by blood, marriage, adoption or guardianship to the operators of the day care facility must be included when computing the number of children within a child day care facility.

**27-8.30-E. Educational Services**

The provision of tuition-based learning opportunities for academic or career advancement purposes.

**1. College or University**

Colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree. They are certified by the state or by a recognized accrediting agency. Colleges tend to be in campus-like settings or on multiple blocks. Examples include universities, liberal arts colleges, community colleges, nursing schools, conservatories and seminaries.

**2. Kindergarten**

An establishment operated for compensation providing for the care, supervision, instruction and protection of 7 or more children who are under 7 years of age, without transfer of legal custody.

**3. Elementary, Middle or Senior High Schools**

Private schools at the primary, elementary, middle school (junior high) or senior high school level that provide state-mandated basic education.

**27-8.30-F. Hospital**

Uses providing medical or surgical care to patients and offering inpatient (overnight) care.

**27-8.30-G. Place of Worship**

A place of public assembly for religious worship that is maintained and controlled by a religious body organized to sustain public worship. Typical uses include synagogues, temples, mosques and churches. Places of worship include 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 kindergartens.

**27-8.30-H. Utility Facility, Essential**

Structures and facilities necessary for the distribution of electricity, gas, water, stormwater, wastewater, communication, transportation or other similar service, excluding telecommunications towers, telecommunications antennas and public utility facilities.

**27-8.40 Commercial Use Category**

The commercial use category includes uses that provide a business service or involve the selling, leasing or renting of merchandise to the general public. The commercial use category includes the following use subcategories.

**27-8.40-A. Adult Use**

**1. Adult Service Facility**

A commercial establishment in which ~~the patrons~~ are directly or indirectly ~~is~~ charged a fee to engage in private, personal contact with employees, ~~other~~ patrons or personnel, primarily for entertainment purposes. Adult service facilities include massage establishments using and steam rooms but do not include or other devices or equipment provided by the establishment, and that is not regulated as sexually oriented businesses or massage establishment. Massage therapy provided as an ancillary activity to a medical service use is not considered an adult service facility.

**2. Body Art Service**

Provision of any of the following procedures: body piercing, tattooing, cosmetic tattooing, branding or scarification. This definition does not include practices that are considered medical procedures by the Georgia Composite Medical Board, which may not be performed in a body art services establishment.

**3. Sexually Oriented Business**

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. See Sec. ~~27-9.190-C~~ for additional definitions.

**27-8.40-B. Animal Services**

The following are animal services use subcategories:

**1. Animal Care/Boarding**

The keeping of and care for companion animals. Typical uses include boarding kennels, pet resorts/hotels, doggy or pet day care facilities, foster care homes, dog training centers and animal rescue shelters.



**2. Animal Grooming**

Grooming of companion animals. Typical uses include dog bathing and clipping salons and pet grooming shops.

**3. Animal Hospital/Veterinary Clinic**

Typical uses include pet and veterinary clinics, dog and cat hospitals and animal hospitals.

**27-8.40-C. Communication Services**

Broadcasting and other information relay services accomplished through use of electronic and telephonic mechanisms. Typical uses include recording studios, television and radio studios and telecommunication towers and antennas.

**1. Telecommunication Facility**

**a. Telecommunications Antenna**

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

**b. Telecommunications Tower**

Any structure that is designed or constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term “telecommunications tower” includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers and alternative tower structures.

**c. Alternative Tower Structure**

A telecommunications tower, the visual presence of which is camouflaged or concealed in the form of a clock tower, campanile, light pole, artificial tree or similarly camouflaged telecommunications antenna-mounting structure.

**27-8.40-D. Construction and Building Sales and Services**

Establishments that provide services, supplies or equipment to construct, develop, repair maintain, or visually enhance a structure or premises. Typical uses include lumber yards, hardware stores, home improvement centers, equipment rental or sales, building contracting/construction businesses and janitorial services, pest control services, landscape maintenance contractors and window cleaning services. Hardware stores, paint stores and similar retail sales businesses that do not include any visible outdoor storage or display are classified under the “retail” use subcategory. Uses that involve only office or administrative functions with no on-site equipment or service vehicle storage are classified under the “office or consumer service” subcategory.

**27-8.40-E. Eating and Drinking Establishments**

Provision of prepared food and/or beverages for on- or off-premises consumption. Typical uses include ice cream shops, bakeries, coffee shops, cafes, restaurants and bars.

**1. Food Truck<sup>50</sup>**

A licensed motor vehicle or other mobile food dispensation unit that is temporarily parked outside of the right-of-way and in which food items are sold to the general public.

**27-8.40-F. Entertainment and Spectator Sports**

Provision of cultural, entertainment, athletic and other events to spectators, such as typically occurs in theaters, cinemas, auditoriums, special events facilities, stadiums and arenas.

**1. Special Events Facility**

A meeting or gathering place for personal social engagements or activities, where people assemble for parties, weddings, wedding receptions, reunions, birthday celebrations, business conferences or similar activities, in which food and beverages may be served to guests.

**27-8.40-G. Financial Services**

Financial or securities brokerage services. Typical uses include federally chartered banks, credit unions, savings and loan associations, consumer investment advisory businesses, pawn shops and check-cashing establishments.

**1. Convenient Cash Business**

**a. Precious Metal Broker**

An establishment engaged in whole or in part in the business of buying gold, precious metals or jewelry.

**b. Check Cashing Establishment**

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

**2. Pawn Shop**

An 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 definition.

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<sup>50</sup> New

**27-8.40-H. Food and Beverage Retail Sales**

Retail sale of food and beverages for off-premise consumption. Typical uses include groceries, liquor stores and wine stores.

**27-8.40-I. Funeral and Interment Services**

Provision of services involving the care, preparation or disposition of human dead. The following are funeral and interment services use subcategories:

**1. Cemetery/Columbarium/Mausoleum**

Land or other facilities used for burial or interment of the dead, including pet cemeteries.

**2. Cremating**

Crematory services involving the purification and reduction of the human body by fire. Typical uses include crematories and crematoriums. (Note: cremating is also considered an accessory use to a cemetery, columbarium or mausoleum)

**3. Undertaking**

Undertaking services such as preparing the dead for burial and arranging and managing funerals. Typical uses include funeral homes and mortuaries.

**27-8.40-J. Lodging**

Provision of lodging ~~services~~ on a temporary basis, which may include with incidental food, drink and other sales and services intended for the convenience of overnight guests. Lodging is most typically offered for transient occupancy for periods of less than one month duration. The following are lodging use ~~s~~categories:

**1. Bed and Breakfast**

A detached house in which the owner offers overnight accommodations and meal service to guests for compensation.

**2. Hotel/Motel**

An establishment, other than a bed and breakfast, in which short-term lodging is offered for compensation and that may or may not include the service of one or more meals to guests. Typical uses include hotels and motels.

**27-8.40-K. Medical Service**

Personal health services including prevention, diagnosis and treatment services provided by physicians, dentists, nurses and other health personnel and medical testing and analysis services. Typical uses include medical and dental offices, including chiropractic offices, physical therapy offices, psychologist and psychiatrist offices, health maintenance organizations, blood banks and health centers.

**27-8.40-L. Office or Consumer Service**

Professional, governmental, executive, management or administrative offices. Typical uses include administrative offices, law offices, architectural and engineering firms, insurance companies, travel agencies, photography studios, tax preparation services and similar offices and consumer service businesses. Medical offices are included under the “medical services” use subcategory.

**27-8.40-M. Parking, Non-Accessory**

Parking that is not provided to comply with minimum off-street parking requirements and that is not provided exclusively to serve occupants of or visitors to a particular use, but rather is available to the public at-large. A facility that provides both accessory parking and non-accessory parking is classified as non-accessory parking.

**27-8.40-N. Personal Improvement Service**

Informational, instructional, personal improvement and similar services of a nonprofessional nature. Typical uses include hair salons, barber shops, beauty shops, nail salons, yoga or dance studios, personal fitness training studios, driving schools and martial arts schools. Health clubs are classified under the “participant sports and recreation” use subcategory.

**27-8.40-O. Repair or Laundry Service, Consumer**

Provision of repair, dry cleaning or laundry services to individuals and households, but not to firms. Excludes vehicle and equipment repair. Typical uses include laundry/dry cleaning drop-off stations (with no dry cleaning on the premises), hand laundries, appliance repair shops, locksmiths, shoe and apparel repair and musical instrument repair.

**27-8.40-P. Research Service**

An establishment that conducts educational, scientific, high-technology or medical research not involving the mass production, distribution or sale of products. Research services do not produce odors, dust, noise, vibration or other external impacts that are detectable beyond the property lines of the subject property. Research-related establishments that do produce such external impacts are classified as “manufacturing and production, light.”

**27-8.40-Q. Retail Sales**

Businesses involved in the sale, lease or rent of new or used products or merchandise to consumers. Typical uses include drug stores, department stores, florists, quick-service copy shops, TV and electronics stores, jewelry stores, camera shops, bike shops, sporting goods stores, office supply stores, furniture stores and apparel stores.

**27-8.40-R. Sports and Recreation, Participant**

Provision of sports or recreation primarily by and for participants. (Spectators are incidental and on a nonrecurring basis). Examples include bowling alleys, health clubs, skating rinks, billiard parlors, driving ranges and miniature golf courses and batting cages.

**27-8.40-S. Vehicle and Equipment Sales and Service**

Sales or rental of motor vehicles and repair and maintenance services for motor vehicles. The following are vehicle sales and service use subcategories:

**1. Car Wash**

A building or site containing facilities for washing automobiles. It may use automatic production line methods—a chain conveyor, blower, steam cleaning

device, or other mechanical device—or it may provide space, water and equipment for hand washing, cleaning or detailing of automobiles, whether by the customer or the operator.

**2. Gasoline Sales**

Uses engaged in retail sales of personal automobile and vehicle fuels including electric vehicle charging stations. Note: Level 1 (slow-charging) and level 2 (medium) battery charging stations are considered accessory uses and are not regulated as auto fueling stations. Gasoline sales uses may include retail sales activities, such as convenience stores.

**3. Vehicle Sales and Rentals**

Sales of autos, trucks, motorcycles, trailers, recreational vehicles and boats, together with incidental maintenance activities. Typical uses include automobile and boat dealers, car rental agencies and recreational vehicle sales and rental agencies.

**4. Vehicle Repair, Minor**

A vehicle repair establishment that provides lubrication and/or checking, changing, or additions of those fluids and filters necessary to the maintenance of a vehicle. Customers generally wait in the car or at the establishment while the service is performed. Examples include quick lube services. Also includes vehicle repair establishments that provide replacement of passenger vehicle parts or repairs that do not involve body work or painting or require removal of the engine head or pan, engine transmission or differential. Examples include tire, muffler and transmission shops.

**5. Vehicle Repair, Major**

Any vehicle repair activity other than “minor vehicle repair.” Examples include repair or servicing of commercial vehicles or heavy equipment or body work, painting, or major repairs to motor vehicles.

**6. Vehicle Storage and Towing**

Storage of operating motor vehicles or vehicle towing services. Typical uses include towing services, private parking tow-aways (tow lots), impound yards and fleet storage yards.

## **27-8.50 Industrial Use Category**

The industrial use category includes uses that produce goods and that store or distribute materials or goods in large quantities. The industrial use category includes the following use subcategories:

**27-8.50-A. Manufacturing and Production, Light**

Manufacturing or refurbishing of finished parts or products, primarily from previously prepared materials. Typical uses include: catering establishments, printing and related support activities; machinery manufacturing; food processing and manufacturing; computer and electronic product manufacturing/assembly; electrical equipment, appliance, component manufacturing/assembly; furniture and related product manufacturing/assembly; and other manufacturing and production establish-

ments that typically have few, if any, negative external impacts on surrounding properties.

**27-8.50-B. Recycling Facilities**

An establishment that collects, stores, or processes recyclable material for the purpose of marketing or reusing the material in the manufacturing of new, reused or reconstituted products.

**1. Recyclable Material Drop-off Facilities**

An establishment that accepts consumer recyclable commodities directly from the consuming party and accumulates or stores them for not more than 30 days. Establishments that process recyclable material are classified as “recyclable material processing facilities.” (Note: small consumer-oriented donation and (recycling) collection drop boxes for items such as clothes, books, newspapers, cans and glass items may be considered an accessory use, subject to the regulations of [Article 10.](#))

**2. Recyclable Material Processing Facilities**

Establishments that receive and process consumer recyclable commodities for subsequent use in the secondary market.

**27-8.50-C. Warehousing, Wholesaling and Freight Movement**

Temporary storage, wholesale sales or distribution of materials and equipment. Typical uses include storage warehouses, self-storage warehouses, moving and storage firms, trucking or cartage operations, truck staging or storage areas, wholesale sales of materials and equipment to entities other than the general public.

**27-8.60 Agriculture and Transportation Use Category**

The agricultural use category includes the following subcategories:

**27-8.60-A. Agriculture**

The use of land for agricultural purposes, including the growing of farm crops and raising or livestock and farm animals.

**1. Community Garden<sup>51</sup>**

An area of land managed and maintained by an individual or group to grow and harvest food crops and/or non-food, ornamental crops, such as flowers, for personal or group use, consumption, sales or donation.

**27-8.60-B. Transportation**

Land and facilities used for or in support of the transport of people.

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<sup>51</sup> New

## Article 9 Supplemental Use Regulations

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### 27-9.10 Animal Services

#### 27-9.10-A. Animal Hospitals and Veterinary Clinics

1. All buildings and outdoor activity areas must be set back at least 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; n~~
2. No boarding ~~or outdoor animal runs or kennels shall be are~~ allowed unless required in connection with medical treatment ~~or when located in a zoning district that allows animal boarding; and no outside runs or kennels shall be authorized.~~
3. ~~When located in a multi-tenant center, the use must be adequately soundproofed and odor-proofed, and pet food must be secured to avoid rodents.~~

#### 27-9.10-B. Animal Care/Boarding and Animal Grooming

1. All buildings and outdoor activity areas associated with animal care/boarding and animal grooming uses must be set back at least 100 feet from any property zoned or used for residential purposes.
2. ~~When located in a multi-tenant center, the use must be adequately soundproofed and odor-proofed, and pet food must be secured to avoid rodents.~~

### 27-9.20 Attached Houses

The following building separation requirements apply to attached house buildings in RA-5 and RA-8 districts. For the purpose of these provisions, the front and rear faces are those exterior building walls generally perpendicular to the party walls between dwelling units and the side face is the exterior building wall that is generally perpendicular to the building's front and rear faces.

- 27-9.20-A.** Building setbacks must be provided as required by the applicable zoning district requirements.
- 27-9.20-B.** Buildings that are front face to front face, rear face to rear face, or front face to rear face must be separated by a distance of at least 60 feet.
- 27-9.20-C.** Buildings that are side face to front face or rear face must be separated by a distance of at least 40 feet.
- 27-9.20-D.** Buildings that are side face to side face must be separated by a distance of at least 20 feet.

**27-9.20-E.** Buildings may not exceed 250 feet in length along any elevation.<sup>52</sup>

~~**27-9.20-F.** Spacing between buildings within a single site, or the width of side and rear setbacks for all high-rise multifamily buildings within the RM-HD district, must be the greater of the zoning district requirements or the separation distance yielded by application of the following formula:  $D = 4 + s + L/10$~~

~~Where:~~

~~D is the minimum required separation distance;~~

~~s is the number of stories in the building; and~~

~~L is the length of the building wall.~~

### **27-9.30 Bed and Breakfast**

Bed and breakfast are subject to all of the following regulations:

**27-9.30-A.** A bed and breakfast must be occupied by the owner or renter-occupant of the dwelling.

**27-9.30-B.** The minimum lot area requirement for a bed and breakfast is 20,000 square feet.

**27-9.30-C.** A dwelling must have a minimum floor area of at least 2,500 square feet in order to be used for a bed and breakfast.

**27-9.30-D.** No separate kitchen facilities are allowed for the bed and breakfast.

**27-9.30-E.** The exterior residential appearance of the dwelling must be maintained, and no signs other than those otherwise permitted within the subject zoning district are allowed.

**27-9.30-F.** Meals may be served only to members of the resident household and to registered overnight guests of the bed and breakfast.

**27-9.30-G.** Business and accounting records for the bed and breakfast use must be made available to the city upon request to verify compliance with regulations.

**27-9.30-H.** Guests may not stay longer than 7 nights and may not re-register for a period of 30 days.

### **27-9.40 Car Washes**

Wastewater from car washes must drain directly into the public sanitary sewer unless otherwise approved by the city. Car washes are subject to the drive-through requirements of Sec. 27-12.110.

### **27-9.50 Community Gardens<sup>53</sup>**

Community gardens are subject to the following regulations.

**27-9.50-A.** A community garden area may be divided into separate garden plots for cultivation by one or more individuals or may be farmed collectively by members of the group.

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<sup>52</sup> The building spacing requirements of paragraph 6 are proposed for elimination because they appear redundant with those of paragraphs 2–4, and because the formula ( $D = 4 + s + L/10$ ) does not appear to result in more useful spacing requirements.

<sup>53</sup> New provisions.



- 27-9.50-B.** Community garden group members may or may not reside on the subject property.
- 27-9.50-C.** Community gardens are subject to all front and street side setback regulations of the zoning district in which they are located.
- 27-9.50-D.** Any structure used in conjunction with a community garden must comply with the following requirements:
1. Be located at least 10 feet from any property line.
  2. If the total area of structures used in conjunction with a community garden does not exceed 64 square feet, the structures are not considered accessory buildings. Otherwise, all structures used for community gardens are accessory buildings and must comply with all applicable accessory use and structure regulations.
  3. The following are not considered structures for the purposes of this section: benches, bike racks, cold-frames, hoop houses, raised/accessible planting beds, compost or waste bins, picnic tables, garden art, rain barrel systems and children's play areas.
- 27-9.50-E.** The site must be designed and maintained so that water will not drain onto adjacent property.
- 27-9.50-F.** Sales and donation activities may occur only in locations where retail sales are an allowed use, provided that on-site sale and donation of crops grown on a community garden site may be authorized as a temporary use in accordance with Sec. [27-11.30-C](#).

**27-9.60 ~~Check Convenient Cash Businesses Establishments~~**

- 27-9.60-A.** ~~Check-cashing establishments~~ Convenient cash businesses are allowed only on lots with ~~direct access to frontage on~~ a major ~~thoroughfare~~ arterial.<sup>54</sup>
- 27-9.60-B.** ~~Check-cashing establishments~~ Convenient cash businesses may not be located within 1,000 feet of an existing convenient cash business ~~check-cashing establishment~~, pawn shop or liquor store. This separation distance must be measured as a straight-line distance between the main customer entrance doors of the existing and proposed uses or between the main customer entrance door of the proposed use and the lot line of the property occupied by the existing use, whichever method results in the greater separation distance.
- ~~Check-cashing establishments may operate only as an independent use and may not be combined with any other use.~~

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<sup>54</sup> Change in terminology reflects city new transportation plan.

## 27-9.70 Day Cares

### 27-9.70-A. Adult Day Care Center

All outdoor recreation areas associated with adult day care centers must be enclosed by a fence or wall at least 4 feet in height.

### 27-9.70-B. Adult Day Care Facility

Adult day care facilities are subject to all of the following requirements:

1. All outdoor recreation areas must be enclosed by a fence or wall at least 4 feet in height.

~~No adult day care facility may be located within 1,000 feet of another adult day care facility.~~

2. Persons seeking to operate an adult day care facility must file a permit application with the ~~public works-community development~~ department. Each application must be accompanied by the applicant's affidavit certifying the maximum number of adults that will be served simultaneously and that the proposed adult day facility will meet and be operated in accordance with all applicable state laws and regulations and with all ordinances and regulations of the city ~~county~~. The ~~public works-community development~~ department may require that the applicant provide additional information deemed necessary to determine whether the proposed facility will meet applicable laws, ordinances and regulations. If a proposed adult day care facility is required to obtain a certificate of registration from the state department of human resources, a permit for the operation of the facility may not be issued until proof has been submitted by the applicant that the certificate of registration has been obtained.

### 27-9.70-C. Child Day Care Center

All outdoor play areas associated with child day care centers must be enclosed by a fence or wall at least 4 feet in height.

### 27-9.70-D. Child Day Care Facility

Child day care facilities are subject to all of the following requirements:

1. At least 30 square feet of indoor play area must be provided for each child, based on maximum allowed enrollment.
2. At least 100 square feet of outdoor play area must be provided for each child, based on maximum allowed enrollment. All outdoor play areas must be enclosed by a fence or wall at least 4 feet in height.
3. Not more than 50% of the floor area of a residence may be used for a child day care facility.
4. The exterior residential appearance of the dwelling must be maintained, and no signs other than those otherwise permitted within the subject zoning district are allowed. No cut-outs, animal characters, or other graphics may be affixed to the exterior of the building or displayed on the premises.

~~No child day care facility may be located within 1,000 feet of another child day care facility.~~

5. Persons seeking to operate a child day care facility must file a permit application with the ~~public works~~-community development department. Each application must be accompanied by the applicant's affidavit certifying the maximum number of children that will be served simultaneously and that the proposed child 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 city-county. The ~~public works~~-community development department may require that the applicant provide additional information deemed necessary to determine whether the proposed facility will meet applicable laws, ordinances and regulations. If a proposed child day care facility is required to obtain a certificate of registration from the state department of human resources, a permit for the operation of the facility may not be issued until proof has been submitted by the applicant that the certificate of registration has been obtained.
6. In reviewing and acting on special land use permit applications for child day care facilities, authorized review and decision-making bodies must consider the following factors in addition to the generally applicable special land use permit approval criteria of Sec. [27-19.90](#):
  - a. Whether there is adequate off-street parking for all staff members and for visitors to the child day care facility;
  - b. Whether the proposed off-street parking areas and the proposed outdoor play areas can be adequately screened from adjacent properties so as not to adversely impact any adjoining land use;
  - c. Whether there is an adequate and safe location for the dropping off and picking up of children at the child day care facility; and
  - d. Whether the character of the exterior of the proposed structure will be compatible with the residential character of any surrounding residential buildings.

## **27-9.80 Food Trucks**<sup>55</sup>

Food trucks are subject to all of the following regulations:

- 27-9.80-A.** Food trucks may only be located on a lot containing a principal building or use.
- 27-9.80-B.** The number of food trucks allowed per lot is limited as follows:
  1. A maximum of one food truck is allowed on lots with less than 20,000 square feet of lot area.
  2. On lots with an area of 20,000 square feet or more, 2 food trucks are allowed, plus one additional food truck for each additional 20,000 square feet of lot area above 20,000 square feet.

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<sup>55</sup> New provisions.

3. The number of food trucks allowed may be increased above the limits established in this section if approved in accordance with the special land use permit procedures of [Article 19](#).

- 27-9.80-C.** Food trucks must be located at least 100 feet from the main entrance of any eating or drinking establishment and at least 100 feet from any outdoor dining area serving a non-food truck eating or drinking establishment.
- 27-9.80-D.** Food trucks may not obstruct pedestrian, bicycle or vehicle circulation routes, and must be set back at least 5 feet from the edge of any driveway or public sidewalk and at least 15 feet from fire hydrants.
- 27-9.80-E.** Food trucks and any associated seating areas may not occupy parking spaces provided to meet the minimum parking requirements of the principal use, unless the principal use's hours of operation do not coincide with those of the food truck business. Food trucks may not occupy any parking spaces reserved for persons with disabilities.
- 27-9.80-F.** No freestanding signs or audio amplification are allowed as part of the food truck's operation.
- 27-9.80-G.** Hours of operation of food trucks are limited to the hours between 6:00 a.m. and 11:00 p.m.
- 27-9.80-H.** Food trucks and associated outdoor seating must be removed from all permitted locations when not in operation.
- 27-9.80-I.** Operators are responsible for ensuring that all waste is disposed of in accordance with city regulations and for maintaining all areas used for food vending and customer activity in a safe and clean condition.

## **27-9.90 Gasoline Sales**

- 27-9.90-A.** Gasoline pumps, [electric vehicle charging equipment](#) and other vehicle service areas must be set back at least 30 feet from all rights-of-way, provided that canopies over gas pump areas are subject to a minimum 15-foot setback.
- 27-9.90-B.** Major vehicle repair activities may be conducted in association with the gasoline sales uses only in those zoning districts that allow major vehicle repair uses.
- 27-9.90-C.** Rental of vehicles or trailers is allowed as an accessory use to a gasoline sales use if the subject lot is at least one acre in area. Parking or storage areas for vehicles or trailers available for lease or rental may be located only in side or rear yard areas.

## **27-9.100 Homeless Shelters and Transitional Housing Facilities**

The maximum allowed capacity of any homeless shelter or transitional housing facility in the RM-150 district is 6 persons. In all other districts in which homeless shelters or transitional housing facilities are allowed, they may not exceed a maximum capacity of 20 persons.

## **27-9.110 Kindergartens**

All outdoor recreation areas for a kindergarten must be enclosed by a fence or wall at least 4 feet in height.

### 27-9.120 Multi-unit Residential Buildings

The following building separation requirements apply to all multi-unit buildings in RM-150, RM-100, RM-85, RM-75, RM-HD districts.

- 27-9.120-A.** Building setbacks must be provided as required by the applicable zoning district requirements.
- 27-9.120-B.** Buildings that are front face to front face, rear face to rear face, or front face to rear face must be separated by a distance of at least 60 feet.
- 27-9.120-C.** Buildings that are side face to front face or rear face must be separated by a distance of at least 40 feet.
- 27-9.120-D.** Buildings that are side face to side face must be separated by a distance of at least 20 feet.
- 27-9.120-E.** Buildings may not exceed 250 feet in length along any elevation.<sup>56</sup>

~~1. Spacing between buildings within a single site, or the width of side and rear setbacks for all high-rise multifamily buildings within the RM-HD district, must be the greater of the zoning district requirements or the separation distance yielded by application of the following formula:  $D = 4 + s + L/10$~~

~~Where:~~

~~D is the minimum required separation distance;~~

~~s is the number of stories in the building; and~~

~~L is the length of the building wall.~~

### 27-9.130 Parking, Non-accessory

Non-accessory parking garages may include gasoline pumps if the pumps are located entirely within the parking garage structure.

### 27-9.140 Pawn Shops

The following provisions apply to all pawn shop uses:

- 27-9.140-A.** Pawn shops are allowed only on lots with ~~direct access frontage~~ on a major ~~thoroughfare~~ arterial.<sup>57</sup>
- 27-9.140-B.** Pawn shops may not be located within 1,000 feet of an existing pawn shop or ~~check cashing establishment~~ convenient cash business. This separation distance must be measured as a straight-line distance between the main customer entrance doors of the existing and proposed uses or between the main customer entrance door of the proposed use and the lot line of the property occupied by the existing use, whichever method results in the greater separation distance.

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<sup>56</sup> The building spacing requirements of paragraph 6 are proposed for elimination because they appear redundant with those of paragraphs 2–4, and because the formula ( $D = 4 + s + L/10$ ) does not appear to result in more useful spacing requirements.

<sup>57</sup> Change in terminology reflects city new transportation plan.

### **27-9.150 Personal Care Homes**

Congregate personal care homes may be approved in R districts only when located on a campus with a land area of at least 25 acres.

### **27-9.160 Places of Worship, Convents and Monasteries**

The following regulations apply to places of worship, convents, monasteries and their accessory uses:

~~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 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 20 feet for a side yard and no less than 30 feet for a rear yard.~~

~~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.~~

~~When located in a residential district, the parking areas and driveways for any such uses shall be located at least 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.~~

**27-9.160-A.** In residential zoning districts, places of worship, convents and monasteries require a minimum lot area of 3 acres, with a minimum public street frontage of 100 feet. These minimum lot area and frontage regulations apply only to places of worship, convents and monasteries developed or established after July 29, 1970.

**27-9.160-B.** Places of worship, convents and monasteries in residential districts are allowed only on lots with ~~shall be located only frontage~~ on a major or minor ~~thoroughfare~~arterial.<sup>58</sup> These minimum lot area and frontage regulations apply only to places of worship, convents and monasteries developed or established after July 29, 1970. Any place of worship, convent or monastery with frontage on a street other than a major or minor arterial is considered a nonconforming use if constructed pursuant to a development permit issued between July 30, 1970 and April 13, 1999.

**27-9.160-C.** Uses, buildings or structures operated by a place of worship that are not specifically included within the “place of worship” use subcategory (See Sec. [27-8.30-G](#)) are allowed only in districts where those uses are allowed.

### **27-9.170 Residential Infill**

The residential infill regulations of this subsection apply to detached houses:

#### **27-9.170-A. Building Height**

##### **1. Replacement of a Detached House**

The proposed front door threshold elevation for any new detached house may not be more than 2 feet higher than the front door threshold elevation of the residential structure that existed on the lot prior to demolition. If there was no previous residential structure on the subject lot, then the proposed front door threshold elevation for a new detached house on the lot may not be more than

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<sup>58</sup> Change in terminology reflects city new transportation plan.

2 feet higher than the average elevation of the existing natural grade at the front building line. If the proposed construction would require alteration or eradication of the original threshold, then the original elevation must be measured and certified by a licensed surveyor or engineer.

**2. Sewer Elevation**

If an existing dwelling or lot is not connected to county sewer and if the community development director determines that the proposed residence is unable to be connected to county sewer within the allowable front door threshold height, then the community development director is authorized to approve a maximum 3-foot increase in threshold height above the threshold elevation allowed by Sec. [27-9.170-A](#) allowing for gravity flow into the existing sewer tap. The community development director's determination must be based on sewer line elevation data and other evidence provided by the applicant and any other pertinent information available to the director.

**3. Topographical Conditions**

If exceptional topographical restrictions exist on the subject lot that were not created by the owner or applicant, the community development director is authorized to approve a maximum 3-foot increase in threshold height above the threshold elevation allowed by Sec. [27-9.170-A](#). The applicant must provide a site plan, including topography, certified by an engineer or landscape architect.

**4. Threshold Averaging**

The community development director is authorized to approve proposed front door threshold elevations for new detached houses that exceed the threshold elevation allowed by Sec. [27-9.170-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 abutting the subject lot. When using threshold averaging, the height of the new residence may not exceed 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. The applicant must provide the community development director with the threshold elevations, as certified by a licensed surveyor or engineer.

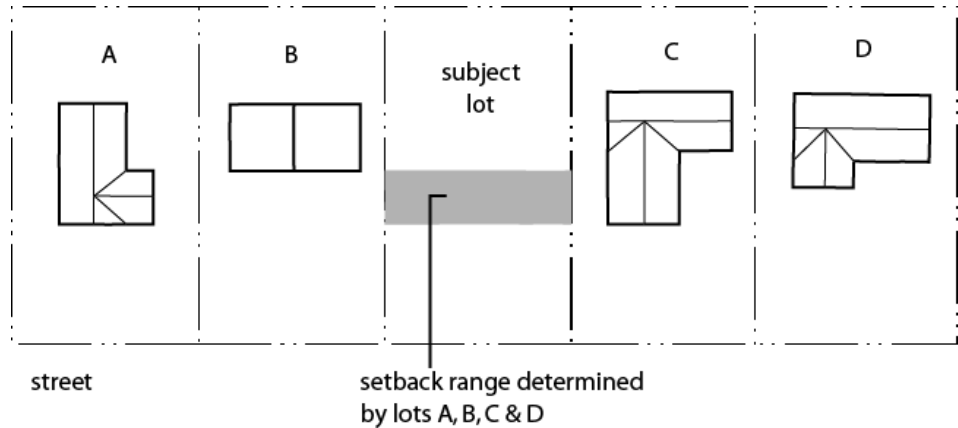
**27-9.170-B. Contextual Street Setbacks<sup>59</sup>**

Detached houses constructed on block faces that are occupied by 2 or more existing detached houses must comply with the contextual street setback regulations of this subsection.

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<sup>59</sup> These are new; added in response to public comments regarding the possible need for additional controls on residential infill development.

1. The street facing façade of a detached house subject to these contextual street setback regulations must be located within the range of street setbacks observed by detached houses that exist on the nearest 2 lots on either side of the subject lot.



2. If one or more of the nearest 2 lots on either side of the subject lot is vacant, the vacant lot will be deemed to have a street setback depth equal to the minimum street setback requirement of the subject zoning district.
3. Illustration to be inserted
4. Lots with frontage on a different street than the subject lot or that are separated from the subject lot by a street or alley may not be used in determining the street setback range.
5. If the subject lot is a corner lot, the street setback range must be determined on the basis of the nearest 2 lots with frontage on the same street as the subject lot.
6. If the subject lot abuts a corner lot with frontage on the same street, the street setback range must be determined on the basis of the abutting corner lot and the nearest 2 lots with frontage on the same street as the subject lot.
7. These contextual street setback regulations may not be used to reduce the setback of a street-facing garage door to less than 20 feet.

#### **27-9.170-C. Building Plans**

Building plans for a detached house must be submitted for review and approval prior to issuance of a building permit. Plans must contain all information necessary to determine compliance with the building code and this zoning ordinance.

#### **27-9.180 Schools, (Private) Elementary, Middle or Senior High**

The following minimum lot area requirements apply to private elementary, private middle schools and private senior high schools that require special land use approval:

- 27-9.180-A.** Elementary school: 5 acres plus one additional acre for each 100 students, based on the design capacity of the school.



**27-9.180-B.** Middle school: 12 acres plus one additional acre for each 100 students, based on the design capacity of the school.

**27-9.180-C.** High school: 20 acres plus one additional acre for each 100 students, based on the design capacity of the school.

## **27-9.190 Sexually Oriented Businesses**

### **27-9.190-A. Purpose**

It is the purpose of the city 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 article 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 article 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 article to condone or legitimize the distribution of obscene material.

### **27-9.190-B. Findings and Rationale**

1. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the mayor and 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 F.3d 1251 (11th Cir. 1999); *David Vincent, Inc. v. Broward County*, 2000 F.3d 1325 (11th Cir. 2000); *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 and 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 and Spirits, Inc. v. City of College Park*, 265 Ga. 618 (1995); *Airport Bookstore, Inc. v. Jackson*, 214 (1978); and

2. 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);
3. The mayor and city council finds:
  - a. 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.
  - b. 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.

- c. 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 article, 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 article are reasonably believed to be relevant to said secondary effects.
4. 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.

#### **27-9.190-C. Definitions**

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

1. *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, videocassettes, 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 exists where the commercial establishment meets any one or more of the following criteria:
  - a. At least 25% of the establishment's displayed merchandise consists of the foregoing items;
  - b. At least 25% of the wholesale value of the establishment's displayed merchandise consists of the foregoing items;
  - c. 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;
  - d. At least 25% of the establishment's revenues derive from the sale or rental, for any form of consideration, of the foregoing items;
  - e. 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 those items are included in interior business space maintained for the display, sale, or rental of said items);

- f. The establishment maintains at least 500 square feet of its interior business space for the display, sale and/or rental of the foregoing items (aisles and walkways used to access those items are included in interior business space maintained for the display, sale, or rental of said items) and limits access to the premises to adults only;
        - g. The establishment offers for sale or rental at least 1,000 of the foregoing items and limits access to the premises or to the portion of the premises occupied by said items to adults only;
        - h. 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
        - i. The establishment 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.
- 2. *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.
- 3. *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.
- 4. *Characterized by* means describing the essential character or quality of an item. As applied in this article, 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.
- 5. *Interior business space* means the floor area inside a sexually oriented business that is visible or accessible to patrons for any reason, excluding restrooms.
- 6. *Nudity or 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.
- 7. *Operate or cause to operate* means to cause to function or to put or keep in a state of doing business. The term "operator" means any person on the premises.

es 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.

8. *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.
9. *Regularly* means the consistent and repeated doing of an act on an ongoing basis.
10. *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 includes the lower portion of the human female breast, but does 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.
11. *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:
  - a. By a college, junior college, or university supported entirely or partly by taxation;
  - b. 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
  - c. 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.
12. *Sexual device* means any three-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 includes 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 defi-

inition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

13. *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.
14. *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.
15. *Specified anatomical areas* mean and include:
  - a. 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
  - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
16. *Specified sexual activity* means any of the following:
  - a. Intercourse, oral copulation, masturbation or sodomy; or
  - b. Excretory functions as a part of or in connection with any of the activities described in subsection (1) of this definition.

#### 27-9.190-D. Standards

1. Sexually oriented businesses are subject to the following standards:
  - a. It is unlawful to establish, operate, or cause to be operated a sexually oriented business in the city, unless said sexually oriented business is at least:
    - (1) 500 feet from any parcel in the city zoned ~~R-200~~, R-150, ~~R-30,000~~, ~~R-20,000~~, R-100, R-85, R-75, R-60, RA-5, R-50, RA-8, ~~R-CH~~, ~~R-CD~~, ~~R-DT~~, RM-150, RM-100, RM-85, RM-75, or RM-HD, ~~MHP, TND, or NCD~~;
    - (2) 600 feet from any business in the city licensed by the state to sell alcohol on the premises; and
    - (3) 1,000 feet from any ~~house-place~~ of worship or a public or private elementary or secondary school in the city.
  - b. For the purpose of this subsection, measurements must 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 zoned ~~R-200~~, R-150, ~~R-30,000~~, ~~R-20,000~~, R-100, R-85, R-75, R-60, RA-5, R-50, RA-8, ~~R-CH~~, ~~R-CD~~, ~~R-DT~~, RM-150, RM-100, RM-85, RM-75, or RM-HD, ~~MHP, TND, or NCD~~. Measurements must 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 occupied by a house of worship, public or private elementary or secondary school, or a business licensed by the state to sell alcohol on the premises.

2. All sexually oriented businesses must 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 1,000 feet of the boundary lines of the subject property.
3. Each sexually oriented business must provide off-street parking spaces as required by [Article 12](#).

## **27-9.200 Telecommunications Towers and Antennas**

The regulations of this section apply to all telecommunications towers and antennas.

### **27-9.200-A. Co-located Antennas**

Antennas that are attached or affixed to existing telecommunications towers or other existing structures are permitted as of right in all zoning districts, provided that the antenna does not project higher than 10 feet above the height of the structure to which it is attached. Antennas that project more than 10 feet above the height of the structure to which it is attached require administrative permit approval in accordance with [Article 23](#). Building-mounted antennas in residential zoning districts must be visually screened from view of all abutting lots. Building-mounted antennas in other zoning districts must be screened or designed and installed so as to make the antenna and related equipment as visually unobtrusive as possible.

### **27-9.200-B. Federal Law**

The regulations of this section must be applied within the constraints of the Telecommunications Act of 1996 and Section 6409 of the Middle Class Tax Relief and Job Creation Action of 2012.

### **27-9.200-C. Regulations**

1. Telecommunication towers ~~or antenna~~ that require administrative permit approval are subject to the following setbacks:
  - a. If located on a lot abutting a residential zoning district or a lot occupied by a residential use, the tower must be set back from the zoning district or lot boundary by a minimum distance of one-half the overall height of the tower ~~and antenna~~ or 200 feet, whichever is greater; or
  - b. If located on a lot abutting a nonresidential or mixed-use district that is not occupied by a residential dwelling, the tower must be set back from the abutting lot by a minimum distance of 33% of the overall height of the tower ~~and antenna~~ or 200 feet, whichever is greater.



2. Telecommunications towers ~~or antenna~~ that require special land use permit approval must be set back at least 200 feet from any property line, unless a greater setback is expressly required as part of the special land use permit approval.
3. Telecommunications towers ~~and antennas~~ must 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. These color and design requirements do not apply to alternative tower structures.
4. At a tower site, the design of the buildings and related structures must, 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.
5. Towers may not be artificially lighted, unless required by the Federal Aviation Administration, Federal Communications Commission or other applicable authority. If lighting is required, it must be done in a way that minimizes the disturbance to surrounding views.
6. Telecommunications towers ~~and antennas~~ must be entirely enclosed by a security fence of at least 6 feet in height. Towers must be equipped with an anti-climbing device. This requirement does 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~~ must be landscaped with plant material that effectively screens the tower site from adjacent uses. Existing tree growth and natural land forms on-site must be preserved to the maximum extent possible. At a minimum, a landscaped strip 10 feet in width must be provided around the perimeter of the tower site.
8. Telecommunications towers ~~and antennas~~ must be constructed to the minimum height necessary to accomplish their required telecommunications purpose.
9. The environmental effects of radio frequency emissions may not serve as a basis to approve, deny or otherwise regulate a telecommunications tower ~~or antenna~~ to the extent that emissions comply with Federal Communications Commission regulations.
10. All decisions denying a request to place, construct or modify a telecommunications tower ~~or antenna~~ must be in writing and be supported by a written record documenting the reasons for the denial and the evidence in support of the decision. Decisions must be made within a reasonable time from the date a completed application is duly filed.
11. Each applicant requesting approval of a telecommunications tower ~~or antenna~~ must provide to the community development director as a part of the application an inventory of its existing towers that are either within the city or within



one-quarter mile of the city boundaries, including information regarding the location, height and design of each tower. The community development director may share this information with other applicants or with other organizations seeking to locate a telecommunications tower ~~or antenna~~ within the city. In sharing this information, the community development director is not in any way representing or warranting that the sites are available or suitable.

12. No new telecommunication tower may be permitted unless the applicant demonstrates that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence must be submitted at the time of application demonstrating that no existing tower or structure can accommodate the applicant's proposed antenna and may consist of one or more 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; or
  - f. There are other limiting factors that render existing towers and structures unsuitable.
13. The placement of additional buildings or other supporting equipment necessarily required in connection with an otherwise authorized telecommunication tower or antenna is specifically authorized.
14. Any telecommunications antenna or tower that is not operated for a continuous period of 6 months will be considered abandoned, and the owner of such antenna or tower must remove the antenna or tower within 90 days of receipt of notice from the city.

**27-9.200-D. Special Land Use Permit Approval Criteria**

In reviewing and acting on special land use permit applications for telecommunication towers, authorized review and decision-making bodies must consider the following factors in addition to the generally applicable special land use permit approval criteria of Sec. [27-19.90](#):

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 telecommunication tower regulations of this section.

#### **27-9.210 Utility Facilities, Essential**

~~All essential utility structures must 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~~ Essential utility facility structures are subject to the lot and building regulations of the subject zoning district. ~~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.~~

#### **27-9.220 Vehicle Repair, Major**

- 27-9.220-A.** Major vehicle repair uses may not be located within 300 feet of school, park, playground or hospital, as measured between lot lines.
- 27-9.220-B.** Major vehicle repair uses may not be located on a lot that is adjacent to or directly across the street from any R or RM district.
- 27-9.220-C.** All service and repair activities must be conducted entirely within an enclosed building.

#### **27-9.230 Vehicle Repair, Minor**

All minor vehicle repair establishments must 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.~~

#### **Auto Parts Store**

~~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:~~

~~There shall be no dismantling of vehicles on the premises to obtain automobile parts.~~

~~There shall be no automobile parts installation other than the installation of tires and the installation of minor accessory parts.~~

~~Major automobile repair shall not be permitted in connection with these uses.~~

#### **27-9.240 Vehicle Sales and Rental**

- 27-9.240-A.** Vehicle sales and rental uses require a minimum lot area of one acre.
- 27-9.240-B.** All vehicles and trailers must be set back at least 30 feet from all rights-of-way.

~~All parking areas must be clearly marked and no vehicles or trailers may be parked outdoors other than within these marked parking areas, except when being serviced. The lot shall be no less than one acre in area, but such lot size requirement shall be reduced to one-half acre in area if the owner of the affected automobile, truck and trailer lease and rental entity provides written proof to the community development director or designee that 100 or more of the owner's vehicles available for lease or rental are registered in the city. If the lot is one-half acre in area, at no time shall the number of vehicles parked on the lot exceed 25 vehicles.~~

## **27-9.250 Vehicle Storage and Towing**

- 27-9.250-A.** Vehicle storage and towing uses may not be located within 1,000 feet of any residential district or lot containing a residential use, as measured between lot lines.
- 27-9.250-B.** Vehicle storage and towing uses must be enclosed by a wall that is at least 8 feet in height and that provides complete visual screening of stored vehicles.
- 27-9.250-C.** No dismantling, repair or other activity may be conducted on the premises.
- 27-9.250-D.** Vehicles at impound or towing establishments may not be held longer than provided by state ~~and county~~ law.

### **~~Commercial Recreation and Entertainment~~**

~~The following shall apply to commercial recreation and entertainment uses:~~

#### **~~Drive-in theaters~~**

~~The following provisions shall apply to drive-in theaters:~~

- ~~a. — The theater screen, projection booth or other buildings shall be set back not less than 50 feet from any property line.~~
- ~~b. — Driving and parking areas shall be paved.~~
- ~~c. — Ingress and egress from a public street shall be so designed and constructed as to provide for safe traffic movement.~~
- ~~d. — Central loudspeakers shall be prohibited.~~
- ~~e. — The theater screen shall not be visible from any freeway or principal or major arterial street.~~
- ~~f. — The theater shall be enclosed by a six-foot screening fence and shall provide a buffer area ten feet in width.~~

#### **~~Fairgrounds and amusement parks~~**

~~The following provisions shall apply to fairgrounds and amusement parks:~~

- ~~a. — All buildings and structures associated with such uses shall be set back not less than 200 feet from any property line.~~
- ~~b. — Such uses shall not be permitted within 500 feet of a residential district.~~
- ~~c. — Such facilities shall be enclosed by a six-foot screening fence.~~

#### **~~Golf driving ranges and batting cage facilities~~**

~~The following provisions shall apply to golf driving ranges and batting cage facilities:~~

- ~~a. — Such uses shall be enclosed by a six-foot screening fence and a buffer area ten feet in width to screen adjacent property.~~
- ~~b. — Central loudspeakers shall be prohibited.~~
- ~~c. — 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.~~

#### **~~Miniature golf courses~~**

~~The following provisions shall apply to miniature golf courses:~~

~~a. — Such uses shall be enclosed by a six foot screening fence and a buffer ten feet in width to screen adjacent property.~~

~~b. — Central loudspeakers shall be prohibited.~~

~~c. — 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.~~

#### **Golf courses**

~~The following provisions shall apply to golf courses:~~

~~a. — Such uses shall be enclosed by a screening fence six feet in height to screen adjacent property.~~

~~b. — Except for emergency purposes, loudspeakers shall be prohibited.~~

~~c. — 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.~~

~~Recreation grounds, fishing lakes and other related facilities~~

~~The following provisions shall apply to recreation grounds and facilities:~~

~~a. — Such uses shall be enclosed by a screening fence six feet in height to screen adjacent property.~~

~~b. — Central loudspeakers shall be prohibited.~~

~~c. — 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.~~

#### **Tennis centers, clubs and facilities**

~~The following provisions shall apply to tennis centers, clubs and facilities:~~

~~a. — Such uses shall be enclosed by a screening fence six feet in height to screen adjacent property.~~

~~b. — Central loudspeakers shall be prohibited.~~

~~c. — 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.~~

#### **Go-cart concessions**

~~The following provisions shall apply to go-cart concessions:~~

~~a. — All buildings and structures associated with such use shall be set back not less than 200 feet from any property line.~~

~~b. — Such use shall not be permitted within 500 feet of the boundary of a residential district.~~

~~c. — Such use shall be enclosed by a six foot wall.~~

~~d. — The maximum motor size of any cart used shall not exceed five horsepower.~~

~~e. — The maximum area occupied by the facility shall not exceed 40,000 square feet.~~

# Article 10 Accessory Uses

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## 27-10.10 Generally Applicable Regulations

### 27-10.10-A. Accessory Uses Allowed

Accessory uses and structures are permitted in connection with lawfully established principal uses.

### 27-10.10-B. Accessory Use Determinations

The community development director is authorized to determine when a use, building or structure meets the criteria of an accessory use or accessory structure. In order to classify a use or structure as “accessory” the community development director must determine that the use or structure:

1. Is customarily found in conjunction with the subject principal use or principal structure;
2. Is subordinate and clearly incidental to the principal use; and
3. Provides a necessary function for or contributes to the comfort, safety or convenience of occupants of the principal use.

### 27-10.10-C. Time of Construction and Establishment

1. Accessory uses may be established only after the principal use of the property is in place.
2. Accessory buildings may be established in conjunction with or after the principal building. They may not be established before the principal building is in place.

### 27-10.10-D. Location

Accessory uses and structures must be located on the same lot as the principal use to which they are accessory, unless otherwise expressly stated.

### 27-10.10-E. Accessory Buildings and Structures

#### 1. Applicable Regulations and Standards

Accessory buildings and structures are subject to the same regulations and standards as apply to principal uses and structures on the subject lot, unless otherwise expressly stated. Accessory buildings attached to the principal building by a breezeway, passageway or similar means are subject to the building setback regulations that apply to the principal building.

#### 2. Building Separation

Accessory buildings must be separated by a minimum distance of 10 feet from the principal building on the lot, unless the accessory building is located entirely within the principal building setbacks, in which case no separation is required.

### **27-10.20 Amateur Radio Service Antenna Structures**

Amateur radio service antenna structures over 70 feet in overall height require review and approval in accordance with the special land use permit procedures of [Article 19](#). All amateur radio service antenna structures must be set back from all property lines a distance equal to at least one-half the height of the structure's overall height.

### **27-10.30 Home Occupations**

#### **27-10.30-A. Purpose<sup>60</sup>**

The home occupation regulations of this section are intended to allow Dunwoody residents to engage in customary home-based work activities, while also helping to ensure that neighboring residents are not subjected to adverse operational and land use impacts (e.g., excessive noise or traffic or public safety hazards) that are not typical of residential neighborhoods.

#### **27-10.30-B. Type A and Type B Home Occupations**

Two types of home occupations are defined and regulated under this section: Type A and Type B.

##### **1. Type A Home Occupations**

Type A home occupations are those in which household residents use their home as a place of work, with no employees, customers or clients coming to the site. Typical examples include telecommuting office workers, writers, consultants, artists and crafts people.

##### **2. Type B Home Occupations**

Type B home occupation are those in which household residents use their home as a place of work and either one non-resident employee or customers come to the site. Typical examples include tutors, teachers, photographers and licensed therapists or counselors.

#### **27-10.30-C. Exemptions**

##### **1. Personal Care Homes**

Personal care homes are not regulated as home occupations and are exempt from the home occupation regulations of this section. Personal care homes are allowed as indicated in the use tables of Sec. [27-4.20](#) and Sec. [27-5.20](#). Supplemental regulations applicable to some personal care homes can be found in Sec. [27-9.150](#).

##### **2. Day Care**

Day care uses are not regulated as home occupations and are exempt from the home occupation regulations of this section. Day care uses are allowed as indi-

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<sup>60</sup> These draft home occupations represent a substantive modification of the regulations found in 27-1321 of the current ordinance.

cated in the use tables of Sec. [27-4.20](#) and Sec. [27-5.20](#). Supplemental regulations applicable to some day care uses can be found in Sec. [27-9.70](#).

**3. Bed and Breakfast**

Bed and breakfasts are not regulated as home occupations and are exempt from the home occupation regulations of this section. Bed and breakfasts are allowed as indicated in the use tables of Sec. [27-4.20](#) and Sec. [27-5.20](#). Supplemental regulations applicable to bed and breakfasts can be found in Sec. [27-9.30](#).

**27-10.30-D. Prohibited Home Occupations**

The following uses are expressly prohibited as home occupations:

1. any type of assembly, cleaning, maintenance or repair of vehicles or equipment with internal combustion engines or of large appliances (such as washing machines, clothes dryers or refrigerators);
2. dispatch centers or other businesses where employees come to the site and are dispatched to other locations;
3. equipment or supply rental businesses;
4. taxi, limo, van or bus services;
5. tow truck services;
6. [places of worship](#);
7. taxidermists;
8. restaurants;  
[tattoo, piercing](#);  
[fortune telling or psychic services](#)
9. funeral or interment services;
10. animal care, grooming or boarding businesses; [and](#)
11. [any use involving the use or storage of vehicles, products, parts, machinery or similar materials or equipment outside of a completely enclosed building.](#)

**27-10.30-E. Where Allowed**

**1. Type A Home Occupations**

Type A home occupations are permitted as of right as an accessory use to a principal use in the household living use category. Type A home occupations are subject to the general regulations of Sec. [27-10.30-F](#) and all other applicable regulations of this section. More than one Type A home occupation is allowed as an accessory use, but the general regulations of Sec. [27-10.30-F](#) apply to the combined home occupation uses.

**2. Type B Home Occupations**

Type B home occupations may be approved as an accessory use to a principal use in the household living use category only as expressly stated in Sec. [27-10.30-G](#). Type B home occupations are subject to the general regulations of Sec. [27-10.30-F](#), the supplemental regulations of Sec. [27-10.30-G](#) and all other applicable regulations of this section. Multiple Type B home occupations are prohibited as an accessory use to a household living use, and a Type A home occupation may not be conducted with a Type B home occupation.

**27-10.30-F. General Regulations**

All Type A and Type B home occupations are subject to the following general regulations.

1. Home occupations must be accessory and secondary to the use of a dwelling unit for residential purposes. They may not change the character of the residential building they occupy or adversely affect the character of the surrounding neighborhood. Home occupations may not, for example, produce light, noise, vibration, odor, parking demand, or traffic impacts to that are not typical of a residential neighborhood in Dunwoody. Home occupations must be operated so as not to create or cause a nuisance.
2. Any tools or equipment used as part of a home occupation must be operated in a manner or sound-proofed so as not to be audible beyond the lot lines of the subject property.
3. External structural alterations or site improvements that change the residential character of the lot upon which a home occupation is located are prohibited. Examples of such prohibited alterations include construction of parking lots, the addition of commercial-like exterior lighting or the addition of a separate building entrance that is visible from abutting streets.
4. Signs that directly or indirectly, name, advertise, or call attention to a business, product, service or other commercial activity occurring on the subject property are prohibited.
5. Home occupations and all related activities, including storage (other than the lawful parking or storage of vehicles), must be conducted entirely within the dwelling unit.
6. The area devoted to the conduct of all home occupations present on the property is limited to 25% of the dwelling unit's floor area or 500 square feet, whichever is less.
7. No window display or other public display of any material or merchandise is allowed.
8. The use or storage of hazardous substances is prohibited, except at the "consumer commodity" level, as that term is defined in 49 C.F.R. Sec. 171.8.



9. Only passenger automobiles, passenger vans and passenger trucks may be used in the conduct of a home occupation. No other types of vehicles may be parked or stored on the premises.
10. The provisions of paragraph 9 (above) are not intended to prohibit deliveries and pickups by common carrier delivery vehicles (e.g., postal service, united parcel service, FedEx, et al.) of the type typically used in residential neighborhoods.

**27-10.30-G. Supplemental Regulations for Type B Home Occupations**

Type B home occupations are subject to the following regulations in addition to the general regulations of Sec. 27-10.30-F.

1. Customers or clients may visit the site only from 8 a.m. to 8 p.m. No more than 2-one clients or customers may be present at any one time, except that up to 3 students may be present at one time in a teaching-related home occupation (e.g., tutor or music/dance instructor).
2. One nonresident employee is allowed with a Type B home occupation if no customers come to the site at any time. Home occupations that have clients, customers or students coming to the site at any time may not have nonresident employees. For the purpose of this provision, the term “nonresident employee” includes an employee, business partner, co-owner or any other person affiliated with the home occupation, who does not live at the site, but who visits the site as part of the home occupation.
3. No stock in trade may be displayed or kept for sale on the premises and no on-premise sales may be conducted.
4. Teaching-related home occupations are permitted as of right~~subject to the administrative permit procedures~~. All other Type B home occupations are subject to approval of an ~~special land use permit~~ administrative permit in accordance with Article 23.

**27-10.40 Electric Vehicle Charging Stations**

**27-10.40-A. General<sup>61</sup>**

1. Private (restricted-access) electric-vehicle (EV) charging stations are permitted as accessory uses in all zoning districts.
2. Public EV charging stations are permitted as accessory uses to allowed nonresidential uses in all zoning districts.

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<sup>61</sup> These proposed regulations are entirely new.

**27-10.40-B. Parking**

1. Electric vehicle charging stations may be counted toward satisfying minimum off-street parking space requirements.
2. Public electric vehicle charging stations must be reserved for parking and charging electric vehicles. Electric vehicles may be parked in any space designated for public parking, subject to the restrictions that apply to any other vehicle.

**27-10.40-C. Equipment**

Vehicle charging equipment must be designed and located so as to not impede pedestrian, bicycle or wheelchair movement or create safety hazards on sidewalks.

**27-10.40-D. Signage**

1. Information must be posted identifying voltage and amperage levels and any type of use, fees, or safety information related to the electric vehicle charging station.
2. Public electric vehicle charging stations must be posted with signage indicating that the space is reserved for electric vehicle charging purposes only. For purposes of this provision, “charging” means that an electric vehicle is parked at an electric vehicle charging station and is connected to the battery charging station equipment.

**27-10.40-E. Maintenance**

Electric vehicle charging stations must be maintained in all respects, including the functioning of the equipment. A phone number or other contact information must be provided on the equipment for reporting when it is not functioning or other problems are encountered.

**27-10.50 Geothermal Energy Systems**

**27-10.50-A. General<sup>62</sup>**

Geothermal energy systems are permitted as an accessory use in all zoning districts.

**27-10.50-B. Location**

1. Geothermal energy systems must be located entirely within the lot lines of the subject property or within appropriate easements.
2. No portion of a geothermal energy system may be located within a stream or stream buffer.

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<sup>62</sup> These proposed regulations are entirely new.

## **27-10.60 Residential Composting**

- 27-10.60-A.** The composting of landscape waste (including grass clippings, leaves, and chipped brush) and food waste (including discarded fruits, vegetables, and grains) is an allowed accessory use in residential zoning districts, subject to the regulations of this section.<sup>63</sup>
- 27-10.60-B.** Only landscape waste generated from plants grown and maintained on the subject lot may be composted. This provision is not intended to prohibit property owners from adding “outside” materials or ingredients to speed or enhance decomposition.
- 27-10.60-C.** Only food waste resulting from food preparation or consumption by residents of the subject lot and their visitors may be composted. This provision is not intended to prohibit property owners from adding “outside” materials or ingredients to speed or enhance decomposition.
- 27-10.60-D.** All food waste must be placed within rodent-resistant compost bins, which are set back at least 10 feet from all lot lines.
- 27-10.60-E.** Landscape waste compost piles may not exceed 125 cubic feet in volume, and may not exceed 5 feet in height.<sup>64</sup>
- 27-10.60-F.** Landscape waste compost piles must be set back at least 10 feet from all lot lines. Landscape waste compost piles that are not contained within a rodent-resistant compost bin must be set back at least 30 feet from all dwelling units on abutting lots.
- 27-10.60-G.** No animal waste is allowed within compost piles or bins.
- 27-10.60-H.** Burning of compost piles is not allowed.

## **27-10.70 Satellite Dish Antennas**

### **27-10.70-A. Where Allowed**

1. Satellite dish antennas up to ~~36~~40 inches in diameter are permitted as of right in all zoning districts. They are subject to all applicable accessory structure setback regulations.
2. Satellite dish antennas over 40 inches in diameter, up to 120 inches in diameter, are permitted as of right in nonresidential and mixed-use zoning districts. They are subject to all applicable accessory structure setback regulations.

### **27-10.70-B. Location**

1. In multi-unit residential (RM), nonresidential and mixed-use districts, satellite antennas may be located anywhere in the buildable area of the lot (outside of required setbacks) or on an allowed principal or accessory building on the lot.

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<sup>63</sup> These proposed regulations are entirely new.

<sup>64</sup> Revised since module 1 in response to public feedback that 1 cubic yard was too restrictive. Height limit was added.

2. In detached house and attached house (R and RA) districts satellite antennas may be located only to the rear of any principal structure. If usable communication signals cannot be obtained from a rear location, the satellite antenna may be located in the side yard. Both locations are subject to applicable zoning district setbacks.
3. If usable satellite communication signals cannot be received by locating the antenna in the rear or to the side of the principal structure, the antenna may be placed in the front yard or on the roof in a location that is visible from the street of the dwelling, provided that the diameter does not exceed 18 inches and that approval of the ~~director of public works~~ community development director ~~is shall be~~ obtained prior to ~~such~~ installation. The community development ~~director of public works~~ shall be authorized to issue ~~such a~~ permit for a front location 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.

#### **27-10.70-C. Height and Screening**

- ~~1. Ground mounted satellite dish antennas may not exceed 20 feet in height including any platform or structure upon which the antenna is mounted or affixed. Building mounted satellite dish antennas may not exceed 18 feet in height. If usable satellite signals cannot be obtained from an antenna installed in compliance with these height limitations, the satellite dish antenna may be installed at a greater height, provided that the height is approved by the director public works. Such approval shall be granted only upon a showing by the applicant that installation at a height 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.~~
- ~~2.1. Except in office, commercial, industrial, or multifamily residential districts,~~ 2.1. Ground-mounted satellite dish antennae in R districts must be screened to reduce visual impact from surrounding properties at street level and from public streets.
- ~~3.2.~~ 3.2. All satellite television antennae must meet all manufacturers' specifications, be located on noncombustible and corrosion-resistant material and be erected in a secure manner.
- ~~4.3.~~ 4.3. All satellite television antennae must be adequately grounded for protection against a direct strike of lightning pursuant to the requirements of the ~~county~~ electrical code.

## **27-10.80 Solar Energy Systems**

### **27-10.80-A. General<sup>65</sup>**

1. Accessory solar energy systems must comply with all applicable building ordinance and electrical code requirements.
2. Owners of accessory solar energy systems are solely responsible for negotiating with other property owners for any desired solar easements to protect access to sunlight. Any such easements must be recorded with the county recorder of deeds.

### **27-10.80-B. Building-Mounted Solar Energy Systems**

1. Building-mounted solar energy systems may be mounted on principal and accessory structures.
2. All applicable setback regulations apply to building-mounted solar energy systems. Systems mounted on principal structures may encroach into interior side and rear setbacks in accordance with Sec. [27-30.60-D](#).
3. Only building-integrated and/or flush-mounted solar energy system may be installed on street-facing building elevations.
4. Solar energy systems may not extend more than 3 feet above the applicable maximum building height limit for the subject building type or more than 5 feet above the highest point of the roof line, whichever is less.

### **27-10.80-C. Ground-Mounted Solar Energy Systems**

1. In residential zoning districts, ground-mounted solar energy systems may not be located in a required street setback or street yard area.
2. Ground-mounted solar energy systems may be located within required interior side and rear setbacks.
3. Ground-mounted solar energy systems are subject to applicable accessory structure height and lot coverage regulations.

## **27-10.90 Relatives' Residences**

A second kitchen facility may be constructed and used within a detached house for the exclusive use of relatives of the real property owner, subject to all of the following regulations:

**27-10.90-A.** The real property owner must live in the detached house.

**27-10.90-B.** Relatives must be related by blood, marriage or law.

**27-10.90-C.** The area of the second kitchen facility may not exceed the area of the main kitchen facility.

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<sup>65</sup> These proposed regulations are entirely new.

- 27-10.90-D.** Access to the relatives' living area must come from the interior of the residence, although secondary access to the exterior of the dwelling is not prohibited.
- 27-10.90-E.** Permits for the second kitchen facility may not be issued until the property owner has applied to and received from the community development director an administrative permit for a relatives' residence. The relatives' residence permit must be in recordable form and, upon execution, must be recorded in the office of the clerk of the superior court. The community development director must provide a copy of the permit to the board of tax assessors. The unit must be removed when it is vacated by the relatives for whom the unit was installed.

**27-10.100 Retail Sales Kiosks, Vending Machines and Donation Drop Boxes<sup>66</sup>**

Retail sales kiosks, vending machines and donation drop boxes are allowed only if located entirely within an enclosed building or within the exterior perimeter footprint of an allowed building.

**~~Noncommercial Kennels~~**

~~All noncommercial kennels shall be located on a site of not less than two acres. All structures shall be located at least 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.~~

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<sup>66</sup> These provisions are entirely new.

# Article 11 Temporary Uses

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## 27-11.10 Description and Purpose<sup>67</sup>

- 27-11.10-A.** A temporary use is the use of property conducted from an area or structure (e.g., parking lots, lawns, trucks, tents, or other temporary structures) that does not require a building permit and that may or may not comply with the use or lot and building standards of the zoning district in which the temporary use is located.
- 27-11.10-B.** The temporary use regulations of this section are intended to permit such occasional, temporary uses and activities when consistent with the overall purposes of this zoning ordinance and when the operation of the temporary use will not be detrimental to the public health, safety or general welfare.

## 27-11.20 Authority to Approve<sup>68</sup>

- 27-11.20-A.** Except as otherwise expressly stated, temporary uses are subject to all city permit procedures and municipal code requirements.
- 27-11.20-B.** The community development director is authorized to approve temporary uses that comply with the provisions of this article and to impose conditions on the operation of temporary uses that will help to ensure that they do not create significant adverse impacts on surrounding uses and that they operate safely, consistent with the general purposes of this zoning ordinance.
- 27-11.20-C.** Temporary uses and special events on city streets or city-owned land are subject to the special event provisions of Chapter 26 of the municipal code.
- 27-11.20-D.** The community development director is also authorized to require that temporary uses that are deemed likely to generate significant impacts on the surrounding area be processed as special land use permits in accordance with [Article 19](#).

## 27-11.30 Authorized Temporary Uses

### 27-11.30-A. Garage Sales<sup>69</sup>

1. Up to 2 garage sales per calendar year are permitted as temporary uses without a permit. Any additional garage sales require community development approval.
2. Garage sales in residential zoning districts are permitted only on lots occupied by a residential dwelling unit.

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<sup>67</sup> This section is entirely new.

<sup>68</sup> This section is entirely new.

<sup>69</sup> This section is entirely new.

**27-11.30-B. Temporary Buildings**

1. The community development director is authorized to approve temporary buildings to be used in conjunction with construction work or pending completion of a permanent building for a period not to exceed one year. This one-year time limit may be extended only if approved through the special land use permit procedure of Article 19.
2. Temporary buildings must be removed when construction has been completed and prior to issuance of a final certificate of occupancy.

**27-11.30-C. Temporary Outdoor Seasonal Sales**

The regulations of this subsection apply to temporary outdoor sales of plants, flowers, produce, seasonal greenery and similar items customarily displayed and sold outdoors on a seasonal basis. The community development director is authorized to approve temporary outdoor seasonal sales in NS, C-1, C-2, and M zoning districts and on the site of a place of worship, subject to the following requirements:

1. Any application for a temporary use permit for outdoor seasonal sales must be accompanied by written authorization of the subject property owner to use the property for temporary outdoor seasonal sales.
2. No permit for temporary outdoor seasonal sales may be approved for the same lot or any portion of the same lot for a cumulative total of more than 90 days in any calendar year.
3. ~~No temporary outdoor seasonal sales may be approved for a time period exceeding 45 consecutive days.~~<sup>70</sup>
4. Temporary outdoor seasonal sales uses are permitted only on lots that have adjacent hard-surface parking with a curb cut.
5. No operator, employee or representative may solicit directly to motorists.

**27-11.30-D. Temporary Outdoor Sales**

The regulations of this subsection apply to temporary outdoor sales activities (other than temporary seasonal sales) where the point of sales occurs outside of a building (e.g., parking lot tent sale). The community development director is authorized to approve temporary outdoor sales of merchandise in NS, C-1, C-2 and M zoning districts, subject to the following requirements:

1. Any application for a temporary use permit for outdoor sales of merchandise must be accompanied by written authorization of the subject property owner to use the property for temporary outdoor sales of merchandise.

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<sup>70</sup> We had discussed adding provisions for extensions, but in light of the annual cumulative 90-days limit, we have simply proposed eliminating the single event duration limit, which would allow a single event, thereby allowing one event to consume the entire year's 90-day allotment.



2. No temporary outdoor sales of merchandise may be conducted ~~on public property, within any public right of way and no display or sales area shall be located~~ within 50 feet of the public right-of-way.
3. Applicants for temporary outdoor sales permits must obtain a business license.
4. No temporary outdoor sales of merchandise may be approved for a time period exceeding 3 consecutive days.
5. No permit for temporary outdoor sales of merchandise may be approved for the same lot or any portion of the same lot for a total of more than 6 days in any calendar year.
6. Except as authorized by the permit for temporary outdoor sales of merchandise, all other sales of merchandise must be conducted within a permanent building that has a floor area of at least 300 square feet and that complies with the requirements of this zoning ordinance and all other applicable parts of the municipal code.
7. Temporary outdoor sales activities ~~may be approved only on developed lots~~ are prohibited on vacant lots.
8. No temporary buildings, ~~shacks or tents~~ are permitted in connection with a temporary outdoor sales use.
9. All activities associated with temporary outdoor sales are limited to daylight hours and all displays and equipment must be removed nightly.
10. No operator, employee or representative may solicit directly to motorists.

**27-11.30-E. Temporary Portable Storage Containers<sup>71</sup>**

The community development director is authorized to approve the use of portable storage containers as a temporary use in any zoning district. The following regulations apply in residential districts.

1. Temporary portable storage containers are permitted for a period not to exceed a total of 60 days within any calendar year. However, in cases where a dwelling has been damaged by natural disaster or casualty, the community development director is authorized to allow a temporary portable storage container for a longer period.
2. Temporary portable storage containers may not exceed 8.5 feet in height or more than 260 square feet in area.
3. Temporary portable storage containers may not be located in the public right-of-way or obstruct intersection visibility.

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<sup>71</sup> These provisions are entirely new.

4. Temporary portable storage containers may not be located in side setbacks or side yards. Temporary portable storage containers may not be located in a street yard unless located on a driveway or other paved surface.
5. Rail cars, semi-trailers or similar equipment may not be used for temporary (or permanent) storage.
6. Signs on temporary portable storage containers must comply with all applicable city sign regulations.

#### **~~Temporary Outdoor Activities~~**

~~The community development director is authorized to approve temporary outdoor social, religious, entertainment or recreation activities of up to 14 days' duration if the director determines that adequate parking is provided on the subject site. No more than one such activity is permitted on a single lot during a single calendar year.~~

#### **~~27-11.30 F. Temporary Events of Community Interest<sup>72</sup>~~**

~~The community development director is authorized to approve a temporary use permit for art shows, fairs, carnivals, fund raisers and similar events of community interest in NS, C-1, C-2 and M zoning districts and on any lot occupied by a quasi-public or institutional use, subject to the following requirements:~~

- ~~1. the duration of any temporary event of community interest may not exceed 14 days; and~~
- ~~2. activity areas must be set back at least 100 feet from any lot in a residential district and at least 50 feet from public right of way.~~

#### **27-11.40 Conditions of Approval**

In approving any temporary use, the community development director is authorized to impose conditions that will help to ensure that the use and its associated activities do not create significant adverse impacts on surrounding uses and that they operate safely, consistent with the general purposes of this zoning ordinance. Such conditions may include the following:

- 27-11.40-A.** requirements for vehicle access and parking;
- 27-11.40-B.** restrictions on hours of operation;
- 27-11.40-C.** limitations on signs and outdoor lighting;
- 27-11.40-D.** requirements for financial guarantees covering the costs of cleanup and/or removal of structures or equipment; and
- 27-11.40-E.** other conditions necessary to carry out the general purposes of this zoning ordinance.

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<sup>72</sup> Deleted because temporary events are regulated under Chapter 26 of the municipal code.

## PART IV: GENERALLY APPLICABLE REGULATIONS

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# Article 12 Parking and Circulation

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## 27-12.10 General

### 27-12.10-A. Purpose<sup>73</sup>

1. The regulations of this article are intended to help ensure provision of off-street motor vehicle parking facilities, bicycle parking areas and other motorized and non-motorized transportation circulation facilities in rough proportion to the generalized demands of different land uses. By requiring such facilities, it is the intent of this article to help avoid the negative impacts associated with spillover parking into adjacent areas, while at the same time avoiding the negative environmental and visual impacts that can result from very large parking lots and other vehicular use areas.
2. The provisions of this article are also intended to help protect the public health, safety and general welfare by:
  - a. promoting multi-modal transportation options and enhanced pedestrian and cyclist safety; and
  - b. providing flexible methods of responding to the transportation and access demands of various land uses in different areas of the city.

### 27-12.10-B. Applicability<sup>74</sup>

1. **General**

Unless otherwise expressly stated, the regulations of this article apply to all districts and uses.
2. **New Uses and Development**

Unless otherwise expressly stated, the parking regulations of this article apply to all new buildings constructed and all new uses established in all zoning districts.
3. **Change of Use**

When an existing or previously existing use fails to provide the number of off-street parking spaces required under this zoning ordinance and a new use is proposed the existing parking (deficit) may be continued. When the number of parking spaces required for the new use exceeds the number of spaces required for the use that most recently occupied the property, additional spaces are required only to make up the difference between the number of spaces re-

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<sup>73</sup> Purpose statement is entirely new. No equivalent provisions in current ordinance.

<sup>74</sup> Applicability provisions are entirely new. No equivalent provisions in current ordinance.

quired for the previous use and the number of spaces required for the new use, based on the regulations of this zoning ordinance.

#### 4. Enlargements and Expansions

- a. Unless otherwise expressly stated, the parking regulations of this article apply whenever an existing building or use is enlarged or expanded to include additional dwelling units, floor area, seating capacity, employees or other units of measurement used for establishing off-street parking requirements.
- b. In the case of enlargements or expansions that trigger requirements for additional parking, additional spaces are required only to serve the enlarged or expanded area, not the entire building or use. In other words, there is no requirement to address lawfully existing parking space deficits.

### 27-12.20 Minimum Motor Vehicle Parking Ratios<sup>75</sup>

Except as otherwise expressly stated, off-street motor vehicle parking spaces must be provided in accordance with the following table:

| USES   | Minimum Motor Vehicle Parking   |
|--|---|
| <b>RESIDENTIAL</b>                             |   |
| <b>Household Living</b>                        |   |
| Detached house                                 | <u>2</u> spaces per dwelling unit <sup>76</sup>   |
| Attached house                                 | <u>2</u> spaces per dwelling unit <sup>77</sup>   |
| Multi-unit building                            | 1 space per dwelling unit + 1 additional space per bedroom for 2+ bedroom units + 1 visitor space per 8 units <sup>78</sup> |
| Multi-unit building (age-restricted 62 years+) | 1 space per dwelling unit + 1 visitor space per 8 units   |
| <b>Group Living</b>                            |   |
| Convent and monastery                          | 5 spaces per 1,000 sq. ft.  |
| Fraternity house or sorority house             | 1 space per bed   |
| Nursing home                                   | 1 space per 2 beds  |
| Personal care home, registered (1–3 persons)   | 4 spaces  |
| Personal care home, family (4–6 persons)       | 4 spaces  |
| Personal care home, group (7–15 persons)       | 4 spaces  |
| Personal care home, congregate (16 or more)    | 1 space per 4 clients   |
| Residence hall                                 | <u>0.25 spaces per sleeping room</u>  |
| Rooming house                                  | 1 space per bedroom   |
| Shelter, homeless                              | <u>1 space per 10-person capacity</u>   |
| Supportive living                              | 1 space per 2 living units  |
| Transitional housing facility                  | <u>1 space per 4 beds</u>   |

<sup>75</sup> Minimum ratios are from existing ordinance except as indicated.

<sup>76</sup> Current minimum is 4 spaces

<sup>77</sup> Current minimums range from 2 to 4 spaces per dwelling based on size of unit.

<sup>78</sup> This represents a substantive change; current ordinance requires 1 to 2 spaces per unit depending on zoning district.

Article 12 | Parking and Circulation  
§27-12.20 | Minimum Motor Vehicle Parking Ratios

| USES   | Minimum Motor Vehicle Parking  |
|--|--|
| <b>QUASI-PUBLIC &amp; INSTITUTIONAL</b>                            |  |
| Ambulance Service  | 1 space per service vehicle plus 1 space per 2 employees   |
| Club or Lodge, Private   | 10 spaces per 1,000 sq. ft.  |
| Cultural Exhibit   | 1 space per 3 fixed seats; 40 spaces per 1,000 sq. ft. in largest assembly room if no fixed seats  |
| <b>Day Care</b>  |  |
| Day care facility, adult (6 or fewer persons)                      | 4 spaces   |
| Day care center, adult (7 or more)                                 | 5 spaces per 1,000 sq. ft.   |
| Day care facility, child (6 or fewer persons)                      | 4 spaces   |
| Day care center, child (7 or more)                                 | 5 spaces per 1,000 sq. ft.   |
| <b>Educational Services</b>  |  |
| College or university  | 10 spaces per classroom  |
| Kindergarten   | 5 spaces per 1,000 sq. ft. <sup>79</sup>   |
| Research and training facility, college or university affiliated   | 10 spaces per classroom  |
| School, private elementary or middle                               | 2 spaces per classroom   |
| School, private senior high  | 5 spaces per classroom   |
| School, specialized non-degree                                     | 10 spaces per classroom  |
| School, vocational or trade  | 10 spaces per classroom  |
| Hospital   | 1 space per 2 beds   |
| Place of Worship   | 1 space per 3 fixed seats or 40 spaces per 1,000 sq. ft. in largest assembly room if there are no fixed seats <sup>80</sup>  |
| Utility Facility, Essential  | <u>As determined per Sec. 27-12.30-F</u>   |
| <b>COMMERCIAL</b>  |  |
| Adult Use  | 13.33 spaces per 1,000 sq. ft.   |
| Animal Services  | <u>3.3 spaces per 1,000 sq. ft.</u>  |
| Communication Services (except as noted below)                     | <u>3.3 spaces per 1,000 sq. ft.</u>  |
| Telecommunication tower <u>or antenna</u>                          | <u>None</u>  |
| Construction and Building Sales and Services                       | <u>4 spaces per 1,000 of customer-accessible sales area + 3.3 spaces per 1,000 sq. ft. of office floor area + 0.5 spaces per 1,000 of additional indoor floor area</u> |
| <b>Eating and Drinking Establishments</b>                          |  |
| Restaurant, accessory to allowed office or lodging use             | <del>13.33-6.67</del> spaces per 1,000 sq. ft.; <del>minimum 10 spaces</del>   |
| Restaurant, drive-in or drive-through                              | 10 spaces per 1,000 sq. ft.; minimum <del>10</del> 5 spaces  |
| Restaurant, other than drive-through or drive-in                   | <del>13.33-6.67</del> spaces per 1,000 sq. ft.; <del>minimum 10 spaces</del> <sup>81</sup>   |
| Food truck   | <u>None</u>  |
| Other eating or drinking establishment                             | <u>6.67 spaces per 1,000 sq. ft.</u>   |
| <b>Entertainment and Spectator Sports</b> (except as stated below) |  |
| Special events facility  | 1 space per 3 fixed seats or 40 spaces per 1,000 sq. ft. in largest assembly room if there are no fixed seats  |
| Financial Services   |  |
| Banks, credit unions, brokerage and investment services            | <u>3.3 spaces per 1,000 sq. ft.</u>  |
| Convenient cash business   | <u>4 spaces per 1,000 sq. ft.</u>  |

<sup>79</sup> Current ordinance requires minimum 5 spaces per 1,000 sq. ft. in PC district.

<sup>80</sup> PC district requires 1 space per 5 fixed seats; 20 spaces per 1,000 sq. ft. in largest assembly room if no fixed seats

<sup>81</sup> 10-space minimum does not currently apply in C-1

Article 12 | Parking and Circulation  
§27-12.20 | Minimum Motor Vehicle Parking Ratios

| USES   | Minimum Motor Vehicle Parking   |
|--|---|
| Pawn shop  | <u>4 spaces per 1,000 sq. ft.</u>   |
| <b>Food and Beverage Retail Sales</b>                | <del>10-4</del> spaces per 1,000 sq. ft.  |
| <b>Funeral and Interment Services</b>                | <u>0.5 spaces per 1,000 sq. ft.</u>   |
| Cemetery, columbarium, or mausoleum                  | <u>None (parking allowed on internal roads/drives)</u>  |
| Crematory  | <u>0.5 spaces per 1,000 sq. ft.</u>   |
| Funeral home or mortuary                             | 1 space per 3 fixed seats or 40 spaces per 1,000 sq. ft. in largest assembly room if there are no fixed seats |
| <b>Lodging</b>                                       | 1.25 spaces per guest room  |
| <b>Medical Service</b>                               |   |
| Home health care service                             | <u>3.3 spaces per 1,000 sq. ft.</u>   |
| Hospice  | <u>1 space per 2 beds</u>   |
| Kidney dialysis center                               | <u>4 spaces per 1,000 sq. ft.</u>   |
| Medical and dental laboratory                        | <u>3.3 spaces per 1,000 sq. ft.</u>   |
| Medical office/ clinic                               | 4 spaces per 1,000 sq. ft.  |
| <b>Office or Consumer Service</b>                    | <del>4-3.3</del> spaces per 1,000 sq. ft.   |
| <b>Parking, Non-accessory</b>                        | N/A   |
| <b>Personal Improvement Service</b>                  | <del>5-5.4</del> spaces per 1,000 sq. ft.   |
| <b>Repair or Laundry Service, Consumer</b>           | <del>5-5.4</del> spaces per 1,000 sq. ft.   |
| <b>Research and Testing Services</b>                 | <u>3.3 per 1,000 sq. ft.</u>  |
| <b>Retail Sales</b>                                  | 4 spaces per 1,000 sq. ft. + 1 space per 1,000 of outdoor display/sales areas <sup>82</sup>                   |
| <b>Sports and Recreation, Participant</b>            |   |
| Golf course and clubhouse, private                   | <del>20 spaces per 9 holes</del> <u>2 spaces per hole</u>   |
| Health club  | <del>5-4</del> spaces per 1,000 sq. ft.   |
| Private park   | <u>As determined per Sec. 27-12.30-F</u>  |
| Recreation center or swimming pool, neighborhood     | 1 space per 5 members; minimum 10 spaces in R districts; minimum 20 spaces in nonresidential districts        |
| Recreation grounds and facilities                    | <u>As determined per Sec. 27-12.30-F</u>  |
| Tennis center, club and facilities                   | 1 space per 5 members; minimum 10 spaces in R districts; minimum 20 spaces in nonresidential districts        |
| Other participant sports and recreation (Indoor)     | 5 spaces per 1,000 sq. ft.  |
| Other participant sports and recreation (Outdoor)    | <u>As determined per Sec. 27-12.30-F</u>  |
| <b>Vehicle and Equipment, Sales and Service</b>      |   |
| Car wash   | <u>Vehicle stacking spaces per Sec. 27-12.110</u>   |
| Gasoline sales                                       | 3 spaces per service bay/ <del>stall</del> ; <del>minimum 10 spaces</del>                                     |
| Vehicle repair, minor                                | <del>6-6.7-3</del> spaces per <del>1,000 sq. ft.</del> <u>service bay/stall</u>                               |
| Vehicle repair, major                                | <del>6-6.7-3</del> spaces per <del>1,000 sq. ft.</del> <u>service bay/stall</u>                               |
| Vehicle sales and rental                             | <u>1 space per employee + 2 spaces per service bay/stall</u>  |
| Vehicle storage and towing                           | <u>4 spaces + 1 per employee</u>  |
| <b>INDUSTRIAL</b>                                    |   |
| <b>Manufacturing and Production, Light</b>           | 0.5 spaces per 1,000 sq. ft.  |
| <b>Wholesaling, Warehousing and Freight Movement</b> | 0.5 spaces per 1,000 sq. ft.  |
| <b>AGRICULTURE AND TRANSPORTATION</b>                |   |
| <b>Agriculture</b>                                   |   |
| Agricultural produce stand                           | <u>None</u>   |

<sup>82</sup> Current retail parking requirement is 5.5 spaces per 1,000 square feet except in OCR, where it's 4 per 1,000 gs.f.



| USES  | Minimum Motor Vehicle Parking            |
|---|--|
| Community garden  | <u>None</u>                              |
| Crops, production of                                      | <u>None</u>                              |
| <b>Transportation</b>                                     |  |
| Heliport  | <u>None</u>                              |
| Stations and terminals for bus and rail passenger service | <u>As determined per Sec. 27-12.30-F</u> |
| Taxi stand and taxi dispatching office                    | <u>As determined per Sec. 27-12.30-F</u> |

### 27-12.30 Calculation of Required Parking<sup>83</sup>

The following rules apply when calculating the required number of off-street parking spaces:

#### 27-12.30-A. Multiple Uses

Unless otherwise expressly stated, lots containing more than one use must provide parking in an amount equal to the total of the requirements for all uses on the lot.

#### 27-12.30-B. Fractions

When measurements of the number of required spaces result in a fractional number, any fraction of less than ½ (0.5) is rounded down to the next lower whole number, and any fraction of ½ (0.5) or more is rounded up to the next higher whole number.

#### 27-12.30-C. Area Measurements

Unless otherwise expressly stated, all area-based (square footage) parking standards must be computed on the basis of gross floor area.

#### 27-12.30-D. Occupancy- or Capacity-based Standards

For the purpose of computing parking requirements based on employees, students, members, residents or occupants, calculations must be based on the largest number of persons working on any single shift, the maximum enrollment or membership or the maximum fire-rated capacity, whichever is applicable and whichever results in the greater number of spaces.

#### 27-12.30-E. Unlisted Uses

Upon receiving a development application for a use not specifically listed in an off-street parking schedule, the community development director is authorized to apply the off-street parking ratio specified for the listed use that is deemed most similar to the proposed use or establish a minimum off-street parking requirement for the proposed use in accordance with Sec. [27-12.30-F](#).

#### 27-12.30-F. Establishment of Other Parking Ratios

The community development director is authorized to establish required minimum off-street parking ratios for unlisted uses and in those instances where authority to establish a requirement is expressly granted. Such ratios may be established on the basis of a similar use/parking determination (as described in Sec. [27-12.30-E](#)), on

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<sup>83</sup> These calculation rules are entirely new. No equivalent provisions in current ordinance.

parking data provided by the applicant or information otherwise available to the community development director. Parking data and studies must include estimates of parking demand based on reliable data collected from comparable uses or on external data from credible research organizations (e.g., Institute of Transportation Engineers (ITE) or American Planning Association [APA]). Comparability will be determined by density, scale, bulk, area, type of activity and location. Parking studies must document the source of all data used to develop recommended requirements.

## **27-12.40 Allowed Motor Vehicle Parking Reductions**

### **27-12.40-A. Transit-Served Locations**

The community development director may authorize up to a reduction in the number of off-street parking spaces required for nonresidential uses located within ~~1,000-1,500~~ feet of the pedestrian entrance of a rail station or bus rapid transit stop in accordance with the administrative permit provisions of [Article 23](#). The extent of reduction may not exceed 3 spaces or 25%, whichever is greater.

### **27-12.40-B. Motorcycle Parking<sup>84</sup>**

In parking lots containing over 20 motor vehicle parking spaces, motorcycle or scooter parking may be substituted for up to 5 automobile parking spaces or 5% of required motor vehicle parking, whichever is less. For every 4 motorcycle or scooter parking spaces provided, the automobile parking requirement is reduced by one space. Each motorcycle and scooter space must have a concrete surface and minimum dimensions of 4 feet by 8 feet. This provision applies to existing and proposed parking lots.

### **27-12.40-C. Bicycle Parking**

Uses that provide bicycle parking and storage spaces are eligible for a reduction of required motor vehicle parking, in accordance with Sec. [27-12.50](#).

### **27-12.40-D. Car-Share Service<sup>85</sup>**

1. For any development, one parking space or up to 5% of the total number of required spaces, whichever is greater, may be reserved for use by car-share vehicles. The number of required motor vehicle parking spaces is reduced by one space for every parking space that is leased by a car-share program for use by a car-share vehicle. Parking for car-share vehicles may be provided in any non-required parking space.
2. For any residential or mixed-use development that (a) is required to provide 50 or more parking spaces to serve residential dwelling unit and (b) provides one or more spaces for car-share vehicles, the number of required parking spaces

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<sup>84</sup> This is entirely new

<sup>85</sup> This is entirely new.

may be reduced by 4 spaces for each reserved car-share vehicle parking space. No reduction of required visitor parking spaces is allowed.

**27-12.40-E. Shared Parking**

1. Sharing parking among different users can result in overall reductions in the amount of motor vehicle parking required. Shared parking is encouraged as a means of conserving scarce land resources, reducing stormwater runoff, reducing the heat island effect caused by large paved areas and improving community appearance.
2. Shared parking facilities are allowed for mixed-use projects and for multiple uses with different times of peak parking demand, subject to approval by the community development director. Applicants proposing to use shared parking as a means of reducing overall motor vehicle parking requirements must submit:
  - a. The names and addresses of the uses and of the owners or tenants that are sharing the parking;
  - b. The location and number of parking spaces that are being shared;
  - c. A shared parking analysis;
  - d. A legal instrument such as an easement or deed restriction guaranteeing access to the parking for the shared parking users.
3. The required shared parking analysis must be based on the latest edition of the Urban land Institute's (ULI) shared parking model or be prepared by registered engineer in the State of Georgia with expertise in parking and transportation. The shared parking analysis must demonstrate that the peak parking demands of the subject uses occur at different times and that the parking area will be large enough for the anticipated demands of both uses.
4. Shared parking may be located off site, provided that at least 75% of the required number of parking spaces for the subject use must be located on-site. Off-site parking is subject to the regulations of Sec. [27-12.60-C](#).
5. Required residential parking and accessible parking spaces (for persons with disabilities) may not be shared and must be located on site.

**27-12.40-F. Alternative Compliance<sup>86</sup>**

The motor vehicle parking ratios of this article are not intended to prevent development and redevelopment or to make development and redevelopment economically impractical. In order to allow for flexibility in addressing the actual expected

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<sup>86</sup> Under the existing zoning ordinance, parking ratios can be reduced if approved as a special exception (§27-1572).

parking demand of specific uses, alternative compliance parking ratios may be approved through the special exception process (See [Article 22](#)) only if:

1. the applicant submits a parking study, prepared and sealed by a registered professional engineer in the State of Georgia with expertise in parking and transportation demonstrating that the motor vehicle parking ratios of Sec. [27-12.20](#) do not accurately reflect the actual parking demand that can reasonably be anticipated for the proposed use; and
2. The zoning board of appeals determines that the proposed reduced parking ratios are not likely to cause adverse impacts on traffic circulation and safety or on the surrounding area.

## **27-12.50 Bicycle Parking<sup>87</sup>**

### **27-12.50-A. General**

This section establishes incentives for bicycle parking facilities.

### **27-12.50-B. Purpose**

1. Short-term bicycle parking is generally intended to serve the needs of cyclists who park their bicycles for short time periods, including customers, clients, students and other short-term visitors.
2. Long-term bicycle parking is generally intended to serve the needs of cyclists who park their bicycles for long time periods, primarily employees and residents.

### **27-12.50-C. Incentives**

The minimum motor vehicle parking requirements for nonresidential uses may be reduced by 10% or one space, whichever is greater, if at least 4 bicycle parking spaces are provided or bicycle parking equal to at least 25% of the number of motor vehicle parking spaces required in Sec. [27-12.20](#) is provided, whichever results in more bicycle parking spaces. This incentive may be used to reduce motor vehicle parking by no more than 25 spaces on any lot. To qualify for this incentive, bicycle parking must comply with the location and design standards of this section.

### **27-12.50-D. Location and Design**

#### **1. Short-Term Bicycle Parking Spaces**

##### **a. Location**

Short-term bicycle parking spaces must be located in highly visible, illuminated areas that do not interfere with pedestrian movements Short-term

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<sup>87</sup> These bicycle parking provisions are entirely new.

bicycle parking spaces must be located within 100 feet of a customer entrance.

**b. Design**

Short-term bicycle parking spaces provided to receive parking credit in accordance with Sec. [27-12.50-C](#) must:

- (1) consist of bike racks or lockers that are anchored so that they cannot be easily removed;
- (2) be of solid construction, resistant to rust, corrosion, hammers, and saws;
- (3) allow both the bicycle frame and the wheels to be locked with the bicycle in an upright position using a standard U-lock;
- (4) be designed so as not to cause damage to the bicycle;
- (5) facilitate easy locking without interference from or to adjacent bicycles; and
- (6) have minimum dimensions of 2 feet in width by 6 feet in length, with a minimum overhead vertical clearance of 7 feet.

**2. Long-Term Bicycle Parking and Storage Spaces**

**a. Location**

Long-term bicycle parking spaces provided to receive parking credit in accordance with Sec. [27-12.50-C](#) must be provided in at least one of the following locations:

- (1) in covered stationary racks or lockers that comply with the short-term bicycle parking location requirements of Sec. [27-12.50-D.1.a](#)
- (2) in a locked room;
- (3) in a covered, locked area that is enclosed by a fence or wall with a minimum height of 7 feet;
- (4) in a private garage or private storage space serving an individual dwelling unit within a multi-dwelling (residential) building;
- (5) in a covered area within clear view of an attendant or security personnel;
- (6) in a covered area continuously monitored by security cameras; or
- (7) in a covered area that is visible from employee work areas.

**b. Design**

Long-term bicycle parking spaces provided to receive parking credit in accordance with Sec. [27-12.50-C](#) must:

- (1) be protected from weather and access by unauthorized persons;
- (2) consist of bike racks or lockers anchored so that they cannot be easily removed;

- (3) be of solid construction, resistant to rust, corrosion, hammers, and saws;
- (4) allow both the bicycle frame and the wheels to be locked with the bicycle in an upright position using a standard U-lock;
- (5) be designed so as not to cause damage to the bicycle;
- (6) facilitate easy locking without interference from or to adjacent bicycles; and
- (7) have minimum dimensions of 2 feet in width by 6 feet in length, with a minimum overhead vertical clearance of 7 feet. Bicycle lockers are exempt from overhead clearance requirements.

## **27-12.60 Location of Off-Street Parking**

### **27-12.60-A. General**

Except as otherwise expressly stated, required off-street parking spaces must be located on the same lot as the building or use they are required to serve.

### **27-12.60-B. Residential Districts**

The following standards apply in residential districts:

- 1. In R districts, parking is prohibited in street yards except on approved driveways.
- 2. No more than 35% of the street yard area in an R district may be paved. Circular driveways are allowed only on lots with adequate width to comply with the Institute of Traffic Engineers' geometric design standards. They are subject to the 35% paved area limitation.
- 3. In RM districts, parking is prohibited in required street setbacks.
- 4. Only licensed, operable motorcycles and passenger vehicles not operated as a common or contract carrier for hire may be parked outside of an enclosed building in residential zoning districts. This provision is intended to expressly prohibit the parking of commercial motor vehicles (as defined in O.C.G.A §40-1-1) outside of an enclosed building, except for the immediate loading or unloading of goods or people. It also expressly prohibits the outdoor parking and outdoor storage of construction equipment such as tractors, skid steers, backhoes, forklifts, cement mixers and similar equipment. This prohibition does not apply to construction staging areas.<sup>88</sup>
- 5. The parking and outdoor storage of trailers, recreational vehicles, travel trailers, campers, pickup coaches, motorized homes, boat trailers, boats and similar

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<sup>88</sup> This provision is new. Current ordinance simply prohibits "business vehicles."

vehicles and equipment is prohibited in street yards and within 20 feet of the rear lot line

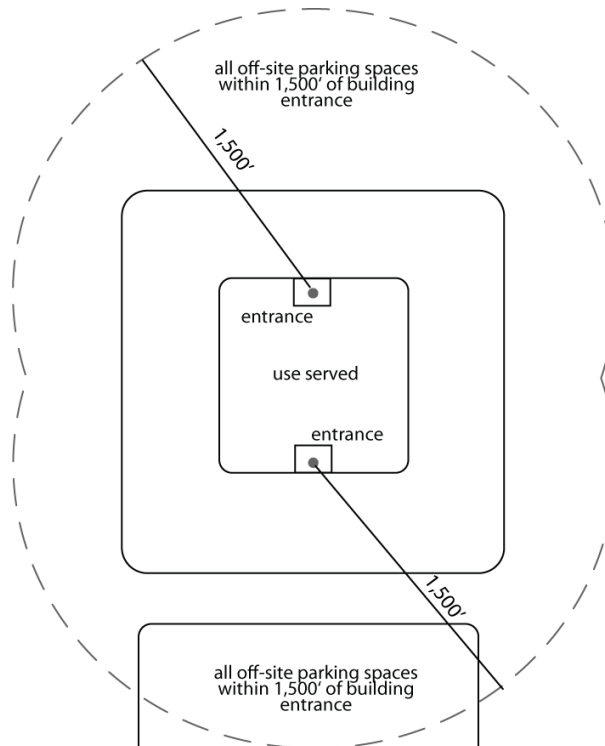
**27-12.60-C. Off-Site Parking<sup>89</sup>**

**1. General**

Up to 25% of the number of off-street parking spaces required for nonresidential uses may be provided off-site, in accordance with the provisions of this section. Off-site parking areas must comply with all applicable parking area design and accessibility standards. Required accessible parking spaces and parking required for residential uses may not be located off site.

**2. Location**

Off-site parking areas must be located within a 1,500-foot radius of the use served by such parking, measured between the entrance of the use to be served and the outer perimeter of the furthest parking space within the off-site parking lot. Off-site parking lots are allowed only in zoning districts that permit the principal use to be served by the off-site parking spaces.



**3. Control of Off-Site Parking Area**

The property to be occupied by the off-site parking facilities must be under the same ownership as the lot containing the use to be served by the parking. The off-site parking area may be under separate ownership only if an agreement is

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<sup>89</sup> These off-site parking provisions are entirely new.

provided guaranteeing the long-term availability of the parking, commensurate with the use served by the parking. Off-site parking privileges will continue in effect only as long as the agreement, binding on all parties, remains in force. If an off-site parking agreement lapses or is no longer valid, then parking must be provided as otherwise required by this article.

#### **27-12.70 Use of Off-Street Parking Areas<sup>90</sup>**

- 27-12.70-A.** Required off-street parking areas may be used solely for the temporary parking of licensed motor vehicles in operating condition.
- 27-12.70-B.** Required off-street parking spaces may not be used for the display of goods for sale or lease or for storage of building materials.
- 27-12.70-C.** Required off-street parking spaces are intended to serve residents, tenants, patrons, employees, or guests of the principal use. Off-street parking spaces that are required by this zoning ordinance must be maintained for the life of the principal use.
- 27-12.70-D.** No motor vehicle repair work of any kind is permitted in a required parking space except within a zoning district that otherwise permits motor vehicle repair.

#### **27-12.80 Parking Area Design**

##### **27-12.80-A. Tandem and Valet Parking Arrangements<sup>91</sup>**

Parking areas must be designed and constructed to allow unobstructed movement into and out of required parking spaces without interfering with fixed objects or vehicles except in the case of allowed tandem and valet parking, as follows.

##### **1. Tandem Parking**

Tandem parking spaces may be used to satisfy residential parking requirements if the tandem spaces are assigned to the same dwelling unit.

##### **2. Valet Parking**

Valet parking may be used to satisfy minimum off-street parking requirements for nonresidential uses if an attendant is present during all hours of operation. Valet parking arrangements may involve the stacked parking of vehicles (i.e., requiring one or more vehicles to be moved to obtain access to other parked vehicles). Valet parking is not subject to the maximum 1,500-foot off-site parking limit of Sec. [27-12.60-C.2.](#)

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<sup>90</sup> Paragraphs A through C are new.

<sup>91</sup> New



**27-12.80-B. Stall Sizes and Parking Lot Geometrics**

**1. Stall Size**

**a. Standard Spaces**

Required parking spaces must have ~~a minimum area of 153 square feet and~~ minimum dimensions of 8.5 feet (width) by 18 feet (depth) except as allowed by Sec. [27-12.80-B.1.b](#) (compact spaces).

**b. Compact Spaces**

In parking lots containing 20 or more required parking spaces, up to 40% of the required spaces may be compact car spaces. Compact spaces must have ~~a minimum area of 120 square feet and~~ minimum dimensions of 8 feet (width) by 15 feet (depth).

**27-12.80-C. Geometric Design**

Parking lots must comply with the geometric design standards of the Institute of Traffic Engineers (ITE).

**27-12.80-D. Landscaping**

See the parking lot landscaping regulations of Sec. [27-13.30](#) and Sec. [27-13.40](#).

**27-12.90 Pedestrian Circulation<sup>92</sup>**

An on-site circulation system for pedestrian and non-motorized travel must be provided in accordance with the following requirements:

**27-12.90-A. Connection to the Street**

The on-site pedestrian circulation system must connect all adjacent public rights-of-way to the main building entrance. The connection must follow a direct route and not involve significant out-of-direction travel for system users.

**27-12.90-B. Connection to Abutting Properties**

The on-site pedestrian circulation system must provide at least one connection to existing paths and sidewalks on abutting properties or to the likely location of future paths or sidewalks on those properties. When the community development director determines that no paths or sidewalks exist on a neighboring property or it is not possible to determine the likely location of future path or sidewalk connections or extending a connection would create a safety hazard on either property, no such connection is required.

**27-12.90-C. Internal Connections**

The on-site pedestrian circulation system must connect all buildings on the site and provide connections to other areas of the site likely to be used by pedestrians and

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<sup>92</sup> These provisions are entirely new.

non-motorized travel, such as parking areas, bicycle parking, recreational areas, common outdoor areas, plazas and similar amenity features.

**27-12.90-D. Design**

Required on-site pedestrian circulation facilities must be designed and constructed in accordance with the following requirements:

1. The on-site pedestrian circulation system must be paved and be at least 5 feet in width.
2. When the on-site pedestrian circulation system crosses driveways, parking areas or loading areas, it must be clearly differentiated through the use of elevation changes, a different paving material or other equally effective methods. Striping does not meet this requirement.
3. When the on-site pedestrian circulation system is parallel and adjacent to a motor vehicle travel lane, it must be a raised path at least 6 inches above the vehicle travel lane surface or be separated from the vehicle travel lane by a raised curb, bollards, landscaping or another physical barrier. If a raised path is used, the ends of the raised portions must be equipped with accessible curb ramps.
4. The on-site pedestrian circulation system must be illuminated to ensure that it can be used safely at night by employees, residents, and customers. Lighting must be at height appropriate to a pedestrian pathway system.

**27-12.100 Accessible Parking for People with Disabilities**

Accessible parking facilities must be provided in accordance with Georgia law.

**27-12.110 Drive-through Facilities<sup>93</sup>**

**27-12.110-A. Purpose**

These regulations of this section are intended to help ensure that

1. there is adequate on-site maneuvering and circulation area for vehicles and pedestrians;
2. waiting vehicles do not impede traffic on abutting streets; and
3. impacts on surrounding uses are minimized.

**27-12.110-B. Applicability**

1. The regulations of this section apply to all uses that include all drive-through facilities and to all portions of a development that comprise the drive-through facility. They do not apply to accessory facilities where vehicles do not routinely queue up while waiting for service.

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<sup>93</sup> These are entirely new.

2. The regulations apply to new developments, the addition of drive-through facilities to existing developments and the relocation of existing drive-through facilities.

**27-12.110-C. Stacking Spaces Required**

Stacking lanes must be provided in accordance with the following minimum requirements:

| Use                          | Minimum Number of Stacking Spaces Required                                |
|------------------------------|---|
| Bank/financial institution   | 4 spaces per teller window or automatic teller machine                    |
| Car wash                     |   |
| Self-service                 | 3 spaces per approach lane, plus 2 drying spaces per bay                  |
| Full-service                 | 6 spaces per approach lane, plus 2 drying spaces per bay                  |
| Gasoline pump                | 2 spaces per pump per side  |
| Restaurant                   |   |
| Single drive-through lane    | 8 total spaces, with at least 4 spaces at or before order station         |
| Multiple drive-through lanes | 6 total spaces per lane with at least 4 spaces at or before order station |
| Other                        | 4 spaces per bay, window, lane, ordering station or machine               |

**27-12.110-D. Stacking Lane Dimensions, Design and Layout**

1. Stacking lanes must be designed so that they do not interfere with parking movements or safe pedestrian circulation. Stacking spaces must be 9 feet wide by 20 feet long.
2. All stacking lanes must be clearly identified, through such means as striping, landscaping, pavement design, curbing and/or signs.

**27-12.110-E. Setbacks**

Stacking lanes must be set back at least 50 feet from any abutting residential zoning districts and at least 25 feet from all other lot lines.

**27-12.110-F. Noise**

Drive-through facilities Speakers associated with drive-through facilities may not be audible from abutting R-zoned lots or abutting lots occupied by residential uses. Sound attenuation walls, landscaping or other mitigation measures may be required to ensure that the facility will not have adverse noise-related impacts on nearby residential uses.

**27-12.110-G. Site Plans**

Site plans must show the location of drive-through windows and associated facilities (for example: communications systems and access aisles), as well as adjacent residential uses.

## 27-12.120 Off-Street Loading

### 27-12.120-A. Minimum Ratios

Off-street loading spaces must be provided in accordance with the following schedule:<sup>94</sup>

| Use Type  | Minimum Loading Spaces Required |
|---|---------------------------------|
| <b>Public/Civic, Commercial and Industrial Uses</b>     |                                 |
| Under 20,000 square feet                                | None                            |
| 20,000–49,999 square feet                               | 1                               |
| 50,000+   | 2                               |
| <b>Multi-unit or Mixed-use Residential (4+ stories)</b> |                                 |
| Under 50 units  | None                            |
| 50+ units   | 1                               |

### 27-12.120-B. Design and location

1. Off-street loading spaces must be at least 12 feet in width and 35 feet in length unless off-street loading will involve the use of semi-tractor trailer combinations or other vehicles in excess of 35 feet in length, in which case the minimum size of a loading space is 12 feet by 55 feet. All loading spaces must have a minimum vertical clearance of 14 feet.
2. Each loading space must have sufficient maneuvering space on site so as to prevent interference with pedestrian or vehicular circulation on the subject site and on public streets and sidewalks.
3. Plans for location, design and layout of all loading spaces must be indicated on required site plans.
4. All off-street loading areas must be paved.

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<sup>94</sup> These minimum loading ratios have been simplified and reduced.

# Article 13 Landscaping and Screening

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## 27-13.10 General

### 27-13.10-A. Purpose<sup>95</sup>

The landscaping and screening regulations of this article establish minimum requirements for landscaping and screening. The regulations are intended to advance the general purposes of this ordinance and specifically to:

1. Enhance quality of life for residents and visitors;
2. Protect property values;
3. Enhance the quality and appearance new development and redevelopment projects;
4. Mitigate possible adverse impacts of higher intensity land uses abutting lower intensity land uses;
5. Promote the preservation, expansion, protection and proper maintenance of existing trees and landscaping
6. Help ensure wise use of water resources;
7. Improve air quality;
8. Protect water quality and reduce the negative impacts of stormwater runoff by reducing impervious surface area and providing vegetated areas that filter and retain greater amounts of stormwater on site;
9. Moderate heat by providing shade;
10. Reduce the impacts of noise and glare; and
11. Promote sustainable landscape practices including the use of non-invasive native and regionally adaptable plants.

### 27-13.10-B. Applicability<sup>96</sup>

The landscaping and screening regulations of this article apply as set forth in the individual sections of these regulations.

### 27-13.10-C. General Exemption

Unless otherwise expressly stated, the landscaping and screening regulations of this article do not apply to the construction or expansion of detached houses.

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<sup>95</sup> This is new.

<sup>96</sup> The current ordinances include a very general applicability statement encompassing basically any activity that requires the issuance of a development permit or a substantial building permit, which may present challenges for redevelopment activities.

### **27-13.20 General Landscaping of Yards and Open Areas<sup>97</sup>**

On all lots, required setback areas and areas that are not allowed to be covered (in accordance with lot coverage requirements) must be landscaped.

### **27-13.30 Parking Lot Interior Landscaping<sup>98</sup>**

#### **27-13.30-A. Applicability**

The parking lot interior landscaping regulations of this section apply to all of the following:

1. The construction or installation of any new surface parking lot containing 8 or more parking spaces; and
2. The expansion of any existing surface parking lot if the expansion would result in 8 or more new parking spaces, in which case the requirements of this section apply only to the expanded area.<sup>99</sup>

#### **27-13.30-B. Exemptions**

Installation of parking lot interior landscaping is not required beneath canopies or other structures that block sunlight or rainfall.

#### **27-13.30-C. Options**

Landscaping must be provided in the interior of parking lots in the form of landscape islands or a combination of landscape islands and landscape medians, at the option of the property owner. The two options for satisfying parking lot interior landscaping requirements are as follows:

1. **Landscape Islands (Option 1)**

Under option 1, landscape terminal islands (end caps) must be provided at the end of each row of parking spaces and interior landscape islands must be provided within each row of parking spaces so that the distance between islands is no greater than 10 parking spaces. Under option 1, all landscape islands must have a minimum pervious area of 400 square feet.

2. **Landscape Islands and Medians (Option 2)**

Under option 2, landscape terminal islands (end caps) must be provided at the end of each row of parking spaces and interior landscape islands must be provided within each row of parking spaces so that the distance between islands is

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<sup>97</sup> This is a revision of the provision currently found in Sec. 27-1333, which states “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.” This generalized requirement is a partial replacement for the landscape strip requirements, which are proposed for deletion.

<sup>98</sup> Currently, there are very different parking lot landscaping requirements in Chapter 16 and Chapter 27. These follow the substantive requirements of Chapter 16, which seem far easier to interpret, administer and enforce.

<sup>99</sup> Number 2 is new; intended to provide greater flexibility for redevelopment activities.

no greater than 20 parking spaces. A landscape divider median with a minimum width of 5 feet must run continuously between landscape islands and include at least one canopy tree per 30 linear feet of median length. Under option 2, all landscape islands must have a minimum pervious area of 300 square feet.

**27-13.30-D. Plant Material**

1. Landscape islands abutting a single row of parking spaces must include at least 1 canopy tree.
2. Landscape islands abutting a double row of parking spaces must include at least 2 canopy trees.
3. Shrubs must be provided in landscape islands and divider medians at a rate of 4 shrubs per required canopy tree.<sup>100</sup>
4. Ground cover must be used in areas not covered by trees and shrubs. Turf grass may not be used in landscape islands or divider medians.
5. Landscaping within parking lots may not exceed 3 feet in height, with the exception of trees.

**27-13.30-E. Landscape Materials and Design**

Parking lot interior landscaping is subject to the regulations of Sec. [27-13.80](#).

**27-13.40 Parking Lot Perimeter Landscaping<sup>101</sup>**

**27-13.40-A. Applicability**

The parking lot perimeter landscaping regulations of this section apply to all of the following:

1. The construction or installation of any new surface parking lot or vehicular use area that is adjacent to street right-of-way; and
2. The expansion of any existing surface parking lot or vehicular use area that is adjacent to street right-of-way, in which case the requirements of this section apply only to the expanded area.

**27-13.40-B. Exemptions**

Installation of parking lot perimeter landscaping is not required when the parking lot or vehicular use area is not visible from adjacent street right-of-way, as determined by the city arborist.

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<sup>100</sup> The 4 shrub requirement is a change; current ordinance requires that trees and shrubs cover at least 60% of each landscape island. This change is intended as a clarification/simplification, not an increase required shrubs.

<sup>101</sup> The “landscape strip” requirements of Chapter 16 (16-185 through 16-188) are proposed for elimination. These parking lot perimeter landscaping requirements are a partial proposed replacement.

**27-13.40-C. Requirements**

Parking lot perimeter landscaping must be provided in the form of a landscape strip with a minimum depth of 7.5 feet that includes a hedge, dense shrub planting, masonry wall or combination of such features that results in a continuous visual screen to a height of at least 3 feet above the grade of the parking lot (or vehicular use area) along the length its frontage.

**27-13.40-D. Plant Material**

Shrubs used to satisfy parking lot perimeter landscaping requirements must be provided at a rate of 30 shrubs per 100 feet of parking lot (or vehicular use area) frontage.

**27-13.40-E. Landscape Materials and Design**

Parking lot perimeter landscaping is subject to the regulations of Sec. [27-13.80](#).

**27-13.50 Transition Yards<sup>102</sup>**

**27-13.50-A. Applicability**

The transition yard landscaping regulations of this section apply along interior property lines in those instances expressly identified in this zoning ordinance and only to the following activities:<sup>103</sup>

1. The construction or installation of any new principal building or principal use; and
2. The expansion of any existing principal building or principal use that results in an increase in gross floor area or site area improvements by more than 5% or 1,000 square feet, whichever is greater. In the case of expansions that trigger compliance with transition yard requirements, transition yard landscaping is required only in proportion to the degree of expansion. The city arborist is authorized to allow the transition yard to be established adjacent to the area of expansion or to disperse transition yard landscaping along the entire site transition area.

**27-13.50-B. Transition Yard Types**

1. Four transition yard types are established in recognition of the different contexts that may exist. They are as follows:

| Specifications                | Transition Yard Types |     |     |     |
|-------------------------------|-----------------------|-----|-----|-----|
|                               | TY1                   | TY2 | TY3 | TY4 |
| Min. Yard Width[1] (feet)     | 7.5                   | 10  | 15  | 30  |
| Min. Fence/Wall Height (feet) | 6 (wall required)     | 6   | 6   | 6   |

<sup>102</sup> These “transition yard” provisions are new.

<sup>103</sup> The idea is that the supplemental use regulations and the zoning district provisions will be amended as needed to specifically reference when and where a transition yard is required. Per the comprehensive plan, for example, transition yards will always be required for new multi-unit residential projects on lots abutting single dwelling districts.



| Min. Trees (per 100 feet)  |              |              |    |    |
|----------------------------|--------------|--------------|----|----|
| Canopy                     | Not required | 3            | 4  | 4  |
| Understory                 | 4            | 3            | 4  | 5  |
| Min. Shrubs (per 100 feet) | Not required | Not required | 30 | 30 |

[1] Yard widths calculated on the basis of average per 100 feet, provided that the yard width at any point may not be less than 50% of the minimums stated in the table. Required zoning district setbacks may be counted toward satisfying transition yard widths.

2. No buildings or parking areas may be located in required transition yards. Breaks for motorized and non-motorized transportation access are allowed.

**27-13.50-C. Landscape Materials and Design**

Transition yard landscaping is subject to the regulations of Sec. [27-13.80](#).

**27-13.60 Screening**

**27-13.60-A. Features to be Screened**

The following features must be screened from view of public rights-of-way, public open spaces and from lots used or zoned for residential purposes, as specified in this section.

1. Ground-mounted Mechanical Equipment
2. Roof-mounted Mechanical Equipment
3. Refuse/Recycling Containers
4. Outdoor Storage of Materials, Supplies and Equipment

**27-13.60-B. Ground-mounted Mechanical Equipment**

All ground-mounted mechanical equipment over 30 inches in height is subject to principal building setbacks and must be screened from view by a solid fence, solid wall, dense hedge, or combination of such features. The hedge, fence or wall must be tall enough to screen the equipment.

**27-13.60-C. Roof-mounted Mechanical Equipment**

Roof-mounted mechanical equipment (e.g., air conditioning, heating, cooling, ventilation, exhaust and similar equipment, but not solar panels, wind energy or similar renewable energy devices) over 30 inches in height must be screened from ground-level view in one of the following ways:

1. A parapet that is as tall as the tallest part of the equipment;
2. A solid screen around the equipment that is at least as tall as the tallest part of the equipment, with the screen an integral part of the building's architectural design; or
3. An equipment setback from roof edges that is at least 3 feet in depth for each one foot of equipment height.

**27-13.60-D. Refuse/Recycling Containers**

Refuse/recycling containers must be screened from view of streets and all abutting lots with a solid wall or opaque fence at least 6 feet in height. Refuse/recycling containers may not be located in front or street side setbacks.

**27-13.60-E. Outdoor Storage of Materials, Supplies and Equipment**

All stored materials, supplies, merchandise, vehicles, equipment, or other similar materials not on display for direct sale, rental or lease to the ultimate consumer or user must be screened by a fence, wall, dense hedge, or combination of such features with a minimum height of 6 feet at the time of installation.

**27-13.60-F. Landscape Materials and Design**

Landscape material used to satisfying the screening requirements of this section are subject to the regulations of Sec. [27-13.80](#).

**27-13.70 Landscape Plans**

All applications for development permit activities that are subject to the landscape and screening regulations of this article must be accompanied by a separate landscape plan that has been prepared and sealed by a Georgia-registered landscape architect, certified arborist or registered forester. No certificate of occupancy or similar authorization may be issued unless city arborist determines that the landscaping regulations of this article have been met.

**27-13.80 Landscape Material and Design**

**27-13.80-A. Landscaping with Required Landscape Areas**

Required landscaped areas must be covered with biodegradable mulch and ground cover plants.

**27-13.80-B. Existing Trees and Vegetation**

Existing non-invasive trees and shrubs count toward satisfying the landscaping and screening regulations of this article if they are located within the subject area and they comply with the plant height and size requirements of this section.

**27-13.80-C. Plant Selection**

1. Trees and plants selected for required landscape areas must be well-suited to the microclimate and on-site soil conditions.
2. Trees and plant material must comply with the specifications found in *American Standards for Nursery Stock* (ANSI).
3. Invasive species may not be used to meet landscape requirements.

4. If more than 30 trees will be used, a mixture of 3 or more tree species must be used. If more than 50 shrubs will be used, a mixture of 3 or more shrub species must be used.<sup>104</sup>
5. All plant materials are subject to the approval of the city arborist.

**27-13.80-D. Trees**

**1. Deciduous**

Deciduous trees used to satisfy the requirements of this article must be drought-tolerant, have a minimum caliper size of 3 inches<sup>105</sup> (measured 6 inches above the root ball) and a minimum height of 10 feet.

**2. Evergreen**

Evergreen trees used to satisfy the requirements of this article must be drought-tolerant and have a minimum height of 6 feet at time of planting.

**27-13.80-E. Shrubs and Ornamental Grasses**

Shrubs and ornamental grasses used to satisfy the requirements of this article must a minimum 3-gallon size.<sup>106</sup>

**27-13.80-F. Groundcover Plants**

Groundcover plants are deciduous or evergreen plants that grow low and spread horizontally, not including turf. Groundcover plants used to satisfy the requirements of this article must be at least 1-gallon size.

**27-13.80-G. Mulch**

All required trees and shrubs must be located within a (biodegradable) mulched area.

**27-13.80-H. Curbs and Vehicle Barriers**

Landscaped areas in or abutting parking lots must be protected by concrete curbing, anchored wheel stops, or other durable barriers approved by the city arborist. Alternative barrier designs that provide improved infiltration or storage of stormwater are encouraged. Curbs protecting landscape areas may be perforated, have gaps or otherwise be designed to allow stormwater runoff to pass through them.

**27-13.80-I. Installation**

1. All landscaping must be installed in a sound workmanlike manner and in accordance with accepted good landscape planting procedures.

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<sup>104</sup> Ordinance currently says no more than 35% of any single tree or shrub species may be used.

<sup>105</sup> The landscape regulations of Chapter 27 require trees with minimum caliper size of 3 inches. Chapter 16 requires 2-inch caliper trees.

<sup>106</sup> The city arborist is currently evaluating proposed revisions to this standard.

2. Newly planted trees may not be staked or guyed unless they are unable to stand upright without support. Any staking and guying materials must be removed within one year of installation.
3. If the landscape design incorporates plants that require seasonal watering, an automatic irrigation system must be provided to maintain the landscaping in healthy, attractive condition.<sup>107</sup>
  - a. Preserved trees, shrubs, and native plant communities are not required to be irrigated, unless directed by the city arborist.
  - b. Drip irrigation systems must be installed in areas planted with trees, shrubs, perennials and groundcovers. The city arborist may approve an alternate comparable system if it provides irrigation at the ground level rather than an upright spray.
  - c. Turf grass areas must be irrigated on a different zone than trees, shrubs, perennials and groundcovers.
  - d. Moisture sensor and/or rain gauge equipment is required on automatic irrigation systems to avoid irrigation during periods of sufficient rainfall.
  - e. No significant irrigation overthrow is permitted onto impervious surfaces.
  - f. A watering schedule shall be submitted as part of the landscape plan. The schedule shall indicate the different irrigation zones and the frequency and amount of irrigation. Landscape plans must identify methods that will be employed to promote resource-efficient landscaping for the conservation of water and other natural resources, such as:<sup>108</sup>
    - (1) Practical turf areas;
    - (2) Use of water-conserving plant material;
    - (3) Grouping of plants with similar water requirements;
    - (4) Installation of pervious paving to encourage groundwater recharge and re-use and to discourage run-off;
    - (5) Rainwater harvesting techniques;
    - (6) Use of mulches;
    - (7) Use of soil amendments based on soil analysis;
    - (8) Use of reclaimed water, and
    - (9) Other practices and techniques.

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<sup>107</sup> The city arborist is currently evaluating proposed revisions to these provisions.

<sup>108</sup> This is a new proposed requirement.

**27-13.80-J. Maintenance**

The property owner, occupant, tenant and respective agent of each, if any, are jointly and severally responsible for the maintenance and protection of all required landscaping in perpetuity, in accordance with the following regulations:

1. Landscaping must be kept reasonably free of visible signs of insects and disease and appropriately irrigated to enable landscaping to exist in a healthy growing condition;
2. Landscaping must be mowed or trimmed in a manner and at a frequency appropriate to the use made of the material and species on the site so as not to detract from the appearance of the general area. Growth of plant material at maturity must be considered where future conflicts such as view, signage, street lighting, utilities and circulation might arise;
3. All landscaping must be maintained to minimize property damage and public safety hazards, including removal of dead or decaying plant material, and removal of low-hanging branches next to sidewalks and walkways obstructing street lighting; and
4. All pruning must be done in accordance with ANSI A300 (part 1) “Standards for Tree Care Operations—Pruning.” Tree topping is prohibited. Crown reduction pruning may be used instead to reduce the height of a tree when necessary. Topped trees may not be counted toward tree planting requirements.
5. The property owner must post a maintenance bond or cash escrow prior to issuance of a certificate of occupancy guaranteeing all landscape materials and work for a period of 2 years. The bond or escrow must be for at least 115% percent of the estimated cost of replacing all required landscaping. An itemized estimate must be provided by the owner and based on the opinion of a landscape contractor and found to be reasonable by the city arborist. The city arborist must make an inspection and notify the owner of any corrections to be made within the two-year guarantee period.

**27-13.90 Alternative Compliance<sup>109</sup>**

In order to encourage creativity in landscape and screening design and to allow for flexibility in addressing atypical, site-specific development/redevelopment challenges, the city arborist is authorized to approve alternative compliance landscape plans when the city arborist determines that one or more of the following conditions are present:

- 27-13.90-A.** The site has space limitations or an unusual shape that makes strict compliance impossible or impractical;

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<sup>109</sup> This is entirely new.

- 27-13.90-B.** Conditions on or adjacent to the site such as topography, soils, vegetation or existing structures or utilities are such that strict compliance is impossible, impractical or of no value in terms of advancing the general purposes of this article;
- 27-13.90-C.** Safety considerations such as intersection visibility, utility locations, etc., make alternative compliance necessary; or
- 27-13.90-D.** Creative, alternative landscape plans will provide an equal or better means of meeting the intent of the landscaping and screening regulations of this article.

## Article 14 Outdoor Lighting<sup>110</sup>

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### 27-14.10 Purpose

The regulations of this article are intended to:

- 27-14.10-A.** permit reasonable uses of outdoor lighting for nighttime safety, utility, security, productivity, enjoyment and commerce;
- 27-14.10-B.** curtail and reverse the degradation of the nighttime visual environment and the night sky;
- 27-14.10-C.** preserve the dark night sky for astronomy;
- 27-14.10-D.** minimize glare, obtrusive light and artificial sky glow by limiting outdoor lighting that is misdirected, excessive or unnecessary;
- 27-14.10-E.** conserve energy and resources to the greatest extent possible; and
- 27-14.10-F.** help protect the natural environment from the damaging effects of night lighting from human-made sources.

### 27-14.20 Conformance with Applicable Regulations

All outdoor lighting devices must comply with the provisions of this article, the building code and the electrical code, required permits and inspections, as applicable.

### 27-14.30 Prohibited Lighting

The following are expressly prohibited:

- 27-14.30-A.** aerial lasers;
- 27-14.30-B.** searchlight style lights;
- 27-14.30-C.** light sources that exceed 200,000 lumens or intensity in any direction of 2,000,000 candelas or more;
- 27-14.30-D.** mercury vapor lamps;
- 27-14.30-E.** low-sodium vapor lamps; and
- 27-14.30-F.** exposed neon lighting.

### 27-14.40 Exempt Lighting

The following luminaries and lighting systems are expressly exempt from the regulations of this article:

- 27-14.40-A.** underwater lighting used for the illumination of swimming pools and fountains;
- 27-14.40-B.** temporary holiday lighting;

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<sup>110</sup> The outdoor lighting regulations of this article come from Sec. 27-1324 of the current zoning ordinance. Because the lighting regulations were completely updated in 2010, no substantive modifications have been proposed.

- 27-14.40-C.** lighting required and regulated by the Federal Aviation Administration, or other authorized federal, state or local government agency;
- 27-14.40-D.** emergency lighting used by police, fire, or medical personnel, or at their direction;
- 27-14.40-E.** all outdoor light fixtures producing light directly from the combustion of fossil fuels, such as kerosene and gasoline;
- 27-14.40-F.** security lighting controlled and activated by a motion sensor device for a duration of 10 minutes or less.

## **27-14.50 Regulations**

### **27-14.50-A. Applicability**

1. The regulations of this section apply:
  - a. to all new land uses, new developments and new buildings that require a permit
  - b. whenever existing land uses, developments or buildings are expanded by 25% or more in terms of additional dwelling units, parking spaces or gross floor area, in which case the entire property must be brought into conformance with these regulations; and
  - c. whenever existing outdoor lighting constituting 60% or more of the permitted lumens for the parcel is modified or replaced, no matter the actual amount of lighting already on the site.
2. When existing developments or buildings are expanded by less than 25% in terms of additional dwelling units, parking spaces or gross floor area and the expansion requires a permit, the applicant must submit a complete inventory and site plan detailing all existing and any proposed new outdoor lighting. Any new lighting on the site must comply with the shielding and lamp type regulations of this article.

### **27-14.50-B. General Regulations**

1. Outdoor lighting fixtures must be full cutoff and placed so as to allow no light above the horizontal as measured at the luminaire, except as herein noted in this section (as in the case of period fixtures, cutoff fixtures may be used) and except as allowed in [Chapter 20](#) of the municipal code (Signs).
2. Outdoor lighting fixtures must be located, aimed or shielded to minimize glare and stray light trespassing across lot lines and into the public right-of-way.
3. Flood or spot lamps must be positioned no higher than 45 degrees above straight down (half-way between the vertical and the horizontal) when the source is visible from any off-site residential property or public roadway.

| <b>At Property Lines Including Rights-of-Way</b>               | <b>Maximum Footcandles</b> |
|--|----------------------------|
| At property line abutting a residential or an agricultural use | 0.5                        |
| At property line abutting an office or institutional use       | 1.0                        |
| At property line abutting a commercial or industrial use       | 1.5                        |



| Off-Street Parking Lots   | Minimum Footcandles | Average Footcandles | Maximum Footcandles |
|---------------------------|---------------------|---------------------|---------------------|
| Residential areas         | 0.5                 | 2.0                 | 4.0                 |
| Office-professional areas | 1.0                 | 3.0                 | 6.0                 |
| Commercial areas          | 2.0                 | 6.0                 | 12.0                |
| Light industrial areas    | 1.0                 | 4.0                 | 8.0                 |

4. All light fixtures that are required to be shielded shall be installed and maintained in such a manner that the shielding is effective as described herein for fully shielded fixtures.
5. Lighting on sites consisting of multiple uses must conform to the standards of the respective uses.
6. Illumination levels are measured from any height and orientation of the measuring device at any location along the property line except the lighting of parking lots must be measured at grade with the meter sensor held horizontally at the surface.

**27-14.50-C. Specific Uses and Activities**

This subsection establishes supplemental lighting regulations for specific types of uses and activities. All lighting not directly associated with the special use areas designated below must comply with all other applicable regulations of this article.

**1. Outdoor Sports, Recreation Fields and Performance Areas**

Lighting of outdoor recreational facilities (public or private), such as, but not limited to, outdoor athletic fields, courts, tracks, special event or show areas must comply with the following regulations:

- a. Facilities designed for municipal leagues, elementary to high school levels of play and training fields for recreational or social levels of play, college play, semi-professional, professional or national levels of play must utilize luminaries with minimal uplight consistent with the illumination constraints of the design. Where fully shielded fixtures are not utilized, acceptable luminaries include only those that:
  - (1) Are provided with internal and/or external glare control louvers or lenses, and are installed so as to minimize uplight and offsite light trespass and glare, and
  - (2) All lighting installations must be designed to achieve the illuminance levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA RP-6).

**Light Trespass Limitations for Sports Lighting**

| Environmental Zone | Pre-Curfew Limit                        | Post-Curfew Limit | Degrees Above Nadir<br>(not to exceed 12,000 candela<br>from a single fixture) |
|--------------------|---|-------------------|--|
| <b>E1</b>          | Not allowed                             | 0.0 max vertical  | Not allowed  |
| <b>E2</b>          | 0.25 max horizontal<br>1.0 max vertical | 0.10 max vertical | 82 degrees   |
| <b>E3</b>          | 0.5 max horizontal<br>2.0 max vertical  | 0.30 max vertical | 85 degrees   |
| <b>E4</b>          | 0.75 max horizontal<br>3.0 max vertical | 0.60 max vertical | 88 degrees   |

E1 = Areas with intrinsically dark landscapes, such as national parks, areas of outstanding natural beauty, etc.

E2 = Areas of low ambient brightness, including sensitive residential areas.

E3 = Areas of medium ambient brightness, generally being urban residential areas.

E4 = Areas of high ambient brightness, which would include dense urban areas with mixed residential and commercial use with high levels of nighttime activity.

- b.** All events must be scheduled so as to complete all activity no later than 10:30 p.m. Illumination of the playing field, court or track is permitted after the curfew only to conclude a scheduled event that was unable to conclude before the curfew due to unusual circumstances. Field lighting for these facilities must be turned off within 30 minutes of completion of the last event of the night.
- c.** All light poles must be set back a minimum 60 feet from any residential property line or right-of-way.

**2. Service Station Canopies and Parking Garages**

- a.** All luminaries mounted on or recessed into the lower surface or service station canopies and parking structures must be fully shielded and utilize flat lenses.
- b.** The total light output of luminaries mounted on the lower surface, or recessed into the lower surface of the canopy, and any lighting within signage or illuminated panels over the pumps, may not exceed 50 footcandles. The total light output of other illuminated areas of a service station may not exceed 15 footcandles.
- c.** Illuminance levels for the interior of parking structures, where interior lighting is visible from outside the structure, must conform to IESNA recommendation RP-20.
- d.** Lights may not be mounted on the top or sides of a canopy, and the sides of the canopy may not be illuminated.

**3. Security Lighting**

- a.** Security lighting must be directed towards the targeted area.
- b.** Sensor activated lighting must be located in such a manner as to prevent direct glare and lighting into properties of others or into a public right-of-

way, and the system must be designed and maintained so that lights are not activated by activity off of the subject property.

**4. Pedestrian Path Lighting**

Lighting posts for pedestrian path lighting may not exceed 16 feet in height from finished grade.

**5. Architectural Accent Lighting**

- a. Fixtures used to accent architectural features, materials, colors, style of buildings, landscaping, or art must be located, aimed and shielded so that light is directed only on those features. Such fixtures must be aimed or shielded to minimize light spill into the dark night sky in conformance with the luminaire standards.
- b. Lighting fixtures may not generate glare, or direct light beyond the facade onto a neighboring property, streets or into the night sky.

**6. Temporary Lighting Permits**

Permits for temporary lighting may be granted by the community development department if the total output from the luminaries does not exceed 50 footcandles, subject to the following regulations:

- a. The lighting may not remain for more than 30 days, except that permits for a major construction project may extend to completion.
- b. The lighting must be designed in such a manner as to minimize light trespass and glare.
- c. Temporary recreational lighting allowed by permit must be extinguished by 10:30 p.m.

**7. Parking Areas**

- a. All lighting fixtures servicing parking lots must be directed downward and not towards buildings or other areas.
- b. Parking lots must be illuminated to a minimum illumination level of 0.4 footcandles at grade level, and the ratio of the average illumination to the minimum illumination may not exceed 4:1.
- c. Light poles used in parking lots with 100 parking spaces or less may not exceed 20 feet in height. Light poles used in parking lots with more than 100 parking spaces may not exceed 35 feet in height.

**8. Street lights**

Unless street light fixtures are of a period or architecture style as approved by the public works department, all new, repaired or replaced fixtures must be full cutoff fixtures.

### **27-14.60 Variances**

Applications for variances from the outdoor lighting regulations of this article must include the recommended practices of the Illuminating Engineering Society of North America, a professional engineer or other commonly recognized authority on outdoor lighting. Applications must also include information concerning the proposed design and appearance of the luminaire and how light trespass and glare will be limited.

### **27-14.70 Plans**

Applicants for any permit required by any provision of the ordinances of the city in connection with proposed work involving outdoor lighting fixtures must submit, as part of the application for permit, evidence that the proposed work will comply with the outdoor lighting regulations of this article.

**27-14.70-A.** The submission must include at least the following information with the application for the required permit:

1. Plans indicating the location on the premises of each illuminating device, both proposed and any already existing on the site.
2. Description of all illuminating devices, fixtures, lamps, supports, reflectors, both proposed and existing. The description may include, but is not limited to catalog cuts and illustrations by manufacturers.
3. Photometric data, such as that furnished by manufacturers or similar, showing the angle of cut-off of light emissions.
4. Photometric plans must include the maximum and average light layout.

**27-14.70-B.** The above required plans, descriptions, and data must be complete and accurate so that the community development department is able to readily determine whether the proposal will comply with the requirements of this article.

### **27-14.80 Certification**

For all projects, certification that the lighting as installed, conforms to the approved plans must be provided by a licensed professional before the certificate of occupancy is issued. Until this certification is submitted, approval for use by the issuance of the certificate of occupancy may not be issued.

## Article 15 Fences and Walls

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### 27-15.10 Applicability

The fence and wall regulations of this article govern the design and location all fences and walls, including retaining walls and wing walls.

### 27-15.20 Maximum Height

In residential zoning districts fences and walls located in street yards may not exceed 4 feet in height. All other fences and walls are limited to a maximum height of 8 feet unless otherwise expressly stated in this zoning ordinance.<sup>111</sup>

### 27-15.30 Required Fences and Walls

When fences or walls are required to be installed, the wall or fence must be in place before issuance of a certificate of occupancy for the principal use or structure.

### 27-15.40 Retaining Walls in Single-dwelling Residential Districts

The regulations of this section apply to retaining walls in single-dwelling residential zoning districts.

- 27-15.40-A.** Newly constructed retaining walls are subject to the following maximum height limits:

| Required Approval                                    | Maximum Height (feet)               |
|--|-------------------------------------|
| As of right  | Up to 4                             |
| Administrative permit ( <a href="#">Article 23</a> ) | More than 4, up to 8 <sup>112</sup> |
| Special exception ( <a href="#">Article 22</a> )     | More than 8, up to 12               |

- 27-15.40-B.** Existing retaining walls may be repaired and replaced if the repair or replacement does not result in an increase in the height of the wall.

- 27-15.40-C.** On lots occupied by a detached house, retaining walls must be set back from all property lines a distance equal to at least 50% of the required building setback. The community development director is authorized to approve an administrative permit (in accordance with [Article 23](#)) allowing a maximum retaining wall setback reduction of 50% (down to not less than 25% of the required building setback).

- 27-15.40-D.** A decision to allow an authorized administrative permit or special exception must be based on a determination that exceptional topographical restrictions exist on the lot in context with the adjoining property that were not created by the applicant or owner, and a determination that no practical alternative retaining wall design is feasible. The applicant must submit a site plan or a topographical map certified by an engineer or landscape architect with any exception application for retaining walls.

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<sup>111</sup> Current ordinance also states “No wall or fence shall be constructed in any public right-of-way except upon approval of the director of public works.” This sentence has been omitted because it seems misplaced in the zoning ordinance and may not accurately describe the approval process for private improvements in the public ROW.

<sup>112</sup> Currently, the community development director is authorized to allow up to 2 additional feet in retaining wall height. Additional height and setback modifications currently require approval as a variance.

**27-15.40-E.** Retaining walls may not exceed 12 inches above grade at the higher side elevation.

### **27-15.50 Wing Walls in Single-dwelling Residential Districts**

The regulations of this section apply to wing walls in single-dwelling residential zoning districts.

- 27-15.50-A.** Newly constructed wing walls that are part of the foundation of the principal structure are permitted when exceptional topographical restrictions exist on the subject lot in context with the adjoining properties that were not created by the owner or applicant.
- 27-15.50-B.** Wing walls may not exceed 10 feet in height, or the height of the foundation wall to which it is attached, whichever results in a lower wing wall height. Wing walls may not be used to allow a house to exceed the detached house infill regulations of Sec. [27-9.170](#).
- 27-15.50-C.** When affixed to a detached house, a wing wall may project into a street setback or rear setback for a distance not to exceed 10 feet. The community development director is authorized to approve an administrative permit (in accordance with [Article 23](#)) allowing a wing wall to project a side setback to a point not closer than 5 feet from the side lot line.<sup>113</sup>
- 27-15.50-D.** Guardrails must be installed atop all wing walls exceeding 30 inches in height above grade. Guardrails may not be opaque and must be a minimum of 36 inches and a maximum of 48 inches in height.<sup>114</sup>
- 27-15.50-E.** Wing walls may not exceed 12 inches above grade at the higher side elevation.

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<sup>113</sup> This is a proposed change; side setback encroachment currently requires approval as a variance.

<sup>114</sup> Staff review comment suggested tying this to GA state building code, but since we couldn't find guardrail requirements in the codes, we have deferred. Awaiting further guidance.

## Article 16 Miscellaneous Provisions

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### 27-16.10 Outdoor Storage

#### 27-16.10-A. Where Allowed

1. Outdoor storage is prohibited in all zoning districts except the C-2 and M districts.
2. Temporary storage of construction equipment, construction materials, or construction vehicles is permitted on lots that are the subject of a valid development or building permit as long as construction work is actively being undertaken on the lot.

#### 27-16.10-B. Required Setbacks and Screening

Outdoor storage areas in C-2 and M districts must be set back at least 50 feet from street rights-of-way and screened from view.

### 27-16.20 Street Frontage Required

All buildings must be located on a lot or parcel that abuts a public street or private street.

### 27-16.30 State Routes

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 state department of transportation must obtain the preliminary approval of both the city public works department and the state department of transportation before beginning any construction of any type.

### 27-16.40 Intersection Visibility

No fence, wall, building, structure, sign, plant material, or other obstruction of any kind may be maintained within 15 feet of the intersection of the rights-of-way lines of any 2 streets extended, or of a street intersection with a railroad right-of-way line.

### 27-16.50 Cross-district Access

Off-street parking, driveways or any other building, structure or use of land, including any accessory use or structure, is 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.

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## Article 17 Common (Procedural) Provisions

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### 27-17.10 Applicability

The common provisions of this article apply to all of the review and approval procedures ([Article 18](#) through [Article 25](#)) of this zoning ordinance unless otherwise expressly stated.

### 27-17.20 Georgia Zoning Procedures Law

**27-17.20-A.** The review and approval procedures of this zoning ordinance are intended to comply with the provisions of the *Georgia Zoning Procedures Law*, O.C.G.A. §36-66 et. seq., which is incorporated by reference in its entirety into this zoning ordinance. If any provision of this zoning ordinance is in conflict with any provision of the zoning procedures law or if this zoning ordinance fails to incorporate a provision required for the implementation of the zoning procedures law, the zoning procedures law controls.

**27-17.20-B.** This zoning ordinance is also intended to comply with the provisions of O.C.G.A. §36-67 pertaining to zoning decisions. If any provision of this zoning ordinance is in conflict with any provision of O.C.G.A. §36-67 or if this zoning ordinance fails to incorporate a provision required for the implementation of O.C.G.A. §36-67, state law controls.

### 27-17.30 Developments of Regional Impact

**27-17.30-A.** Any application for a development permit or building permit that constitutes a development of regional impact must be forwarded to the Atlanta Regional Commission for review. No final local decision may be made on the application until the Atlanta Regional Commission's review is complete, within the time limit specified by state law.

**27-17.30-B.** Any application for a zoning map amendment or special land use permit that constitutes a development of regional impact must be forwarded to the Atlanta Regional Commission for review. No final local decision may be made on the zoning map amendment or special land use permit until the Atlanta Regional Commission's review is complete, within the time limit specified by state law.

### 27-17.40 Summary of Review and Decision-making Authority

The following table provides a summary of review and decision-making authority under this zoning ordinance. In the event of conflict between this summary table and the detailed procedures identified in this zoning ordinance, the detailed procedures govern.

| Procedure   |                            | Community Development Dir. | Design Review Board <sup>115</sup> | Zoning Board of Appeals    | Community Council | Planning Commission | Mayor and City Council |
|---|----------------------------|----------------------------|------------------------------------|----------------------------|-------------------|---------------------|------------------------|
| R = review and recommendation   DM = decision-making body (final decision)   < > = public hearing |                            |                            |                                    |                            |                   |                     |                        |
| Comprehensive Plan Land Use Map Amendments  | <a href="#">Article 18</a> | R                          | —                                  | —                          | R                 | <R>                 | <DM>                   |
| Zoning Ordinance Text and Map Amendments  | <a href="#">Article 18</a> | R                          | —                                  | —                          | R                 | <R>                 | <DM>                   |
| Special Land Use Permits  | <a href="#">Article 19</a> | R                          | —                                  | —                          | —                 | <R>                 | <DM>                   |
| Variances   | <a href="#">Article 21</a> | R                          | —                                  | <DM>                       | —                 | —                   | —                      |
| <a href="#">Special Exceptions</a>  | <a href="#">Article 22</a> | <a href="#">R</a>          | <a href="#">=</a>                  | <a href="#">&lt;DM&gt;</a> | <a href="#">=</a> | <a href="#">=</a>   | <a href="#">=</a>      |
| Administrative permits  | <a href="#">Article 23</a> | DM                         | —                                  | —                          | —                 | —                   | —                      |
| Appeals of Administrative Decisions   | <a href="#">Article 24</a> | —                          | —                                  | DM                         | —                 | —                   | —                      |
| Development Permits   | <a href="#">Article 25</a> | DM                         | R[1]                               | —                          | —                 | —                   | —                      |

[1] Responsible for review and recommendation only where expressly indicated in this zoning ordinance.

## 27-17.50 Pre-application Conferences

### 27-17.50-A. Purpose

Pre-application conferences provide an early opportunity for city staff and applicants to discuss the procedures, standards and regulations required for development approval under this zoning ordinance.

### 27-17.50-B. Applicability

Pre-application conferences are required whenever the provisions of this zoning ordinance expressly state that they are required. They are encouraged in all cases.

### 27-17.50-C. Scheduling

Pre-application conferences must be scheduled with community development department staff.

### 27-17.50-D. Guidelines

The community development director may establish guidelines for pre-application conferences, including information that should be provided and any available alternatives to face-to-face meetings, such as telephone conversations and email correspondence.

## 27-17.60 Neighbor Communication Summary<sup>116</sup>

### 27-17.60-A. Purpose

The purpose of neighbor communication summary requirements is to help educate applicants for development approvals and neighbors about one another's interests,

<sup>115</sup> Currently known as the "design review advisory committee" (DRAC).

<sup>116</sup> This is new—a proposed alternative to the currently required pre-submittal community meeting.

to attempt to resolve issues in a manner that respects those interests and to identify unresolved issues.

**27-17.60-B. Applicability**

Neighbor communication summaries are required to be submitted whenever the provisions of this zoning ordinance expressly state that they are required. They are encouraged in all cases.

**27-17.60-C. Summary Report**

The applicant must submit a neighbor communications summary at the time of application submittal. The summary report must describe:

1. efforts to notify neighbors about the proposal (how and when notification occurred, and who was notified);
2. how information about the proposal was shared with neighbors (mailings, workshops or meetings, open houses, flyers, door-to-door handouts, etc.);
3. who was involved in the discussions;
4. suggestions and concerns raised by neighbors; and
5. what specific changes to the proposal were considered and/or made as a result of the communications.

**27-17.70 Applications and Fees**

**27-17.70-A. Form of Application**

1. Applications required under this zoning ordinance must be submitted in a form and in such numbers as required by the community development director.
2. The community development director must develop checklists of application submittal requirements and make those checklists available to the public.

**27-17.70-B. Application Filing Fees**

Applications must be accompanied by the fee amount indicated in the fee schedule that has been approved by mayor and city council. Application filing fees are nonrefundable once the application has been accepted and determined to be complete.

**27-17.70-C. Application Completeness, Accuracy and Sufficiency**

1. An application will be considered complete and ready for processing only if it is submitted in the required number and form, includes all required information and is accompanied by the required application filing fee.
2. The community development director must make a determination of application completeness in accordance with the schedule established pursuant to Sec. [27-17.80](#).
3. If an application is determined to be incomplete, the community development director must provide written notice to the applicant along with an explanation of the application's deficiencies.

4. No further processing of incomplete applications will occur and incomplete applications will be pulled from the processing cycle. When the deficiencies are corrected, the application will be placed in the next processing cycle.
5. Applications deemed complete by the community development director will be considered to be in the processing cycle and will be reviewed by city staff, affected agencies and other review and decision-making bodies in accordance with applicable review and approval procedures of this zoning ordinance.
6. The community development director may require that applications or plans be revised before being placed on an agenda for possible action if the community development director determines that:
  - a. The application or plan contains one or more significant inaccuracies or omissions that hinder timely or competent evaluation of the plan's or application's compliance with applicable regulations;
  - b. The application contains multiple minor inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with applicable regulations; or
  - c. The decision-making body does not have legal authority to approve the application or plan as submitted.

#### **27-17.80 Application Processing Cycles**

The community development director, after consulting with review and decision-making bodies, is authorized to promulgate reasonable application processing cycles and schedules for processing applications under this zoning ordinance. Processing cycles may establish:

- 27-17.80-A.** deadlines for receipt of complete applications;
- 27-17.80-B.** timeframes for determination of application completeness;
- 27-17.80-C.** dates of regular meetings;
- 27-17.80-D.** timing of staff reviews and reports;
- 27-17.80-E.** estimated timeframes for completion of reviews and decision-making;
- 27-17.80-F.** timelines for consideration of comprehensive plan amendments (e.g., annual or semi-annual); and
- 27-17.80-G.** other information regarding administrative practices and customs that will assist applicants and the general public.

## **27-17.90 Withdrawal of Applications<sup>117</sup>**

Owner-initiated applications may be withdrawn at the discretion of the applicant without prejudice at any time before the authorized decision-making body votes on the matter. Applications that are withdrawn with prejudice are subject to all applicable limitations on the frequency of filing as if the application had been denied.

## **27-17.100 Public Hearings**

### **27-17.100-A. Hearing Procedures**

Public hearing bodies must adopt and publish written rules governing their hearing procedures, which must be made available to the public at the public hearing.

### **27-17.100-B. Applicant Attendance**

Applicants must appear at public hearings in person or be represented in person by their authorized agent.

### **27-17.100-C. Public Notices<sup>118</sup>**

The cost of all required and courtesy public notices must be paid by the applicant in addition to all other required application fees.

### **27-17.100-D. Continuances**

A public hearing for which proper notice was given may be continued to a later date without providing additional notice as long as the continuance is set for specified date and time and that date and time is announced at the time of the public hearing.

## **27-17.110 Action by Decision-Making Bodies**

**27-17.110-A.** Decision-making bodies may take any action that is consistent with:

1. the regulations of this zoning ordinance;
2. any rules or by-laws that apply to the decision-making body; and
3. the notice that was given.

**27-17.110-B.** Decision-making bodies are authorized to defer action or continue a hearing in order to receive additional information or further deliberate.

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<sup>117</sup> This provision currently applies only to amendments and SLUPs. The current ordinance states that “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.” The provision represents a change in the case of matters before the zoning board of appeals. For ZBA matters, the ordinance states that applications may be withdrawn without prejudice at any time before the board’s vote.

<sup>118</sup> The current zoning ordinance currently requires some forms of public notice that are not required by state law, which carries some inherent risk. This draft *requires* only such hearing notices mandated by state law. All other forms of notice are considered (non-required) courtesy notice.

**27-17.110-C.** Decision-making bodies are authorized to refer matters back to a review body for further deliberations or to obtain additional information.

**27-17.110-D.** Decision-making bodies are authorized to defer action, continue the hearing or deny an application whenever the applicant fails to appear for a scheduled and advertised hearing or whenever the applicant fails at more than one meeting to provide the information or documentation necessary for a competent evaluation of the plan's or application's compliance with applicable regulations.

### **27-17.120 Conditions of Approval**

When decision-making bodies approve applications with conditions, the conditions must relate to a situation created or aggravated by the proposed use or development and must be roughly proportional to the impacts of the use or development. No condition in the form of a development exaction for other than a project improvement may be imposed within the meaning of the Georgia *Development Impact Fee Act*. Any conditions imposed must comply with the following:<sup>119</sup>

**27-17.120-A.** Conditions may be imposed to mitigate any possible adverse impacts of the proposal on neighboring persons or properties, consistent with the purposes of this zoning ordinance, the goals and objectives of the comprehensive plan and state law.

**27-17.120-B.** Conditions must be of sufficient specificity to allow lawful and consistent application and enforcement.

**27-17.120-C.** Conditions shall be supported by a record that evidences the relationship between the condition and the impacts of proposed use or development.

**27-17.120-D.** Once imposed, conditions run with land and will be enforced on all present and future property owners and successors in interest.

**27-17.120-E.** Excepts as otherwise expressly stated, amendments or changes to approved conditions may be approved only by following the same procedures as the original approval (i.e., conditions attached to a special land use permit or variance require the processing of a new application for a SLUP or variance, in accordance with the procedures of [Article 19](#) or [Article 21](#), respectively)

### **27-17.130 Decision-Making Criteria; Burden of Proof or Persuasion**

Applications must address relevant review and decision-making criteria. In all cases, the burden is on the applicant to show that an application complies with all applicable review or approval criteria.<sup>120</sup>

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<sup>119</sup> The following rules currently apply only to text and map amendments. Including them here will make them applicable to all conditional approvals. Sec. 27-1438(2) is proposed for deletion: ~~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 city 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 27-1431~~

<sup>120</sup> This is a new provision, but is thought to be consistent with existing practice.



# Article 18 Amendments

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## **27-18.10 Applicability**

The procedures of this article apply to comprehensive plan land use map amendments, zoning map amendments, zoning ordinance text amendments and major amendments to one or more conditions attached to previously approved zoning map amendments.

## **27-18.20 Authority to Initiate**

Amendments to the comprehensive plan's land use map, the zoning map and the text of this zoning ordinance may be initiated by mayor following a motion and a second, any member of the city council following a motion and a second, official action of the planning commission or by the community development director acting on behalf of the mayor and city council. In addition, amendments to the comprehensive plan land use map and the zoning map may be initiated upon application by the owner of the subject property or the subject property owner's authorized agent.

## **27-18.30 Pre-application Conference**

Pre-application conferences with staff are required for all owner-initiated amendment applications (see the pre-application provisions of Sec. [27-17.50](#)).

## **27-18.40 Neighbor Communications Summary<sup>121</sup>**

Neighbor communication summaries are required for all owner-initiated applications for amendments (see the neighbor communication summary provisions of Sec. [27-17.50](#)). If there is no residential zoning within ~~500~~ [200](#) feet of the property under consideration, the applicant is exempt from neighbor communication summary requirements.

## **27-18.50 Application Filing**

- 27-18.50-A.** Owner-initiated applications for comprehensive plan land use map amendments and zoning map amendments must be filed with the community development director.
- 27-18.50-B.** Owner-initiated applications for zoning map amendments may be proposed with or without conditions. Conditions may include:
  - 1. Written conditions;
  - 2. Site plans, architectural renderings, elevations, photographs, or other graphic representations of the proposed use/development; or
  - 3. Any combination of written conditions and graphic representations.
- 27-18.50-C.** Any site plan filed as a proposed condition must be prepared, signed and sealed by a state-licensed architect, landscape architect or engineer.

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<sup>121</sup> This is new—a proposed alternative to the currently required pre-submittal community meeting. Exempt radius threshold increased from 200 to 500 feet after review of module 2.

## **27-18.60 Public Hearing Notices<sup>122</sup>**

### **27-18.60-A. Published Notice**

At least 15 days before but not more than 45 days before the date of the public hearing to be held by the mayor and city council, notice of the public hearing must be published in a newspaper of general circulation in the city. This required notice must indicate the date, time, place and purpose of the public hearing. In the case of proposed amendments initiated by a party other than the city, the notice must also identify the location of the subject property and the property's existing and proposed zoning classification.

### **27-18.60-B. Written (Mailed) Notice**

Written notice is required for all proposed amendments initiated by a party other than the city. The community development director is responsible for sending written notice via first class mail to all property owners within 500 feet of the boundaries of the subject property, as those property owners are listed on the tax records of the city. The notices must be mailed at least 15 days before the date of the planning commission public hearing and not more than 45 days before the date of the city council public hearing. Written notices must indicate the nature of the proposed amendment and the date, time, place and purpose of the public hearing.

### **27-18.60-C. Posted Notice**

For all proposed amendments initiated by a party other than the city, a public hearing notice sign must be placed in a conspicuous location on the subject property at least 15 days before the date of the public hearing to be held by the mayor and city council. This notice sign must indicate the date, time, place and purpose of the public hearing.

### **27-18.60-D. Special Requirements for Drug Treatment and Dependency Facilities**

When a proposed zoning map amendment relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency, all published, written and posted notices of the public hearing to be held by the mayor and city council must include a prominent statement that the proposed zoning map amendment relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency. The published notice must be at least 6-column inches in size and may not be located in the classified advertising section of the newspaper.

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<sup>122</sup> The draft ordinance's public hearing notice provisions were originally revised to require only those forms of notice that are required by the Georgia *Zoning Procedures Law*. As a result of public input, the notice requirements in this draft have been changed back to require the same notice as required under today's ordinance, including mailed notice to all property owners within 500 feet (which is not required under state law).

### **27-18.70 Community Council Meeting and Recommendation<sup>123</sup>**

The community council must consider proposed amendments in a public meeting and act by simple majority vote to recommend that the proposed amendment be approved, approved with conditions or denied based on the applicable review and approval criteria of Sec. [27-18.100](#). The community council's recommendation must be transmitted to the planning commission. Failure of the community council to make a recommendation in a timely manner does not constitute grounds for postponement, deferral or denial of any proposed amendment by the planning commission or by the mayor and city council.

### **27-18.80 Planning Commission Public Hearing and Recommendation<sup>124</sup>**

The planning commission must hold a public hearing on all proposed amendments. Following the close of the hearing, the planning commission must act by simple majority vote to recommend that the proposed amendment be approved, approved with conditions or denied based on the applicable review and approval criteria of Sec. [27-18.100](#). The planning commission's recommendation must be transmitted to the mayor and city council.

### **27-18.90 City Council Public Hearing and Decision**

**27-18.90-A.** Upon receipt of recommendations from the planning commission, the mayor and city council must hold a public hearing on proposed amendments. Following the close of the public hearing, the mayor and city council must act by simple majority vote to approve the proposed amendment, approve the proposed amendment with conditions or deny the proposed amendment based on the applicable review and approval criteria of Sec. [27-18.100](#). The mayor and city council are also authorized to defer action on the proposed amendment or allow the applicant to withdraw the proposed amendment without prejudice.

**27-18.90-B.** When a proposed zoning map amendment relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency, the mayor and city council public hearing must be held at least 6 months before and not more than 9 months before the date of final action on the application.

### **27-18.100 Review and Approval Criteria**

#### **27-18.100-A. Comprehensive Plan Land Use Map**

The following review and approval criteria must be used in reviewing and taking action on all comprehensive plan land use map amendments:

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;

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<sup>123</sup> This draft proposes elimination of community council review as part of the SLUP approval process, which will undoubtedly be a topic of discussion during reviews. During such discussions consideration should be given to whether community council review should be retained for amendments.

<sup>124</sup> Section 2-88(f) of the municipal code currently imposes narrower limits on the actions of the planning commission in making recommendations to city council. Section 2-88(g) currently allows the planning commission to table matters after the close of the public hearing. These sections will need to be revised to ensure consistency with this revised language.

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 that 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 city boundary lines;
7. Whether there are other existing or changing conditions affecting the use and development of the affected land areas that support either approval or denial of the proposed land use change; and
8. Whether there are impacts on historic buildings, sites, districts or archaeological resources resulting from the proposed change.

**27-18.100-B. Zoning Map Amendments**

The following review and approval criteria must be used in reviewing and taking action on all zoning map amendments:

1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan;
2. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties;
3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;
4. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;
5. Whether there are other existing or changing conditions affecting the use and development of the property that provide supporting grounds for either approval or disapproval of the zoning proposal;
6. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources; and
7. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

**27-18.100-C. Zoning Ordinance Text Amendments**

The following review and approval criteria must be used in reviewing and taking action on all zoning ordinance text amendments:

1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan; and
2. Whether the proposed zoning ordinance text amendment corrects an error or inconsistency in the zoning ordinance, meets the challenge of a changing condition or is necessary to implement established policy.

### **27-18.110 Concurrent Variances**<sup>125</sup>

**27-18.110-A.** The mayor and city council may consider and approve, approve with conditions, or deny variances that would otherwise require approval under [Article 21](#) simultaneously (i.e., concurrent variance) with an amendment application. In such cases, the planning commission must make a recommendation on the concurrent variance request in addition to the companion amendment application. The planning commission must make their recommendation and the mayor and city council must take action on any concurrent variance in a separate motion after acting on the companion amendment application.

**27-18.110-B.** Any application for a variance that is not processed simultaneously with an amendment application must be processed as a separate variance request in accordance with the procedures of [Article 21](#).

**27-18.110-C.** In taking action on concurrent variance requests, the mayor and city council must apply the variance review and approval criteria of Sec. [27-21.70](#). The planning commission's review must also be based on the variance review and approval criteria of Sec. [27-21.70](#).

**27-18.110-D.** Any person aggrieved by a final concurrent variance decision of the mayor and city council, including any officer, department, board or agency affected by such decision, may seek review of such decision by petitioning the superior court for a writ of certiorari, setting forth the alleged errors. The petition must be filed within 30 days of the date that the mayor and city council renders its final decision on the variance. Service upon the city must be as provided by law.<sup>126</sup>

### **27-18.120 Successive Applications**

An application for a comprehensive plan land use map amendment, zoning map amendment or a major amendment to one or more conditions attached to previously approved zoning map amendments affecting all or a portion of the same property may not be submitted more than once every 24 months measured from the date of final action by the mayor and city council. The mayor and city council are authorized to waive or reduce this 24-month time interval by resolution, except that the time interval between the date of action to deny or the date that the application is withdrawn with prejudice and the

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<sup>125</sup> This is entirely new. The zoning ordinance currently does not allow "concurrent variances."

<sup>126</sup> This appeal provision has been added in response to sounding board/public comments on module 2.

date of filing of any subsequent amendment affecting the same property may not be less than 6 months.<sup>127</sup>

## **27-18.130 Amending Conditions of Approval**

### **27-18.130-A. Major Changes**

1. Without limiting the meaning of the phrase, modification of any of the following conditions, if attached to an approved amendment, constitute a “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;
  - d. Any change in any buffer requirement;
  - e. Any increase in building or structure height; or
  - f. Any change in the proportion of floor space devoted to different authorized uses.
2. Any request for major changes to conditions attached to approved amendments must be processed as a new amendment application in accordance with the procedures of this article, including the requirement for fees, notices and hearings.

### **27-18.130-B. Minor Changes**

1. Modification of conditions attached to an approved amendment that are not classified as a major change pursuant to Sec. [27-18.130-A.1](#), constitute a “minor change” for purposes of interpreting this section.
2. The community development director is authorized to approve minor changes to conditions attached to approved amendments.
3. Any request for minor change of conditions must be made in writing to the community development director. If an approved site plan exists, the request for minor change must be accompanied by copies of the revised site plan.

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<sup>127</sup> The six-month waiting period is the same as the existing ordinance, but this text clarifies that it extends from the date of denial (or withdrawal) to the date of application filing, which may not be the current interpretation.

# Article 19 Special Land Use Permits

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## 27-19.10 Applicability

The procedures of this article apply to all special land use permits (also known as “SLUPs”) required under this zoning ordinance.

## 27-19.20 Authority to File

Applications for special land use permit approval may be filed by the owner of the subject property or the property owner’s authorized agent.

## 27-19.30 Pre-application Conference

Pre-application conferences with staff are required for all special land use permits (see the pre-application provisions of Sec. [27-17.50](#)).

## 27-19.40 Neighbor Communications Summary<sup>128</sup>

Neighbor communication summaries are required for all special land use permits (see the neighbor communication summary provisions of Sec. [27-17.50](#)). If there is no residential zoning within ~~500~~ **200** feet of the property under consideration the applicant is exempt from neighbor communication summary requirements.

## 27-19.50 Application Filing

Special land use permit applications must be filed with the community development director.

## 27-19.60 Public Hearing Notices<sup>129</sup>

### 27-19.60-A. Published Notice

At least 15 days before but not more than 45 days before the date of the public hearing to be held by the mayor and city council, notice of the public hearing must be published in a newspaper of general circulation in the city. This required notice must indicate the date, time, place and purpose of the public hearing; the location of the subject property; and the property’s existing and proposed zoning and use.

### 27-19.60-B. Written (Mailed) Notice

The community development director is responsible for sending written notice via first class mail to all property owners within 500 feet of the boundaries of the subject property, as those property owners are listed on the tax records of the city. The notices must be mailed at least 15 days before the date of the planning commission

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<sup>128</sup> This is new—a proposed alternative to the currently required pre-submittal community meeting.

<sup>129</sup> The draft ordinance’s public hearing notice provisions were originally revised to require only those forms of notice that are required by the Georgia *Zoning Procedures Law*. As a result of public input, the notice requirements in this draft have been changed back to require the same notice as required under today’s ordinance, including mailed notice to all property owners within 500 feet (which is not required under state law).

public hearing and not more than 45 days before the date of the city council public hearing. Written notices must indicate the nature of the proposed use or activity and the date, time, place and purpose of the public hearing.

**27-19.60-C. Posted Notice**

A public hearing notice sign must be placed in a conspicuous location on the subject property at least 15 days before the date of the public hearing to be held by the mayor and city council. This notice sign must indicate the date, time, place and purpose of the public hearing.

**27-19.60-D. Special Requirements for Drug Treatment and Dependency Facilities**

When a proposed special land use permit relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency, all published and posted notices of the public hearing to be held by the mayor and city council must include a prominent statement that the proposed special land use permit relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency. The published notice must be at least 6-column inches in size and may not be located in the classified advertising section of the newspaper.

**27-19.70 Planning Commission Public Hearing and Recommendation<sup>130</sup>**

The planning commission must hold a public hearing on the special land use permit application. Following the close of the hearing, the planning commission must act by simple majority vote to recommend that the special land use permit be approved, approved with conditions or denied based on the applicable review and approval criteria of Sec. [27-19.90](#). The planning commission's recommendation must be transmitted to the city council.<sup>131</sup>

**27-19.80 City Council Public Hearing and Decision**

**27-19.80-A.** Upon receipt of recommendations from the planning commission, the mayor and city council must hold a public hearing on the special land use permit application. Following the close of the public hearing, the mayor and city council must act by simple majority vote to approve the special land use permit, approve the special land use permit with conditions or deny the special land use permit based on the applicable review and approval criteria of Sec. [27-19.90](#). The mayor and city council are also authorized to defer action on the special land use permit or allow the applicant to withdraw the special land use permit without prejudice.<sup>132</sup>

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<sup>130</sup> This draft proposes elimination of community council review as part of SLUP applications.

<sup>131</sup> Section 2-88(f) of the municipal code currently imposes narrower limits on the actions of the planning commission in making recommendations to city council. That municipal code section may need to be revised to ensure consistency with this revised language.

<sup>132</sup> The current ordinance requires that the city council specify a time duration on all approved SLUPs...at the time of approval. This provision has not been carried over, which means that no limitation would apply unless a time limit is expressly imposed as a condition of approval.



- 27-19.80-B.** When a proposed special land use permit relates to or will allow the location or re-location of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency, the mayor and city council public hearing must be held at least 6 months before and not more than 9 months before the date of final action on the application.

### **27-19.90 Review and Approval Criteria**<sup>133</sup>

The following review and approval criteria must be used in reviewing and taking action on all special land use permit applications:

- 27-19.90-A.** Whether the proposed use is consistent with the policies of the comprehensive plan;
- 27-19.90-B.** Whether the proposed use complies with the requirements of this zoning ordinance;
- 27-19.90-C.** Whether the proposed site provides adequate land area for the proposed use, including provision of all required open space, off-street parking and all other applicable requirements of the subject zoning district;
- 27-19.90-D.** Whether the proposed use is compatible with adjacent properties and land uses, including consideration of:
1. Whether 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;
  2. Whether the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use;
  3. Whether the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use;
  4. Whether the proposed use will create adverse impacts upon any adjoining land use by reason of the character of vehicles or the volume of traffic generated by the proposed use;
  5. Whether 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; and
  6. Whether the proposed plan will adversely affect historic buildings, sites, districts, or archaeological resources;
- 27-19.90-E.** Whether public services, public facilities and utilities—including motorized and nonmotorized transportation facilities—are adequate to serve the proposed use;
- ~~Whether motorized and nonmotorized transportation facilities the public street on which the use is proposed to be located and whether or not there is sufficient traf-~~

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<sup>133</sup> Substantial editing/updating.

~~fic carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area;~~

**27-19.90-F.** Whether adequate means of ingress and egress are proposed, with particular reference to nonmotorized and motorized traffic safety and convenience, traffic flow and control and emergency vehicle access;

**27-19.90-G.** Whether adequate provision has been made for refuse and service areas; and  
~~Whether the length of time for which the special land use permit is granted should be limited in duration; and~~

**27-19.90-H.** Whether the proposed building as a result of its proposed height will create a negative shadow impact on any adjoining lot or building.

### **27-19.100 Concurrent Variances**<sup>134</sup>

**27-19.100-A.** The mayor and city council may consider and approve, approve with conditions, or deny variances that would otherwise require approval under [Article 21](#) simultaneously (i.e., concurrent variance) with a special land use permit application. In such cases, the planning commission must make a recommendation on the concurrent variance request in addition to the companion special land use permit application. The planning commission must make their recommendation and the mayor and city council must take action on any concurrent variance in a separate motion after acting on the companion special land use permit application.

**27-19.100-B.** Any application for a variance that is not processed simultaneously with a special land use permit application must be processed as a separate variance request in accordance with the procedures of [Article 21](#).

**27-19.100-C.** In taking action on concurrent variance requests, the mayor and city council must apply the variance review and approval criteria of Sec. [27-21.70](#). The planning commission's review must also be based on the variance review and approval criteria of Sec. [27-21.70](#).

### **27-19.110 Successive Applications**

If a special land use permit application is denied, an application for a special land use permit affecting all or a portion of the same property may not be resubmitted for 24 months from the date of the denial. The mayor and city council are authorized to waive or reduce this 24-month time interval by resolution, except that the time interval between the date of action to deny the application or the date that the application is withdrawn with prejudice and the date of filing of a subsequent special land use permit application affecting the same property may not be less than 6 months.<sup>135</sup>

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<sup>134</sup> This is entirely new. The zoning ordinance currently does not allow "concurrent variances."

<sup>135</sup> The six-month waiting period is the same as the existing ordinance, but this text clarifies that it extends from the date of denial (or withdrawal) to the date of application filing, which may not be the current interpretation.

**27-19.120 Transfer of Special Land Use Permits<sup>136</sup>**

Approved special land use permits, and any attached conditions, run with the land and are not affected by changes in tenancy or ownership.

**27-19.130 Amending Conditions of Approval**

A request for changes in conditions of approval attached to an approved special land use permit must be processed as a new special land use permit application in accordance with the procedures of this article, including the requirements for fees, notices and hearings.

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<sup>136</sup> This is a change. The current ordinance states that approvals are granted to persons, corporations or other legal entities and allows transfers to others only after application to the community development director.

## Article 20 Design Review<sup>137</sup>

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### **27-20.10 Applicability**

The procedures of this article apply whenever design review is expressly required by this zoning ordinance.

### **27-20.20 Authority to File**

Applications for design review may be filed by the owner of the subject property or the property owner's authorized agent.

### **27-20.30 Application Filing**

Design review applications must be filed with the community development director.

### **27-20.40 Meeting Notice**

The design review advisory committee meets as new business requires. As such, their meetings are special-called meetings. Public notice of meetings must be provided at least 24 hours in advance by posting notice within city hall and on the city's official website. Courtesy notice may also be provided by other means.

### **27-20.50 Design Review Advisory Committee Meeting and Recommendation**

The design review advisory committee must consider proposed design review applications in a public meeting and within 14 days of receipt of a complete application act by simple majority vote to recommend that the application be approved, approved with conditions or denied based on the plan's compliance with all applicable regulations<sup>138</sup>. If no recommendation is received within 14 days, the community development director is authorized to proceed without a recommendation.

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<sup>137</sup> This is a new procedure, intended to formalize existing practice.

<sup>138</sup> Currently, this would mean compliance with applicable Dunwoody Village overlay district regulations.

## Article 21 Variances

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### 27-21.10 Applicability

Except as expressly authorized under the special exception procedures of [Article 22](#) or the administrative permit procedures of [Article 23](#), all variances to strict compliance with the regulations of this zoning ordinance require review and approval by the zoning board of appeals in accordance with the variance procedures of this article.

### 27-21.20 Prohibited Variances

The variance procedures of this zoning ordinance may not be used to:

- 27-21.20-A.** Allow a structure or use not authorized in the subject zoning district or a residential density of development that is not authorized within the subject district;
- 27-21.20-B.** Allow an increase in maximum building height;
- 27-21.20-C.** Waive, vary, modify or otherwise override a site plan or condition of approval attached to an amendment, special land use permit or other development approval under this zoning ordinance;<sup>139</sup>  
~~Decrease the applicable development standard that applies to off-premises signs by 30% or more or to grant more than 2 variances for a specific parcel of property for an off-premises sign during a 5-year period;~~
- 27-21.20-D.** Reduce, waive or modify in any manner the minimum lot area established for any use permitted by special land use permit or by special exception;
- 27-21.20-E.** Permit the expansion or enlargement of any nonconforming use;<sup>140</sup>
- 27-21.20-F.** Permit the reestablishment of any nonconforming use that has been abandoned or lost its nonconforming rights; or
- 27-21.20-G.** Vary the home occupation regulations.<sup>141</sup>

### 27-21.30 Authority to File

Applications for approval of variances may be filed by the owner of the subject property or the property owner's authorized agent.

### 27-21.40 Application Filing

Variance applications must be filed with the community development director.

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<sup>139</sup> This provision has been rewritten to apply more broadly; currently applies only to rezoning and special land use permits.

<sup>140</sup> Propose elimination of the following prohibited variance: "Extend the time period for a temporary outdoor social, religious, entertainment or recreation activity approved by the community development director."

<sup>141</sup> This provision currently prohibits variances of the "customer contact" provisions.

## **27-21.50 Public Hearing Notices<sup>142</sup>**

### **27-21.50-A. Published Notice**

At least 15 days before but not more than 45 days before the date of the public hearing to be held by the board of appeals, notice of the public hearing must be published in a newspaper of general circulation in the city. This required notice must indicate the date, time, place and purpose of the public hearing.

### **27-21.50-B. Written (Mailed) Notice**

The community development director is responsible for sending written notice via first class mail to all property owners within 500 feet of the boundaries of the subject property, as those property owners are listed on the tax records of the city. The notices must be mailed at least 15 days before the public hearing to be held by the board of appeals. Written notices must indicate the nature of the proposed use or activity and the date, time, place and purpose of the public hearing.

### **27-21.50-C. Posted Notice**

A public hearing notice sign must be placed in a conspicuous location on the subject property at least 15 days before the date of the public hearing to be held by board of appeals. This notice sign must indicate the date, time, place and purpose of the public hearing.

## **27-21.60 Zoning Board of Appeals Public Hearing and Decision**

**27-21.60-A.** The zoning board of appeals must hold a public hearing to consider all variance applications.

**27-21.60-B.** Following the close of the hearing and consideration of all testimony, documentary evidence and matters of record, the zoning board of appeals must act by simple majority vote of board members present and voting to approve the variance, approve the variance with conditions or deny the requested variance. The zoning board of appeals is also authorized to defer action on the variance or allow the applicant to withdraw the variance without prejudice. The board's final decision must be made within a reasonable period of time but in no event more than 60 days from the date of the close of the hearing.

## **27-21.70 Review and Approval Criteria**

**27-21.70-A.** The zoning board of appeals may authorize variances from the provisions of this zoning ordinance only after making all of the following findings:

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<sup>142</sup> Variances are not covered by the Georgia *Zoning Procedures Law* and there are no specific state law requirements for notification. For consistency and "reasonableness," this draft proposes that public hearings on variances be noticed in the same way as amendments and special land use permits, although the written notice timeframe has been changed from 30 days to 15 days before the hearing (for general consistency).

1. The grant of the variance will not be ~~materially~~ detrimental to the public health, safety or welfare or injurious to property or improvements ~~in the zoning district in which the subject property is located~~;
  2. The variance request is based on conditions that (1) are unique to the subject property (2) are not generally applicable to other properties in the same zoning district and (3) were not created by the owner or applicant;
  3. ~~By reason~~ Because of the particular conditions, exceptional narrowness, shallowness, or shape, size, orientation or 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 zoning ordinance would deprive the property owner of rights and privileges enjoyed by other similarly situated property owners;
  4. 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 similarly situated properties;
  5. The literal interpretation and strict application of the applicable provisions or requirements of this zoning ordinance would cause undue ~~and unnecessary~~ hardship or practical difficulty, as distinguished from a mere inconvenience; and
  6. The requested variance would be consistent with the spirit and purpose of this ~~chapter zoning ordinance~~ and the ~~city~~ comprehensive plan ~~text~~.
- 27-21.70-B.** The zoning board of appeals may authorize variances from the provisions of the noise ordinance only after making all of the following findings:
1. Because of the existence of exceptional conditions that were not created by the owner or applicant, the strict application of the noise ordinance would deprive the property owner of rights and privileges enjoyed by other similarly situated property owners;
  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 the noise ordinance;
  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 the noise ordinance would cause undue and unnecessary hardship; and
  5. The requested variance would be consistent with the purposes of the noise ordinance and would not allow noise to exceed:
    - a. Ten dB(A) above what is allowed by the noise ordinance during the hours of 7:00 a.m. to 10:00 p.m.; and

- b. Five dB(A) above what is allowed by the noise ordinance during the hours of 10:00 p.m. to 7:00 a.m.

### **27-21.80 Successive Applications**

If a variance application is denied, an application to vary the same zoning ordinance provision for the same portion of the subject property may not be resubmitted for 24 months from the date of the denial. The zoning board of appeals is authorized to waive or reduce this 24-month time interval, provided that the time interval between the date of action to deny the application or the date that the application is withdrawn with prejudice and the date of filing of a subsequent variance application affecting the same property may not be less than 6 months.

### **27-21.90 Appeals**

**27-21.90-A.** Any person aggrieved by a final variance decision of the zoning board of appeals, including any officer, department, board or agency affected by such decision, may seek review of such decision by petitioning the superior court for a writ of certiorari, setting forth the alleged errors. The petition must be filed within 30 days of the date that the zoning board of appeals renders its final decision.

**27-21.90-B.** When a petition for a writ of certiorari is filed, the zoning board of appeals must be designated the respondent in certiorari and the city the defendant in certiorari. The secretary of the zoning board of appeals is authorized to acknowledge service of a copy of the petition and writ on behalf of the zoning board of appeals, as respondent. Service upon the city as defendant must be as provided by law.

### **27-21.100 Transfer of Variances**

Approved variances, and any attached conditions, run with the land and are not affected by changes in tenancy or ownership.

### **27-21.110 Amending Conditions of Approval**

A request for changes in conditions of approval attached to an approved variance must be processed as a new variance application in accordance with the procedures of this article, including the requirements for fees, notices and hearings.



## Article 22 Special Exceptions<sup>143</sup>

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### 27-22.10 Applicability

The zoning board of appeals is authorized to approve the following as special exceptions in accordance with the procedures of this article:

- 27-22.10-A.** Any use or activity expressly authorized to be approved as a special exception pursuant to the provisions of this zoning ordinance;
- 27-22.10-B.** Reduction of minimum off-street parking and loading ratios by more than allowed as an administrative permit.

### 27-22.20 Authority to File

Applications for approval of special exceptions may be filed by the owner of the subject property or the property owner's authorized agent.

### 27-22.30 Application Filing

Special exception applications must be filed with the community development director.

#### 27-22.30-A. Published Notice

At least 15 days before but not more than 45 days before the date of the public hearing to be held by the board of appeals, notice of the public hearing must be published in a newspaper of general circulation in the city. This required notice must indicate the date, time, place and purpose of the public hearing.

#### 27-22.30-B. Written (Mailed) Notice

The community development director is responsible for sending written notice via first class mail to all property owners within 500 feet of the boundaries of the subject property, as those property owners are listed on the tax records of the city. The notices must be mailed at least 15 days before the public hearing to be held by the board of appeals. Written notices must indicate the nature of the proposed use or activity and the date, time, place and purpose of the public hearing.

#### 27-22.30-C. Posted Notice

A public hearing notice sign must be placed in a conspicuous location on the subject property at least 15 days before the date of the public hearing to be held by board of appeals. This notice sign must indicate the date, time, place and purpose of the public hearing.

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<sup>143</sup> This article was added after the initial review of module 2. It generally tracks the existing procedure but has not been reviewed.

## **27-22.40 Zoning Board of Appeals Public Hearing and Decision**

- 27-22.40-A.** The zoning board of appeals must hold a public hearing to consider all special exception applications.
- 27-22.40-B.** Following the close of the hearing and consideration of all testimony, documentary evidence and matters of record, the zoning board of appeals must act by simple majority vote of board members present and voting to approve the special exception, approve the special exception with conditions or deny the requested special exception. The zoning board of appeals is also authorized to defer action on the special exception or allow the applicant to withdraw the variance without prejudice. The board's final decision must be made within a reasonable period of time but in no event more than 60 days from the date of the close of the hearing.
- 27-22.40-C.** The zoning board of appeals decision to approve or deny must be based on the approval criteria of Sec. [27-22.50](#).

## **27-22.50 Review and Approval Criteria<sup>144</sup>**

### **27-22.50-A. Parking and Loading Reductions**

The zoning board or appeals may waive or reduce the required number of parking spaces or the required number of loading spaces in any district upon an expressed finding that:

1. The character of the use makes the full provision of parking or loading spaces unnecessary;
2. Alternative transportation or transit options exist that make the full provision of parking or loading spaces unnecessary; or
3. The provision of the full number of parking or loading spaces would have a deleterious effect on a historic building, site, district or archaeological resource.

### **27-22.50-B. Other Authorized Special Exceptions**

Special exceptions for matters other than parking or loading space reductions may be approved by the zoning board of appeals only when the zoning board of appeals determines that any specific approval criteria associated with the authorized special exception and the following general approval criteria have been met:

1. The grant of the special exception will not be detrimental to the public health, safety or welfare of the public or injurious to the property or improvements;
2. The requested special exception 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 similarly situated properties; and

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<sup>144</sup> These criteria are entirely new. The current ordinance does not clearly indicate the approval criteria or required findings for an administrative variance or an administrative special exception. These proposed criteria are far less stringent than the hardship findings needed for variances.

3. The requested special exception is consistent with all relevant purpose and intent statements of this zoning ordinance.

### **27-22.60 Appeals**

**27-22.60-A.** Any person aggrieved by a final variance decision of the zoning board of appeals, including any officer, department, board or agency affected by such decision, may seek review of such decision by petitioning the superior court for a writ of certiorari, setting forth the alleged errors. The petition must be filed within 30 days of the date that the zoning board of appeals renders its final decision.

**27-22.60-B.** When a petition is for a writ of certiorari is filed, the zoning board of appeals must be designated the respondent in certiorari and the city the defendant in certiorari. The secretary of the zoning board of appeals is authorized to acknowledge service of a copy of the petition and writ on behalf of the zoning board of appeals, as respondent. Service upon the city as defendant must be as provided by law.

### **27-22.70 Transfer of Special Exceptions**

Approved special exceptions, and any attached conditions, run with the land and are not affected by changes in tenancy or ownership.

### **27-22.80 Amending Conditions of Approval**

A request for changes in conditions of approval attached to an approved special exception must be processed as a new special exception application in accordance with the procedures of this article, including the requirements for fees, notices and hearings.

## Article 23 Administrative Permits<sup>145</sup>

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### 27-23.10 Applicability

The community development director is authorized to approve the following as administrative permits in accordance with the procedures of this article:

- 27-23.10-A.** Any use or activity expressly authorized to be approved by administrative permit pursuant to the provisions of this zoning ordinance;
- 27-23.10-B.** Reduction of minimum off-street parking and loading ratios by up to one space or 10%, whichever is greater;<sup>146</sup>
- 27-23.10-C.** Reduction of minimum off-street parking ratios for any lot located within ~~1,000~~ 1,500 feet of the ~~boundary-entrance~~ of a MARTA rapid transit station by up to 3 spaces or 25%, whichever is greater;<sup>146</sup>
- 27-23.10-D.** Reduction of zoning district setback requirements by up to 10%;
- 27-23.10-E.** Allow building additions not exceeding one story or 18 feet in height to encroach into required rear setbacks by up to 10 feet;
- 27-23.10-F.** Reduction of minimum building spacing requirements for multiple buildings on a single lot by up to 10%;
- 27-23.10-G.** Increase in the maximum front door threshold height allowed by Sec. 27-9.170;
- 27-23.10-H.** Increase in the maximum retaining wall height, as allowed by Sec. 27-15.40;
- 27-23.10-I.** Reduction of the minimum retaining wall setback requirement, as allowed by Sec. 27-15.40;
- 27-23.10-J.** Reduction of the minimum wing wall side setback requirement, as allowed by Sec. 27-15.50;

### 27-23.20 Authority to File

Applications for approval of administrative permits may be filed by the owner of the subject property or the property owner's authorized agent.

### 27-23.30 Application Filing

Administrative permit applications must be filed with the community development director.

### 27-23.40 Posted Notice

A sign must be placed in a conspicuous location on the subject property at least 15 days before the date of the community development director's decision on the administrative permit request.<sup>147</sup> This re-

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<sup>145</sup> When introduced as part of module 2, the article was referred to as "administrative adjustments." It has since been revised and now generally tracks the existing administrative permit procedure.

<sup>146</sup> Currently limited to 10% and handled as an administrative "special exception."

quired notice must indicate the earliest date that a decision on the administrative permit will be made and indicate the nature of the request and a contact where additional information can be obtained.

### **27-23.50 Community Development Director's Decision**

- 27-23.50-A.** The community development director must review each application for an administrative permit and act to approve the application, approve the application with conditions, deny the application or refer the application to the zoning board of appeals for consideration as a special exception (if related to parking) or a variance.
- 27-23.50-B.** The community development director may not take final action to approve or deny an administrative permit application until at least 15 days after the date that posted notice was provided. All decisions must be made in writing within 30 days of the date that the application was filed.
- 27-23.50-C.** The community development director's decision to approve or deny must be based on the approval criteria of Sec. [27-23.60](#).

### **27-23.60 Review and Approval Criteria<sup>148</sup>**

Administrative permits may be approved by the community development director only when the community development director determines that any specific approval criteria associated with the authorized administrative permit and the following general approval criteria have been met:

- 27-23.60-A.** The grant of the administrative permit will not be detrimental to the public health, safety or welfare of the public or injurious to the property or improvements;
- 27-23.60-B.** The requested administrative permit 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 similarly situated properties; and
- 27-23.60-C.** The requested administrative permit is consistent with all relevant purpose and intent statements of this zoning ordinance.

### **27-23.70 Appeals**

Final decisions of the community development director may be appealed by any person aggrieved by the decision in accordance with the appeal procedures of [Article 24](#).

### **27-23.80 Transfer of Administrative Permit**

Approved administrative permits, and any attached conditions, run with the land and are not affected by changes in tenancy or ownership.

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<sup>147</sup> The existing ordinance states that the applicant must post the sign. Neither this provision nor the sign size specifications have been included in this draft.

<sup>148</sup> These criteria are entirely new. The current ordinance does not clearly indicate the approval criteria or required findings for an administrative variance or an administrative special exception. These proposed criteria are far less stringent than the hardship findings needed for variances.

**27-23.90 Amending Conditions of Approval**

A request for changes in conditions of approval attached to an approved administrative permit must be processed as a new administrative permit application in accordance with the procedures of this article.

**27-23.100 Reporting**

The community development director must maintain records of all administrative permits that have been approved or denied and provide a summary of such actions to the city council and planning commission at least 4 times per calendar year.

## Article 24 Appeals of Administrative Decisions

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### **27-24.10 Applicability**

The procedures of this article apply to appeals of administrative decisions.

### **27-24.20 Authority to File**

Appeals of administrative decisions may be filed by any person aggrieved by, or by any city 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 this zoning ordinance. A person may be considered aggrieved for purposes of this subsection only if they are the owner of the property that is the subject of the administrative official's decision or they are a person with a substantial interest in the administrative official's decision who is in danger of suffering special damage or injury not common to all property owners similarly situated, as determined by the zoning board of appeals.

### **27-24.30 Application Filing**

Applications for appeals of administrative decisions must be filed with the community development director within 15 days of the date of the order, requirement or decision being appealed. Failure to act is not an order, requirement or decision within the meaning of this article. The appeal must be scheduled to be heard at the next regularly scheduled board of appeals meeting for which required hearing notice can be provided, unless the applicant agrees to a later hearing date.

### **27-24.40 Effect of Appeal**

The filing of a complete notice of appeal stays all proceedings in furtherance of the action appealed, unless the official whose decision is being appealed certifies to the zoning board of appeals, after the appeal is filed, that, because of facts stated in the certification, a stay would cause imminent peril to life or property. In such a case, proceedings may be stayed only by a restraining order granted by the superior court on notice to the official whose decision is being appealed and on due cause shown.

### **27-24.50 Record of Decision**

Upon receipt of a complete application of appeal, the community development director or other administrative official whose decision is being appealed must transmit to the zoning board of appeals all papers constituting the record upon which the action appealed is taken.

### **27-24.60 Hearing Notice<sup>149</sup>**

Mailed notice of the zoning board of appeals hearing must be provided to the appellant at least 5 days before the date of the zoning board of appeals hearing.

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<sup>149</sup> These provisions have been revised to eliminate the requirement for a "public" hearing and to require only mailed notice to the person filing the appeal. This would not necessarily prevent the city from providing additional notice or from accepting public testimony at the hearing.

### **27-24.70 Hearing and Decision**

- 27-24.70-A.** The zoning board of appeals must hold a hearing to consider all appeals of administrative decisions.
- 27-24.70-B.** Following the close of the hearing and consideration of all testimony, documentary evidence and matters of record, the zoning board of appeals must make a decision. The decision must be made within a reasonable period of time but in no event more than 60 days from the date of the close of the hearing. Final action on an appeal requires a simple majority vote of the board of appeals members present and voting.
- 27-24.70-C.** In exercising its powers, the zoning board of appeal may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. To that end the board has 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.

### **27-24.80 Review and Approval Criteria**

An appeal shall be sustained only upon a finding by the zoning board of appeals that the administrative official's action was based on an erroneous finding of a material fact or that the administrative official acted in an arbitrary manner.

### **27-24.90 Appeals**

- 27-24.90-A.** Any person aggrieved by a final variance decision of the zoning board of appeals, including any officer, department, board or agency affected by such decision, may seek review of such decision by petitioning the superior court for a writ of certiorari, setting forth the alleged errors. The petition must be filed within 30 days of the date that the zoning board of appeals renders its final decision.
- 27-24.90-B.** When a petition is for a writ of certiorari is filed, the zoning board of appeals must be designated the respondent in certiorari and the city the defendant in certiorari. The secretary of the zoning board of appeals is authorized to acknowledge service of a copy of the petition and writ on behalf of the zoning board of appeals, as respondent. Service upon the city as defendant must be as provided by law.



## Article 25 Development Permits

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### **27-25.10 Applicability**

Development permits are required in order to ensure compliance with all provisions of this zoning ordinance and all other city ordinances and regulations. Unless otherwise expressly exempted under this zoning ordinance, a development permit must be obtained for any proposed use of land or buildings before any building permit is issued or any improvement, grading or alteration of land or buildings commences.

### **27-25.20 Applications**

All applications for development permits must be filed with the community development director.

### **27-25.30 Determination of Compliance and Issuance of Permits**

No development permits or building permits may be issued until the community development director determines the application complies with all applicable requirements of this zoning ordinance, including any conditions of imposed by an authorized decision-making body as part of an approval (e.g., conditional zoning, special land use permit, variance).

### **27-25.40 Permit Expiration**

A development permit is valid for 2 years from its date of issuance, subject to the following provisions:

- 27-25.40-A.** If the work authorized in any development permit has not begun within 180<sup>150</sup> days from the date of permit issuance, the permit expires and has no further effect.
- 27-25.40-B.** If the work described in any development permit has not been substantially completed within 2 years of the date of permit issuance, the permit expires and has no further effect.
- 27-25.40-C.** Written notice of the permit expiration must be given to the persons affected, together with notice that further work as described in the expired permit may not proceed until a new development permit has been obtained.

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<sup>150</sup> Currently 90 days.

## PART VI: ADMINISTRATION AND ENFORCEMENT

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## Article 26 Review and Decision-making Bodies

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### 27-26.10 Planning Commission

A seven-member planning commission is established, as authorized in Chapter 2 of the municipal code. The planning commission has those powers and duties expressly identified in this zoning ordinance and in Chapter 2.<sup>151</sup>

### 27-26.20 Zoning Board of Appeals

A seven-member zoning board of appeals is established, as authorized in Chapter 2 of the municipal code. The zoning board of appeals has those powers and duties expressly identified in this zoning ordinance and in Chapter 2.<sup>151</sup>

### 27-26.30 Community Council

A seven-member community council is established, as authorized in Chapter 2 of the municipal code. The community council has those powers and duties expressly identified in this zoning ordinance and in Chapter 2.<sup>151</sup>

### 27-26.40 Community Development Director

**27-26.40-A.** The community development director has those powers and duties expressly identified in this zoning ordinance. In addition, the community development director serves as secretary of the planning commission and zoning board of appeals and performs other duties assigned by the city manager.

**27-26.40-B.** The community development director's building inspection duties include:

1. Issuance of building permits in accordance with all provisions of this zoning ordinance and only after issuance of a development permit.
2. 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 must be made within 2 working days of the date that an inspection is requested by the developer.
3. Ensuring that all construction has been completed in accordance with all applicable requirements of this zoning ordinance and the municipal code prior to allowing occupancy.

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<sup>151</sup> Revisions to chapter 2 may be necessary to ensure consistency with the new zoning code. Alternatively, a provision could be added to the zoning ordinance clarifying that if there is a conflict between the zoning ordinance and chapter 2 the zoning ordinance governs, which is the opposite of what it now says.

**27-26.50 Design Review Advisory Committee**

- 27-26.50-A.** A seven-member design review advisory committee is established, as authorized in Chapter 2 of the municipal code.
- 27-26.50-B.** Committee members are appointed for 2-year terms.
- 27-26.50-C.** The design review advisory committee is authorized to make recommendations to the community development director, as expressly stated by individual provisions of this zoning ordinance.

## Article 27 Inspections

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### **27-27.10 Right of Entry**

Upon the consent of the developer, contractor, owner, owner's agent, operator or occupants, city employees authorized by the community development director may enter during all reasonable hours any property for the purpose of making inspections to determine compliance with the provisions of this zoning ordinance.

### **27-27.20 Warrants**

The community development director, in addition to other procedures provided, may obtain an inspection warrant under the conditions specified in this section. The warrant must authorize the community development director 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.

**27-27.20-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 that includes that property or that there is probable cause for believing that there is a condition, object, activity or circumstance that legally justifies such an inspection.
2. The issuing judge determines that the issuance of the warrant is authorized by this section.

**27-27.20-B.** All inspection warrants must meet all of the following requirements:

1. The warrant must be attached to the affidavit required to be made in order to obtain the warrant.
2. The warrant must describe, either directly or by reference to the affidavit, the property upon which the inspection is to occur and must be sufficiently accurate to allow the executor of the warrant and the owner or possessor of the property to reasonably determine from it the property for which the warrant authorizes an inspection.
3. The warrant must indicate the conditions, objects, activities, or circumstances that the inspection is intended to check or reveal.
4. The warrant must refer, in general terms, to the ordinance provisions sought to be enforced.

## Article 28 Enforcement and Penalties<sup>152</sup>

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### 27-28.10 Responsibility for Enforcement

The community development director is responsible for the interpretation, administration and enforcement of the provisions of this zoning ordinance unless otherwise expressly stated.

### 27-28.20 Violations

It is 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 city, or cause any of these actions, contrary to or in violation of any of the provisions of this zoning ordinance. Any violation of a provision of this zoning ordinance—including but not limited to all of the following—may be subject to the remedies and penalties provided for in this zoning ordinance.

- 27-28.20-A.** To use land or buildings in any way not consistent with the requirements of this zoning ordinance;
- 27-28.20-B.** To erect a building or other structure in any way not consistent with the requirements of this zoning ordinance;
- 27-28.20-C.** To engage in the use of a building or land or any other activity requiring one or more permits or approvals under this zoning ordinance without obtaining such required permits or approvals;
- 27-28.20-D.** To engage in the use of a building or land or any other activity requiring one or more permits or approvals under this zoning ordinance in any way inconsistent with any such permit or approval or any conditions imposed on the permit or approval;
- 27-28.20-E.** To violate the terms of any permit or approval granted under this zoning ordinance or any condition imposed on the permit or approval;
- 27-28.20-F.** To obscure, obstruct or destroy any notice required to be posted or otherwise given under this zoning ordinance;
- 27-28.20-G.** To violate any lawful order issued by any person or entity under this zoning ordinance; or
- 27-28.20-H.** To continue any violation after receipt of notice of a violation.

### 27-28.30 Continuing Violations

Each day that a violation remains uncorrected after receiving notice of the violation from the city constitutes a separate violation of this zoning ordinance.

### 27-28.40 Remedies and Enforcement Powers

The city has all remedies and enforcement powers allowed by law, including the following:

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<sup>152</sup> This article contains a more detailed explanation of violation, penalty and enforcement powers than the current ordinance., although there are no substantive changes unless expressly identified.

**27-28.40-A. Withhold Permit**

1. The community development director may deny or withhold permits, certificates or other forms of authorization on any land or structure or improvements upon which there is an uncorrected violation of a provision of this zoning ordinance or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the city. This enforcement provision may be used regardless of whether the current owner or applicant is responsible for the violation in question.
2. The community development director may deny or withhold permits, certificates or other forms of authorization on any land or structure or improvements owned by or being developed by a person who owns, developed or otherwise caused an uncorrected violation of a provision of this zoning ordinance or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the city. This enforcement provision may be used regardless of whether the property for which the permit or other approval is sought is the property in violation.

**27-28.40-B. Permits Approved with Conditions**

Instead of withholding or denying a permit or other authorization, the community development director may grant such authorization subject to the condition that the violation be corrected.

**27-28.40-C. Revoke Permits**

1. Any permit, certificate or other form of authorization required under this zoning ordinance may be revoked by the community development director when the community development director determines:
  - a. That there is departure from the plans, specifications, or conditions as required under terms of the permit,
  - b. That the development permit was procured by false representation or was issued by mistake, or
  - c. That any of the provisions of this zoning ordinance are being violated.
2. Written notice of revocation must be served upon the owner, the owner's agent or contractor, or upon any person employed on the building or structure for which such permit was issued. If no persons can reasonably be served with notice, the notice must be posted in a prominent location. After delivery or posting of notice, no construction or development may proceed.

**27-28.40-D. Stop Work**

With or without revoking permits, the community development director may stop work on any building or structure on any land on which there is an uncorrected violation of a provision of this zoning ordinance or of a permit or other form of authorization issued under the zoning ordinance.

**27-28.40-E. Revoke Plan or Other Approval**

Where a violation of this zoning ordinance involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, the community development director may, upon notice to the applicant and other known interested parties (including any holders of building permits affected) (a) revoke the plan or other approval or (b) condition its continuance on strict compliance with this zoning ordinance or the provision of security to ensure that construction is completed in compliance with approved plans, or such other conditions as the community development director may reasonably impose.

**27-28.40-F. Injunctive Relief**

The city may seek an injunction or other equitable relief in court to stop any violation of this zoning ordinance or of a permit, certificate or other form of authorization granted under the zoning ordinance.

**27-28.40-G. Abatement**

The city may seek a court order in the nature of mandamus, abatement, injunction or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.

**27-28.40-H. Other Penalties, Remedies and Powers**

In addition to all other actions and penalties authorized in this article, the city attorney is 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 zoning ordinance. The city may also, after due notice to the owner of the violation, issue a citation for violation of this zoning ordinance requiring the presence of the violator in municipal court.

**27-28.50 Continuation of Previous Enforcement Actions**

Nothing in this zoning ordinance prohibits the continuation of previous enforcement actions, undertaken by the city pursuant to previous valid ordinances and laws.

**27-28.60 Remedies Cumulative**

The remedies and enforcement powers established in this zoning ordinance are cumulative, and the city may exercise them in any combination or order.

**27-28.70 Persons Subject to Penalties**

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, or agent, or other person who commits, participates in, assists in, or maintains such violations may each be found guilty of a separate offense and be subject to penalties, remedies and enforcement actions.



## **27-28.80 Enforcement Procedures**<sup>153</sup>

### **27-28.80-A. Non-Emergency Matters**

In the case of violations of this zoning ordinance that do not constitute an emergency or require immediate attention, the community development director must give notice of the nature of the violation to the property owner or to any other person who is party to the agreement or to any applicant for any relevant permit in the manner stated in this section, after which the persons receiving notice have 10 days to correct the violation before further enforcement action may be taken. Notice must be given in person, by U.S. Mail, or by posting notice on the premises. Notices of violation must state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected.

### **27-28.80-B. Emergency Matters**

In the case of violations of this zoning ordinance that constitute an emergency situation as a result of public health or safety concerns or violations that will create increased problems or costs if not remedied immediately, the city may use the enforcement powers available under this zoning ordinance without prior notice, but the community development director must attempt to give notice simultaneously with beginning enforcement action. Notice may be provided to the property owner, to any other person who is party to the agreement and to applicants for any relevant permit.

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<sup>153</sup> These procedures are new and should be checked for consistency with current practice.

# Article 29 Nonconformities

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## 27-29.10 General

### 27-29.10-A. Scope

The regulations of this article govern nonconformities, which are lots, uses and structures that were lawfully established but—because of the adoption of new or amended regulations—no longer comply with one or more requirements of this zoning ordinance.

### 27-29.10-B. Intent

Occasionally, lots, uses, and structures that were lawfully established (i.e., in compliance with all regulations in effect at the time of their establishment) are made nonconforming because of changes in the zoning regulations that apply to the subject property (e.g., through zoning map changes or amendments to the text of the zoning ordinance). The regulations of this article are intended to clarify the effect of this nonconforming status and avoid confusion with “illegal” buildings and uses (i.e., those established in violation of applicable zoning regulations). The regulations of this article are also intended to:

1. recognize the interests of landowners in continuing to use their property for uses and activities that were lawfully established;
2. promote maintenance, reuse and rehabilitation of existing buildings; and
3. place reasonable limits on nonconformities that have the potential to adversely affect surrounding properties.

### 27-29.10-C. Authority to Continue

Any nonconformity that existed on the effective date specified in Sec. [27-1.40](#) or any situation that becomes nonconforming upon adoption of any amendment to this zoning ordinance may be continued in accordance with the regulations of this article unless otherwise expressly stated.

### 27-29.10-D. Determination of Nonconformity Status

1. The burden of proving a nonconformity was lawfully established rests entirely with the subject landowner.
2. A preponderance of evidence must be provided by the subject landowner and be sufficient to show that the nonconformity was lawfully established before adoption of the subject regulations. Evidence must also indicate that the nonconformity has been continuous and that the situation has not lost its nonconforming status. Examples of reliable evidence include: business licenses; building permits; zoning compliance permits; city/county billing records; utility billing records; assessment, tax or rent records; and directory listings.

3. The community development director is authorized to determine whether adequate proof of nonconforming status has been provided by the subject landowner.
4. Appeals of the community development director's decision on nonconforming status determinations may be appealed in accordance with the appeal procedures of [Article 24](#).

**27-29.10-E. Repairs and Maintenance**

1. Nonconformities must be maintained to be safe and in good repair.
2. Repairs and normal maintenance that do not increase the extent of nonconformity and that are necessary to keep a nonconformity in sound condition are permitted unless otherwise expressly prohibited by this zoning ordinance.
3. Nothing in this article is intended to prevent nonconformities from being structurally strengthened or restored to a safe condition in accordance with an order from a duly authorized city official.

**27-29.10-F. Change of Tenancy or Ownership**

Nonconforming status runs with the land and is not affected by changes of tenancy, ownership or management.

**27-29.20 Nonconforming Lots**

**27-29.20-A. Description**

A nonconforming lot is a lawfully created lot recorded in the office of the clerk of county superior court that does not comply with all applicable minimum lot area or lot frontage regulations of the zoning district in which the lot is located.

**27-29.20-B. Use of Nonconforming Lots**

1. Any nonconforming lot in a residential zoning district may be used as a building site for a single detached house.
2. In mixed-use, nonresidential and special purpose zoning districts, a nonconforming lot may be used as a building site and developed with a use allowed in the subject zoning district.

**27-29.20-C. Lot and Building Regulations**

1. Development on nonconforming lots must comply with the lot and building regulations of the subject zoning district unless otherwise expressly stated.
2. Nonconforming lots may not be adjusted in size or shape to create nonconformity or increase the degree of nonconformity for lot area, lot frontage, setbacks or other applicable lot and building regulations. Lot area or shape adjustments that decrease the extent of nonconformity are allowed.

## **27-29.30 Nonconforming Structures**

### **27-29.30-A. Description**

A nonconforming structure is any building or structure, other than a sign, that was lawfully established but no longer complies with the lot and building regulations of the zoning district in which it is located.

### **27-29.30-B. General**

Nonconforming structures may remain, subject to the regulations of this section.

### **27-29.30-C. Alterations and Expansions**

Alterations, including enlargements and expansions, are permitted if the proposed alteration or expansion complies with all applicable lot and building regulations, and does not increase the extent of nonconformity. A building with a nonconforming front setback, for example, may be expanded to the rear as long as the rear expansion complies with applicable rear setback standards and all other applicable lot and building regulations. On the other hand, a multi-dwelling building that is nonconforming with regard to density (i.e., contains more dwelling units than allowed by the underlying zoning) may not be expanded to add additional dwelling units.

### **27-29.30-D. Use**

A nonconforming structure may be used for any use allowed in the zoning district in which the structure is located.

### **27-29.30-E. Moving**

A nonconforming structure may be moved in whole or in part to another location only if the movement or relocation eliminates or reduces the extent of nonconformity. A nonconforming structure may be moved to another lot only if the structure would comply with the zoning regulations that apply to that (relocation) lot.

### **27-29.30-F. Loss of Nonconforming Status<sup>154</sup>**

#### **1. Intentional Damage or Destruction**

When a nonconforming structure is intentionally destroyed or damaged by causes within the control of the property owner or tenant, all nonconforming structure rights are lost and re-construction of the nonconforming structure is prohibited.

#### **2. Accidental Damage or Destruction**

When a nonconforming structure is accidentally destroyed or damaged by causes that are not within the control of the owner, the structure may be restored or repaired as long as no new nonconformities are created and that the existing degree of nonconformity is not increased. A building permit to recon-

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<sup>154</sup> These provisions represent a change. Currently, the ordinance does not distinguish between accidental and intentional damage. Nonconforming buildings damaged by 60% or more of their fair market value may not be replaced.

struct a destroyed or damaged structure must be obtained within 2 years of the date of occurrence of the damage.

## **27-29.40 Nonconforming Uses**

### **27-29.40-A. Description**

A nonconforming use is a land use that was lawfully established in accordance with all zoning regulations in effect at the time of its establishment but that is no longer allowed by the use regulations of the zoning district in which the use is now located. Lawfully established uses that do not comply with any applicable separation (or spacing) distance requirements (e.g., those that require one land use to be located a certain minimum distance from another land use) are also deemed nonconforming uses.<sup>155</sup>

### **27-29.40-B. Change of Use**

A nonconforming use may be changed to any other use that is allowed in the subject zoning district. Once changed to a conforming use, a nonconforming use may not be re-established.

### **27-29.40-C. Expansion of Use**

A nonconforming use may not be expanded in any way that increases the extent of nonconformity.

### **27-29.40-D. Remodeling and Improvements**

A building in which a nonconforming use is located may be remodeled or otherwise improved as long as the remodeling or improvements do not violate the other regulations of this zoning ordinance.

### **27-29.40-E. Moving<sup>156</sup>**

1. A nonconforming use may be moved in whole or in part to another location on the same lot only if the movement or relocation eliminates or reduces the extent of nonconformity.
2. A nonconforming use may be moved to another lot only if the use is allowed under the zoning regulations that apply to that (relocation) lot.

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<sup>155</sup> Last sentence represent a clarification and is new.

<sup>156</sup> This is new.

## **27-29.40-F. Loss of Nonconforming Status**

### **1. Abandonment<sup>157</sup>**

- a. Once a nonconforming use is abandoned, its nonconforming status is lost and any new, replacement use must comply with the regulations of the zoning district in which it is located.
- b. A nonconforming use is presumed abandoned when the use is discontinued or ceases for a continuous period of 6 months or more.
- c. A nonconforming open-air use of land is presumed abandoned when the use is discontinued for a continuous period of 3 months or more.<sup>158</sup>
- d. The presumption of abandonment may be rebutted upon showing, to the satisfaction of the community development director, that during such period the owner of the land or structure has been:
  - (1) maintaining the land and structure in accordance with all applicable municipal code requirements and did not intend to discontinue the use;
  - (2) actively and continuously marketing the land or structure for sale or lease for that particular nonconforming use; or
  - (3) engaged in other activities that affirmatively prove there was not intent to abandon.
- e. any period of discontinued use caused by government action, unintended fire or natural disaster will not be counted in calculating the length of discontinuance.

### **2. Change to Conforming Use**

If a nonconforming use is changed to a conforming use, no matter how short the period of time, all nonconforming use rights are lost and re-establishment of the nonconforming use is prohibited.

### **3. Damage or Destruction<sup>159</sup>**

#### **a. Intentional Destruction**

When a building containing a nonconforming use is intentionally damaged by causes within the control of the owner, re-establishment of the nonconforming use is prohibited.

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<sup>157</sup> These “abandonment” provisions are new.

<sup>158</sup> Currently 6 months.

<sup>159</sup> These provisions represent a change. Currently, the ordinance does not distinguish between accidental and intentional damage. Nonconforming uses damaged by 60% or more of the building’s fair market value may not be replaced.

**b. Accidental Damage or Destruction**

When a building containing a nonconforming use is accidentally destroyed or damaged by causes that are not within the control of the property owner or tenant, the building and use may be restored or repaired provided that no new nonconformities are created and that the existing degree of nonconformity is not increased. A building permit to reconstruct a destroyed or damaged building must be obtained within 2 years of the date of occurrence of such damage.

**27-29.50 Nonconforming Development Features**

**27-29.50-A. Description**

A nonconforming development feature is any aspect of a development—other than a nonconforming lot, nonconforming use, nonconforming structure or nonconforming sign—that was lawfully established, in accordance with zoning regulations in effect at the time of its establishment but that no longer complies with one or more regulations of this zoning ordinance. Common examples of nonconforming development features are off-street parking or loading areas that contain fewer spaces than required by current regulations and sites that do not comply with current landscaping or screening requirements.

**27-29.50-B. General**

Nonconforming development features may remain except as otherwise expressly stated in this zoning ordinance, but the nature and extent of nonconforming site features may not be increased except as otherwise expressly stated in this zoning ordinance.

## **PART VII: MEASUREMENTS, LANGUAGE AND DEFINITIONS**

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## Article 30 Measurements

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### **27-30.10 Lot Area**

Lot area is a measure of the total ground-level surface area contained within the property lines of a lot.

### **27-30.20 Lot Frontage**

Lot frontage is measured along the front property line adjacent to the street. On a corner lot the side having the least amount of street frontage is the front property line.

### **27-30.30 Density**

Density is a measure of the number of dwelling units per acre (43,560 sq. ft.) of land area.

### **27-30.40 Floor Area**

- 27-30.40-A.** The floor area of a principal building includes 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.
- 27-30.40-B.** The floor area of an accessory building includes the gross horizontal areas of the floors of an accessory building, measured from the exterior faces of the exterior walls of the accessory building.

### **27-30.50 Lot Coverage**

Lot coverage is measured as the area or percentage of a lot that is covered by buildings, structures, driveways, parking areas and other impervious surfaces.

### **27-30.60 Setbacks**

#### **27-30.60-A. Measurement**

1. Setbacks are measured from the referenced lot line to the closest point of the building or structure.
2. Street setbacks are measured from the property line that abuts a street.
3. Side (interior) setbacks are measured from a side lot line that does not abut a street.
4. Rear setbacks are measured from the rear lot line. On double-frontage lots, street setbacks apply from both opposing property lines that abut the street, Rear setback standards do not apply.

#### **27-30.60-B. Permitted Obstructions**

Setbacks must be unobstructed and unoccupied from the ground to the sky except as expressly allowed in Sec. [27-30.60-D.](#)

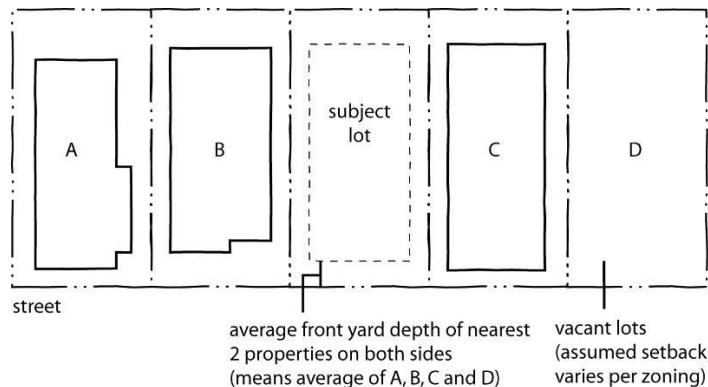
**27-30.60-C. Setback Averaging<sup>160</sup>**

**1. Applicability**

When existing buildings on one or more abutting lots are closer to the street (front or street side) property line than the otherwise required setback, additions to existing buildings or construction of new buildings on the subject lot may comply with the average street yard depth that exists on the nearest 2 lots on either side of the subject lot instead of complying with the zoning district's minimum street setback requirement. Detached houses constructed on infill lots are subject to the contextual street setback regulations of Sec. [27-9.170-B](#), which will govern in the case of conflict with the setback averaging provisions of this section.

**2. Calculation of “Average Setback”**

- a. The average setback is based on the average (arithmetic mean) street yard depth that exists on the nearest 2 lots on either side of the subject lot
- b. If one or more of the lots that are required to be included in the averaging calculation is vacant, that vacant lot will be deemed to have a street yard depth equal to the minimum street setback requirement of the subject zoning district.

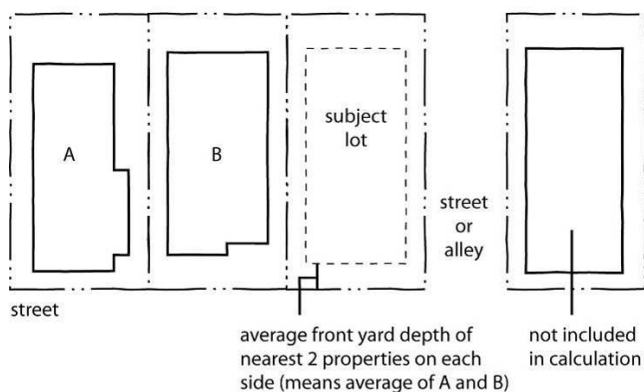


*Illustration to be updated/replaced*

- c. Lots with frontage on a different street than the subject lot or that are separated from the subject lot by a street or alley may not be used in computing the average.

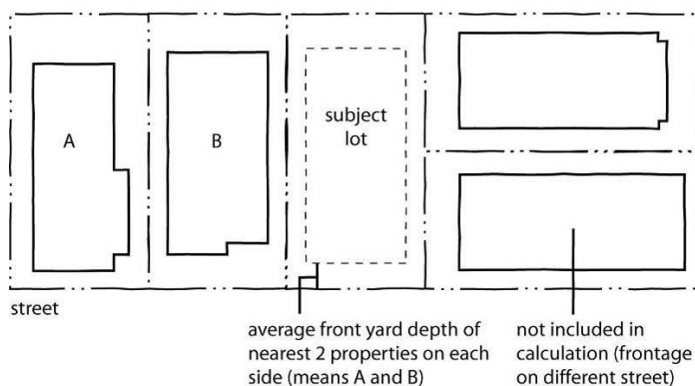
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<sup>160</sup> This is a revision of the “average” setback provisions of existing Section 27-1357.



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- d. When the subject lot is a corner lot, the average street yard depth will be computed on the basis of the nearest 2 lots with frontage on the same street as the subject lot.



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- e. When the subject lot abuts a corner lot with frontage on the same street, the average front yard depth will be computed on the basis of the abutting corner lot and the nearest 2 lots with frontage on the same street as the subject lot.
- f. These setback averaging provisions may not be used to reduce the setback of a street-facing garage door to less than 20 feet.

#### 27-30.60-D. Features Allowed to Encroach in Required Setbacks

Building and site features are allowed to obstruct or encroach into required setbacks to the extent indicated in the following table:

| Obstruction/Projection into Required Setback  | Street | Side | Rear |
|---|--------|------|------|
| <u>Accessory buildings (see also Article 10)</u>  | No     | No   | Yes  |
| <u>Air conditioning units</u>   | No     | Yes  | Yes  |
| <u>Arbors and trellises</u>   | Yes    | Yes  | Yes  |
| <u>Awnings canopies, light shelves and architecturally integrated solar shading devices projecting no more than 3 feet into the setback</u> | Yes    | Yes  | Yes  |
| <u>Bay windows that project no more 3 feet into the setback</u>   | Yes    | Yes  | Yes  |
| Chimneys and flues that project up to 3 feet into the setback)  | Yes    | Yes  | Yes  |
| <u>Clotheslines</u>   | No     | No   | Yes  |

| Obstruction/Projection into Required Setback  | Street     | Side       | Rear       |
|---|------------|------------|------------|
| <u>Decks, patios, and other features and structures less than 30 inches in height above grade</u>                       | <u>Yes</u> | <u>Yes</u> | <u>Yes</u> |
| Eaves and gutters that project up to 3 feet into the setback  | Yes        | Yes        | Yes        |
| <u>Electric vehicle charging stations</u>   | <u>Yes</u> | <u>Yes</u> | <u>Yes</u> |
| Fences and walls (see also <a href="#">Article 15</a> )   | Yes        | Yes        | Yes        |
| <u>Fire escapes that project up to 3 feet into the setback</u>  | <u>Yes</u> | <u>Yes</u> | <u>Yes</u> |
| <u>Flagpoles and similar features</u>   | <u>Yes</u> | <u>Yes</u> | <u>Yes</u> |
| <u>Geothermal heat pumps and geothermal heat exchange system equipment up to 4 feet in height above grade</u>           | <u>No</u>  | <u>Yes</u> | <u>Yes</u> |
| <u>Green houses and hoop houses</u>   | <u>No</u>  | <u>No</u>  | <u>Yes</u> |
| <u>Insulation added to the outside of the exterior wall of an existing building</u>                                     | <u>Yes</u> | <u>Yes</u> | <u>Yes</u> |
| <u>Plants and cold frames</u>   | Yes        | Yes        | Yes        |
| <u>Recreational equipment (e.g., swing sets and playground equipment)</u>   | <u>No</u>  | <u>No</u>  | <u>Yes</u> |
| <u>Satellite dish antennas, not exceeding 1 meter (39.37 inches) in diameter</u>  | <u>Yes</u> | <u>Yes</u> | <u>Yes</u> |
| <u>Satellite dish antennas, over 1 meter but not exceeding 2.4 meters (94.49 inches) in diameter</u>                    | <u>No</u>  | <u>No</u>  | <u>Yes</u> |
| <u>Signs (see also See Chapter 20)</u>  | <u>Yes</u> | <u>Yes</u> | <u>Yes</u> |
| Sills, belt courses, cornices, buttresses and similar architectural features that project up to 3 feet into the setback | Yes        | Yes        | Yes        |
| <u>Solar or wind energy systems, building-mounted</u>   | <u>No</u>  | <u>Yes</u> | <u>Yes</u> |
| <u>Solar or wind energy systems, ground-mounted</u>   | <u>No</u>  | <u>Yes</u> | <u>Yes</u> |
| <u>Swimming pools and tennis courts</u>   | <u>No</u>  | <u>No</u>  | <u>Yes</u> |
| <u>Water collection cisterns that project no more than 3 feet into a front or side setback</u>                          | <u>Yes</u> | <u>Yes</u> | <u>Yes</u> |
| <u>Wheelchair lifts and ramps that meet federal, state and local accessibility standards</u>                            | <u>Yes</u> | <u>Yes</u> | <u>Yes</u> |

## 27-30.70 Building Height

### 27-30.70-A. Measurement

#### 1. Detached Houses

The building height of a detached house is measured as the vertical distance from the front door threshold to the highest point of the roof.

#### 2. Other Buildings

For all buildings except detached houses, building height is measured as the vertical distance from finished grade along the exterior building wall 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.



*Illustration to be updated/replaced*

**27-30.70-B. Exceptions**

1. Farm buildings and farm-related structures are not subject to building height limits when located on bona fide farms.
2. Belfries, clock towers, cupolas, domes, flag poles and spires may exceed maximum building limits, provided they are not intended for human occupancy.
3. Bulkheads, elevator and equipment penthouses, chimneys, water tanks and similar structures may exceed maximum height limits, provided they do not cover more than 25% of the total roof area of the building on which they are located.
4. Telecommunications towers and antennas are subject to their own special height limits (See Sec. 27-9.200).
5. Building-mounted solar energy systems may extend up to 3 feet above the applicable maximum zoning district height limit, provided they do not extend more than 5 feet above the roof line. See also Sec. 27-10.80-B.

## Article 31 Rules of Language and Interpretation<sup>161</sup>

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### 27-31.10 Meanings and Intent

The language of the zoning ordinance must be read literally. Regulations are no more or less strict than stated. Words and terms expressly defined in this zoning ordinance (See, for example, [Article 32](#)) have the specific meanings assigned, unless the context clearly indicates another meaning. Words that are not expressly defined in this zoning ordinance have the meaning given in the latest edition of Merriam-Webster's *Unabridged Dictionary*.

### 27-31.20 Tenses and Usage

- 27-31.20-A.** Words used in the singular include the plural. The reverse is also true.
- 27-31.20-B.** Words used in the present tense include the future tense. The reverse is also true.
- 27-31.20-C.** The words “must,” “will,” “shall” and “may not” are mandatory.
- 27-31.20-D.** The word “may” is permissive, and “should” is advisory, not mandatory or required.
- 27-31.20-E.** When used with numbers, “up to x,” “not more than x” and “a maximum of x” all include “x.”
- 27-31.20-F.** The word “lot” includes the word “plot.”
- 27-31.20-G.** The word “used” is deemed to also include “designed, intended, or arranged to be used.”
- 27-31.20-H.** The word “erected” is deemed to also include “constructed,” “reconstructed,” “altered,” “placed,” “relocated” or “removed.”
- 27-31.20-I.** The terms “land use” and “use of land” are deemed to also include “building use” and “use of building.”

### 27-31.30 Conjunctions

Unless the context otherwise clearly indicates, conjunctions have the following meanings:

- 27-31.30-A.** “And” indicates that all connected items or provisions apply; and
- 27-31.30-B.** “Or” indicates that the connected items or provisions may apply singularly or in combination.

### 27-31.40 Computation of Time

- 27-31.40-A.** References to “days” are to calendar days unless otherwise expressly stated. References to “business days” are references to regular city government working days, excluding Saturdays, Sundays and holidays observed by the city.

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<sup>161</sup> The regulations of this article are mostly new; they expand upon the rules of interpretation found in Sec. 27-22 of the current zoning ordinance.

**27-31.40-B.** The time in which an act is to be completed is computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday, or holiday observed by the city, that day is excluded.

**27-31.40-C.** A day concludes at the close of business of city hall, and any materials received after that time will be considered to have been received the following day.

#### **27-31.50 Headings and Illustrations**

Headings and illustrations are provided for convenience and reference only and do not define or limit the scope of any provision of this zoning ordinance. In case of any difference of meaning or implication between the text of this zoning ordinance and any heading, drawing, table, figure, or illustration, the text governs.

#### **27-31.60 References to Other Regulations**

All references in this zoning ordinance to other city, state or federal regulations are for informational purposes only, and do not constitute a complete list of such regulations. These references do not imply any responsibility by the city for enforcement of state or federal regulations.

#### **27-31.70 Current Versions and Citations**

All references to other city, state or federal regulations in this zoning ordinance refer to the most current version and citation for those regulations, unless otherwise expressly indicated.

#### **27-31.80 Lists and Examples**

Lists of items or examples that use “including,” “such as” or similar terms are intended to provide examples only. They are not to be construed as exhaustive lists of all possibilities.

#### **27-31.90 Delegation of Authority**

Whenever a provision appears requiring the head of a department or another officer or employee of the city to perform an act or duty, that department head, officer or employee is authorized to delegate the assigned responsibility to other individuals over whom they have authority.

#### **27-31.100 Public Officials and Agencies**

All employees, public officials, bodies and agencies to which references are made are those of the City of Dunwoody unless otherwise expressly stated.

## Article 32 Definitions<sup>162</sup>

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### 27-32.10 Terms Defined

The words and terms expressly defined in this article have the specific meanings assigned, unless the context clearly indicates another meaning. Words that are not expressly defined have the meaning given in the latest edition of Merriam-Webster's *Unabridged Dictionary*.

#### 27-32.10-A. Terms Beginning with "A"

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. [See also the accessory use regulations of Article 10.](#)

~~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. [See also the accessory use regulations of Article 10.](#)

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. [See also the accessory use regulations of Article 10.](#)

[Agent means a person duly authorized to act on behalf of the subject property owner.](#)

Amateur radio service antenna structure means a tower and antenna for radio transmission and reception that 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.

Archaeological resource means any material remains of past human culture or activities that 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, are not considered archaeological resources under the regulations of

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<sup>162</sup> These are existing definitions, with use-related definitions extracted, except as indicated. Additional "pruning," editing and supplementation will be performed as part of subsequent ordinance drafts.



this zoning ordinance, unless found in archaeological context. No item may be deemed to be an archaeological resource under regulations of to this zoning ordinance unless the item is at least 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 wheels, typically used to transport no more than 8 passengers and licensed by the appropriate state agency as a passenger vehicle.

#### **27-32.10-B. Terms Beginning with “B”**

Base (zoning) district means any zoning district that is not an overlay district.

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 no less than 6.5 feet.

Battery charging station means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles.

Battery exchange station means a facility designed to enable an electric vehicle with a swappable battery to enter a drive land and exchange the depleted battery for a more fully charged battery through an automated process.

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.

Biomass energy means energy produced from the biological breakdown of organic matter.

Block face means all parcels abutting one side of a street between the 2 nearest intersecting streets.

~~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.~~

~~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 zoning ordinance, 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 this zoning ordinance 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 line means an imaginary line representing the vertical projection (or plumb line) of an exterior building wall that encloses interior floor space.

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 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.** See “Principal building.”

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

#### **27-32.10-C. Terms Beginning with “C”**

**Car-share program** means a system in which a fleet of cars (or other motor vehicles) is made available for use by members of the car-share program and that exhibit all of the following characteristics:

1. members are permitted to use vehicles from the car-share program fleet on an hourly basis;
2. car-share vehicles are generally available 24 hours a day and 7 days a week to members in parking spaces at dispersed locations or facilities; and
3. no separate written agreement is required each time a member reserves and uses a car-share vehicle.

**Car-share vehicle** means a motor vehicle from a car-share program fleet.

~~**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 6½ feet.~~

**City manager** means the person hired and designated as such by the mayor and city council.

**City solid waste** means any solid waste derived from households, including garbage, trash, and sanitary waste in septic tanks and means solid waste from household living uses, 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.

~~**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.

~~**Commercial district** means any parcel of land that 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 exclusively nonresidential portions of any parcels zoned OCR.~~

**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 owned in common by all property owners within the development. ~~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.

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

*Comprehensive plan* means the ~~county~~ comprehensive plan adopted by the mayor and city council ~~until such time as the city adopts its own~~, as it may be amended from time to time, that divides areas of the city into land use categories and that 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 this zoning ordinance.

*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 that 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.

*Construction Staging Area* means temporary storage of construction equipment and building materials on sites (1) for which a valid land disturbance permit or valid building permit exists and (2) on which development or construction is being diligently pursued.

*Cutoff fixture* means a luminaire light distribution where the candela per 1,000 lamp lumens does not numerically exceed 25 (2.5%) at or above a vertical angle of 90 degrees above nadir, and 100 (10%) at or above a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire.

#### **27-32.10-D. Terms Beginning with “D”**

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

*Demolition of an infill building* means 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* ~~See Sec. 27-30.30. means the number of dwelling units per acre of land, or, in the case of nonresidential applications, it is the gross floor area 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 city.

*Diameter-at-breast height (DBH)* means tree trunk diameter measured at a height of 4.5 feet above grade level at the base of a tree.

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

*Dwelling unit* means one 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 household.

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

#### **27-32.10-E. Terms Beginning with “E”**

*Easement* means authorization by a property owner for use of all or a designated portion of the subject property by another property owner or entity.

*Electric vehicle* means any vehicle that is licensed and registered for operation on public and private highways, roads, and streets; either partially or exclusively, on electrical energy from the grid or an off-board source, that is stored on-board via a battery. “Electric vehicle” includes: (1) battery electric vehicles; and (2) plug-in hybrid electric vehicles.

*Electric vehicle (EV) charging station* means a public or private parking space that is served by battery charging station equipment.

*Electric vehicle charging station, private (restricted-access)* means an EV charging station that is not available for use by the general public. Examples include electric vehicle charging stations that serve residential homeowners or renters, executive parking areas, designated employee parking areas and fleet parking areas.

*Electric vehicle charging station, public* means an EV charging station that is accessible to and available for use by the general public.

*Electric vehicle parking space* means any parking space that is clearly identified to be used exclusively for the parking of an electric vehicle.

*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.

#### **27-32.10-F. Terms Beginning with “F”**

*Façade* means all the wall planes of a building seen from one side or view.

*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 designee~~ community development director.

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

*Flood hazard district* See Chapter 16 of the municipal code (Land Development).

**Flood lamp** means a form of lighting designed to direct its output in a specific direction with a reflector formed from the glass envelope of the lamp itself. Such lamps are so designated by the manufacturers and are typically used in residential outdoor area lighting.

**Flood light** means a form of lighting designed to direct its output in a diffuse, more or less specific direction, with reflecting or refracting elements located external to the lamp.

**Floodplain** means 100-year floodplain.

**Floodplain, 100-year** means land within the one hundred-year flood elevation as is defined in the city's land development code (Chapter 16).

**Floodway** See Chapter 16 of the municipal code (Land Development).

**Floor area** See Sec. [27-30.40](#).

**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.

**Footcandle** means a unit of measure for illuminance on a surface that is everywhere one foot from a point source of light of one candle, and equal to one lumen per square foot of area.

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

**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.

**Frontage** See Sec. [27-30.20](#).

**Full cutoff** means a luminaire light distribution where zero candela intensity occurs at or above an angle of 90 degrees above nadir. Additionally, the candela per 1,000 lamp lumens does not numerically exceed 100 (10%) at or above a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire.

**Full cutoff fixture** means an outdoor light fixture shielded or constructed in such a manner that it emits no light above the horizontal plane of the fixture.

#### **27-32.10-G. Terms Beginning with “G”**

**Geothermal heat exchange system** means equipment that exchanges thermal energy between the ground (or a water source) and a building. This includes vertical closed loop, horizontal closed loop, water body closed loop system and open loop systems. Also known as ground source heat pumps and geothermal heat pumps.

**Glare** means the sensation produced within the visual field by luminance that is sufficiently greater than the luminance to which the eyes are adapted, causing annoyance, discomfort, or loss in visual performance and visibility.

**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.

**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.~~

Greenhouse means a temporary or permanent structure that is primarily used for the cultivation of plants.

Greenspace means undeveloped land that has been designated, dedicated, reserved, or restricted in perpetuity from further development and that 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.~~

#### **27-32.10-H. Terms Beginning with “H”**

~~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 that are not economic difficulties and that are not self-imposed.~~

Home occupation ~~An accessory use of a dwelling unit for limited commercial purposes. Home occupations are subject to the regulations of Sec. 27-10.30.~~ 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 zoning ordinance. Home occupation does not include “private educational use” as defined in to this zoning ordinance.

Hoop house means a temporary or permanent structure typically made of flexible pipe or other material covered with translucent plastic, constructed in a "half-round" or "hoop" shape, for the purposes of protecting and cultivating plants. A hoop house is considered more temporary than a greenhouse.

Household means a group of individuals related by blood, marriage, adoption, guardianship or other custodial relationship, or not more than 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 specifically includes 4 or fewer persons with mental, developmental, or other disabilities as defined in the Fair Housing Act, 42 USC 3601 et seq., living as a housekeeping unit and otherwise meeting this definition of “household.”

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 belly pigs, pit bulls, and snakes.

**27-32.10-I. Terms Beginning with “I”**

*IESNA* means the Illuminating Engineering Society of North America, a non-profit professional organization of lighting specialists that has established recommended design standards for various lighting applications.

*Illuminance* means the quantity of light arriving at a surface divided by the areas of the illuminated surface measured in footcandles. Horizontal illuminance applies to a horizontal surface; vertical illuminance applies to a vertical surface. Average illuminance is the level of illuminance over an entire illuminated target area. Maximum illuminance is the highest level of illuminance on any point within the entire area; minimum illuminance is the lowest level of illuminance on any point within the entire area.

*Illuminance levels* and footcandles noted in this zoning ordinance mean the maintained illuminance levels, the illuminance levels occurring just prior to lamp replacement and luminaire cleaning. The average illuminance level applies to an entire illuminated target area. Minimum and maximum illuminance levels apply to small areas within the entire illuminated target area. Unless otherwise noted, illuminance levels refer to horizontal illuminance levels.

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

~~*Industrial district* means any parcel of land that 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 term does not include mining waste or oil and gas waste.

*Industrialized building* means any structure or component of a building that 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: (1) 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; (2) any lot intended for use as a site for a detached house that is created by act of subdivision; and (3) any lot that, at the time it is zoned, has no principal building and that is subsequently proposed as a site for a detached house.

~~*Institutional* means the comprehensive plan land use category that 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 this zoning ordinance.

Invasive (plant) species: means any plant species, including its seeds, spores or other biological material capable of propagating that species, that is not native to that ecosystem; and whose introduction does or is likely to cause environmental harm.

#### **27-32.10-J. Terms Beginning with “J”**

Junk vehicle means any vehicle that is ~~nonoperable~~inoperable or any vehicle that does not bear a current, valid license plate.

#### **27-32.10-K. Terms Beginning with “K”**

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.

#### **27-32.10-L. Terms Beginning with “L”**

Landscape/landscaping means the act of enhancing the appearance of the land by altering its contours and planting trees, shrubs, vines, flowers, turf, groundcover and other plant materials for aesthetic effect.

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

~~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 mayor and 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 that are planted with trees, shrubs and ground cover, plazas, fountains and other hardscape elements and similar features that are located within such parking lot and that 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 that may percolate through the waste and into the soils surrounding the landfill.

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 ~~See Sec. 27-30.10.~~ 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 that exceed the area in required yards, the remaining required open space shall be provided within the buildable area of the lot.~~

~~Lot, conforming, means a designated parcel, tract, or area of land that meets the lot area and lot width requirements of this zoning ordinance, that has the amount of frontage on a public or private street required by this zoning ordinance.~~

Lot, corner, means a lot abutting upon 2 or more streets at their intersection or upon 2 parts of the same street forming an interior angle of less than 135 degrees.

Lot coverage See Sec. ~~27-30.50~~.

Lot, double-frontage, means a lot that abuts 2 parallel streets or that abuts 2 streets that do not intersect at the boundaries of the lot. Double-frontage lots are sometimes referred to as “through lots.”

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

Lot, nonconforming See ~~27-29.20-A~~.

~~Lot, substandard, means a designated parcel, tract, or area of land created after the time of enactment of this zoning ordinance or amendment of this zoning ordinance that does not meet the lot area, lot width, or public or private street frontage and access requirements of this zoning ordinance. 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 distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the street.

Luminaire means a complete lighting unit consisting of a lamp or lamps and the parts designed to distribute the light, to position and protect the lamp, and to connect the lamp to the power supply. These parts include the lamp, reflector, ballast, socket, wiring, diffuser and housing.

#### **27-32.10-M. Terms Beginning with “M”**

~~Major thoroughfare means a street, road or highway shown as a major thoroughfare in the city transportation and thoroughfare plan.~~

~~Minor thoroughfare means a street, road or highway shown as a minor thoroughfare in the 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 nonresidential uses.~~

Mixed-use development means a development that ~~incorporates a variety of two or more different land uses, buildings or structures, that~~ includes both primary residential uses and primary nonresidential uses that are part of the same integrated development, whether within the same building or on the same walkable, interconnected site. ~~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 lot means a parcel of land, approved pursuant to the subdivision requirements of this Code, in a mobile home park that is intended and used for the placement of a single mobile home and for the exclusive use of its occupants.~~

Multiuse property means any distinct parcel of land that is being used for more than one land use purpose.

#### **27-32.10-N. Terms Beginning with “N”**

~~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.~~

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.

~~Nonconforming characteristics of building or structure means a building or structure, legally existing on the effective date of this zoning ordinance, but that fails to comply with one or more of the district or general non-use development regulations adopted under the terms of this zoning ordinance that 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 See Sec. 27-29.40-A. means a use of land, including any land whereon the value of all the improvements is less than \$10,000.00 based on the assessed value of said improvements as established by the city board of tax assessors at the date of enactment of this zoning ordinance, legally existing on the effective date of this zoning ordinance, but that is not an authorized use under the terms of this zoning ordinance in the district in which such use is located.~~

~~Nonconforming use of land and buildings or nonconforming use of land and structures means a use of land and buildings or land and structures, in combination, legally existing on the effective date of to this zoning ordinance, but that is not an authorized use of land and buildings or land and structures, in combination, under the terms of this zoning ordinance 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 buildings or structures in combination, legally existing on the effective date of this zoning ordinance, but that is not an authorized use under the terms of this zoning ordinance 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 any development that does not include residential uses all commercial, office, institutional, industrial and similar lands and uses.

#### **27-32.10-O. Terms Beginning with “O”**

~~Official zoning map or maps means the zoning maps of the city that are adopted with and incorporated into this zoning ordinance 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 75% of the width of the front facade of the building.

*Open-air uses* means storage yards, construction debris sites, used vehicle sales lots, vehicle impound yards, auto wrecking, junkyards, and similar open-air uses when the only buildings on the parcel are incidental and accessory to the open-air use of the lot.

~~*Open space* means that portion of a lot, including yards, established pursuant to the requirements of this zoning ordinance as open space, that is open and unobstructed from ground level to the sky, with the exception of natural foliage or accessory recreational facilities or walkways, that 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 lighting fixture* means outdoor artificial illuminating device, lamp, and other similar device used for flood lighting, security, and/or general illumination. Such devices include: outdoor lighting of buildings and structures, including building overhands and canopies; outdoor lighting of recreational areas or parking lots; security lighting; street lighting; landscape lighting; building-mounted area lighting; product display area lighting; and building facade lighting.

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

#### **27-32.10-P. Terms Beginning with “P”**

*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 120 square feet (small car space) or not less than 153 square feet (large car space) of space with dimensions of not less than eight feet wide by 15 feet deep (small cars) or eight feet, six inches wide by 18 feet deep (large cars), the exclusive purpose of which is for the parking of a vehicle.~~

*Paved* means an improved area, covered by asphalt, concrete, or other hard surface material, that may or may not be impervious. “Paved” specifically excludes dry gravel and similar materials as a finished product.

~~*Permitted use* means any use that can be undertaken only after approval by the designated authority of the special land use permit, special exception, or special administrative permit that is required by the terms of this zoning ordinance.~~

*Pervious surface* means a ground covering of hard-surfaced material placed in an improved area, for such uses as walkways and pedestrian plazas/terraces, on-grade vehicle parking lots, and driveways. Pervious surfaces include but are not limited to porous concrete and modular porous paver systems that are designed to allow infiltration of stormwater, consistent with stormwater BMPs. Pervious paving areas are considered “impervious surface areas” for the purposes of calculating impervious surface coverage.

*Photovoltaic cell* means a semiconductor device that converts solar energy into electricity.

*Pitch of roof lines* means the ratio of the rise to the run in the slope of a roof.

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

Principal building means the building ~~in which occupied by is conducted~~ the principal use of the subject lot ~~on which it is located.~~

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

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~~ the respective unit of government for a necessary governmental function.

#### **27-32.10-Q. Terms Beginning with “Q”**

RESERVED

#### **27-32.10-R. Terms Beginning with “R”**

Real property line means (1) the imaginary line, including vertical extension, that separates one parcel of real property from another; (2) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-unit residential building; or (3) on a multiuse property, the dividing lines 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 county 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 that 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.

Recreational vehicle means a vehicle that is: built on a single chassis; 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.

~~Required yard shall mean the horizontal distance between lot or street lines and the minimum primary building setback lines as established by this zoning ordinance.~~

Renewable energy means energy from resources that are quickly replenished, such as sunlight, wind, water, biomass, geothermal resources.

Residential district See [Article 4](#).

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

Retaining wall means a structure constructed and erected between lands of different elevations to protect structures and/or to prevent erosion. A retaining wall is not a wing wall or an areaway.  
[See also Article 15](#).

Roominghouse. See Boardinghouse.

#### **27-32.10-S. Terms Beginning with “S”**

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

~~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 designee.~~

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

~~Secretary means the community development director or his designee who shall serve as secretary to the community council, planning commission and as secretary to the zoning board of appeals.~~

Semi-nude means the exposure of one 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.

~~Setback See [Sec. 27-30.60](#) 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 that are authorized exceptions to building setback line requirements in this zoning ordinance.~~

~~Shared parking means parking shared by two 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.~~

Sexually oriented business. See [Sec. 27-8.40-A.1](#).

Site plan means that plan required to acquire a development, construction or building permit that shows the means by which the developer will conform with applicable provisions of this [zoning ordinance](#)~~article~~ and other applicable ordinances.

~~Solar energy system means a system intended to convert solar energy into thermal, mechanical or electrical energy.~~

~~Solar energy system, building-integrated means a solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural part of the building. Building-integrated systems include, but are not limited to, photovoltaic or hot water systems that are contained within roofing materials, windows, skylights, shading devices and similar architectural components.~~

~~Solar energy system, structure-mounted~~ means a solar energy system that is mounted on the facade or roof of either a principal or accessory structure.

~~Solar energy system, flush-mounted~~ means a solar energy system that is mounted flush with a finished building surface, at no more than 6 inches in height above that surface.

~~Solar energy system, ground-mounted~~ means a solar energy system mounted on the ground and not attached to any other structure other than structural supports.

~~Solar panel~~ means a group of photovoltaic cells assembled on a panel. Panels are assembled on-site into solar arrays.

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 USC 1342; or source, special nuclear, or byproduct material as defined by the Federal Atomic Energy Act of 1954, as amended (68 Stat. 923).

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

~~Special administrative permit~~ means ~~a written authorization granted by the city manager or his designee for a use of land pursuant to an application that that official is authorized to decide as specified within a zoning district or in article V, division 2 of this zoning ordinance, pursuant to the procedures and criteria contained in article V, division 4 of this zoning ordinance.~~

~~Special exception~~ means ~~the approval by the zoning board of appeals of an application that that board is authorized to decide as specified within a zoning district pursuant to the procedures and criteria contained in article V, division 5 of this zoning ordinance.~~

~~Special land use permit~~ means ~~the approval by ordinance of a use of land that the mayor and city council is authorized to decide as specified within a zoning district pursuant to the procedures and criteria contained in article V, division 3 of this zoning ordinance.~~

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

Specified anatomical areas means any of the following:

1. 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
2. Human male genitalia in a discernibly turgid state, even if completely or opaquely covered.

Specified sexual activities means any of the following:

1. 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, bug-

gery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, sapphism;

2. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence;
3. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;
4. Fondling or touching of nude human genitals, pubic regions, buttocks or female breasts;
5. Masochism, erotic or sexually oriented torture, beating or the infliction of pain;
6. Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or
7. Human excretion, urination, menstruation, vaginal or anal irrigation.

Spill light means the light that illuminates surfaces beyond the intended area of illumination caused by the uncontrolled direct light component from the luminaires.

Stormwater 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, is classified as a story.

Street, private, means any street that provides vehicular or pedestrian access within a development that is not dedicated or intended to be dedicated to the city, and that 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 that 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 city development code (Chapter 16).

#### **27-32.10-T. Terms Beginning with “T”**

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 means the vertical distance from the base of the antenna to its highest point. Where telecommunications towers and antennae are used in combination, height means the vertical distance from grade to the highest point of either the tower or antenna, whichever is highest.



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

**Tree** means any self-supporting woody plant that usually provides one 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.

**Trespass light** means the offsite spill light that illuminates beyond the property boundaries in which the light fixture is installed, where it is neither wanted nor needed.

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

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

#### **27-32.10-U. Terms Beginning with “U”**

**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-scale energy production means an energy production facility that produces electric energy for widespread distribution through the electric power grid.**

#### **27-32.10-V. Terms Beginning with “V”**

**Vacant and undeveloped** means the comprehensive plan land use category that 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 to 12 passengers.

**Vehicular use area means any area on a parcel that is not located within any enclosed or partially enclosed building and that is devoted to a use by or for motor vehicles including parking; storage of automobiles, trucks or other vehicles; gas stations; car washes; vehicle repair establishments; loading areas; drive-through service areas; and access drives and driveways.**

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

#### **27-32.10-W. Terms Beginning with “W”**

**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 community development director. [See also Article 15.](#)



Water collection cistern means a barrel or similar container that collects and stores rainwater or other water that would otherwise be lost as runoff or diverted into a storm drain.

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 CFR 328.3(b), as amended, and that is subject to federal, state or local regulations governing land meeting that definition.

Wing wall means a wall that is constructed and poured at the same time as the building foundation, and is structurally a part of the building foundation. A wing wall is not a retaining wall or an areaway. See also Article 15.

~~Workforce housing means for sale housing that is affordable to those households earning 80% 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.~~

#### **27-32.10-X. Terms Beginning with “X”**

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#### **27-32.10-Y. Terms Beginning with “Y”**

Yard means ~~that the actual~~ area of a lot between the principal building and adjoining lot lines. Note: “setback” refers to the minimum distance that buildings are required to be set back from property lines; ~~unoccupied and unobstructed by an 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 this zoning ordinance.~~

#### **27-32.10-Z. Terms Beginning with “Z”**

Zoning decision means final legislative action by a local government that results in: (1) the adoption of a zoning ordinance; (2) the adoption of an amendment to a zoning ordinance that changes the text of the zoning ordinance; (3) the adoption of any amendment to a zoning ordinance that rezones the property from one zoning classification to another; (4) 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 state law.