CITY OF DUNWOODY, GA
CITY COUNCIL

Ken Wright, Mayor

Denis Shortal – District 1, Post 1
Adrian Bonser - District 2, Post 2
Tom Taylor – District 3, Post 3
Robert Wittenstein – At Large, Post 4
Danny Ross – At Large, Post 5
John Heneghan – At Large, Post 6

Thursday, December 18, 2008	**Special Called Meeting**	**7:00 PM**

A) CALL TO ORDER

B) ROLL CALL AND GENERAL ANNOUNCEMENTS

C) PLEDGE OF ALLEGIANCE

D) MINUTES

1. Approval of Meeting Minutes from the December 8, 2008 City Council Meeting
   (Joan Jones, Acting City Clerk)

E) APPROVAL OF MEETING AGENDA *(add or remove items from agenda)*

F) PUBLIC COMMENT

G) CONSENT AGENDA *(none at this time)*

H) UNFINISHED BUSINESS:

1. ***PUBLIC HEARING* – *City Council Policies and Procedures for Zoning Hearings*.**
   -Presentation and Recommendation by City Attorney Brian Anderson
   -Public Comments Open
   -Public Comments Closed
   -Close Public Hearing

2. Second Read, Discussion and Vote on Ordinance to adopt the Dunwoody City Council Policies and Procedures Governing Public Hearings.

3. ***PUBLIC HEARING* – *City of Dunwoody Zoning Ordinance.***
   -Presentation and Staff Recommendation – Community Development
   -Public Comments Open
   -Public Comments Closed
   -Close Public Hearing

4. Second Read, Discussion and Vote on Ordinance to adopt and approve Chapter 27 ("City of Dunwoody Zoning Ordinance") of the City of Dunwoody Code of Ordinances.

5. ***PUBLIC HEARING* – *City of Dunwoody Sign Ordinance.***
   -Presentation and Staff Recommendation – Community Development
   -Public Comments Open

-Public Comments Closed
-Close Public Hearing

6. Second Read, Discussion and Vote on Ordinance to adopt and approve Chapter 21 ("Signs") of the City of Dunwoody Code of Ordinances.

7. Evidentiary Presentation, Second Read, Discussion and Vote on Ordinance Establishing Licensing Requirements and Regulation for Sexually Oriented Businesses Within Dunwoody, Georgia.

8. Second Read and vote on approving Ordinance Adopting Chapter 7 ("Building Code") of the City of Dunwoody Code of Ordinances.

9. Second Read and vote on approving Ordinance Adopting Chapter 14 ("Land Development and Environmental Protection") of the City of Dunwoody Code of Ordinances.

10. Second Read and vote on approving Ordinance Adopting Chapter 17 ("Traffic and Public Roadways") of the City of Dunwoody Code of Ordinances.

11. Second Read and vote on approving Ordinance Adopting Chapter 23 ("Streets and Sidewalks") of the City of Dunwoody Code of Ordinances.

12. Second Read and vote on approving Ordinance granting Comcast of Georgia a Franchise Agreement for Cable and Video Services.

13. Second Read and vote on approving Ordinance Adopting Chapter 9 ("Ethics") of the City of Dunwoody Code of Ordinances.

I) REPORTS AND PRESENTATIONS

1. Discussion of TAN's.

J) NEW BUSINESS:

1. ACTION ITEM: Discussion and vote on approving the final contract with Clark Patterson Lee for Community Development services for the City of Dunwoody.

2. ACTION ITEM: Discussion and vote on approving the final contract with Lowe Engineering for Public Works services for the City of Dunwoody.

3. ACTION ITEM: Discussion and vote on approving the final contract with Calvin Giordano & Associates for Financial and Administrative services for the City of Dunwoody.

4. First Read of Ordinance to adopt and approve Chapter 25 ("Water, Sewer and Sewage Disposal") of the City of Dunwoody Code of Ordinances (**First Read**).

5. First Read of Ordinance to adopt and approve Chapter 16 ("Offenses and Violations") of the City of Dunwoody Code of Ordinances (**First Read**).

6. ACTION ITEM: Discussion and vote on approving expenditure for sexually oriented business license ordinance expert presentation.

7. Discussion and vote on approving Resolution adopting fees for business occupation taxes and licenses.

8. First Read of Ordinance to amend a provision of Chapter 15 ("Business Occupation Tax, Licenses and Regulation") of the City of Dunwoody Code of Ordinances **(First Read)**.

9. Discussion and vote on approving Resolution adopting and approving amended Rules and Procedures for City Council Meetings.

10. Discussion and vote on approving Resolution approving the Intergovernmental Agreement with Dekalb County for Police Services.

11. Discussion and vote on approving Resolution creating a Sustainability Commission for the City of Dunwoody.

K) OTHER BUSINESS (*none at this time)*

L) PUBLIC COMMENT

M) ADJOURN

Chapter 7: Building Code

Article 1: Adoption of State Law.

Section 1: State Minimum Standards Adopted.

(a) It is hereby declared to be the intention of the Council to enforce the latest edition of the following Georgia State Minimum Standard Codes, as adopted and amended by the Georgia Department of Community Affairs, for all permits approved after December 1,2006:

(i) International Building Code
(ii) International Fuel Gas Code
(iii) International Mechanical Code
(iv) International Plumbing Code
(v) National Electrical Code
(vi) International Fire Code
(vii) International Energy Conservation Code
(viii) International Residential Code
(ix) International Property Maintenance Code

(b) The following appendices of said codes, as adopted and amended by the Georgia Department of Community Affairs, are hereby adopted by reference as though they were copied herein fully:

(i) Standard Building Code: Appendices H, I, J, K
(ii) Standard Mechanical Code
(iii) Standard Plumbing Code: Appendices H, I, J
(iv) Standard Gas Code
(v) CABO One and Two-Family Dwelling Code

(c) The following codes, the latest editions as adopted and amended by the Georgia Department of Community Affairs, are hereby adopted by reference as though they were copied herein fully:

(i) Standard (International) Existing Building Code
(ii) Swimming Pool Code as adopted by the DeKalb County Board of Health

(d) The following code is adopted insofar as it does not conflict with the Georgia State Minimum Standard Codes:

Standard Unsafe Building Abatement Code

(e) The City also adopts the State Minimum Standards Codes as defined by O.C.G.A. § 8-2-20(9).

(f) For all permits granted or approved by Dekalb County under earlier versions of any or all of these codes, it is hereby declared to be the intention of the Council to enforce the Code under which the project was approved.

Article 2: Administrative Procedures for Enforcement of Adopted Codes.

Section 1: Purpose.

The purpose of this section is to provide for the administration and enforcement of the Georgia State Minimum Standard Codes for Construction as adopted and amended by the Georgia Department of Community Affairs. Hereinafter, the state minimum standard codes for construction shall be referred to as the construction codes."

Section 2: Code Remedial.

(a) *General.* These construction codes are hereby declared to be remedial, and shall be construed to secure the beneficial interests and purposes thereof - which are public safety, health, and general welfare - through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards attributed to the built environment including alteration, repair, removal, demolition, use, and occupancy of buildings, structures, or premises, and by regulating the installation and maintenance of all electrical, gas, mechanical, and plumbing systems, which may be referred to as service systems.

(b) *Quality Control.* Quality control of materials and workmanship is not within the purview of the construction codes except as it relates to the purposes stated therein.

(c) *Permitting and Inspection.* The inspection or permitting of any building, system, or plan, under the requirements of construction codes shall not be construed in any court as a warranty of the physical condition of such building, system or plan or their adequacy. The City of Dunwoody, nor any employee thereof, shall be liable in tort for damages for any defect or hazardous or illegal condition or inadequacy in such building, system or plan, nor for any failure of any component of such, which may occur subsequent to such inspection or permitting.

Section 3: Scope.

(a) *Applicability.*

(i) *General.* Where, in any specific case, different sections of these construction codes specify different materials, methods of construction, or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

(ii) *Building.* The provisions of the International Building Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal, and demolition, of every building or structure or any appurtenances connected or attached to such buildings or structures, except in one- and two-family dwellings.

(iii) *Electrical.* The provisions of the National Electrical Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings, and appurtenances thereto.

(iv) *Gas.* The provisions of the International Fuel Gas Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to the installation of consumer's gas piping, gas appliances, and related accessories as covered in this Code. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories, except in one- and two-family dwellings.

(v) *Mechanical.* The provisions of the International Mechanical Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air conditioning and refrigeration systems, incinerators, and other energy related systems. Except in one- and two-family dwellings.

(vi) *Plumbing.* The provisions of the International Plumbing Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to every plumbing installation, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings, and appurtenances, and when connected to a water or sewerage system.

(vii) *Energy.* The provisions of the International Energy Conservation Code, as adopted and amended by the Georgia Department of Community Affairs, shall regulate the design of building envelopes for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, service water heating, and illumination systems and equipment that will enable the effective use of energy in new building construction.

(vii) *One and Two Family Dwellings*. The provisions of the International Residential Code, as adopted by the DCA, shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal, and demolition, of every building or structure or any appurtenances connected or

attached to such buildings or structures of detached one and two family dwellings and townhouses not more than three stories in height with a separate means of egress and their accessory structures.

(b) *Federal and State Authority.* The provisions of the construction codes shall not be held to deprive any federal or state agency, or any applicable governing authority having jurisdiction, of any power or authority which it had on the effective date of the adoption of the construction codes or of any remedy then existing for the enforcement of its orders, nor shall it deprive any individual or corporation of its legal rights as provided by law.

(c) *Appendices.* Appendices referenced in Article I, Section 1(h) of this Chapter shall be considered an integral part of the construction codes.

(d) *Referenced Standards.* Standards referenced in the text of the construction codes shall he considered an integral part of the construction codes. If specific portions of a standard are denoted by code text, only those portions of the standard shall be enforced. Where construction code provisions conflict with a standard, the construction code provisions shall he enforced. Permissive and advisory provisions in a standard shall not be construed as mandatory.

(e) *Maintenance.* All buildings, structures, electrical, gas, mechanical, and plumbing systems, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards, which are required by the construction codes when constructed, altered, or repaired, shall be maintained in good working order. The owner, or his/her designated agent, shall be responsible for the maintenance of buildings, structures, electrical, gas, mechanical, and plumbing systems.

Section 4: Existing Buildings

(a) *General.* Alterations, repairs, or rehabilitation work may be made to any existing structure, building, electrical, gas, mechanical, or plumbing system without requiring the building, structure, plumbing, electrical, mechanical, or gas system to comply with all the requirements of the construction codes provided that the alteration, repair, or rehabilitation work conforms to the requirements of the construction codes for new construction. The extent to which the existing system shall be made to conform to the requirements of the State Minimum Standard Codes for new construction shall be as follows unless otherwise required by this section:

(1) When the estimated cost of the new work is less than fifty percent (40%) of the replacement cost of the existing system or building, the new work shall be brought in to conformance with the requirements of the State Minimum Standard Codes for new construction.

(2) When the estimated cost of the new work is equal to or greater than fifty percent (40%) of the replacement cost of the existing system or building, the entire system or building shall be made to conform to the requirements of the State Minimum Standard Codes for new construction.

(3) For essential service facilities Occupancy Category IV type buildings as defined by the State Minimum Standard Codes for new construction, when the estimated cost of the new work is equal to or greater than thirty percent (30%) of the replacement cost of the existing system, the entire system shall be made to conform to the requirements of the State Minimum Standard Codes for new construction.

(a) *Change of Occupancy.* If the occupancy classification of any existing building or structure is changed, the building, electrical, gas, mechanical, and plumbing systems shall be made to conform to the intent of the construction codes as required by the Building Official and the specific requirements of the occupancy.

(b) *Special Historic Buildings.* The provisions of the construction codes relating to the construction, alteration, repair, enlargement, restoration, relocation, or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings when such buildings or structures are judged by the Building Official to be safe and in the public interest of health, safety, and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation, or moving of buildings within the fire districts.

(c) *Existing Installations.* Except as otherwise provided in this Chapter, buildings, structures, plumbing, mechanical and electrical systems lawfully in existence at the time of the adoption of this ordinance shall be permitted to have their use and maintenance continued if the use, maintenance or repair is in accordance with the original design and applicable codes at the time of its installation and no hazard to life, health or property is created by such building, structure or system.

Section 5: Building Department.

(a) *Creation of Building Department.* There is hereby established a department to be called the Building Department and the person in charge shall be known as the Building Official. The governing body shall establish the qualifications for the Building Official and other code enforcement personnel. The duties of the department may be contracted out in full to a third party entity.

(b) *Restrictions on Employees.* An officer or employee connected with the department, except one whose only connection is as a member of the Construction Board of Adjustment and Appeal, shall not be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of a building,

structure, service, system, or in the making of plans or of specifications thereof, unless he is the owner of such. This officer or employee shall not engage in any other work, which is inconsistent with his duties or conflict with the interests of the department.

(c) *Records.* The Building Official shall keep, or cause to he kept, a record of the business of the department. The records of the department shall be open to public inspection pursuant to the provisions of the Georgia Open Records Act.

(d) *Liability.* Any officer or employee, or member of the Construction Board of Adjustments and Appeals, charged with the enforcement of the construction codes, acting for the applicable governing authority in the discharge of his duties, shall not thereby render himself/herself personally liable, and is hereby relieved from all personal liability, for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his/her duties. Any suit brought against any officer or employee or member because of such act performed by him/her in the enforcement of any provision of the construction codes shall be defended by the governing jurisdiction until the final termination of the proceedings.

(e) *Reports.* The Building Official shall submit a report each year covering the work of the Building Department during the preceding year. He/she may incorporate in said report a summary of the decisions of the Construction Board of Adjustments and Appeals during said year.

Section 6: Building Official.

(a) *General.* The Building Official is hereby authorized and directed to enforce the provisions of the construction codes. The Building Official is further authorized to render interpretations of the construction codes, which are consistent with its intent and purpose. The City may contract with a third party to provide the duties of the Building Official.

(b) *Right of Entry.*

(i) Whenever necessary to make an inspection to enforce any of the provisions of the construction codes, or whenever the Building Official has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building, structure, premises, electrical, gas, mechanical, or plumbing systems unsafe, dangerous, or hazardous, the Building Official may enter such building, structure, or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Building Official by these construction codes, provided that if such building or premises is occupied, he shall first present proper credentials and request entry. If such building, structure, or premises is

unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. if entry is refused, the Building Official shall have recourse to every remedy provided by law to secure entry.

(ii) When the Building Official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Building Official for the purpose of inspection and examination pursuant to the construction codes.

(c) *Stop-work orders.* Upon notice from the Building Official, work on any building, structure, electrical, gas, mechanical, or plumbing system that is being done contrary to the provisions of the construction codes or in a dangerous or unsafe manner, shall immediately cease. Such notice shall he in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the Building Official shall not be required to give a written notice prior to stopping the work.

(d) *Revocation of Permits.*

(i) *Misrepresentation of Application.* The Building Official may revoke a permit or approval, issued under the provisions of the construction codes, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(ii) *Violation of Code Provisions.* The Building Official may revoke a permit upon determination by the Building Official that the construction erection, alteration, repair, moving, demolition, installation or replacement of the building, structure, electrical, gas, mechanical, or plumbing systems for which the permit was issued is in violation of, or not in conformity with, the provisions of the construction codes.

(e) *Unsafe Buildings or Systems.* All buildings, structures, electrical, gas, mechanical, or plumbing systems which are unsafe, unsanitary, or do not provide adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health, are considered unsafe buildings or service systems.

(f) *Requirements Not Covered by Code.* Any requirements necessary for the strength, stability, or proper operation of an existing or proposed building, structure, electrical, gas, mechanical, or plumbing system, or for the public safety, health, and general welfare, not specifically covered by or the construction codes, shall be determined by the

Building Official.

(g) *Alternate Materials and Methods.* The provisions of the construction codes are not intended to prevent the use of any material or method of construction not specifically prescribed by them, provided any such alternate has been reviewed by the Building Official. The Building Official shall approve any such alternate, provided the Building Official finds that the alternate for the purpose intended is at least the equivalent of that prescribed in the construction codes, in quality, strength, effectiveness, fire resistance, durability, and safety. The Building Official shall require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternate.

Section 7: Permits.

(a) Permit Application.

(i) When required, any owner, authorized agent, or contractor who desires to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by the construction codes, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit for the work.

(ii) Work Authorized. A building, electrical, gas, mechanical, or plumbing permit shall carry with it the right to construct or install the work, provided the same are shown on the drawings and set forth in the specifications filed with the application for the permit. Where these are not shown on the drawings and covered by the specifications submitted with the application, separate permits shall be required.

(iii) Minor Repairs. Ordinary minor repairs may be made with the approval of the Building Official without a permit, provided that such repairs shall not violate any of the provisions of the construction codes.

(v) Information Required. Each application for a permit, with the required fee, shall be filed with the Building Official on a form furnished for that purpose, and shall contain a general description of the proposed work and its location. The owner, or his/her authorized agent, shall sign the application. The building permit application shall indicate the proposed occupancy of all parts of the building and of that portion of the site or lot, if any, not covered by the building or structure, and shall contain such other information as may be required by the Building Official.

(vi) Time Limitations. An application for a permit for any proposed work shall be deemed to have been abandoned 180 calendar days after the date of filing for the permit, unless before then a permit has been issued. One or more

extensions of time for periods of not more than 90 days each may be allowed by the Building Official for the application, provided the extension is requested in writing and justifiable cause is demonstrated.

(vii) *Exception to permit required*. Ordinary repairs to a single-family residential building or structure for which the wholesale cost does not exceed three thousand dollars ($3,000.00) shall not be required to obtain a permit.

(b) Drawings and Specifications.

(i) *Requirements.* When required by the Building Official, two or more copies of specifications and of drawings drawn to scale with sufficient clarity and detail to indicate the nature and character of the work, shall accompany the application for a permit. Such drawings and specifications shall contain information, in the form of notes or otherwise, as to the quality of materials, where quality is essential to conformity with the construction codes. Such information shall he specific, and the construction codes shall not be cited as a whole or in part, nor shall the term "legal" or its equivalent be used, as a substitute for specific information. All information, drawings, specifications and accompanying data shall bear the name and signature of the person responsible for the design.

(ii) *Additional Data.* The Building Official may require details, computations, stress diagrams, and other data necessary to describe the construction or installation and the basis of calculations. All drawings, specifications, and accompanying data required by the Building Official to he prepared by an architect or engineer shall be affixed with their official seal.

(iii) *Design Professional.* The design professional shall be an architect or engineer legally registered under the laws of this state regulating the practice of architecture or engineering and shall affix his official seal to said drawings, specifications, and accompanying data, for the following:

(A) All Group A, E, and I occupancies.
(B) Buildings and structures three stories or more high.
(C) Buildings and structures 5,000 square feet (465 in A2) or more in area.

For all other buildings and structures, the submittal shall bear the certification of the applicant that some specific state law exception permits its preparation by a person not so registered.

EXCEPTION: Single-family dwellings, regardless of size, shall require neither a registered architect nor engineer, nor a certification that an architect or engineer is not required.

(iv) *Structural and Fire Resistance Integrity.* Plans for all buildings shall indicate how required structural and fire resistance integrity will be maintained where a penetration of a required fire resistance wall, floor, **or** partition will be made for electrical, gas, mechanical, plumbing, signal and communication conduits, pipes, and systems and also indicate in sufficient detail how the fire integrity will be maintained where required fire resistance floors intersect the exterior walls.

(v) *Site Drawings.* Drawings shall show the location of the proposed building or structure and of every existing building or structure on the site or lot. The Building Official may require a boundary line survey prepared by a qualified surveyor.

(vi) *Hazardous Occupancies.* The Building Official may require the following:

(A) *General Site Plan.* A general site plan drawn at a legible scale which shall include, but not be limited to, the location of all buildings, exterior storage facilities, permanent access ways, evacuation routes, parking lots, internal roads, chemical loading areas, equipment cleaning areas, storm and sanitary sewer accesses, emergency equipment, and adjacent property uses. The exterior storage areas shall be identified with the hazard classes and the maximum quantities per hazard class of hazardous materials stored.

(B) *Building Floor Plan.* A building floor plan drawn to a legible scale, which shall include, but not be limited to, all hazardous materials storage facilities within the building and shall indicate rooms, doorways, corridors, exits, fire rated assemblies with their hourly rating, location of liquid tight rooms, and evacuation routes. Each hazardous materials storage facility shall be identified on the plan with the hazard classes and quantity range per hazard class or the hazardous materials stored.

(c) Examination of Documents.

(i) *Plan Review.* The Building Official shall examine or cause to be examined each application for a permit and the accompanying documents, consisting of drawings, specifications, computations, and additional data, and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of the construction codes and all other pertinent laws or ordinances.

(ii) *Affidavits.* The Building Official may accept a sworn affidavit from a registered architect or engineer stating that the plans submitted conform to the construction codes. For buildings and structures the affidavit shall state that the plans conform to the laws as to egress, type of construction, and general

arrangement and if accompanied by drawings showing the structural design, and by a statement that the plans and design conform to the requirements of the construction codes as to strength, stresses, strains, loads, and stability. The Building Official may without any examination or inspection accept such affidavit, provided the architect or engineer who made such affidavit agrees to submit to the Building Official, copies of inspection reports as inspections are performed and upon completion of the structure, electrical, gas, mechanical, or plumbing systems a certification that the structure, electrical, gas, mechanical, or plumbing system has been erected in accordance with the requirements of the construction codes. Where the Building Official relies upon such affidavit, the architect or engineer shall assume full responsibility for the compliance with all provisions of the construction codes and other pertinent laws or ordinances.

(d) Issuing Permits.

(i) *Action on Permits.* The Building Official shall act upon an application for a permit without unreasonable or unnecessary delay. If the Building Official is satisfied that the work described in an application for a permit and the contract documents filed therewith conform to the requirements of the construction codes and other pertinent laws and ordinances, he shall issue a permit to the applicant.

(ii) *Refusal to Issue Permit.* If the application for a permit and the accompanying contract documents describing the work do not conform to the requirements of the construction codes or other pertinent laws or ordinances, the Building Official shall not issue a permit, but shall return the contract documents to the applicant with his refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reason for refusal.

(iii) *Special Foundation Permit.* When application for permit to erect or enlarge a building has been filed and pending issuance of such permit, the Building Official may, at his discretion, issue a special permit for the foundation only. The holder of such a special permit is proceeding at his own risk and without assurance that a permit for the remainder of the work will he granted nor that corrections will not be required in order to meet provisions of the construction codes.

(iv) *Public Right-of-Way.* A permit shall not be given by the Building Official for the construction of any building, or for the alteration of any building where said building is to be changed and such change will affect the exterior walls, bays, balconies, or other appendages or projections fronting on any street, alley, or public lane, or for the placing on any lot or premises of any building or structure removed from another lot or premises, unless the applicant has made application at the office of the Director of Public Works for the lines of the

public street on which he/she proposes to build, erect, or locate said building; and it shall he the duty of the Building Official to see that the street lines are not encroached upon.

(e) Contractor Responsibilities. It shall be the duty of every contractor who shall make contracts for the installation or repairs of buildings, structures, electrical, gas, mechanical, sprinkler, or plumbing systems, for which a permit is required, to comply with state or local rules and regulations concerning licensing which the applicable governing authority may have adopted. In such case that the state requires a contractor to have obtained a state license before they are permitted to perform work, the contractor shall supply the local government with their license number before receiving a permit for work to be performed.

(f) Conditions of the Permit.

(i) *Permit Intent.* A permit issued shall be construed to be a license to proceed with the work and not as authority to violate, cancel, alter, or set aside any of the provisions of the construction codes, nor shall issuance of a permit prevent the Building Official from thereafter requiring a correction of errors in plans, construction, or violations of the construction codes. Every permit issued shall become invalid unless the work authorized by such permit is commenced within 180 calendar days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 calendar days after the time the worked is commenced. One or more extensions of time, for periods not more than 180 calendar days each, may be allowed for the permit. The extension shall be requested in writing and justifiable cause demonstrated. Extensions shall be in writing by the Building Official.

(ii) *Permit Issued on Basis of an Affidavit.* Whenever a permit is issued in reliance upon an affidavit or whenever the work to be covered by a permit involves installation under conditions which, in the opinion of the Building Official, are hazardous or complex, the Building Official shall require that the architect or engineer who signed the affidavit or prepared the drawings or computations shall supervise such work. In addition, they shall be responsible for conformity with the permit, provide copies of inspection reports as inspections are performed, and upon completion make and file with the Building Official written affidavit that the work has been done in conformity with the reviewed plans and with the structural provisions of the construction codes. In the event such architect or engineer is not available, the owner shall employ in his place, a competent person or agency whose qualifications are reviewed by the Building Official.

(iii) *Plans.* When the Building Official issues a permit, he/she shall enforce, in writing or by stamp, both sets of plans "reviewed for code compliance." One

set of drawings so reviewed shall be retained by the Building Official and the other set shall be returned to the applicant. The permitted drawings shall be kept at the site of work and shall be open to inspection by the Building Official or his/her authorized representative.

(g) Fees.

(i) *Prescribed Fees.* A permit shall not be issued until the fees prescribed by the governing body have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, due to an increase in the estimated cost of the building, structure, electrical, plumbing, mechanical, or gas systems, etc. has been paid.

(ii) *Work Commencing Before Permit Issuance.* Any person who commences any work on a building, structure, electrical, gas, mechanical, or plumbing, etc. system before obtaining the necessary permits, shall be subject to a penalty of 100 percent of the usual permit fee in addition to the required permit fees.

(iii) *Accounting.* The Building Official shall keep a permanent and accurate accounting of all permit fees and other money collected, the names of all persons upon whose account the same was paid, along with the date and amount thereof.

(iv) *Schedule of Permit Fees.* On all buildings, structures, electrical, plumbing, mechanical, and gas systems or alterations requiring a permit, a fee for each permit shall be paid as required at the time of filing application, in accordance with the fee schedules as set by the governing body.

(v) *Building Permit Valuations.* If, in the opinion of the Building Official, the valuation of building, alteration, structure, electrical, gas, mechanical, or plumbing systems appears to be underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the Building Official. Permit valuations shall include total cost, such as electrical, gas, mechanical, plumbing equipment, and other systems, including materials and labor. Valuations will be based on current ICC building valuations for the size and type of construction unless other evidence is provided as stated above.

(h) Inspections.

(i) *Existing Building Inspections.* Before issuing a permit the Building Official may examine or cause to be examined any building, electrical, gas, mechanical, or plumbing systems for which an application has been received for a permit to enlarge, alter, repair, move, demolish, install, or change the occupancy. He shall inspect all buildings, structures, electrical, gas, mechanical, and plumbing systems, from time to time, during and upon completion of the work for which a permit was issued. He shall make a record

of every such examination and inspection and of all violations of the construction codes.

(ii) *Manufacturers and Fabricators.* When deemed necessary by the Building Official he shall make, or cause to be made, an inspection of materials or assemblies at the point of manufacture or fabrication. A record shall be made of every such examination and inspection and of all violations of the construction codes.

(iii) *Inspection Service.* The Building Official may make, or cause to be made, the inspections required by subsection (vi), hereinbeiow. He/she may accept reports of inspectors of recognized inspection services provided that after investigation he/she is satisfied as to their qualifications and reliability. A certificate called for by any provision of the construction codes shall not be based on such reports unless the same are in writing and certified by a responsible officer of such service.

(iv) *Inspections Prior to Issuance of Certcate of Occupancy or Completion.* The Building Official shall inspect or cause to be inspected at various intervals all construction or work for which a permit is required, and a final inspection shall be made of every building, structure, electrical, gas, mechanical, or plumbing system upon completion, prior to the issuance of the certificate of occupancy or completion.

(v) *Posting of Permit.* Work requiring a permit shall not commence until the permit holder or his/her agent posts the permit card in a conspicuous place on the premises. The permit shall be protected from the weather and located in such position as to permit the Building Official or representative to conveniently make the required entries thereon. This permit card shall be maintained in such position by the permit holder until the certificate of occupancy or completion is issued by the Building Official.

(vi) *Required Inspections.* The Building Official upon notification from the permit holder or his agent shall make the following inspections and such other inspections as necessary, and shall either release that portion of the construction or shall notify the permit holder or his agent of any violations which must be corrected in order to comply with the technical code:

(A) Building.

(1) *Foundation Inspection:* To be made after trenches are excavated and forms erected and any required reinforcing in place and secured prior to placement of concrete..

(2) *Frame Inspection:* To be made after the roof, masonry, all

framing, fireblocking, fire-stopping, draft-stopping and bracing are in place, and after the plumbing, mechanical and electrical rough inspections are approved.

(3) *Final Inspection:* To be made after the building is completed and ready for occupancy.

(B) Electrical.

(1) *Underground Inspection:* To be made after trenches or ditches are excavated, conduit or cable installed, and before any backfill is put in place.

(2) *Rough-In Inspection:* To be made after the distribution panel is in place and all electrical conductors and associated device boxes are installed and prior to covering or concealment or the installation of fixtures, wall or ceiling membranes.

(3) *Temporary Power Inspection:* Temporary approval for connection to the utility can be granted prior to completion. This temporary connection is only valid for a period not to exceed 90 days.

(4) *Final Inspection:* To be made after the building is complete, all required electrical fixtures are in place and properly connected or protected, and the structure is ready for occupancy.

(C) Plumbing.

(1) *Underground Inspection:* To be made after trenches or ditches are excavated, piping installed, and before any backfill is put in place.

(2) *Rough-In Inspection:* To be made after the and all soil, waste, and vent piping is complete, and prior to this installation of wall or ceiling membranes or concealment of any plumbing materials.

(3) *Final Inspection:* To be made after the building is complete, all plumbing fixtures are in place and properly connected, and the structure is ready for occupancy.

(4) Note: See Section 312 of the International Plumbing Code for required tests.

(D) Mechanical.

(1) *Underground Inspection:* To be made after trenches or ditches

are excavated, underground duct and fuel piping installed, and before any backfill is put in place.

(2) *Rough-In Inspection:* To be made after the roof and all ducting, and other concealed components are complete, and prior to the installation of wall or ceiling membranes. No mechanical equipment or ductwork is allowed to be installed in any building that is not adequately sealed from the weather. Any ductwork or equipment contaminated by storm water must be replaced to prevent a potential mold issue or health hazard (as recommended by the DCA Mold Task Force).

(3) *Final Inspection:* To be made after the building is complete, the mechanical system is in place and properly connected, operational and the structure is ready for occupancy.

(E) Gas.

(1) *Rough Piping Inspection:* To be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been connected.

(2) *Temporary Gas Connection:* To be made after all piping authorized by the permit has been installed and after all portions which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been connected. This inspection shall include a pressure test.

(3) *Final Inspection:* To be made on all new gas work authorized by the permit and such portions of existing systems as may be affected by new work or any changes in order to insure compliance with all the requirements of the construction codes and to assure that the installation and construction of the gas system is in accordance with reviewed plans

(F) Energy.

(1) *Foundation Inspection:* To be made before slab concrete is poured in on any slab on grade foundations, if required.

(2) *Insulation Inspection:* To be made after all rough inspections are complete and approved and before exterior wall insulation is concealed by wall board to check installation of exterior walls insulation and to inspect that all holes and cracks through the structure envelope have been sealed in an appropriate manner as to restrict air passage.

(3) *Final Inspection:* To be made after the building is completed and ready for occupancy. To verify installation and R-value of ceiling and floor insulation. To verify correct SEER ratings on appliances.

(vii) *Written Release.* Work shall not be done on any part of a building, structure. electrical, gas, mechanical, or plumbing system beyond the point indicated in each successive inspection without first obtaining a written release from the Building Official. Such written release shall be given only after an inspection has been made of each successive step in the construction or installation as indicated by each of the foregoing three inspections.

(viii) *Reinforcing Steel, Structural Frames, Insulation, Plumbing, Mechanical, or Electrical Systems.* Reinforcing steel, structural frame, insulation, plumbing, work of any part of any building or structure shall not be covered or concealed without first obtaining a release from the Building Official.

(ix) *Plaster Fire Protection.* In all buildings where plaster is used for fire protection purposes, the permit holder or his agent shall notify the Building Official after all lathing and backing is in place. Plaster shall not be applied until the release from the Building Official has been received.

(x) *Fire Barrier Inspection.* Where fire resistance rated construction is required between dwelling units, between various occupancies or due to location on property, the building official shall require an inspection after all wallboard is installed but prior to joints and fasteners are taped and finished. Multiple layers shall be inspected individually.

(i) Certificates.

(i) Certificate of Occupancy.

(A) *Building Occupancy.* A new building shall not he occupied or a change made in the occupancy, nature, or use of a building or part of a building until after the Building Official has issued a certificate of occupancy. Said certificate shall not be issued until all required electrical, gas, mechanical, plumbing, and fire protection systems have been inspected for compliance with the construction codes and other applicable laws and ordinances and released by the Building Official.

(B) *Issuing Certificate of Occupancy.* Upon satisfactory completion of construction of a building or structure and installation of electrical, gas, mechanical, and plumbing systems in accordance with the construction codes, reviewed plans and specifications, and after the final inspection, the Building Official shall issue a certificate of occupancy stating the nature of the occupancy permitted, the number of

persons for each floor when limited by law, and the allowable load per square foot for each floor in accordance with the provisions of the construction codes.

(C) *Temporary/Partial Occupancy.* A temporary/partial certificate of occupancy may be issued for a portion of a building, which may safely be occupied prior to final completion of the building.

(D) *Existing Building Certificate of Occupancy.* A certificate of occupancy for any existing building may be obtained by applying to the Building Official and supplying the information and data necessary to determine compliance with the construction codes for the occupancy intended. Where necessary, in the opinion of the Building Official, two sets of detailed drawings, or a general inspection, or both, may be required. When, upon examination and inspection, it is found that the building conforms to the provisions of the construction codes and other applicable laws and ordinances for such occupancy, a certificate of occupancy shall be issued.

(ii) Certificate of Completion. Upon satisfactory completion of a building, structure, electrical, gas, mechanical, or plumbing system, a certificate of completion may be issued. This certificate is proof that a structure or system is complete and for certain types of permits is released for use and may be connected to a utility system. This certificate does not grant authority to occupy or connect a building, such as a shell building, prior to the issuance of a certificate of occupancy.

(iii) Service Utilities.

(A) *Connection of Service Utilities.* No person shall make connections from a utility, source of energy, fuel, or power to any building or system which is regulated by the construction codes for which a permit is required, until released by the Building Official and a certificate of occupancy or completion is issued.

(B) *Temporary Connection.* The Building Official may authorize the temporary connection of the building or system to the utility source of energy, fuel, or power for the purpose of testing building service systems or for use under a temporary certificate of occupancy. This temporary connection is only valid for a period not to exceed 90 calendar days.

(C) *Authority to Disconnect Service Utilities.* The Building Official shall have the power to authorize disconnection of utility service to the building, structure, or system regulated by the construction codes, in

case of emergency where necessary to eliminate an immediate hazard to life or property. The Building Official shall notify the serving utility, and whenever possible the owner and occupant of the building, structure, or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure, or service system shall be notified in writing, as soon as practical thereafter.

(j) Posting Floor Loads.

(i) *Occupancy.* An existing or new building shall not he occupied for anypurpose, which will cause the floors thereof to be loaded beyond their safecapacity. The Building Official may permit occupancy of a building for mercantile, commercial, or industrial purposes, by a specific business, when he is satisfied that such capacity will not thereby be exceeded.

(ii) *Storage and Factory-Industrial Occupancies.* It shall be the responsibility ofthe owner, agent, proprietor, or occupant of Group S and Group F occupancies, or any occupancy where excessive floor loading is likely to occur, to employ a competent architect or engineer in computing the safe load capacity. All such computations shall be accompanied by a stamped and signed affidavit from the architect or engineer stating the safe allowable floor load on each floor in pounds per square foot uniformly distributed. The computations and affidavit

shall be filed as a permanent record of the Building Department.

(iii) *Signs Required.* In every building or part of a building used for storage, industrial, or hazardous purposes, the safe floor loads, as reviewed by the Building Official on the plan, shall be marked on plates or approved design which shall be supplied and securely affixed by the owner of the building in a conspicuous place in each story to which they relate. Such plates shall not be removed or defaced, and if lost, removed or defaced, shall be replaced by the owner of the building.

Section 8: Tests.

The Building Official may require tests or test reports as proof of compliance. Required tests are to be made at the expense of the owner or his/her agent, by an approved testing laboratory or other approved agency.

Section 9: Construction Board of Adjustment and Appeals.

(a) Appointment. The Council shall establish a board to be called the "Construction Board of Adjustment and Appeals." Members shall be nominated by the Mayor and approved by the Council.

(b) Membership and Terms.

(i) The Board shall be comprised of not less than three and not more than five persons. Each member shall serve a term of 4 years and may serve consecutive terms.

(ii) Quorum and Voting. A simple majority of the Board shall constitute a quorum. In varying any provision of the construction codes, the affirmative votes of the majority present shall be required. In modifying a decision of the Building Official, not less than two affirmative votes shall be required. In the event that regular members are unable to attend a meeting, the alternate members, if appointed, shall vote.

(iii) Secretary of the Board. The Building Official shall appoint a secretary for the Board and shall make a detailed record of all its proceedings, which shall set forth the reasons for its decision, the vote of each member, the absence of a member, and any failure of a member to vote.

(iv) As provided in Code Section 2-5-3, the Council shall establish qualifications for Board members.

(c) Powers. The Construction Board of Adjustments and Appeals shall have the power, as further defined in subsection (d) herein below, to hear the appeals of decisions and interpretations of the Building Official and consider variances of the construction codes.

(d) Appeals.

(i) *Decision of the Building Official.* The owner of a building, structure, or service system, or his duly authorized agent, may appeal a decision of the Building Official to the Construction Board of Adjustments and Appeals whenever any one of the following conditions are claimed to exist:

(A) The Building Official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.

(B) The provisions of the construction codes do not apply to this specific case.

(C) That an equally good or more desirable form of installation can be employed in any specific case.

(D) The true intent and meaning of the construction codes or any of the regulations thereunder have been misconstrued or incorrectly

interpreted.

(ii) *Variances.* The Construction Board of Adjustments and Appeals, when so appealed to and after a hearing, may vary the application of any provision of the construction codes to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would he contrary to the spirit and purpose of this or the construction codes or public interest, and also finds all of the following:

(A) That special conditions and circumstances exist which are peculiar to the building, structure, or service system involved and which are not applicable to others.

(B) That the special conditions and circumstances do not result from the action or inaction of the applicant.

(C) That granting the variance requested will not confer on the applicant any special privilege that is denied by the construction codes to other buildings, structures, or service system.

(D) That the variance granted is the minimum variance that will made possible the reasonable use of the building, structure, or service system.

(E) That the grant of the variance will be in harmony with the general intent and purpose of the construction codes and will not be detrimental to the public health, safety, and general welfare.

In granting the variance, the Board may prescribe a reasonable time limit within which the action for which the variance is required shall be commenced or completed or both. In addition, the Board may prescribe appropriate conditions and safeguards in conformity with the construction codes. Violation of the conditions of a variance shall be deemed a violation of the construction codes.

(iii) *Notice of Appeal.* Notice of appeal shall be in writing and filed within 30 calendar days after the Building Official renders the decision. Appeals shall be in a form acceptable to the Building Official.

(iv) *Unsafe or Dangerous Buildings or Service Systems.* In the case of a building, structure, or service system, which, in the opinion of the Building Official, is unsafe, unsanitary, or dangerous, the Building Official may, in his order, limit the time for such notice of appeals to a shorter period.

(e) Rules and Regulations.

(i) *Establishment.* The Board shall establish rules and regulations for its own

procedure not inconsistent with the provisions of these procedures. The Board shall meet on call of the chairman. The Board shall meet within 30 calendar days after notice of appeal has been received.

(ii) *Decisions.* The Construction Board of Adjustments and Appeals shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the Board shall also include the reasons for the decision. If a decision of the Board reverses or modifies a refusal, order, or disallowance of the Building Official or varies the application of any provision of the construction codes, the Building Official shall immediately take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of the Building Official and shall be open to public inspection. A certified copy of the decision shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the Building Official for 2 weeks after filing. Every decision of the Board shall be final, subject to such remedy as any aggrieved party might have at law or in equity.

Section 10: Severability.

If any section, subsection, sentence, clause, or phrase of the construction codes is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the construction codes.

Section 11: Violations and penalties.

Any person, firm, corporation, or agent who shall violate a provision of the construction codes, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, install, demolish, or move any structure, electrical, gas, mechanical, or plumbing system, or has erected, constructed, altered, repaired, moved or demolished a building, electrical, gas, mechanical, or plumbing system, in violation of a detailed statement or drawing submitted and permitted there under, shall be guilty of a misdemeanor. Each such person shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of the construction codes is committed or continued, and upon conviction of any such violation such person shall be punished within the limits and as provided by state laws.

Article 3: Trenching

Section 1: Definitions.

(a) *"Excavation"* means any manmade cavity or depression in the earth's surface, including its sides, walls, or faces, formed by earth removal and producing unsupported earth conditions as results of the excavation. If installed forms or similar structures reduce the depth to width relationship, an excavation may become a trench.

(b) *"OSHA"* means the U.S. Department of Labor, Occupational Safety and Health Administration, or successor agency.

(c) *"Supervisory personnel"* means any person who has the responsibility for layout, oversight, superintending, directing, or controlling an excavation or trench.

(d) *"Trench"* is a narrow excavation made below the surface of the ground. In general, the depth is greater than the width, but the width of the *trench* is not greater than 15 feet.

Section 2: Prohibition.

No individual, partnership, corporation, or other entity of any kind whatsoever shall engage in any excavation or trenching except in the compliance with the provisions of this Article and in compliance with any applicable laws of the State of Georgia or of the United States or any rules and regulations of the U.S. Department of Labor, Occupational Safety and Health Administration, or any other state or federal governmental entity or department promulgating rules and regulations applicable to excavating and trenching.

Section 3: Adoption of Federal Regulations.

All safety and health regulations adopted by OSHA with regard to excavating and trenching operations, particularly Part 1926, Sub part P-Excavations, Trenching, and Shoring, Section 1926.650, 1926.651, 1926.652. 1926.653 of the Code of Federal Regulations, as the same now exist or may be hereafter amended are adopted as a part of this Article the same as if quoted verbatim herein.

Section 4: Certificate Required

(a) No equipment operator or supervisory personnel shall participate in any excavation or trenching or in any way work in an excavation or trench unless such person holds a valid certificate evidencing satisfactory completion of a required educational program on safe trench/excavation practices. No other person shall participate in or work in any excavation or trenching site unless a certificate holder is present at the excavation or trench site where work is being performed.

(b) In the event any person who holds a valid certificate from the City is found to be in violation of the safety standards or requirements on any job site, the certificate may be revoked after notice and hearing as herein provided. In the event of revocation, the certificate may be reinstalled one time upon repeat by the person of the educational program required for issuance of the initial certificate.

Section 5: Permit Required.

(a) No excavation or trenching shall be performed until a permit or authorization for same has been obtained from the City. Any applicant will be required to acknowledge receipt and understanding of safety requirements before any permit will be issued. All such permits shall be conspicuously posted upon the job site.

(b) No permit or authorization shall be issued unless an authorized agent of the applicant holds a certificate.

Section 6: Inspection.

The City shall periodically inspect trench/excavation sites. Such inspectors shall, among other things, verify the presence of the required permit, verify existence of required certificates, and verify compliance to OSHA safety standards herein above adopted. The inspectors may operate pursuant to a contract between the City and a third-party entity.

Section 7: *Violations.*

The City shall periodically inspect trench/excavation sites. Such inspectors shall, among other things, verify the presence of the required permit, verify existence of required certificates, and verify compliance to OSHA safety standards herein above adopted.

Section 8: Appeals.

Any individual, partnership, corporation, or other entity whose permit has been suspended or revoked may appeal in a manner consistent with this Chapter.

Article 4: Miscellaneous Provisions.

Section 1: Maintenance of proper sanitary conditions on premises required; procedures; enforcement.

(a) Every person, whether owner, tenant, agent, or employee owning, holding, or occupying property in the City shall, at all times, maintain the property, whether a vacant lot or otherwise, in a clean and sanitary condition, keeping all weeds cut, wastepaper, trash and other rubbish of every sort cleaned off of the property. Said duty to maintain property in a clean and sanitary condition shall include the duty to cut and remove undergrowth, such as kudzu, briars, weeds in excess of 24 inches in height, honeysuckle, other vines and seedlings, whenever such undergrowth becomes a nuisance to persons residing in the area or operating businesses in the area. If such undergrowth exists upon an unimproved lot, the Community Development Director may reduce the extent to which the property must he maintained in such

condition, provided there are no imminent threats to public health and safety.

(b) It shall he the duty of the Community Development Director or a designee thereof to give 5 days written notice, by certified mail, return receipt requested, and take reasonable steps to deliver in person to any owner of property or other person violating this section to appear before the City Council to show cause why these provisions have not been complied with. In addition, the Community Development Director or a designee shall immediately post a notification upon the property in violation of this section in order to provide visual notification to property owners for a period of 5 consecutive days.

(i) In lieu of inability to contact owners in other manners prescribed above, posted notice shall serve as the official notice for the City Council hearing on this matter.

(ii) After a hearing, if it is deemed by the Council that this section has not been complied with, such owner or other person shall be given 5 days to comply and if he/she fails or refuses to do so, the Public Works Director shall thereupon cause the work to be done.

(iii) For purposes of giving the notice to the owner of the property, as provided for herein, the person shown as the owner of said property on the ad valorem tax records of the City shall be sent such notice at the address shown thereon, unless the City receives actual notice that another person owns said property that owner shall be responsible for said violation.

(iv) The Council may, by majority vote, refer any and all cases described in this section to the Municipal Court, and all hearings heretofore described as being before the Council may be before the Municipal Court if the Council decides.

(c) When the Public Works Director has caused weeds to be cut from any premises, or wastepaper, trash, or other rubbish removed, a notice shall be prepared assessing the cost of the cutting of those weeds, cleaning and rendering sanitary such vacant lot or other property against the owner, tenant, agent, or employee owning, occupying, or controlling the property. The cost of such action shall be a debtor lien upon the property so cleaned and rendered sanitary and a debt against the owner, tenant, agent, or other party in charge of the property. The debtor lien shall date from the completion of the work on the property as declared under City Council ordinance.

(d) A written statement shall be furnished by the City Clerk to the owner, agent, or other party in charge of the property subject to the assessment provided for herein showing the amount of the assessment. It shall be the duty of the owner, agent, or other party in charge of the property subject to the assessment to pay the City within 30 days after the receipt of the statement the entire amount of the assessment against the property and the owner, tenant, agent, or other party in charge of the property.

(e) Any owner, tenant, agent, or other party in control of property subject to assessment as provided herein who fails or refuses to pay to the City the amount of such assessment at the expiration of 30 days after the service of the notice of statement provided above, the City Clerk shall issue an execution bearing date of its issuance in the name of the Mayor of the City and specifying the purpose for which it is issued against the owner, tenant, agent, or other party in control of the property subject to the assessment and also against the property of the owner, tenant, agent, or other party in control of the property upon which the work in question is performed. The execution shall assert and be a lien against the property from the day of the completion of the performance of the work hereinbefore described and shall bear interest at the rate of I percent per month from the date on which it is issued. For the purposes of this section, any period of less than 1 month shall be considered to be 1 month.

(f) The execution issued under these provisions shall be delivered to the Chief of Police or a designee thereof who shall execute the same by levying upon and selling the property described therein or so much thereof as may be necessary for the amount due the City from the doing of such work, together with all costs that may accrue thereon. The law applicable to the sales under other executions issued by this City shall apply to the levy, notice, advertisement and sale made under the execution, and the levying officer shall have authority to execute a deed to the purchaser when the property is sold and shall deliver the possession thereof to the purchaser within the time required by law as under tax executions.

Section 2: Fire Limits.

The fire limits of the City for purposes of the building code shall be the same as is provided in this Code.

Section 3: Application of the International Fire Code

Per the Georgia Amendment, the International Fire Code shall apply to all existing buildings and subjects all existing buildings to a periodic inspection for compliance with the adopted fire code. The Georgia Amendment to the International Fire Code, designated as Section 101.3 (Purpose and Intent) of the Code is hereby adopted by reference.

Section 4: Overcrowding Prohibited.

(a) Bedroom requirements.

(i) *Area for sleeping purposes.* Every bedroom occupied by one occupant shall contain at least 70 square feet of floor area, and every bedroom occupied by more than one occupant shall contain at least 50 square feet of floor area for each occupant thereof.

(ii) *Prohibited occupancy.* Kitchens and non-habitable spaces shall not be used for sleeping purposes.

(b) Overcrowding Specifications.

(i) Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of **Table 4.5** as follows:

Table 4.5

Minimum Occupancy Area Requirements			
	Minimum Area in Square Feet		
Space	**1-2 Occupants**	**3-5 Occupants**	**6 or More Occupants**
Living Room a,b	No Requirements	120	150
Dining Room a,b	No Requirements	80	100
Kitchen b	50	50	60
Bedrooms	Shall comply with Section 3(a) of this Article.		

Note a. See paragraph (2) of this section for combined living room/dining room spaces.

Note b. See paragraph (1) of this section for limitations on determining minimum occupancy area for sleeping purposes.

(1) *Sleeping area.* The minimum occupancy area required by Table 4.5 shall not be included as sleeping area in determining minimum occupancy area for sleeping purposes. All sleeping areas shall comply with Section 9-4-3(a).

(2) *Combined spaces.* Combined living room and dining room spaces shall comply with the requirements of Table 4.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

(e) Exception.

Nothing in this section shall prohibit an efficiency dwelling unit meeting the following requirements:

(i) An efficiency unit occupied by not more than two occupants shall have a clear floor area of not less than 220 square feet. An efficiency unit occupied by three occupants shall have a clear floor area of not less than 320 square feet. These required areas shall be exclusive of the areas required by subsection (b).

(ii) The unit shall be provided with a kitchen sink, cooking appliance, and refrigeration facilities, each having a clear working space of not less than 30 inches in front.

(iii) The unit shall be provided with a separate bathroom containing a water closet, lavatory, and bathtub or shower.

(iv) The maximum number of occupants shall be three (3).

STATE OF GEORGIA
COUNTY OF DEKALB

ORDINANCE NO. 2008-12-50

AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 14, LAND DEVELOPMENT AND ENVIRONMENTAL PROTECTION, PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF DUNWOODY, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 14 (LAND DEVELOPMENT AND ENVIRONMENTAL PROTECTION) AS ATTACHED HERETO AND INCOPORATED HEREIN

WHEREAS: The Ordinance relating to Chapter 14, Land Development and Environmental Protection, is hereby adopted and approved, and is attached hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 14 of the Code of Ordinances of the City of Dunwoody, Georgia; and

WHEREAS: This Ordinance shall become effective upon its adoption.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF DUNWOODY HEREBY ORDAINS that Chapter 14, Land Development and Environmental Protection, is hereby adopted and approved as part of the Code of Ordinances for the City of Dunwoody, Georgia. Any ordinance in conflict with this ordinance is hereby repealed.

SO ORDAINED AND EFFECTIVE this the 18th day of December, 2008.

Approved:

_____

Ken Wright, Mayor

Attest:

_____

Joan Jones, Acting City Clerk
(Seal)

Approved as to Form and Content:

_____

Brian Anderson, City Attorney

Chapter 14: Land Development and Environmental Protection

Article 1: In General

Section 1: Definitions

For the purposes of this Chapter, certain terms and words are hereby defined. Where words are not herein defined, but are defined in another applicable Chapter, Article or Section, those words shall have the meaning as defined therein. The following words, terms and phrases, when used in this Chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected to a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls is new construction.

Aggrieved person(s) means a person(s) whose property is the subject of the action appealed from or a person who has a substantial interest in the action appealed from that is in danger of suffering special damage or injury not common to all property owners similarly situated.

Agricultural operations means those practices involving the establishment, cultivation, or harvesting of products of the field or orchard, the preparation and planting of pasture land, farm ponds, dairy operations, livestock and poultry management practices and the construction of farm buildings.

Alley means a minor way, which is used primarily for vehicular service access to the back or side of properties otherwise fronting on a street.

Appeal means a review authorized by this Chapter of any final order, requirement, or decision of the Director of Community Development or the City Manager based on or made in the enforcement of this Chapter, excluding Article 2, Section 12 of this Chapter.

Applicant means any person who acts in the person's own behalf or as the agent of an owner of property and engages in alteration of land or vegetation in preparation for construction activity.

As-built drawings means amended site plans specifying the location, dimensions, elevations, capacities and operational capabilities of public improvements, including water, sewer, road and drainage structures and stormwater management facilities as they have been constructed.

Bank (stream bank) means as measured horizontally from that point where vegetation has been wrested by normal stream flow or wave action.

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

Best management practices (BMP's) means a collection of structural practices and vegetative measures which, when properly designed, installed and maintained, will provide effective erosion and sedimentation control. The term "properly designed" means designed in accordance with the hydraulic design specifications contained in the Manual for Erosion and Sediment Control in Georgia specified in O.C.G.A. § 12-7-6(b).

Bicycle lane means that part of a street or highway adjacent to the roadway, designated by official signs or markings for use by persons riding bicycles.

Block means a piece or parcel of land entirely surrounded by public highways or streets, other than alleys. In cases where the platting is incomplete or disconnected, the Director of Community Development may delineate the outline of the block.

BNR means the Board of Natural Resources.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting system.

Buffer area means that portion of a lot set aside for open space and/or visual screening purposes, pursuant to the applicable provisions of the City of Dunwoody Code and all conditions of zoning, to separate different use districts, or to separate uses on one (1) property from uses on another property of the same use district or a different use district.

Buffer, stream means the portion of a lot and/or area of land immediately adjacent to the banks of streams as regulated by the land development regulations of the City of Dunwoody Code.

Buffer zone, state means the area of land immediately adjacent to the banks of State waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.

Buildable area means the area of a lot remaining after all setback requirements, including buffer areas, have been met.

Builder means a person who constructs a structure or dwelling for residential occupancy by humans.

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 permit means required written permission issued by the Director of Community Development, his designee, or a Building Inspector as defined in Chapter 8 of the City of Dunwoody Code, for the construction, repair, alteration, or addition to a structure.

Building setback line. Building setback line means the minimum horizontal distance required between the public right-of-way or the utility easement abutting a private street and the principal building or structure on a lot or any projection thereof except projections that are authorized exceptions to building set back line requirements in the Dunwoody Zoning Ordinance and any zoning conditions approved by the City Council pursuant thereto. The size of the utility easement(s) for a private street shall be equal to the required size of the public right of way and shall not be any smaller in width or length than what would be required for a public right of way.

Caliper means the diameter of a tree trunk, applied only to new or replacement plantings, that is taken six (6) inches above the ground for up to and including four-inch caliper size, and twelve (12) inches above the ground for larger sizes.

Channel means a natural or artificial watercourse with a definite bed and banks that conduct continuously or periodically flowing water.

Channel protection means the protection of stream channels, in accord with the Georgia Stormwater Management Manual, from bank and bed erosion and degradation by preserving or restoring the applicable stream buffer, by providing extended detention, and by integrating erosion prevention measures such as energy dissipation and velocity control.

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

City arborist means the City official having the primary responsibilities of administration and enforcement of the tree protection ordinance.

City Manager means the City Manager of the City of Dunwoody or designee.

City of Dunwoody Stormwater Management Manual means the Georgia Stormwater Management Manual.

City zoning ordinance or *zoning ordinance* means the zoning ordinance of the City of Dunwoody, Georgia.

Collector street means a street or road designated as a collector street in the City of Dunwoody Thoroughfare Plan.

Commission means the State of Georgia Soil and Water Conservation Commission.

Comprehensive plan means the City of Dunwoody Comprehensive Plan adopted by the City Council, as it may be amended from time to time, which divides the City into land use categories and which constitutes the official policy of the City regarding long term planning and use of land. If a Comprehensive Plan has not yet been adopted by the City Council, Comprehensive Plan shall mean the current Comprehensive Plan adopted by Dekalb County that covers the geographical boundaries of the City.

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

Construction means any alteration of land for the purpose of achieving its development or changed use, including particularly any preparation for, building of or erection of a structure.

Construction waste means waste building materials and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures. Such waste includes, but is not limited to: asbestos-containing waste, wood, tree stumps, tree tops, bricks, metal, concrete, wall board, paper, cardboard, glass, wire, plastics, and other typical construction waste products and refuse.

Council or City Council means the Council for the City of Dunwoody, Georgia.

Critical root zone means an area of root space that is within a circle circumscribed around the trunk of a healthy tree using a radius of one (1) foot per inch DBH.

Crosswalk means a right-of-way within a block dedicated to public use, ten (10) feet or more in width, intended primarily for pedestrians and from which motor-propelled vehicles are excluded, and which is designed to improve or provide access to adjacent roads or lots.

Cut means a portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface. Also known as "excavation."

DBH (Diameter at breast height) means the diameter of a tree trunk measured in inches at a height of four and one-half (4 1/2) feet above the ground. If a tree splits into multiple trunks below four and one-half (4 1/2) feet, then the trunk is measured at its most narrow point beneath the split.

DNR means the Department of Natural Resources of the State of Georgia.

Density factor means a unit of measurement used to prescribe the calculated required tree coverage on a site.

Department means the Department of Community Development.

Detention means the temporary storage of stormwater runoff in a stormwater management facility for the purpose of controlling the peak discharge of the stormwater, as that term is defined by state law, the City of Dunwoody Stormwater Management Manual or this Code.

Detention facility means a facility that provides for storage of stormwater runoff and controlled release of this runoff during and after a flood or storm.

Developer means any person who acts in the person's own behalf or as the agent of an owner of property and engages in alteration of land or vegetation in preparation for construction activity.

Development means all activities associated with the conversion of land or the expansion of replacement of an existing use to any new use intended for human operation, occupancy, or habitation, other than for agricultural purposes devoted strictly to the cultivation of land, dairying or animal husbandry. Such activities include, but are not limited to, land disturbance (clearing and grubbing the land of vegetation and stumps, and grading) and the construction of improvements such as, but not limited to, streets, driveways or parking area, water sewer mains, storm water drainage facilities, sidewalks or other structures permanently placed in or on the property. Where appropriate to the context, development also may be used to denote a specific subdivision or project which is a single entity or intended to be constructed as in interrelated whole, whether simultaneously or in phases.

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

Director means the director of the Community Development Department.

Director, EPD means the director of the Environmental Protection Division of the Georgia Department of Natural Resources.

District means the DeKalb County Soil and Water Conservation District.

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

Drainage easement means an easement appurtenant or attached to a tract or parcel of land allowing the owners of adjacent tracts or other persons to discharge stormwater runoff onto the tract or parcel of land subject to the drainage easement.

Drainage plan means a plan prepared using appropriate and commonly accepted engineering standards, which specifies the means for alteration or development of a drainage system.

Drainage structure means a device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one (1) place to another by intercepting the flow and carrying it to a release point for stormwater management, drainage control, or flood control purposes.

Drainage system means the surface and subsurface system for the removal of water from the land, including, but not limited to, both the natural elements of streams, marshes, swales and ponds, whether of an intermittent or continuous nature, and the manmade element which includes culverts, ditches, channels, detention facilities that comprise the storm drainage system.

EPD means the Environmental Protection Division of the Georgia Department of Natural Resources.

Elevated building means a nonbasement building built to have the lowest floor elevated above ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), and/or shear walls.

Erosion means the process by which land surface is worn away by the action of wind, water, ice or gravity.

Erosion and sedimentation control plan means a plan for the control of soil erosion and sedimentation resulting from a land disturbing activity and that conforms to the requirements of the Manual for Soil Erosion and Sedimentation Control in Georgia.

Exceptional and historical trees means those trees or stands of trees which are exceptional representatives of their species in terms of size, age or unusual botanical quality, or are associated with historically notable events.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before June 6, 1974.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Extended detention means the detention of stormwater runoff for an extended period, typically twenty-four (24) hours or greater.

Extreme flood protection means measures taken to prevent adverse impacts from large low-frequency storm events with a return frequency of one hundred (100) years.

Fill means a portion of land surface to which properly compacted soils have been added: the depth above the original ground.

Finished grade means the final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from the usual and rapid accumulation or runoff of surface waters from any source.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as zone A.

Flood hazard map means the official City map designating the elevation and boundaries of flooding and associated floodways under base flood conditions maintained by the City, based upon the flood insurance study for Dekalb County dated January 5, 1983 or any revision thereto, the United States Corps of Engineers or other reputable reports accepted by the Community Development Director or her designee, and based upon competent engineering studies prepared by a currently state-registered professional engineer, or the City.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood insurance study is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary floodway map and the water surface elevation of the base flood.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Floor means the top surface of an enclosed area in a building (including basement), i.e., the top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Frontage, lot means the distance for which the front boundary line of the lot and the street line are coincident.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

Georgia Stormwater Management Manual is the manual adopted by the City Council that provides the criteria, technical design specifications and standards for the proper implementation of the requirements of this Chapter.

Grading means altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

Ground elevation means the original elevation of the ground surface prior to cutting or filling.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a building.

Impervious surface means any surface that is highly resistant to infiltration by water, including but not limited to surfaces such as concrete or asphalt as well as most conventionally surfaced streets, roofs, sidewalks, driveways, parking lots, and other similar structures.

Infiltration means the process of percolating stormwater runoff into the soil.

Inspection and maintenance agreement means a written agreement executed by an owner in a form approved by the director that will provide the long-term inspection and maintenance of stormwater management facilities and practices on a site or with respect to a land development project, which when properly recorded in the deed records constitutes a restriction on the title to a site or other land involved in a land development project.

Intermediate regional flood (IRF) means a one-hundred-year frequency flood as defined on the flood hazard map which has a probability of occurring once every one hundred (100) years or having a one (1) percent chance of being equaled or exceeded in any given year. Also known as the base flood, or one hundred-year flood.

Intermediate regional floodplain means the land area within the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year as defined on the flood hazard map. Also known as area of special flood hazard, or one hundred-year floodplain.

Land-disturbing activity means any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the State, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land, but not including agricultural practices as described in Article 2, Section 11(b)(3) of this Chapter.

Larger common plan of development or sale means a contiguous area where multiple separate and distinct construction activities are occurring under one (1) plan of development or sale. For the purposes of this paragraph, "plan" means an announcement, piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application,

zoning request, or computer design, or physical demarcation such as boundary signs, lot stakes, or surveyor markings indicating that construction activities may occur on a specific plot.

Live detention means that quantity of water capable of being effectively contained by a designated facility for stormwater storage for a specified period of time.

Local issuing authority means the governing authority of the City of Dunwoody.

Local street means a street used primarily for access to abutting properties in residential, industrial or other developments.

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

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

Lowest floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of 44 CFR 60.3.

Maintenance of detention facility means preserving the enclosed walls or impounding embankments of the detention facility in good condition; ensuring structural soundness, functional adequacy and freedom from excessive sediment; removing obstructions affecting operation of outlet device(s) and rectifying any unforeseen erosion problems.

Major thoroughfare/major arterial means a street, road or highway shown as a major thoroughfare in the City of Dunwoody Transportation and Thoroughfare Plan, or if one has not been adopted, the most current Dekalb County Transportation and Thoroughfare Plan.

Manufactured home means a new or used structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on site, is three hundred twenty (320) or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required

by the secretary of housing and urban development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. section 5401 et seq.

Mean sea level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this Chapter, the term is synonymous with national geodetic vertical datum (NGVD).

Metropolitan River Protection Act (MRPA) means a state law found at O.C.G.A. § 12-5-440 et seq., which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.

Minor thoroughfare/minor arterial means a street, road or highway shown as a minor thoroughfare in the City of Dunwoody Transportation and Thoroughfare Plan, or if one has not yet been adopted by the City, the most current Dekalb County Transportation and Thoroughfare Plan.

Multi-phase residential development means any development undertaken by a single developer or a group of developers acting in concert, to develop lots for sale in a residential subdivision where such land is developed pursuant to multiple preliminary or final plats and such land is contiguous or is known, designated, or advertised as a common unit or by a common name.

Multi-use trail means a recreation corridor intended for the use of non-motorized forms of transportation such as, but not limited to, walking, running, bicycles, in-line skates, as identified in a master plan for multi-use trails in the City of Dunwoody approved by the City Council or, if one has not been approved by the City, the current DeKalb County master plan for multi-use trails.

National geodetic vertical datum (NGVD), as corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the floodplain.

North American Vertical Datum (NAVD), as corrected in 1988, is a vertical datum used as a reference for establishing varying elevations within the floodplain on flood maps created pursuant to the Georgia Flood Map Modernization Program.

Natural ground surface means the ground surface in its original state before any grading excavation or filling.

Nephelometric turbidity units (NTU's) means numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloidally dispersed chapters are present.

New construction means any structure for which the permitted date of construction commenced after adoption of this Chapter.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after June 6, 1974.

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

Nonstructural stormwater management practice or *nonstructural practice* means any natural or planted vegetation or other nonstructural component and practice of the stormwater management plan that provides for or enhances stormwater quantity and/or quality control or other stormwater management benefits, and includes, but is not limited to, riparian buffers, open and green space areas, overland flow filtration areas, vegetated channels and natural depressions.

Off-site facility means a stormwater management facility located outside the boundaries of the site.

One hundred-year floodplain means land in the floodplain subject to a one (1) percent or greater statistical occurrence probability of flooding in any given year.

On-site facility means a stormwater management facility located within the boundaries of the site.

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

Operator means the party or parties that have: (a) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (b) day-to-day operational control of those activities that are necessary to ensure compliance with a storm-water pollution prevention plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the storm-water pollution prevention plan or to comply with other permit conditions.

Overbank flood protection means measures taken to prevent an increase in the frequency and magnitude of out-of-bank flooding (i.e. flow events that exceed the capacity of the channel

and enter the floodplain), and that are intended to protect downstream properties from flooding for the two-year through twenty-five-year frequency storm events.

Owner means the person in whom is vested the fee ownership, dominion or title of property, the proprietor; this term may also include a tenant, if chargeable under the lease for maintenance of the property, and any agent of the owner or tenant including a developer.

Permit means the authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of this State, any interstate body or any other legal entity.

Planning commission means the planning commission of the City of Dunwoody.

Post-development refers to the time period, or the conditions that may reasonably be expected or anticipated to exist, after completion of land development activity on a site as the context may require.

Potential purchaser as used in this Chapter means a person purchasing property in a residential subdivision or a multi-phase residential development from a developer and/or builder for occupancy as a residence or as a residence to be rented or leased to others.

Pre-development refers to the wooded conditions of a site.

Project means the entire proposed development project regardless of the size of the area of land to be disturbed.

Protected zone means all areas of a parcel required to remain in open space, including all areas required as yard areas, buffer areas, stream buffers, state buffer zones or landscaped areas according to provisions of the City of Dunwoody Zoning Ordinance or by conditions of zoning or variance approval.

Public facilities shall mean the roads, water, sewer, schools, traffic control devices, and electrical service.

Public works director means the director of the Public Works Department or designee.

Qualified personnel means any person who meets or exceeds the education and training requirements of O.C.G.A. § 12-7-19.

Reach means a longitudinal segment of a stream or river measured along specified points on the stream or river.

Reasonable access means a fifteen-foot access easement from the public right-of-way to the stormwater management facility and a drainage and maintenance easement encompassing the stormwater management facility and extending ten feet outside the pond's 100-year water ponding elevation.

Recreation areas means those portions of open space designed and intended for active recreational use, such as sports fields and other play areas.

Recreational vehicle means a vehicle that is:

(1) Built on a single chassis;

(2) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Redevelopment means a land development project on a previously developed site, but excludes ordinary maintenance activities, remodeling of existing buildings, resurfacing of paved areas, and exterior changes or improvements which do not materially increase or concentrate stormwater runoff, or cause additional nonpoint source pollution.

Regional stormwater management facility or *regional facility* means stormwater management facilities designed to control stormwater runoff from multiple properties, where the owners or developers of the individual properties may assist in the financing of the facility, and the requirement for on-site controls is either eliminated or reduced.

Residential shall have the same meaning as given in the City of Dunwoody Zoning Ordinance except that it shall not include apartments.

Roadway drainage structure means a device such as a bridge, culvert, or ditch, composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water under a roadway by intercepting the flow on one (1) side of a traveled way consisting of one (1) or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

Rock outcropping means a single, contiguous piece of exposed rock that has a horizontal surface area equal to or greater than two hundred (200) square feet.

Runoff means the portion of precipitation on the land that reaches the drainage system.

Runoff coefficient means the ratio of runoff to rainfall.

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

Sedimentation means the process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.

Sedimentation facility means a detention facility specifically developed for the purpose of allowing the deposit of sediment resulting from the land development process which may be constructed as part of or separately from a detention facility.

Sediment basin means a detention facility specifically developed for the purpose of allowing the deposit of sediment resulting from the land development process that may be constructed as part of or separately from a detention facility.

Seller as used in this Chapter means a builder or developer.

Significant tree means any existing, healthy, living tree eight (8) inches DBH or greater in size.

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

Soil and water conservation approved plan means an erosion and sedimentation control plan approved by the City Council or, if one has not yet been approved by the City Council, the most current one approved by the Dekalb County Soil and Water Conservation District.

Specimen tree means any tree that has been determined to meet the criteria within Article 2, Section 12 of this Chapter for the determination of specimen trees.

SS&WCC means the State Soil and Water Conservation Commission.

Stabilization means the process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or

walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

State means the State of Georgia.

State general permit means the national pollution discharge elimination system general permit or permits for storm-water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq. and O.C.G.A. § 12-5-30(f).

State waters means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State, which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation except as defined in O.C.G.A. § 12-7-17.

Stormwater better site design means nonstructural site design approach and technique that can reduce a site's impact on the watershed and can provide for nonstructural stormwater management. Stormwater better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover and using natural features for stormwater management.

Stormwater hotspot means an area where the use of the land has the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Examples of stormwater hotspots include, but are not limited to the following: gas/fueling stations, vehicle maintenance areas, vehicle washing/steam cleaning facilities, auto recycling facilities, outdoor material storage areas, loading and transfer areas, landfills, construction sites, industrial sites, and industrial rooftops.

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

Stormwater management manual means the Georgia Stormwater Management Manual.

Stormwater management measure means any stormwater management facility or nonstructural stormwater practice.

Stormwater retrofit means a stormwater management practice designed for a currently developed site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

Stream means natural, running water flowing continuously or intermittently in a channel on or below the surface of the ground, and shall include, but not be limited to, all streams

depicted on the 1995 DeKalb County Geographic Information System (GIS) map maintained by the DeKalb County GIS director. No stream shall be excluded from this definition due to its failure to be identified on the map. Field verification shall be performed to make a final determination as to the existence of a stream where a dispute exists. Such field verification shall be performed by the Director of Community Development, or his/her designee.

Streambank means a sloping land that contains a stream channel in the normal flows of the stream.

Stream channel means the portion of a watercourse that contains the base flow of the stream.

Street, private means an access way similar to and having the same function as a public street, providing access to more than one (1) property but held in private ownership. Private streets, when authorized, shall be developed in accordance with the specifications for public streets established in this Chapter.

Street, public means any right-of-way set aside for public travel dedicated 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.

Structural erosion and sedimentation control measures mean measures for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps and land grading. Such measures can be found in the publication "Manual for Erosion and Sediment Control in Georgia."

Structural stormwater control means a structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow of such runoff.

Subdivision means any division or redivision of a lot, tract or parcel, regardless of its existing and future use, into two (2) or more lots, tracts or parcels. Where appropriate to context, subdivision may also be used to reference the aggregate of all lots held in common ownership at the time of division.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement means any combination of repairs, reconstruction, alteration or improvements to a structure taking place during the life of a structure, the cumulative cost of which equals or exceeds fifty (50) percent of the market value of the structure. The market value of the structure should be the appraised value of the structure prior to the start of the initial repair or improvement or, in the case of damage, the value of the structure prior to the damage occurring. This term includes structures that have incurred substantial damage regardless of the actual repair work performed. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the structure commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a building required to comply with existing state or local health, sanitary, or safety code specifications which have been identified by a code enforcement official and which are solely necessary to assure safe living conditions, or any alteration to a structure listed on the National Register of Historic Places or a State inventory of historic places.

Substantially improved existing manufactured home parks or subdivision is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty (50) percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Thoroughfare plan means a comprehensive street plan of the City of Dunwoody indicating proposed location and right-of-way widths for major thoroughfares, minor thoroughfares, collector streets and other streets.

Tree means any living, self-supporting, woody perennial plant which has a trunk caliper of two (2) inches or more measured at a point six (6) inches above the ground and which normally attains a height of at least ten (10) feet at maturity usually with one (1) main stem or trunk and many branches.

Tree harvesting means the felling, loading, and transporting of timber products done pursuant to a special exception issued by the Board of Zoning Appeals.

Tree save area means the boundaries of the area or areas surrounding trees wherein it is essential that they remain undisturbed in order to prevent damage and loss of trees that are to be retained on site during the development and building process.

Tree replacement means the replacement of trees and landscape plant materials into the minimum required landscape areas, as determined by the zoning regulations or the tree protection ordinance.

Trout streams means all streams or portions of streams within the watershed as designated by the Game and Fish Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20 et seq.

Trout waters, first order means streams into which no other streams flow except springs.

Trout waters, primary means streams or waters supporting a self-sustaining population of rainbow, brown or brook trout.

Trout waters, secondary means streams or waters in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year.

Used for includes the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

Vegetation means all plant growth, especially trees, shrubs, vines, ferns, mosses and grasses.

Vegetative erosion and sedimentation control practices means practices for the stabilization of erodible or sediment producing areas by covering the soil with: (1) permanent seeding, sprigging or planting, producing long-term vegetative cover; or (2) temporary seeding, producing short-term vegetative cover; or (3) sodding, covering areas with a turf of perennial sod-forming grass. Such practices can be found in the publication "Manual for Erosion and Sediment Control in Georgia" published by the Georgia Soil and Water Conservation Commission.

Watercourse means any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

Water quality protection means the requirement that all developments must improve the quality of storm runoff from the development site.

Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Article 2: Environmental Control

Section 1: Preamble

(a) This Article establishes public policies for the protection of the natural environment and specifies standards for land development to ensure achievement of these public policies.

(b) By declaration of public policies for environmental protection, the City Council expresses its intent to protect the public interest by seeking to assure, where appropriate, maintenance of the natural environment, prevention of its degradation and assuring high quality land development. The Council further declares its intent that these policies shall constitute the public policy framework within which a comprehensive program for protection of the natural environment and implementation of a comprehensive drainage improvement program shall be accomplished.

(c) The development process, as established by this Chapter 14, is guided by the policies and provisions contained in the comprehensive plan of the City of Dunwoody or, until such time as the City of Dunwoody adopts a final Comprehensive Plan, the Interim Comprehensive Plan of the City of Dunwoody as adopted from the Dekalb Couty 2025 Comprehensive Plan.

Section 2: Purposes

(a) It is the purpose of this Article to establish public policies for the protection of the natural environment and to establish requirements, standards and procedures for land development. The public policy objective of protecting the natural environment is to be achieved by:

(1) Regulating the alteration of land and topography.

(2) Regulating the removal and requiring the replacement of certain vegetation.

(3) Requiring erosion control and sedimentation control.

(4) Protecting City streams and floodplains from substantial alteration of their natural functions and from sediment and debris accumulation.

(5) Specifying standards for drainage system design.

(6) Assuring the continuous and efficient operation of the drainage system.

(7) Protecting the water quality within intermittent and perennial streams throughout the City of Dunwoody.

(b) It is the City Council's intent that land development be accomplished in conformity with the public policy statements. To that end, the plans required under applicable provisions

of this Article shall be reviewed by the City to enable a full exchange of information between the City and the applicant as to the City's public policies for land development.

(c) The Council further declares its intent that these public policies be evaluated periodically so as to reflect the community's interests in protection of the natural environment and to give direction to City actions in matters affecting the natural environment and land development.

Section 3: Scope and Applicability

(a) The provisions of this Article shall apply to all development activity within the City.

(b) Before filing a land development application on a project for review and approval, the applicant shall meet with the Department to discuss the procedure for approval of a land development permit and the requirements as to the general layout of streets, parking, open space/lot coverage, street improvements, drainage, sewage, fire protection and similar matters, as well as the availability of existing services, including schools. The Department and the applicant shall review the applicant's stormwater management plans, inspection and maintenance requirements and water quality control requirements. The Department may advise the applicant, when appropriate, to discuss the proposed project with those officials who must eventually approve those aspects of the project coming within their jurisdiction. This meeting will also allow City officials to discuss with the applicant the necessary regulations that will properly accomplish the project.

(c) For purposes of this section, a valid and complete application for a land disturbance permit shall consist of the following:

(1) Three (3) paper copies and one (1) DVD containing electronic images of complete civil plans, which shall include a site plan, a grading and drainage plan, a utility plan, a soil erosion and sedimentation control plan, a landscape plan, and a tree survey;

(2) One (1) hydrology report and completed stormwater quality site development review tool documentation;

(3) An application signed by the owner of the property, or a completed indemnification agreement signed by the owner of the property; and

(4) Payment of the appropriate development review application fee.

(d) For purposes of this section, a valid and complete application for a sketch plat approval shall consist of the following:

(1) Four (4) copies of the preliminary plat site plan that is in conformance with the zoning of the property in effect at the time of the application, and, a tree survey;

(2) An application signed by the owner of the property, or if the application is not signed by the owner, a completed indemnification agreement signed by the owner of the property; and

(3) Payment of the appropriate development review application fee.

Section 4: Amendment Procedure

This Article may be amended by the City Council after giving public notice and holding a public hearing thereon in accordance with all applicable procedural requirements.

Section 5: Administration and Enforcement Generally

The City shall administer and enforce the provisions of this Article as follows:

(a) The Director is designated to administer and enforce the grading, vegetation, erosion control, sedimentation control, drainage and water quality provisions of this Article for all development and construction projects with the following duties and responsibilities:

(1) Review all development permits to assure that the permit requirements of this Article have been satisfied;

(2) Advise permittee when additional Federal or State permits may be required, and if specific federal or state permits are known to be required, that copies of such permits be provided and maintained on file with the development permit; and

(3) Notify adjacent communities and the State Department of Natural Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(b) The Director shall administer and enforce those provisions of this Article that apply to developed and occupied areas and to property in an undeveloped state affecting City responsibility for maintenance of the storm drainage system. The Director shall assure that maintenance is provided within any altered or relocated portion of any watercourse so that the flood-carrying capacity is not diminished.

Section 6: Inspection; right of entry

(a) Upon presentation of City identification to the applicant, contractor, owner, owner's agent, operator or occupants, City employees may enter during all reasonable hours any property under proposed or existing development or construction. These employees may make inspections of the facilities for the purpose of determining plan requirements or compliance with all ordinance provisions.

(b) All new developments and redevelopments shall execute an inspection and maintenance agreement unless an on-site stormwater management facility or practice is dedicated to and accepted by the City. The applicant shall execute an easement and an inspection and maintenance agreement that will bind all subsequent owners of land served by an on-site stormwater management facility or practice.

(c) City employees may inspect any drainage system within or outside of an existing drainage easement. All stormwater management facilities located on private property, whether dedicated to the City or not, shall be accessible at all times for City inspection. Where stormwater management facilities are accepted by the City for maintenance, public access easements shall be provided. Reasonable access shall be provided to all drainage easements for inspection and maintenance functions.

(d) The Department, in addition to other procedures provided, may obtain an inspection warrant under the conditions specified in this section. The warrant shall authorize the director to conduct a search or inspection of property without the consent of the person whose property is to be searched or inspected, under the conditions set out in this section.

(1) Inspection warrants may be issued by Municipal Court when all of the following conditions are met:

(A) The person seeking the warrant must establish under oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection which includes that property or that there is probable cause for believing that there is a condition, object, activity, or circumstance which legally justifies such an inspection of that property; and

(B) The issuing judge determines that the issuance of the warrant is authorized by law.

(2) The inspection warrant shall be validly issued only if it meets all of the following requirements:

(A) The warrant is attached to the affidavit required to be made in order to obtain the warrant;

(B) The warrant describes, either directly or by reference to the affidavit, the property upon which the inspection is to occur and is sufficiently accurate that the executor of the warrant and the owner or possessor of the property can reasonably determine from it the property for which the warrant authorizes an inspection;

(C) The warrant indicates the conditions, objects, activities, or circumstances which the inspection is intended to check or reveal; and

(D) The warrant refers, in general terms, to the ordinance provisions sought to be enforced.

Section 7: Emergency Maintenance Operations

(a) The Director may conduct emergency maintenance operations on private land and on drainage systems where emergency conditions exist. Emergency maintenance shall constitute the removal of trees and other debris, which in the judgment of the Director of Community Development or Direction of Public Works create a condition potentially injurious to life, property and the public road system.

(b) The provisions of Section 12 of this Article shall not apply in the case of tree trimming, removal or cutting necessitated by emergencies such as floods, windstorms, ice storms or other disasters.

(c) Emergency maintenance conducted on any drainage system shall not be construed as constituting a continuing maintenance obligation on the part of the City.

Section 8: Issuance of notice of violation; variances; specification of time period for correction; appeals

(a) Notice of violation. Whenever the Director determines that development activity or inactivity on a property does not comply with the approved development and construction plans, that approved and required erosion and sedimentation control facilities or devices have been altered, damaged or destroyed, or that any other activities violate the provisions of this Article, the Director shall issue a notice of violation. Whenever the Director determines that the drainage system has been unlawfully altered, causing inadequate drainage, the Director shall issue a notice of violation. The provisions of this section shall be in addition to any other penalty provisions applicable to this Article. The notice of violation of the provisions of this Article or of any rule or regulation adopted pursuant hereto shall be addressed to the owner of the property or the owner's agent and to the person, tenant, firm, corporation, property owner or property owner's agent found to be violating the provisions of this Article and shall:

(1) Be in writing;

(2) Include a description of the property sufficient for identification of where the violation has occurred;

(3) List the specific provisions of this Article which have been violated;

(4) State that, if these repairs, construction or alterations are not completed within a reasonable time period specified by the inspector, summons shall be issued for the person, firm, corporation, owner, or owner's agent to appear in Municipal Court. However, in the judgment of the Director, where the violation is willful, in

wanton disregard of the provisions of this Article or constitutes a public health and safety hazard or endangers the ecosystem, the Director may issue a court summons in lieu of a notice of violation.

(b) Penalty. It shall be unlawful for any person, firm or corporation to do anything prohibited or fail to do anything required by the provisions of this Article, as they now exist or as they may hereafter be amended. Any person, firm or corporation that shall do anything prohibited or fail to do anything required by the provisions of this Article, as they now exist or as they may hereafter be amended, upon conviction of a violation in Municipal Court shall be subject to a fine and/or imprisonment in accordance with Chapter 1 of this Code. Where any offense or violation continues from day-to-day, each day's continuance thereof shall be deemed a separate offense. The owner of any buildings or premises or parts thereof, where anything in violation of this Article exists, and any architect, builder, engineer, contractor, or any other agent of the owner, or any tenant, who commits, or assists in the commission of any violation, shall be guilty of a separate offense.

(c) Variances.

(1) Except as further limited herein, an applicant may request a variance from the terms of the requirements of Sections 10, 11, 13, and 14 of this Article. The Board of Zoning Appeals shall be authorized to hear variance requests. The Zoning Board of Appeals shall have no power to consider or to grant variances which are the responsibility of the Director of the Environmental Protection Division pursuant to O.C.G.A. § 12-2-8 and other relevant State statutes and regulations. The Board of Zoning Appeals is authorized to consider applications for variances pursuant to this section within the seventy-five-foot stream buffer required at Section 14(i)(2) of this Article, but not within the twenty-five-foot state buffer zone adjacent to waters of the state set forth in Section 11(b)(4) of this Article, nor within fifty feet of the stream bank. Where variances involving the same project are requested from both the Director of the Environmental Protection Division and the Director of Community Development, the Director of Community Development shall take no action on any such request for variance until the Director of the Environmental Protection Division grants the variance or otherwise approves the request pending before the Environmental Protection Division. Receiving a variance from the Director of the Environmental Protection Division does not obligate the Board of Zoning Appeals to permit the project to proceed if the project does not also meet all the other requirements of this Article. No variance from the provisions of Chapter 14 shall be authorized except as specifically authorized in this section or specifically authorized in another section of Chapter 14.

(2) Applications for variances authorized in subsection (1) above shall be made in writing to the Community Development Director and shall contain all of those materials and documents necessary to demonstrate that said request meets the criteria for granting variances. The Community Development Director shall

review the variance request and make a recommendation of approval or denial to the Board of Zoning Appeals.

(3) In considering a request for a variance to the terms of this Article authorized in subsection (1) above, the Board of Zoning Appeals shall use all of the following criteria:

(A) The request, while not strictly meeting the requirements of Chapter 14, will in the judgment of the Board of Zoning Appeals be at least as protective of natural resources and the environment as would a plan which met the strict application of these requirements. In making such a judgment, the Board of Zoning Appeals shall examine whether the request will be at least as protective of the natural resources and the environment with regard to the following factors:

(i) Stream bank or soil stabilization;

(ii) Trapping of sediment in surface runoff;

(iii) Removal of nutrients, heavy metals, pesticides and other pollutants from surface runoff;

(iv) Terrestrial habitat, food chain, and migration corridor;

(v) Buffering of flood flows;

(vi) Infiltration of surface runoff;

(vii) Noise and visual buffers;

(viii) Downstream water quality; and

(ix) Impact on threatened and endangered species, as those species are designated by law or federal or state regulation.

(B) By reason of exceptional topographic or other relevant physical conditions of the subject property that were not created by the owner or applicant, there is no opportunity for any development under any design configuration unless a variance is granted.

(C) The request does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privileges inconsistent with the limitations upon other properties that are similarly situated.

(D) The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the area in which the property is located.

(E) The literal interpretation and strict application of the applicable provisions or requirements of Chapter 14 would cause an extreme hardship, provided the hardship was not created by the owner.

(d) All appeals of final decisions of the Board of Zoning Appeals under the provisions of this Article shall be as follows:

(1) Any person aggrieved by a final decision of the Board of Zoning Appeals, or any officer, department, board or agency affected by such decision, may seek review of such decision by petitioning the Superior Court of DeKalb County for a writ of certiorari, setting forth plainly the alleged errors. Such petition shall be filed within thirty (30) days after the final decision of the Board of Zoning Appeals is rendered.

(2) In any such petition filed, the Board of Zoning Appeals shall be designated the respondent in certiorari and the City of Dunwoody shall be designated the defendant in certiorari. The Chairman, Vice-Chairman or Secretary of the Board of Zoning Appeals shall be authorized to acknowledge service of a copy of the petition and writ for the Board of Zoning Appeals as respondent. Service upon the City as defendant shall be as otherwise provided by law. Within the time prescribed by law, the Board of Zoning Appeals shall cause to be filed with the clerk of DeKalb County Superior Court a duly certified record of the proceedings had before the Board, including a transcript of the evidence heard before it, if any, and the written decision of the Board.

(f) This Article is not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship provided that when the regulations of this Article are more restrictive or impose higher standards or requirements than such easements, covenants, or other private agreements or legal relationships, the regulations of this Article shall govern. Further, where there is a conflict between any standard or requirement within Chapter 14, or between the Chapter 14 standards and any other provision of the Code, the more restrictive standard or requirement shall apply.

Section 9: Plan submission requirements

(a) All site plans submitted in accordance with applicable provisions of this Article shall meet the requirements for their preparation and shall also provide information to enable a determination to be made by the Director as to plan conformance with the public policy statements of this Article.

(b) All persons proposing developments, redevelopments or construction shall submit site plans to the Director illustrating the means by which conformance with policy provisions

may be achieved and illustrating compliance with applicable development standards before issuance of a development or building permit.

(c) Electric, telephone and gas utilities shall submit plans and obtain a development permit only for major transmission installations located within rights-of-way or easements devoted exclusively to installations of utility facilities. Individual single-family lots within approved subdivisions shall be exempt from these requirements for new residential construction with the exception that individual single-family lots where site plans for each are required by special designation on the recorded plat or such lots are located within the intermediate regional floodplain shall be submitted for review and approval in accordance with this Article and other applicable provisions of the Code. Owners and developers of individual single-family lots shall be required to use best management practices to prevent sedimentation from leaving the site.

(d) Grading, erosion control, sedimentation control, water quality control and drainage plans shall be prepared under the supervision of a currently state-registered professional engineer, architect or landscape architect, or combination as may be appropriate for project planning and design. Tree protection plans may be prepared by and implemented under the supervision of a currently state-registered professional architect, forester, landscape architect or engineer as may be appropriate for project planning and design. When the hydrologic engineering analysis includes applications of the principles for flood routing, super critical flow, high energy dissipation or conversion, backwater curves, floodplain studies or other advanced hydrologic engineering techniques, the analysis shall be made by a currently state-registered professional engineer proficient in hydrology.

(e) Site plans and supporting documentation to show conformance with this Article shall be submitted in accordance with the applicable provisions of Dunwoody Zoning Ordinance and all conditions of zoning and shall include the following:

(1) Evidence of conformance with the requirements of this Article for grading, vegetation alteration, erosion control, sedimentation control, water quality control and drainage system alteration or development. Grading plans shall illustrate existing and proposed contours to the two-foot interval at a minimum; golf courses and other open space areas shall be exempt from this requirement but general grading plans for golf courses and other open space areas shall be submitted. Water quality plans shall include the identification of existing wetland areas within the development site and shall demonstrate use of the stormwater quality site development review tool. Related plans shall show locations of structures, roads, surface drainage, existing and proposed drainage conduits, buffer areas, stream buffers, state buffer zones, and proposed alterations to the existing site;

(2) A hydrologic engineering analysis of stormwater runoff under pre-developed and post-developed site conditions and a detailed evaluation of the projected effects on upstream and downstream properties within the affected drainage basin. In

determining downstream effects from stormwater management structures, BMPs, and the development, hydrologic-hydraulic engineering studies shall extend downstream to a point where the proposed development represents less than ten (10) percent of the total watershed. This analysis shall include a determination of the culvert, floodplain and channel cross-section area required to carry the affected runoff at the intermediate regional flood stage level.

(3) Delineation of the boundaries of the intermediate regional floodplain for streams draining in excess of one hundred (100) acres. The actual building site in relation to the intermediate regional floodplain boundaries shall be shown; the same information shall be indicated by the seller to the purchaser of each property so affected. The elevation contours representing the intermediate regional flood conditions shall be shown when they are located outside established ditch banks. A benchmark suitable for determining intermediate regional flood elevations shall be established;

(4) The projected sequence of work represented by the grading, vegetation, erosion control, sedimentation control, water quality control and drainage plans as related to other major items of construction;

(5) Upon development project completion, location, size and invert elevations of piped segments of the storm drainage system, of control weirs, BMPs and water surface elevations and volumes in detention ponds shall be shown on the final plat for a subdivision, and on a final plan for other developments which shall be submitted to the Director prior to approval. The currently state-registered professional engineer, architect or landscape architect reviewing the construction shall provide a certificate that the development is in substantial compliance with approved plans. As-built elevation certifications prepared by currently state-registered land surveyors or currently state-registered professional engineers for all developments, including fill, allowed within a flood-prone area, shall be submitted to the Director; and

(6) A separate tree protection plan in conformance with the requirements of Section 12 of this Article.

Section 10: Grading

(a) Policies. It is hereby declared to be public policy to:

(1) Encourage the design of residential grading plans to provide natural appearance of land contours and to provide ease of use in public areas.

(2) Minimize the adverse effects of land clearance and grading upon existing vegetation.

(3) Minimize the adverse effects of land clearance and grading upon the drainage system by strict erosion control and sedimentation control measures.

(4) Minimize erosion and shear failure potential by encouraging limited cutting and filling.

(b) Standards.

(1) All grading operations shall be conducted in compliance with the approved site plans.

(2) Before beginning construction activity, the intermediate regional floodplain elevation contours shall be identified on the property by staking or other identifying mechanisms no less than every one hundred (100) feet, and shall be identifiable throughout project development.

(3) Finish grade slopes on residential projects and lots shall not be steeper than three-to-one (3:1), unless absolutely impractical due to vegetation, topography, or soil conditions. Three-to-one (3:1) finish grade slopes shall transition to two-to-one (2:1) slopes at all perpendicular stream crossings.

(4) Large-scale general grading shall include installation of approved soil and erosion control measures and be limited to phases approved by the Director and completed prior to commencing building construction.

(5) Prohibit grading and filling in floodplains, except as provided for in Article IV, Floodplain Management.

(6) The burying, piling, or concealing in any way of construction waste is prohibited, except where permitted within an M-2 (Industrial) District, as defined in the Dunwoody Zoning Ordinance, and by a permit issued by the Georgia Department of Natural Resources, Environmental Protection Division. No certificate of occupancy shall be issued by the City under Chapter 8 of this Code until the applicant provides a written certification to the Director of Community Development or designee, accompanied by a landfill receipt, that proves that all construction waste has been removed from the property.

Section 11: Soil Erosion and Sedimentation Control

(a) Policies. It is hereby declared to be public policy to:

(1) Minimize the removal of vegetation;

(2) Minimize the exposure of bare earth to precipitation by encouraging the scheduling of land development in increments of workable size which can be

completed within a single construction season or within a time period compatible with the type and size of the project;

(3) Provide for the reestablishment of vegetation within a reasonable period following completion of final grading and utility installation;

(4) Give priority to the paving of streets, parking lots and other areas within a reasonable time following completion of final grading; and

(5) Encourage the use of erosion control and sedimentation techniques found in the Manual for Erosion and Sedimentation Control in Georgia, as published by the State Soil and Water Conservation Commission.

(b) Standards.

(1) Any land disturbing activity permitted under this Chapter 14 shall be carried out in accordance with the Georgia Erosion and Sedimentation Act of 1975, as amended, this Chapter, and the permit conditions specified by the Director.

(2) Nothing contained in State law or this Chapter shall prevent the issuing authority from adopting rules and regulations, ordinances, or resolutions which contain requirements that exceed the minimum requirements contained in this section or in State law.

(3) Exemptions. This Section 11 shall apply to any land-disturbing activity undertaken by any person on any land except for the following:

(A) Surface mining, as the same is defined in O.C.G.A. § 12-4-72, "Mineral Resources and Caves Act";

(B) Granite quarrying and land clearing for such quarrying;

(C) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;

(D) The construction of single-family residences, when such construction disturbs less than one (1) acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in Section 11(b)(4) and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-

disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least fifty (50) horizontal feet and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least fifty (50) horizontal feet, but the Director may grant variances to no less than twenty-five (25) feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least twenty-five (25) horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of Section 11(b)(4) and the buffer zones provided by this section shall be enforced by the development department;

(E) Agricultural operations as defined in O.C.G.A. § 1-3-3, "definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;

(F) Forestry land management practices, including harvesting; providing, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs 15 and 16 of subsection (b)(4)(C) of this section, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of five (5) years after completion of such forestry practices;

(G) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;

(H) Any project involving less than one (1) acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre or within two hundred (200) feet of the bank of any state waters, and for purposes of this paragraph, "state waters" excludes channels and drainageways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which

involves less than one (1) acre, which involves land-disturbing activity, and which is within two hundred (200) feet of any such excluded channel or drainageway, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the City of Dunwoody from regulating any such project which is not specifically exempted by paragraphs (b)(3)(A), (B), (C), (D), (E), (F), (G), (I), or (J). of this section;

(I) Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Georgia Department of Transportation, the Georgia Highway Authority, or the state tollway authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of Department of Transportation or state tollway authority which disturb one (1) or more contiguous acres of land shall be subject to provisions of O.C.G.A. § 12-7-7.2; except where the Department of Transportation, the Georgia Highway Authority, or the state road and tollway authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the local issuing authority, the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;

(J) Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the State general permit, in which case the local issuing authority shall enforce compliance with the minimum requirements set forth in section O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and

(K) Any public water system reservoir.

(4) Minimum requirement for soil erosion and control and sedimentation control using best management practices.

(A) General provisions. Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities. Therefore, plans for those land-disturbing activities that are not exempted by this Chapter shall contain provisions for application of soil erosion and sedimentation control measures and practices. The provisions shall be incorporated into the erosions and sedimentation control plans. Soil erosion and sedimentation control measures and practices shall conform to the minimum requirements of subsection (b)(4)(B) and (C) of this section and any other applicable provision of this Section 11. The application of measures and practices shall apply to all features of the site, including street and utility installations, stormwater management facilities, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sedimentation pollution during all stages of any land-disturbing activity. The Director may require that land disturbance activity be phased. Soil erosion and sedimentation control plans shall address appropriate measures to effectively control soil erosion during successive phases of construction.

(B) Minimum requirements.

(i) Best management practices as set forth in subsections (b)(4)(B) and (C) of this section shall be required for all land-disturbing activities. Proper design by phases, installation and maintenance of best management practices shall constitute a complete defense to any action by the Director of the Environmental Protection Division (EPD) or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to O.C.G.A. § 12-5-30(f), the "Georgia Water Quality Control Act". As used in this subsection, the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. § 12-7-6(b).

(ii) A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f), the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters

being increased by more than twenty-five (25) nephelometric turbidity units for waters supporting warm water fisheries or by more than ten (10) nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the Director of the Environmental Protection Division. This paragraph shall not apply to any land disturbance associated with the construction of single-family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five (5) acres.

(iii) Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the Division pursuant to O.C.G.A. § 12-5-30(f), the "Georgia Water Quality Control Act", for each day on which such failure occurs.

(iv) The Director of the Environmental Protection Division may require, in accordance with regulations adopted by the BNR, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.

(C) The rules and regulations, ordinances, or resolutions adopted pursuant to this Chapter for the purpose of governing land-disturbing activities shall require, at a minimum, protections at least as stringent as the state general permit; and best management practices, including conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the Manual for Erosion and Sediment Control in Georgia published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:

(i) Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;

(ii) Cut-fill operations shall be kept to a minimum;

(iii) Development plans shall conform to topography and soil type so as to create the lowest practical erosion potential;

(iv) Whenever feasible, natural vegetation shall be retained, protected and supplemented as provided in Sections 12 and 14 of this Article;

(v) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;

(vi) Disturbed soil shall be stabilized as quickly as practicable;

(vii) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;

(viii) Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;

(ix) To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. § 12-7-1 et seq.;

(x) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;

(xi) Cuts and fills shall not endanger adjoining property;

(xii) Fills shall not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;

(xiii) Grading equipment shall cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;

(xiv) Land-disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediment on-site or preclude sedimentation of adjacent waters beyond the levels specified in subsection (b)(4)(B)(ii) of this section;

(xv) Except as provided in paragraph (xvi) of this subsection, there is established a twenty-five-foot state buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action,

except where the Director of the Environmental Protection Division determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director of the Environmental Protection Division pursuant to O.C.G.A. § 12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; provided, however, the buffers of at least twenty-five (25) feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by the Director of the Environmental Protection Division as provided in this paragraph. The following requirements shall apply to any such buffer:

1. No land disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and

2. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within twenty-five (25) degrees of perpendicular to the stream; cause a width of disturbance of not more than fifty (50) feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines;

(xvi) There is established a fifty-foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to Article 2 of Chapter 5 of

Title 12, the "Georgia Water Quality Control Act", except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of twenty-five (25) gallons per minute or less shall have a twenty-five-foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the BNR, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The Director of the Environmental Protection Division may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:

1. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed: provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and

2. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within twenty-five (25) degrees of perpendicular to the stream; cause a width of disturbance of not more than fifty (50) feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines.

(D) The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of

nor create a presumption of a violation of the standards provided for in this section or the terms of the permit.

(5) Application/permit process.

(A) *General.* The property owner, developer and designated planners and engineers shall review the general development plans and detailed plans of the local issuing authority that affect the tract to be developed and the area surrounding it. They shall review the zoning ordinance, stormwater management ordinance, subdivision ordinance, flood damage prevention ordinance, this Chapter, and other ordinances which regulate the development of land within the jurisdictional boundaries of the local issuing authority. However, the operator is the only party who may obtain a permit.

(B) *Application requirements.*

(i) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the City of Dunwoody without first obtaining a permit from the Director to perform such activity.

(ii) The application for a permit shall be submitted to the Director and must include the applicant's erosion and sedimentation control plan with supporting data, as necessary. Said plans shall include, at a minimum, the data specified in subsection (b)(5)(C) of this section. Applications for a permit will not be accepted unless accompanied by eight (8) copies of the applicant's soil erosions and sedimentation control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan or that such a visit was not required in accordance with rules and regulations established by the BNR.

(iii) A permitting fee, as determined by the City Council shall be charged for each acre or fraction thereof in the project area.

(iv) In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (5) subsection (a) of O.C.G.A. § 12-5-23, provided that such fees shall not exceed eighty dollars ($80.00) per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to O.C.G.A. § 12-7-8(a) half of such fees levied shall be submitted to the Division; except

that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. § 12-7-17 shall be submitted in full to the Division, regardless of the existence of a local issuing authority in the jurisdiction.

(v) Immediately upon receipt of an application and plan for a permit, the local issuing authority shall review the plan for the adequacy of the erosion and sedimentation control plan. The Director shall approve or disapprove a plan within thirty-five (35) days of receipt. Failure of the Director to act within thirty-five (35) days shall be considered an approval of the pending plan. No permit will be issued unless the plan has been approved by the Director, and any variances required by subsection (b)(4)(C)(xv) and (xvi) and bonding if required by subsection (b)(5)(B)(vii) have been obtained.

(vi) If a permit applicant has had two (2) or more violations of previous permits, this Chapter, or the Erosion and Sedimentation Act, as amended, within three (3) years prior to the date of filing of the application under consideration, the Director may deny the permit application.

(vii) The Director may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, three thousand dollars ($3,000.00) per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this section or with the conditions of the permit after issuance, the Director may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

(C) *Plan requirements.*

(i) Plans must be prepared to meet the minimum requirements as contained in subsection (b)(4)(B) and (C) of this section. Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the Manual for Erosion and Sediment Control in Georgia, published by the State Soil and Water Conservation Commission as a guide; or through the use of more stringent alternate design criteria which conform to conservation and engineering practices including, but not limited to, design criteria published by Dekalb County in its approved stormwater management manual or City of Dunwoody's approved stormwater management policy. The Manual for Erosion

and Sediment Control in Georgia is hereby incorporated by reference into this Chapter as if fully set forth herein. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and storm water management facilities, local ordinances and State laws.

(ii) The following minimum data shall be required for each site plan:

1. Narrative or notes, and other information: Notes or narrative are to be located on the site plan in general notes or in erosion and sediment control notes;

2. A description of existing land use at project site and description of proposed project;

3. Name, address, and phone number of the property owner;

4. Name and phone number of twenty-four (24) hour local contact who is responsible for erosion and sedimentation controls;

5. Size of project, or phase under construction, in acres;

6. Activity schedule showing anticipated starting and completion dates for the project. The following statement: "the installation of erosion and sedimentation control measures and practices shall occur prior to or concurrent with land-disturbing activities" must be on the site plan in bold letters;

7. Stormwater and sedimentation management systems-storage capacity, hydrologic study, and calculations, including off-site drainage areas;

8. Vegetative plan for all temporary and permanent vegetative measures, including species, planting dates, and seeding, fertilizer, lime, and mulching rates. The vegetative plan should show options for year-round seeding;

9. Detailed drawings for all structural practices. Specifications may follow guidelines set forth in the Manual for Erosion and Sediment Control in Georgia, but must be site specific;

10. Maintenance statement -- "Erosion and sedimentation control measures will be maintained at all times. If full implementation of the approved plan does not provide for effective erosion and sediment control, additional erosion and sediment control measures shall be implemented to control or treat the sediment source."; and

11. Other information pertinent to requirements of this Chapter as required by the Director.

(iii) Maps, drawing, and supportive computations shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control. After December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements as developed by the Commission pursuant to O.C.G.A. § 12-7-20. The certified plans shall contain:

1. Graphic scale and north point or arrow indicating magnetic north.

2. Vicinity maps showing location of project and existing streets.

3. Boundary line survey.

4. Delineation of disturbed areas within project boundary.

5. Existing and planned contours, with an interval in accordance with the following:

TABLE INSET:

Map Scale	Ground Slope	Contour interval (ft.)
1 inch = 100 ft. Or larger scale	Flat 0 – 2% Rolling 2 – 8% Step 8% +	0.5 or 1 1 or 2 2, 5, or 10

6. Adjacent areas and feature areas such as streams, lakes, residential areas, etc. which might be affected should be indicated on the plan.

7. The names of property owners and current zoning of all abutting property.

8. Proposed structures or additions to existing structures and paved areas.

9. Delineate the stream buffers as required by Section 14 of this Article, adjacent to state waters identified by the City of Dunwoody.

10. Delineate the specified horizontal buffer along designated trout streams, where applicable.

11. Location of erosion and sedimentation control measures and practices using coding symbols from the Manual for Erosion and Sediment Control in Georgia, Chapter 6.

(iv) Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the property owner.

(D) *Permits.*

(i) Permits shall be issued or denied as soon as practicable but in any event not later than forty-five (45) days after receipt by the Director of a completed application, provided variances and bonding are obtained, where necessary.

(ii) No permit shall be issued by the Director unless the erosion and sedimentation control plan has been approved and the Director has affirmatively determined that the plan is in compliance with this Chapter, any variances required by subsection (b)(4)(C)(xv) and (xvi) are obtained, bonding requirements, if necessary, as per subsection (b)(5)(B)(vii) are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the City of Dunwoody are met. If the permit is denied, the reason for denial shall be furnished to the applicant.

(iii) If the tract is to be developed in phases, then a separate permit shall be required for each phase.

(iv) The permit may be suspended, revoked, or modified by the City of Dunwoody, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this Chapter. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.

(v) No permit shall be issued until the applicant files documents with the Director demonstrating compliance with all applicable local, State and Federal requirements.

(6) Inspection and enforcement.

(A) The Director will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the City of Dunwoody shall regulate both primary and secondary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this section, a written notice to comply shall be served upon that person by the Director. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land disturbing activity fails to comply within the time specified, he shall be deemed in violation of this section.

(B) The Director shall have the power to conduct such investigations as may reasonably be necessary to carry out duties as prescribed in this section, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.

(C) No person shall refuse entry or access to any authorized representative or agent of the City of Dunwoody, the Commission, or the Division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

(D) The Commission shall periodically review the actions of the City. The Commission may provide technical assistance to the City of Dunwoody for the purpose of improving the effectiveness of the City's erosion and sedimentation control program. The Commission shall notify the Division and request investigation by the Division if the City's program is found to be deficient or ineffective.

(E) The BNR shall promulgate rules and regulations setting forth the requirements and standards for certification and the procedures for decertification of a local issuing authority. The Division may periodically review the actions of the City of Dunwoody which has been certified as a local issuing authority pursuant to O.C.G.A. § 12-7-8(a). Such review may include, but shall not be limited to, review of the administration and enforcement of the City of Dunwoody's ordinances. If such review indicates that DeKalb County has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. § 12-7-7(e), the Division shall notify the City of Dunwoody governing authority in writing. Upon receipt of the notification, the governing authority shall have thirty (30) days within which to take the necessary corrective action to retain certification as a local issuing authority. If the City of Dunwoody does not take necessary action within thirty (30) days after notification by the Division, the Division may revoke the certification of the City of Dunwoody as a local issuing authority.

(7) Penalties and incentives.

(A) *Failure to obtain a permit for land-disturbing activity.* If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this Chapter without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the City of Dunwoody.

(B) *Stop work orders.* Upon notice from the Director or other City authorized representative, work on any project that is being done contrary to the provisions of this Chapter 14 or in a dangerous or unsafe manner, shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property, his/her authorized agent or the person or persons in charge of the activity on the property, and shall state the conditions under which work may be resumed. Where an emergency exists, no written notice shall be required.

(i) For the first and second violations of the provisions of this section on a site, the Director shall issue a written notice of violation. The violator shall have five (5) days to correct the violation. If the violation is not corrected within five (5) days, the Director shall issue a stop work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided that if the violation presents an imminent threat to public health or waters of the State, the Director shall issue an immediate stop work order in lieu of a warning.

(ii) For a third and each subsequent violation on a site, the Director shall issue an immediate stop-work order, and;

(iii) All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.

(iv) When a violation in the form of land disturbance without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the Director, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the Director. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

(C) *Bond forfeiture.* If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served by the Director upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this Chapter and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of subsection (b)(5)(B)(vii). The Director may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

(D) *Monetary penalties.* Any person who violates any provisions of this section, or any permit condition or limitation established pursuant to this section, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the development director issued as provided in this section, shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500.00) per day. Notwithstanding any limitation of law as to penalties which can be assessed for violations of City ordinances, the Municipal Court or any other court of competent jurisdiction trying cases brought under City ordinances approved under this section shall be authorized to impose penalties for such violations not to exceed two thousand five hundred dollars ($2,500.00) for each violation; however the maximum assessment shall not exceed the amount

authorized by Chapter 1 of this Code. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

(8) Education and certification. All persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the Commission in consultation with the Division and the stakeholder advisory board created pursuant to O.C.G.A. § 12-7-20.

(9) Administrative appeal, judicial review.

(A) *Administrative remedies.* The suspension, revocation, modification or grant with condition of a permit by the City of Dunwoody upon finding that the holder is not in compliance with the approved erosion and sediment control plan; or that the holder is in violation of permit conditions; shall entitle the person submitting the plan or holding the permit to an appeal before the Board of Zoning Appeals pursuant to the procedures and standards set forth in Section 8(c) of this Article.

(B) *Judicial review.* Any person aggrieved by administrative appeals from a decision or order of the Board of Zoning Appeals authorized by subsection (b)(8)(A) of this section shall be as provided for in Section 14(d) of this Article.

(10) Validity and liability.

(A) *Validity.* If any section, paragraph, clause, phrase, or provision of this section shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this section.

(B) *Liability*

(i) Neither the approval of a plan under the provisions of this section, nor the compliance with provisions of this section shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the City of Dunwoody, its officers or employees for damage to any person or property.

(ii) The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this section or the terms of the permit.

(iii) No provision of this section shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any waters of the State as defined thereby.

Section 12: Tree Protection

(a) Intent and Purpose

(1) INTENT: To provide minimum landscape standards for developments in the city so as to enhance architectural features, strengthen vistas and provide shade.

(2) PURPOSE:

(A) To preserve landscaping in its natural state to the greatest extent possible.

(B) To promote architectural harmony between buildings, landscaping and the local environs.

(C) To enhance economic opportunities over the long term by maintaining Dunwoody as an attractive and progressive community for residents, businesses and developers.

(D) To minimize the adverse impacts of new development on existing land uses.

(E) To promote xeriscaping, or water-saving techniques where practical.

(F) To provide environmental benefits such as pollution abatement, erosion and run-off control, energy conservation, minimization of flood hazards and continued maintenance of ecology systems

(b) Definitions

All words used in this ordinance carry their customary dictionary meanings, except where specifically defined herein or in the Dunwoody Zoning Ordinance as amended.

Buildable area: The portion of a lot which is not located within any minimum required yard, landscape area, or buffer, i.e., that portion of a lot wherein a building may be located.

Caliper: An American Association of Nurseryman standard for trunk measurement of nursery stock. Caliper of the trunk shall be taken six (6) inches above the ground for up to and including four-(4) inch caliper size, and twelve (12) inches above the ground for larger sizes.

Certificate of occupancy: A permit issued by the Building Inspector indicating that the

use of the building or land in question is in conformity with all relevant City of Dunwoody ordinances, or that there has been a legal variance there from as provided by one of the ordinances.

Certified Arborist: An individual who has been certified as an arborist by the International Society of Arboriculture and maintains said certification in good standing.

City Arborist: The Community Development Director or designee of the City of Dunwoody having primary enforcement responsibilities under this ordinance, and charged with the responsibility for approval of all landscape plans for land development in the City of Dunwoody required pursuant to this ordinance.

Diameter at breast height (DBH): A standard measure of tree size. The tree trunk diameter is measured in inches at a height of 4 1/2 feet above the ground. If a tree splits into multiple trunks below 4 1/2 feet, then the trunk is measured at its most narrow point beneath the split.

Ground cover: A category of plants usually ranging from a few inches to a foot or more in height. Some ground covers are excellent for preventing soil erosion; others are helpful in carrying out design patterns.

In perpetuity: The state or condition of lasting forever, continuing forever, or occurring continually.

Development permit: A permit issued by the City of Dunwoody that authorizes the commencement of development on a given tract of land.

Landscape plan: A plan that identifies areas of tree preservation and methods of tree protection within the protected zone, as well as all areas or replanting. Within replanting areas, the common and botanical names of the proposed species, the number of plants of each species, the size of all plants, the proposed location of all plants, and any unique features of the plant shall be indicated.

Ornamental Trees: Small growing trees, attaining a mature height of less than forty (40) feet, grown primarily for aesthetic purposes, i.e.. flowers, fruit, etc. Common ornamental trees in this area include: Dogwood and Bradford Pear trees. A list of trees generally acceptable to this area is included in the Appendix of the Tree Preservation Ordinance.

Protected zone: All lands that fall outside of the buildable area of a parcel, all areas of the parcel required to remain in open space, and all areas required as landscaping strips according to provisions of the City of Dunwoody zoning regulations, or conditions of the zoning approval.

Revegetation: The replacement of trees and landscape plant materials into the minimum required landscape areas, as determined by the Zoning Ordinance, conditions of zoning approval, or the Tree Preservation Ordinance.

Specimen tree: Any tree which has been determined by the City Arborist to be of high value because of its type, size, age, and/or of historical significance, or other professional criteria, and has been so designated in administrative standards established by the city. This is usually a plant with desirable form, foliage, fruit, or flower that can be emphasized although isolated.

Structure: Anything constructed, assembled, or erected, the use of which requires location on the ground or attachment to something having location on or in the ground.

Substantial Building Permit: A nonresidential building permit issued by the City of Dunwoody with a total value in excess of 50% of the Dekalb County Tax Assessor's 100% assessed value of the existing improvements only. The aggregate value of all building permits issued to the property over the previous 12 months shall be included in this calculation (see Appendix I-D of the Tree Preservation Ordinance).

Tree: Any self supporting wood perennial plant which at maturity attains a trunk diameter of four (4) inches or more measured at a point four and one half (4 1/2) feet above the ground level and which normally attains a height of at least twenty five (25) feet at maturity, usually with one main stem or trunk and many branches.

Tree density factor: A unit of measure used to prescribe and calculate required tree coverage on a site. Unit measurements are based upon tree size. (Appendix I-A ofTree Preservation Ordinance).

Tree Topping: The removal of tree limbs, branches, or stems by cutting at the internodes and resulting in the failure of the tree to assume apical dominance.

Zoning regulations: The Dunwoody Zoning Ordinance as amended or such other regulations subsequently adopted by the council, inclusive of conditions of zoning approval established pursuant thereto.

(c) Applicability: The terms and provisions of this Ordinance shall apply to any activity on real property which requires the issuance of a Development Permit or a Substantial Building Permit within the City of Dunwoody, but excluding the construction of individual single family detached and duplex dwellings. No Development Permit or Substantial Building Permit shall be issued by the city without it being determined that the proposed development is in conformance with the provisions of these regulations. An application for a development permit shall include a separate Landscape Plan that has been prepared and sealed by a Registered Landscape Architect, Certified Arborist, or Registered Forester.

(d) Landscape Strips.

(1) Minimum landscape strip dimensions for each lot are expressed in linear feet in the following chart: When a protected zone equivalent to the following landscape dimensions has not been left on a site in a non-single family residential district, or

when grading has occurred outside the buildable area on a lot, then landscape strips must be provided as follows:

YARD	FRONT	15
SIDE		
	CORNER	15
	INTERIOR	5
REAR		5

(2) Within a single family or duplex subdivision where street access to lots with frontage on more than one street is restricted , a ten foot no access strip shall be required along the frontage of the street(s) with the higher classification. These no access strips shall be planted in accordance with the requirements for landscape strips above.

(3) No permanent structures are permitted within landscape strips. This includes pavement, retaining walls, curbing, dumpsters, drainage structures, detention facilities, etc.

(A) The only exceptions to this rule are sidewalks and footpaths, when the width of the right-of-way is insufficient.

(4) Curb stops must be used when parking perpendicular to five (5) foot landscape strips.

(5) Signs within landscape strips may only be located in areas of turf or ground cover and must not conflict with the growth potential of trees and shrubs. Signs are not permitted within required undisturbed buffers.

(6) The deposition of storm water runoff into, or drainage swales through landscape strips is generally not permitted.

(A) Exceptions will be considered only if this standard will create an undue hardship to the property owner. Under no circumstance may the length of a drainage easement through a landscape strip exceed the width of the strip.

(7) *Design standards*: All required landscape strips shall be planted with a combination of trees, shrubs, perennials, groundcovers, and grass, as approved by the City Arborist. The landscape strips shall be designed with a minimum 60% coverage in trees and large shrubs (4'x 4' or larger). Small shrubs, perennials, ornamental grasses, groundcover, and grass may constitute no more than 40% coverage of the landscape strip. All landscape strips along the public right-of-way shall be planted in a manner to achieve a 2-3' tall evergreen screening buffer.

Landscape strip coverage will be calculated as follows:

(A) Calculate the total spatial area of the landscape strip.

(B) Calculate the total coverage of landscape materials, ensuring that the coverage of trees and large shrubs is greater than or equal to 60% of the total area of the strip. The following sizes shall be used when calculating coverage of the landscape materials:

Trees greater than 6" caliper: 100 square feet
Trees less than 6" caliper: 50 square feet
Large shrubs: (4' height x 4' spread or larger): 16 square feet
Ornamental grasses: 12 square feet
Small shrubs: 9 square feet
Perennials: 6 square feet

(C) Any exposed ground should be planted with a ground cover or an appropriate mulching material. Mulching materials shall not exceed four (4) inches in height.

(8) Trees within required landscape strips shall be provided as follows:

(A) Landscape strips shall have a minimum of one tree for every thirty (30) linear feet of a landscape strip to the nearest whole number.

(B) Clumping is permitted provided that adequate spacing is allowed for future growth.

(9) Where desirable, the landscape strip need not be a strip per se or may be reduced to a width of ten (10) feet with the approval of the City Arborist. The minimum area (square feet) to be landscaped must be calculated by multiplying the width of the lot (measured at the building setback line) by the linear foot requirements provided in.A.l. of this section.

(e) Parking Areas

(1) Parking lots designed for eight (8) or more spaces shall be designed as follows:

(A) The planter islands may be sized according to two different options:

(B) Each planter island shall be a minimum of 400 square feet. Planter islands shall be located at the terminus of each parking row and no further apart than every ten (10) parking spaces.

(C) Each planter island shall be a minimum of 300 square feet. Planter islands shall be located at the terminus of each parking row and no further apart

than every twenty (20) parking spaces. Planting strips with a minimum width of five (5) feet shall run continuously between all planter islands. These strips shall be planted with one (1) overstory tree for every thirty (30) linear feet of the strip.

(2) All planter islands must be designed with at least 60% coverage in trees in shrubs and no more than 40% coverage in ground cover and landscaping materials.. Planter islands abutting double rows of parking shall include two (2) overstory trees. Planter islands abutting single rows of parking shall include one (1) overstory tree. No plant materials, with the exception of trees, shall exceed three (3) feet in height. Turfgrass, however, shall not be planted in the required islands.

(3) All planter islands and landscape strips must be curbed to prevent vehicular encroachment.

(4) Planter islands and strips shall be designed to prevent compaction. This may be accomplished by planting a dense shrub cover or by elevating the planting area a minimum of one (1) foot above the curb.

(f) Street Trees

(1) Street trees are required in all residential districts. Street tree requirements are as follows:

(A) A Street Tree Planting Plan shall be submitted to and approved by the City Arborist prior to issuance of a development permit. The plan shall be prepared and sealed by a Registered Landscape Architect, Certified Arborist, or Registered Forester. All proposed trees shall be individually located on the plan with an included species list.

(B) Street trees shall be planted in the right-of-way, in accordance with the details provided in the Appendix. Street trees shall be planted no further than fifty (50) feet apart and no closer than 25 feet from street intersections. It is not mandatory to plant street trees on each individual lot, where spacing distances are inadequate. Street trees are required on both sides of the street. The City Arborist may approve alternate spacing when the fifty foot spacing requirement cannot be met due to driveways and other improvements.

(C) Street tree species shall be selected in accordance with Appendix XX-A and shall be subject to the approval of the City Arborist. No more than 35% of any one species shall be used throughout the development.

(D) Street trees shall have a minimum caliper of three (3) inches. They shall be single-stemmed with a single, straight leader.

(E) The builder shall install on each lot the street tree(s) specified on the Street Tree Planting Plan prior to the issuance of the certificate of occupancy. However, street tree plantings shall be delayed from May 1 through October 1. In this case, the builder shall enter into a performance surety agreement with the City guaranteeing tree planting by October 15. The performance surety agreement must be executed before the issuance of the certificate of occupancy for lots in this case.

(G) Impermeable rigid tree root barriers shall be installed in a linear method in all tree strips. The barriers shall be a minimum of 24" deep and include ribs to direct root growth downward. The root barriers shall be installed in accordance with the details provided in the Appendix.

(H) Expandable plastic tree trunk protectors shall be installed on each tree.

(I) Street trees may count towards the minimum individual lot tree density requirements, as set forth inTree Preservation Ordinance.

(J) Street trees shall be maintained by the property owner who owns the lot associated with the tree(s) and/or by the homeowners' association. Maintenance shall include, but is not limited to, watering, pruning, tree replacement and removal of leaves and litter from the sidewalks and street, as necessary. All maintenance shall be in compliance with ANSI A300 standards for tree care. A maintenance responsibility statement shall be provided on the final plat.

(g) Minimum Standards for Landscape Materials

(1) All landscape materials shall meet the minimum guidelines as outlined in the American Standard for Nursery Stock andTree Preservation Ordinance, and subsequent Appendix

(2) All deciduous trees shall be a minimum two-inch (2") caliper at the time of planting.

(3) All evergreen trees shall be 6 feet tall or larger.

(4) All shrubs and ornamental grasses shall be 3-gallon size or larger.

(5) All perennials shall be 1-gallon size or larger.

(6) Sod, rather than seed, shall be used in all landscape strips and no access strips that abut public right-of-way and shall extend to the curb of the public roadway.

(7) Sod, rather than seed, shall be used on all single-family residential lots and shall be installed in all areas designated for grass from the back of the curb to the front corner of all houses, at a minimum.

(8) All species must be ecologically compatible with the intended growing site.

(9) No more than 35% of any one tree or shrub species may be used.

(10) Evergreen trees may only be used in the interior and/or rear landscape strips.

(11) All plant materials are subject to the approval of the City Arborist.

(h) Installation and Maintenance

(1) Installation. All landscaping shall be installed in a sound workmanlike manner and according to accepted good planting procedures. The City Arborist shall inspect all landscaping and no certificate of occupancy or similar authorization will be issued unless the landscaping meets the requirements provided in this ordinance.

(2) Staking and Guying. Newly planted trees shall not be staked or guyed unless they are unable to stand upright without support. Materials used shall be flat woven polypropylene photodegradable ¾" wide with 900 lb. break strength. Any staking and guying materials used shall be removed within one (1) year of installation.

(3) Irrigation. An irrigation system shall be installed in all landscape strips, planter islands, enhanced buffers, and no access strips. The system shall meet the following minimum standards:

(A) Preserved trees, shrubs, and native plant communities shall not be required to be irrigated, unless directed by the City Arborist.

(B) Drip irrigation systems shall 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) Turfgrass areas shall be irrigated on a different zone than trees, shrubs, perennials, and groundcovers.

(D) Moisture sensor and/or rain gauge equipment shall be required on automatic irrigation systems to avoid irrigation during periods of sufficient rainfall.

(E) No significant irrigation overthrow shall be permitted onto impervious surfaces.

(4) 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. The watering schedule shall be in accordance with Dekalb County's regulations concerning water usage.Minimum Space Requirements. All trees planted shall be provided with adequate space to grow unobstructed to maturity, to avoid sight obstructions, and to provide clearance. The following include the minimum requirements that must be met.

TABLE INSET:

Location	**Overstory Trees**	**Understory Trees**
Distance to other trees	30 feet	20 feet
Distance to overhead power lines	20 feet	0 feet
Distance to light poles	20 feet	15 feet
Distance to fire hydrants, electrical transmission boxes, water meters, or other infrastructure	15 feet	15 feet

(5) Maintenance. The owner, occupant, tenant and respective agent of each, if any, shall be jointly and severally responsible for the maintenance and protection of all required landscaping in perpetuity, in accordance with the following standards:

(A) Keep landscaping reasonably free of visible signs of insects and disease and appropriately irrigated to enable landscaping to exist in a healthy growing condition.

(B) Mow or trim landscaping 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 shall be considered where future conflicts such as view, signage, street lighting, utilities and circulation might arise;

(C) Maintain all landscaping 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

(D) All pruning shall be done in accordance with *ANSI A300 (Part 1) Standards for Tree Care Operations – Pruning*. Tree topping is not allowed. Crown reduction pruning shall be used instead to reduce the height of a tree when necessary. Topped trees shall not be counted toward tree density requirements.

(i) Agreement and Bonding

(1) The developer or owner shall post a performance bond or cash escrow guaranteeing all landscaping materials and work for a period of two (2) years after the approval or acceptance thereof by the City. The bond or cash escrow will be required for commercial developments prior to the issuance of a certificate of occupancy. The bond or cash escrow will be required for residential developments within one year of the date of recording the final plat or before the final certificate of occupancy is issued for the development, whichever case occurs first. In the case of residential developments with multiple builders, each builder will be responsible for providing the bond or cash escrow for the lots for which he/she has received a building permit.

(2) The bond will be in the amount of 115% of the estimated cost of replacing all of the required landscaping.

(3) An itemized estimate should be provided by the owner and based on the opinion of a landscape contractor and found to be reasonable by the City Arborist.

(4) The City Arborist shall make an inspection and notify the owner or developer and the Bond Company of any corrections to be made within this two (2) year period.

(j) Effective Date: This ordinance shall become effective upon approval by the Mayor and Council of the City of Dunwoody.

(k) Enforcement. It shall be the duty of the City Arborist to enforce this Ordinance. The City Arborist shall have the authority to revoke, suspend, or void any Development Permit and shall have the authority to suspend all work on a site or any portion thereof, and to issue citations. The City Arborist shall have the authority to approve alternate methods of compliance with the provisions of this article when he/she determines the overall intent of the article and/or specific guidelines can be met.

(l) Violation and Penalty. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of an ordinance violation . Each day's continuance of a violation shall be considered a separate offense. The owner of any property wherein a violation exist, and any builder, contractor, agent who may have assisted in the commission of any such violation, shall be guilty of a separate offense. The Dunwoody Municipal Court shall have jurisdiction to try offenses to these regulations.

(m) Appeal. Any person aggrieved or affected by any decision of the City Arborist relating to the application of these regulations may appeal to the Zoning Board of Appeals for relief or reconsideration within thirty (30) days from the date of the adverse decision of the City Arborist.

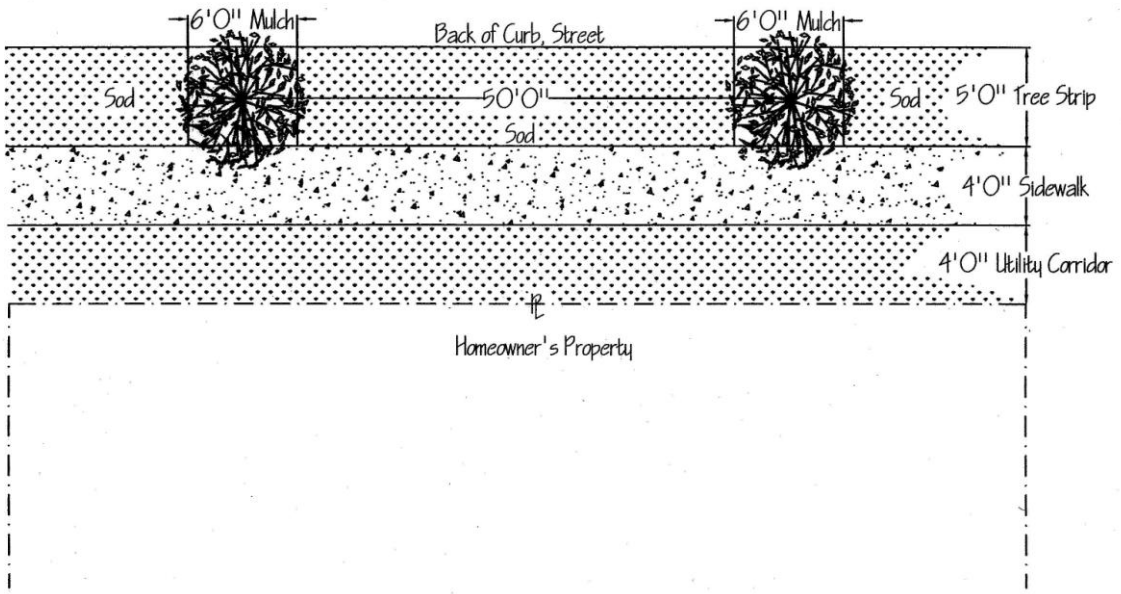
(n) VALIDITY Should any section or provision of this Ordinance be declared by a court of

competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance in whole or any part thereof other than the part so declared invalid.

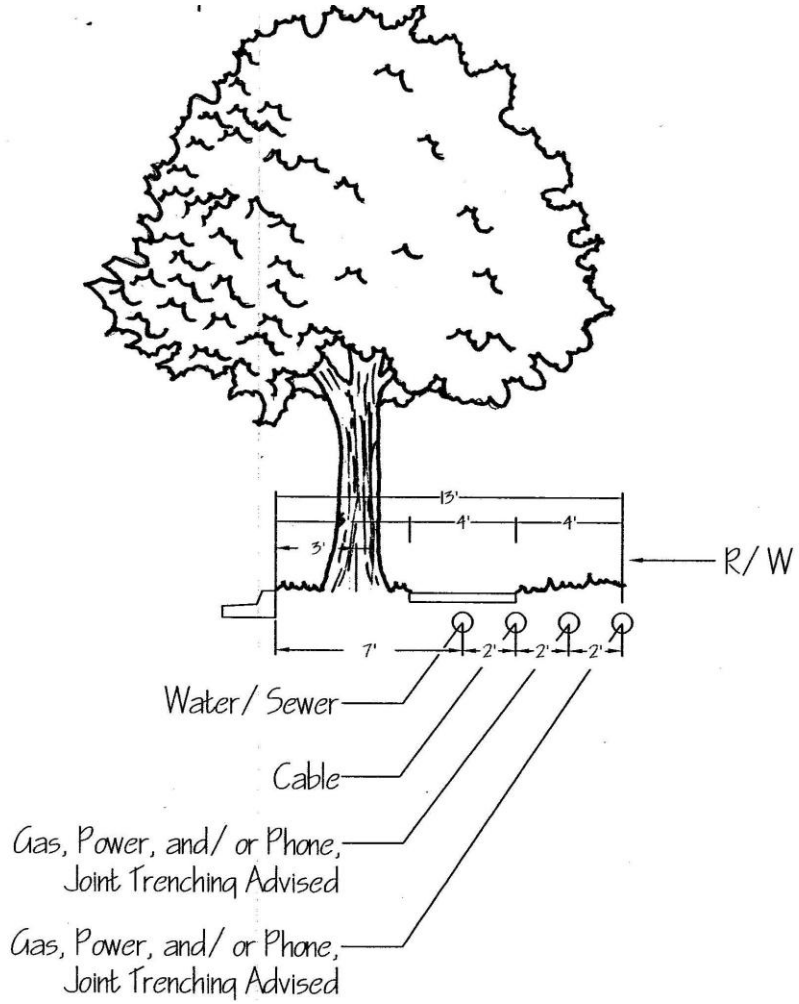
(o) Conflicting Ordinance Repealsed. The provisions of any Ordinance or parts of Ordinances in conflict herewith are repealed.

APPENDIX XX-A: STREET TREES

XX-A(1): Details for the location of street trees, sidewalks, utility corridor,

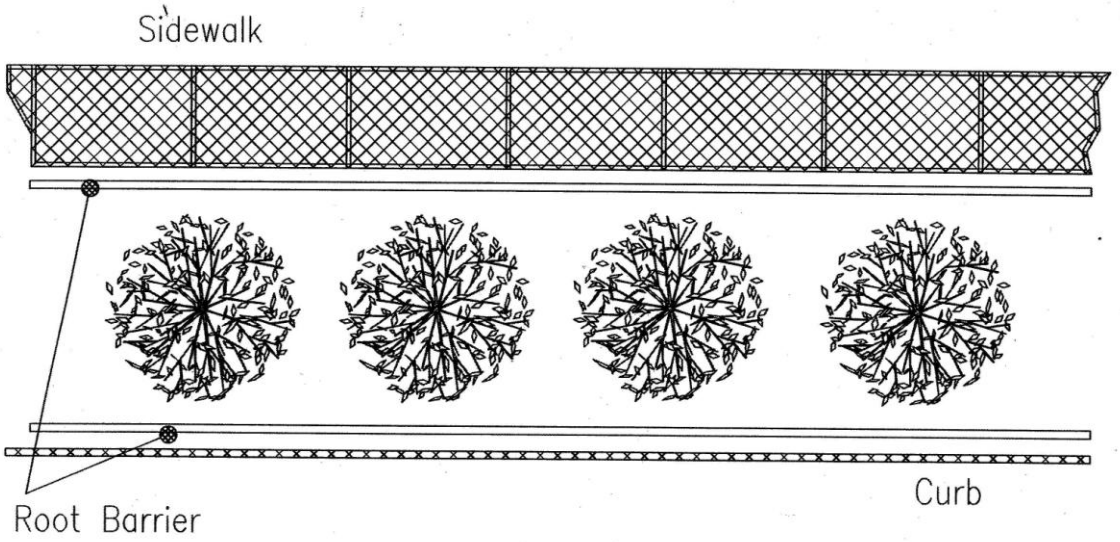


etc.



APPENDIX XX-A: STREET TREES

XX-A(2): Detail for the locations of the root barriers



XX-A(3): Approved Street Tree Species

Botanical Name	Common Name	Notes
Acer buergerianum 'Trident Maple'	Trident Maple	single-stem only
Acer rubrum 'Autumn Flame'	Autumn Flame Red Maple	
Acer rubrum 'October Glory'	October Glory Red Maple	
Acer rubrum 'Red Sunset'	Red Sunset® Red Maple	
Acer rubrum 'Summer Red'	Summer Red® Red Maple	
Acer saccharum 'Green Mountain'	Green Mountain Sugar Maple	
Acer saccharum 'Legacy'	Legacy Sugar Maple	
Betula nigra 'BNMTF'	Dura-Heat® River Birch	single-stem only
Ginkgo biloba ' Princeton Sentry'	Princeton Sentry Ginkgo	
Ostrya virginiana	American Hophornbeam/Ironwood	
Parrotia persica	Persian Ironwood	single-stem only
Pistacia chinensis	Chinese Pistache	
Quercus hemisphaerica'Darlington'	Darlington Oak	
Quercus lyrata	Overcup Oak	
Quercus nuttalli	Nuttall Oak	
Quercus phellos	Willow Oak	
Quercus shumardii	Shumard Oak	
Ulmus parvifolia 'Emer I'	Athena® Elm	
Ulmus parvifolia 'Emer II'	Allée® Elm	
Ulmus parvifolia 'UPMTF'	Bosque™ Elm	
Zelkova serrata 'Green Vase'	Green Vase Japanese Zelkova	
Zelkova serrata 'Village Green'	Village Green Japanese Zelkova	

(p) Tree Preservation

(1) Intent and Purpose.

(A) Intent: The intent of this ordinance is to provide standards for the preservation of trees as part of the land development and building construction process for the purpose of making the City of Dunwoody a more attractive place to live, provide a healthy living environment, and to better maintain control of flooding, noise, glare, and soil erosion.

(B) Purpose:

(i) The purpose of this ordinance is to facilitate the preservation and/or replacement of trees as part of the land development, building construction process within the City of Dunwoody.

(ii) Benefits derived from tree protection and replanting include:

a. Improved control of soil erosion;

b. Moderation of storm water runoff, and improved water quality;

c. Interception of airborne particulate matter, and the reduction of some air pollutants.

d. Enhanced habitat for desirable wildlife;

e. Reduction of noise and glare;

f. Climate moderation and the reduction of the heat island effect;

g. Aesthetics, scenic amenity;

h. Increased property value; and

i. Assistance in traffic calming.

(C) Definitions

All words used in this ordinance carry their customary dictionary meanings, except where specifically defined herein or in the Dunwoody Zoning Ordinance as amended.

Accessory structure: A structure, the use of which is customarily incidental and subordinate to that of the main building of the same lot, such as a guest house, toolshed,

woodshed and the like.

Accessory use: A use customarily incidental and subordinate to the primary use of the main building or to the primary use of the premises.

Buildable area: The portion of a lot which is not located within any minimum required yard, landscape area, or buffer, i.e., that portion of a lot wherein a building may be located.

Caliper: An American Association of Nurseryman standard for trunk measurement of nursery stock. Caliper of the trunk shall be taken six (6) inches above the ground for up to and including four- (4) inch caliper size, and twelve (12) inches above the ground for larger sizes.

Certified Arborist: An individual who has been certified as an arborist by the International Society of Arboriculture and maintains said certification in good standing.

City Arborist: The Community Development Director or designee of the City of Dunwoody having primary enforcement responsibilities under this ordinance, and charged with the responsibility for approval of all landscape plans for land development in the City of Dunwoody required pursuant to this ordinance.

Critical Root Zone (CRZ): A circular region measured outward from a tree trunk representing the essential area of roots that must be maintained or protected for the tree's survival. The CRZ is one foot of radial distance for every inch of the tree's DBH, with a minimum of eight feet.

Crown Reduction Pruning: Method of pruning to reduce the height or spread of a tree by performing appropriate pruning cuts.

Diameter at breast height (DBH): A standard measure of tree size. The tree trunk diameter is measured in inches at a height of 4 1/2 feet above the ground. If a tree splits into multiple trunks below 4 1/2 feet, then the trunk is measured at its most narrow point beneath the split.

Detached: Shall be defined as being separated from a principle structure by a minimum of three (3) feet.

Hardwood Tree: A tree that does not bear either needles or cones. The term hardwood is based on the colloquialism and does not reflect any true qualities of the tree.

Development permit: A permit issued by the City of Dunwoody that authorizes the commencement of development on a given tract of land.

Landscape plan: A plan that identifies areas of tree preservation and methods of tree protection within the protected zone, as well as all areas or replanting. Within replanting areas, the common and botanical names of the proposed species, the number of plants of each species, the size of all plants, the proposed location of all plants, and any unique features of the plants

shall be indicated.

Overstory Tree: Those trees that compose the top layer or canopy of vegetation and will generally reach a mature height of greater than forty feet (40').

Protected zone: All lands that fall outside of the buildable area of a parcel, all areas of the parcel required to remain in open space, and all areas required as landscaping strips according provisions of the City of Dunwoody zoning regulations, or conditions of the zoning approval.

Revegetation: The replacement of trees and landscape plant materials into the minimum required landscape areas, as determined by the Zoning Ordinance, conditions of zoning approval, or the Tree Preservation Ordinance.

Softwood Tree: Any coniferous (cone-bearing) tree. The term softwood is based on the colloquialism and does not reflect any true qualities of the tree.

Special tree: Any tree, which qualifies for special consideration for preservation due to its size, type, and condition as defined in this article.

Specimen tree: Any tree, which qualifies for special consideration for preservation due to its size, type, condition, location or historical significance as defined in this article.

Structure: Anything constructed, assembled, or erected, the use of which requires loction on the ground or attachment to something having location on or in the ground.

Substantial Building Permit: A nonresidential building permit issued by the City of Dunwoody with a total value in excess of 50% of the Dekalb County Tax Assessor's 100% assessed value of the existing improvements only. The aggregate value of all building permits issued to the property over the previous 12 months shall be included in this calculation (see Appendix).

Tree: Any self supporting wood perennial plant which at maturity attains a trunk diameter of four (4) inches or more measured at a point four and one half (4 1/2) feet above the ground level and which normally attains a height of at least twenty five (25) feet at maturity, usually with one main stem or trunk and many branches.

Tree density factor: A unit of measure used to prescribe and calculate required tree coverage on a site. Unit measurements are based upon tree size. (Appendix).

Tree Topping: The removal of tree limbs, branches, or stems by cutting at the internodes and resulting in the failure of the tree to assume apical dominance.

Understory Tree: Those trees that grow beneath the Overstory trees, and will generally reach a mature height of less than forty feet (40').

Zoning regulations: The Dunwoody Zoning Ordinance as amended or such other

regulations subsequently adopted by the council, inclusive of conditions of zoning approval established pursuant thereto.

(2) Applicability The terms and provisions of this Ordinance shall apply to any activity on real property, which requires the issuance of a Development Permit or Substantial Building Permit within the City of Dunwoody. No Development Permit or Substantial Building Permit shall be issued by the city without it being determined that the proposed development is in conformance with the provisions of these regulations.

(3) Permit Procedure

(A) All applications for a Development Permit or a Substantial Building Permit shall include the following:

(i) Tree Protection Plan: A tree protection plan shall be submitted with other permit drawings. This plan shall be a separate drawing, shall be prepared and sealed by a Registered Landscape Architect, Certified Arborist, or Registered Forester, and shall include the following information:

a. Tree Survey: The Tree Survey shall be a to-scale map or site plan that has been prepared and sealed by a Registered Landscape Architect, Certified Arborist, Registered Forester, Registered Surveyor, or Registered Engineer. The Tree Survey shall include the following minimum requirements:

1. All specimen trees are to be located and labeled with their size and species. Their Critical Root Zone (CRZ) shall be delineated and the spot elevation at the base of their trunk shall be indicated. They shall also be labeled in a way to determine if they are intended for removal or preservation.

2. All trees with a dbh measurement of twelve inches (12") or larger shall be located and their size and species shall be indicated.

3. Sampling methods may be used to determine tree density calculations for forested areas over five (5) acres.

b. Definition of Spatial Limits.

1. Limits of land disturbance, clearing, grading, and trenching;

2. Tree protection zones;

3. Areas of revegetation;

4. Indication of staging areas for parking, material storage, concrete washout, debris burn, and other areas where tree protection may be affected.

5. Locations of existing and proposed structures, paving, driveways, cut and fill areas, detention areas, utilities, etc.

c. Detail drawings of tree protection measures (where applicable.)

1. Protective tree fencing;

2. Erosion control fencing;

3. tree protection signs;

4. ransplanting specifications;

5. Tree wells, and aeration systems;

6. Staking specifications; and

7. other applicable drawings.

d. Tree Density Calculations

e. Procedures and schedules of the implementation, installation, and maintenance of tree protection measures.

(ii) An on-site inspection will be made by the City Arborist prior to the commencement of any development activity.

(iii) All landscape plans, tree protection plans, and related documentation shall be reviewed by the City Arborist for conformance to the provisions of these regulations and either approved, returned for revisions, or denied within thirty (30) days of receipt. If denied, the reasons for denial shall be annotated on the landscape plan or otherwise stated in writing.

(iv) Issuance of the Development Permit or a Substantial Building Permit is contingent upon approval of the required Tree Protection Plan and Landscape Plan and an on-site inspection by the City Arborist for Tree Protection measures.

(q) Removal of Trees

(1) Trees are not to be removed in any protected zone. When preserving trees in a protected zone will result in a documented economic hardship, an exception may be made. The documentation proving the hardship shall be submitted as part of the Tree Protection Plan. Nothing in these regulations shall be construed to allow the removal of vegetation in a natural, undisturbed buffer required by zoning regulations.

(2) The removal of dead, diseased, insect-infested, or hazard trees is exempt from the provisions of this article provided the property owner can provide documentation of the condition of said trees. Documentation includes, but is not limited to, photographs or a report by a Certified Arborist and shall be submitted prior to removal.

(3) When no trees are present in the protected zone or when it is proposed that any portion of the protected zone be disturbed, it shall be the responsibility of the owner/developer to landscape said areas (where improvements are not constructed), with trees or other plant materials subject to zoning regulations.

(4) Trees shall not be removed from a floodplain except as follows:

(A) Those trees found to be dead, diseased, or insect infested by the City Arborist, the County Extension Service, the Georgia Forestry Commission, or a registered forester.

(B) As necessary for construction, repair, or maintenance of public roads, utilities, or drainage structures.

(r) Tree Replacement-Revegitation

(1) The replacement of trees in the minimum required landscape areas, as determined by this ordinance, must occur under the following conditions.

(A) To establish the minimum tree density requirements for the site.

(B) Where grading occurs outside the buildable area of the lot.

(C) If the buildable area of the lot leaves no protected zone.

(D) If no trees are present within an existing protected zone.

(E) Where specimen trees or specimen stands of trees within the buildable portion of the lot are to be removed.

(F) Where specimen trees or specimen stands of trees, and trees within otherwise designated tree protective zones have been irreparably damaged or removed through development or construction activities.

(2) The quantity of replacements trees into a site must be sufficient so as to produce a total site tree density factor of no less than 20 units per acre (Note: the terms unit and tree are NOT interchangeable). Procedures for determining the site density requirements and the subsequent tree replacement requirements are provided in Appendix and incorporated by reference herein. A required buffer or trees located in the floodplain shall not be counted towards tree density.

(3) The spacing of replacement trees must be compatible with spatial limitations, and within responsible considerations towards potential species size.

(4) The following number of trees shall be maintained and/or planted on all single-family residential lots developed in the City.

Lot Size	**Number of Required Trees**
≤ 8,000 square feet	1 tree
8,001 to 15,000 square feet	2 trees
15,001 to 20,000 square feet	3 trees
20,001 to 25,000 square feet	4 trees
25,001 to 30,000 square feet	5 trees
≥30,001 square feet	1 tree per 5,000 square feet of lot size

(A) Understory trees may constitute no more than 25% of the required trees; lots less than 8,000 square feet are exempt from this requirement.

(B) Notwithstanding the foregoing, it is required that all reasonable efforts be made to save Specimen Trees. (Reasonable effort shall include, but not be limited to, alternate building design, building location, parking area layout, parking area location, water retention location and the like.)

(C) Tree Save Areas are encouraged and will be given credit of up to 50% individual lot requirements when the number of trees in the tree save areas is equal to or greater than the total number of trees required on the total number of lots within the subdivision.

(5) Occasionally, this intent cannot be met because a project site will not bear the

required density of trees. In this case, the City Arborist may approve a contribution to the City of Dunwoody Tree Replacement Fund. The following standards have been established for administering these contributions.

(A) The City Arborist must review and approve all requests for alternative compliance. In no instance shall one hundred percent (100%) of the required site density be met through alternative compliance. As many trees as can reasonably be expected to survive must be planted on the site in question.

(B) No permit shall be issued until the required contribution has been made to the Tree Replacement Fund.

(C) The amount of the contribution shall be determined from the Fee Schedule for the Community Development Department.

(D) The City of Dunwoody Tree Replacement Fund shall be used for planting trees on public property. Funds may be used for the purchase of trees, installation of trees and irrigation, and the purchase of mulch and soil amendments for the planted areas.

(6) Species selected for replacement must be quality specimens, and must be ecologically compatible with the specifically intended growing site. No more than 35% of any one species may be used. Evergreens may constitute no more than 25% of the trees in non-buffer areas. Standards for transplanting, and selecting quality replacement stock shall be in accordance with standards of the International Society of Arboriculture, National Association of Arborists, American Standard for Nursery Stock, and Appendix . Appendix offers a list of trees generally acceptable for credit in the Tree Density Calculation.

(7) Understory replacement trees may account for no greater than 25% of the required tree density units. The City Arborist shall have the discretion to approve the additional use of understory trees for meeting density requirements on single family lots if the size and/or layout of the lot does not allow for large overstory trees.

(8) Species selection and replacement densities are subject to approval by the City Arborist.

(s) Specimen and Special Trees

(1) Some trees on a site warrant special consideration and encouragement for preservation. These trees are referred to as specimen or special trees. The following criteria are used by the City Arborist to identify specimen and special trees. Both the size and condition must be met for a tree to qualify.

Criteria	Special Trees	Specimen Trees
Minimum size for hardwoods	14” to 23” DBH	24” DBH
Minimum size for softwoods	20” to 29” DBH	30” DBH
Minimum size for understory trees	4” to 5” DBH	6” DBH
Minimum Life Expectancy	25 years	15 years

Condition Criteria

Relatively sound and solid trunk with no extensive decay.

No more than one major and several minor dead limbs

No major insect or pathological problems.

No major pruning deficiencies, i.e. topping

At least 75% of the Critical Root Zone in a natural, undisturbed state

(2) In order to encourage the preservation of specimen and special trees and the incorporation of these trees into the design of projects, additional density credit will be given for specimen and special trees which are successfully saved and maintained. Credit for any specimen or special tree thus saved would be one and a half (1.5) times the assigned unit value shown in the Appendix. Should the property owner retain the services of a Certified Arborist to improve the quality of said trees (services include, but are not limited to, installation of cabling & bracing, installation of lightning protection, corrective pruning, removal of deadwood, supplemental irrigation, introduction of mycorrhizae, etc.), the density credit shall be increased to two (2) times the assigned value designated in the Appendix. The property owner must supply a letter of commitment from the Certified Arborist and/or provide documentation of services provided in order to receive the increased density credit.

The City Arborist may identify and require the preservation of a tree stand if it contains one or more specimen or special trees and the trees are interlocked with other members of the stand in such a manner as to imperil the individual tree if other members of the stand were to be removed.

(3) No specimen tree may be removed without the prior written approval of the City Arborist.

(A) Specimen trees that are approved for removal must be replaced by species with potential for comparable size and quality. All specimen trees must be replaced with 3" caliper or larger trees at a density of one and a half (1.5) times the unit value of the tree removed, i.e. a 30"DBH specimen tree (4.9 density units) must be replaced with 7.35 units. Specimen tree replacement density is in addition to the minimum required density for the site.

(B) Any specimen tree, which is fatally damaged during construction, as determined by the City Arborist, or removed without the appropriate review and approval of the City Arborist, must be replaced with 4" caliper or larger trees with a total density equal to three (3) times the unit value of the tree removed. Size alone will determine whether a tree was of specimen quality if the tree is removed without approval. Additionally, the area that encompassed the Critical Root Zone of the specimen tree shall remain undisturbed to allow for the planting of replacement trees.

(t) Tree Protection

(1) The following minimum tree protection measures must be in place for all tree save areas:

(A) Trees identified for preservation shall have protection fencing that is a minimum of four (4) feet high installed at the edge of the critical root zones. The City Arborist shall have the discretion to require the installation of four (4) foot high minimum chain link fencing in those areas where the likelihood of possible encroachment occurs. All tree protection zones shall be designated as such with signage posted visibly on all sides of the fenced area. Signs requesting workers' cooperation and compliance with tree protection standards are recommended at the site entrance(s).

(B) All tree protection zones shall be designed to prevent the sedimentation of erosion material. Silt fences must be placed along the outer uphill edges of tree protection zones at the development interface.

(C) No person shall encroach into the tree protection zones. Construction activities, including but not limited to, parking, vehicle and foot traffic, material storage, concrete washout, debris burning, and other activities shall be arranged so as to prevent disturbance within the protected areas.

(D) Reasonable efforts shall be made to locate utility lines along corridors between tree protection zones. If utility lines must encroach into the protection zones, they shall be installed by tunneling rather than trenching.

(E) All tree protection devices shall remain in fully functioning condition until the Certificate of Occupancy is issued.

(i) Any tree, designated for preservation, which is negligently damaged during construction or removed without the appropriate review and approval, as determined by the City Arborist, shall be treated according to the National Arborists Association Standards. If fatally damaged, the tree(s) shall be replaced with four (4) inch caliper trees equal to the unit value of the tree removed. Any specimen tree damaged as described above shall be replaced with trees equal to three (3) times the unit value of the tree removed.

(ii) All tree protection zones shall be mulched with at least four (4) inches and not more than eight (8) inches of organic mulch, such as pine straw, wood chips, tree leaves, or compost.

(iii) There shall be no construction activity inside the tree save areas, including but not limited to, grading, paving, and construction of buildings and other structures.

(iv) The site shall be designed and maintained in a manner to ensure proper drainage in tree save areas during and after construction.

(F) The developer shall designate a Tree Protection Supervisor. This person shall demonstrate knowledge in the area of tree protection practices during construction and shall be on site to ensure tree protection measures are enforced. The Tree Protection Supervisor shall participate in a Pre-Construction Conference with the City prior to the commencement of any development. The Tree Protection Supervisor must notify the City Arborist immediately should any tree damage occur on the site.

(G) Tree Protection inspections shall be performed by a Certified Arborist or Registered Forester during construction. The inspections shall be conducted prior to the commencement of development, immediately following the clearing and grubbing phase, immediately following the grading phase, and at the end of the project before a Certificate of Occupancy (commercial developments) is issued or the Final Plat approved (residential developments). The site shall be inspected to ensure all tree protection regulations are being met and to identify any existing or developing tree-related problems that require treatment. An inspection report shall be prepared and certified by the inspector and submitted to the City Arborist. Any damage noted shall be treated according to the recommendation of the inspector prior to the issuance of a Certificate of Occupancy or approval of the Final Plat. The City Arborist shall have the authority to require additional reports should he/she determine significant construction damage has occurred, the Tree Protection Supervisor has

failed to enforce minimum protection standards, or if other development processes, including but not limited to utility placement and building construction, may impact the tree save areas.

(2) MAINTENANCE All maintenance activities performed on preserved or planted trees to be included in the tree density requirements shall be performed according to the most current professional standards, including, but not limited to, the standards described below. It shall be the responsibility of the property owner to ensure such work is in compliance. Should maintenance activities on said trees not be in compliance with such professional standards, the property owner will be responsible for replacing the damaged trees with new trees of an equivalent density value, based on the DBH at the time damage occurs.

(A) Nursery Stock: All nursery stock shall meet standards defined in the *American Standard for Nursery Stock ANSI Z60.1*.

(B) Pruning: All pruning shall be done in accordance with *ANSI A300 (Part 1) Standards for Tree Care Operations – Pruning*. Tree topping is not allowed. Crown reduction pruning shall be used instead to reduce the height of a tree when necessary. Topped trees shall not be counted toward tree density requirements.

(C) Fertilization: All tree fertilization shall be performed in accordance with *ANSI A 300 (Part 2) Standards for Tree Care Operations – Fertilization*.

(D) Cabling and Bracing: All cabling and bracing installation and maintenance shall be performed in accordance with *ANSI A300 (Part 3) Standards for Tree Care Operations – Cabling and Bracing*.

(E) Lightning Protection: All lightning protection installation and maintenance shall be performed in accordance with *ANSI A300 (Part 4) Standards for Tree Care Operatioins – Lightning Protection*.

(F) Safety: All tree-related work shall be performed in accordance with *ANSI Z133.1 Standards for Tree Care Operations – Safe Work Practices*.

(3) ENFORCEMENT It shall be the duty of the City Arborist to enforce this Ordinance. The City Arborist shall have the authority to revoke, suspend, or void any Development Permit and shall have the authority to suspend all work on a site or any portion thereof. The City Arborist shall have the authority to approve alternate methods of compliance with the provisions of this article when he/she determines the overall intent of the article and/or specific guidelines can be met.

(4) VIOLATION AND PENALTY Any person, firm, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of an ordinance violation. Each day's continuance of a violation shall be considered a separate offense. The

owner of any property wherein a violation exist, and any builder, contractor, agent who may have assisted in the commission of any such violation, shall be guilty of a separate offense. The Dunwoody Municipal Court shall have jurisdiction to try offenses to these regulations.

(5) APPEAL Any person aggrieved or affected by any decision of the City Arborist relating to the application of this ordinance may appeal to the Zoning Board of Appeals for relief or reconsideration within thirty (30) days from the date of the adverse determination by the City Arborist.

(6) EFFECTIVE DATE This ordinance shall become effective upon approval by the Dunwoody City Council.

(7) Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance in whole or any part thereof other than the part so declared invalid.

(8) CONFLICTING RESOLUTIONS REPEALED the provisions of any ordinance or parts of ordinance in conflict herewith are repealed.

APPENDIX X PROCEDURE FOR CALCULATING THE REQUIRED TREE REPLACEMENT DENSITY FACTOR.

The following abbreviations are used below:

TDF-Tree Density Factor
RTF-Remaining Tree Factor
RRD-Required Replacement Density

Step 1. Calculate the tree density factor (TDF) for the site multiplying the number of site acres by 20.

EXAMPLE: A 2.2 acre site has a TDF OF 2.2 x 20 = 44.

Step 2. Calculate the existing trees, which will remain, or the Remaining Tree Factor (RTF). These will remain on site and be protected during construction. The RTF is determined by converting the DBH of individual existing trees to density factor units, using Table 1. These units are then totaled to determine the RTF for the site.

EXAMPLE: A total of 15 trees will remain on the 2.2 acres site in Step 1. These trees include:

7 - 12" pines
3 - 14" pines
3 - 18" oaks
1 - 20" hickory
1 30" oak

When converted to density factor units using Step 1, we arrive at the following values:

DBH	UNITS		QUANTITY		# TREES
12"	.8	x	7	=	5.6
14"	1.1	x	3	=	3.3
18"	1.8	x	3	=	5.4
20"	2.2	x	1	=	2.2
30"	4.9	x	1	=	4.9
			RTF	=	21.4

The sum total of units, 21.4, is the RTF.

Step 3. Calculate the required replacement density (RRD) by subtracting the RTF (Step 2) from the TDF (Step 1).

RRD = TDF - RTF

EXAMPLE: RRD = 44 - 21.4
RRD = 22.6

Step 4. The RRD can be converted back to caliper inches using Table 3. Any number or combination of transplantable size trees can be used so long as their total density factor units will equal or exceed the RRD.

EXAMPLE: On the 2.2-acre site the following number and size of trees will be planted:

Number	Size	Species	Density Factor
15	6’	Pines	(12 x .4) = 6.0
20	2"	Red Maples	(20 x .5) = 10.0
7	6"	Oaks	(7 x 1.0) = 7.0
			23.0

23.0 is greater than the RRD of 22.6 thus the minimum requirements have been met.

TABLE 1. SAMPLE TREE DENSITY CALCULATION

Required TDF
2.2 acres x 20 units/acre = 44 units required

RTF (Remaining Tree Factor)

SIZE	UNITS	NUMBER	TOTAL UNITS
24"	3.1	2	6.2
18"	1.8	10	18.0
10"	0.6	8	4.8
		TOTAL RTF	29.0

RRD (Required Replacement Density)

SIZE	UNITS	NUMBER	TOTAL UNITS
2"-3"	.5	10	5.0
1"	.4	100	40.0
		TOTAL RRD	45.0

RTF + RRD > or = TDF
29 + 45.0 = 74.0 > or = 44, therefore Tree DENSITY SATISFIED

TABLE 2. EXISTING TREES TO REMAIN. Conversion from DBH to density factor units for RTF, or Remaining Tree Factor.

DBH	UNITS	DBH	UNITS	DBH	UNITS
1-4	0.1	22	2.6	37	7.5
5-7	0.3	23	2.9	38	7.9
8-9	0.5	24	3.1	39	8.3
10	0.6	25	3.4	40	8.7
11	0.7	26	3.7	41	9.2
12	0.8	27	4	42	9.6
13	0.9	28	4.3	43	10.1
14	1.1	29	4.6	44	10.6
15	1.2	30	4.9	45	11
16	1.4	31	5.2	46	11.5
17	1.6	32	5.6	47	12
18	1.8	33	5.9	48	12.6
19	2	34	6.3	49	13.1
20	2.2	35	6.7	50.	13.6
21	2.4	36	7.1		

TABLE 3. REPLACEMENT TREES. Conversion from caliper to density factor units for replacement trees. (1,2)

Caliper: Single-Stem Deciduous Trees	Density Units
2”	0.5
3”	0.6
4”	0.7
5”	0.9
6”	1.0

Height: Multi-Stem Deciduous Trees	Density Units
12’ to 14’	0.5
14’ to 16’	0.6
16’ to 18’	0.7
18’ to 20’	0.9

Height: Evergreen Trees	Density Units
6’ to 8’	0.4
8’ to 10’	0.5
10’ to 12’	0.6
12’ or greater	0.7

2. Tree relocation: Replacement units will be granted to trees relocated on site. Tree relocation is subject to City Arborist and/or Zoning Enforcement officer approval.

APPENDIX X STANDARDS FOR SELECTING QUALITY REPLACEMENT STOCK

1. Trees selected for planting must meet minimum requirements as provided below and in the American Standard of Nursery Stock.

(a). Trees selected for planting must be free from injury, pests, disease, or nutritional disorders.

(b). Trees selected for planting must be of good vigor. The determination of vigor is a subjective evaluation, and dependent upon species variability. The following criteria is generally used for the determination of vigor:

(1) Foliage should have a green or dark green color. Vigorous trees will have large leaves and dense foliage when compared to trees with poor vigor.

(2) Shoot growth for most vigorous trees will be at least 1 foot per year. At least 1/2 of the branches should arise from the top 1/3 and 1/2 from the center 1/3.

(3) Bark texture can denote vigor. Smooth or shiny bark on the trunk and branches of a young tree usually signifies good vigor, conversely, rough and full bark could indicate poor vigor.

(4) Trunk taper. The trunks of vigorous trees will generally have an increase in diameter with a decrease in height. Trees with reverse tapers or no taper should be avoided.

(5) Root color. Young roots of most trees will be light in color.

(6) Trees selected for planting must be free of root defects. Two types of root defects generally occur:

(a) Kinked roots, in which taproots, major branch roots, or both are bent more than 90 degrees with less than 20 percent of the root system originating above the kink. A tree with such roots will probably bend at the soil line when released from a supporting stake.

(b) Circling or girdling roots which circle 80 percent or more of the root system by 360 degrees or more. A tree with such roots would ultimately have less than 20 percent of its system available for support.

APPENDIX X TRANSPLANTING STANDARDS

1. The transplanting of new trees can result in major injury to their root system. If proper transplanting techniques are employed, conditions will be more favorable for tree recovery, and the rate of attrition for newly planted trees will be reduced.

2. Transplanting procedures shall follow standards established by the International Society of Arboriculture in the "Trees and Shrub Transplanting Manual", and the booklet by the Georgia Extension Service entitled "Plant Trees Right!" The following is a summary several of the more important considerations provided in the manual and booklet.

(a) Preplanting considerations.

(1) Only healthy trees with a well-developed root system and a well-formed top, characteristic of the species should be planted.

(2) Trees selected for planting must be compatible with the specific site conditions.

(3) The ability of a species to regenerate a new root system and to become reestablished should be considered. Generally, deciduous trees should be planted in the fall after leaf drop, or in early spring before bud break. There are indications that bare root trees will re-establish more readily if planted in early spring just prior to bud break.

(b) Planting procedures

(1) Planting holes should be at least three times the diameter of the root ball.

(2) Trees should not be planted deeper than they were in their former location or container.

(3) Spade compacted bottom and sides of the planting hole should be roughed or scarified to allow the penetration of developing roots.

(4) Good water drainage from the bottom of the planting hole is essential for root regeneration.

(5) Once the transplanted tree is set, the hole should be backfilled with soil of good texture and structure. Traditionally, backfill material is comprised of a mix of negative soil, organic matter such as peat, and inorganic material such as perlite or vermiculite in a 1:1:1 ration. There are indications that a backfill with native soil alone may be adequate.

(6) The addition of fertilizer to backfill soil can cause root injury, and is therefore not recommended. If fertilizer must be added, a low rate should be used. Approximately 1.5 pounds of nitrogen per cubic yard of backfill is recommended for bare root plants, and 2.5 pounds of nitrogen per cubic yard of backfill for balled and burlapped trees.

(7) The backfill should be gently tamped (but not compacted), and soaked for settling.

(8) The soil should be slightly mounded to allow for settling; a ridge or dike around the perimeter of the hole can facilitate watering.

APPENDIX X SUBSTANTIAL BUILDING PERMIT

A. Example one

1. The 100 percent assessed value of the improvements of a 10,000 square foot shopping center is assessed by Dekalb County at $250,000.

2. In January the owner is issued a permit in the amount of $25,000 to replace heating and air conditioning equipment. Three months later he is issued a permit in the amount of $50,000 to replace the roof covering and add a false mansard roof.

3. Does this equate to a Substantial Building Permit?
$25,000 + $50,000 = $75,000 (building permits 12 months)
$75,000 / $250,000 = 30.00% < 50.00%
This case is not a substantial building permit.

B. Example two

1. The 100 percent assessed value of the improvements of a 10,000 square feet shopping center is assessed by Dekalb County at $250,000.

2. The owner decides to build phase two of the shopping center, which includes an additional 6,000 square feet of space. The low bid on the job is $200,000.

3. Does this equate to a Substantial Building Permit?
$200,000 / $250,000 = 80.00% > 50.00%
Yes, this is a substantial building permit.

C. Example three

1. A site is cleared and graded for a gas station but not developed therefore the counties assessed value of the improvements is $0.

2. Two years later the owner applies for a building permit in the amount of $500,000 for the construction of a gas station.

3. Does this equate to a Substantial Building Permit?
Yes, because the permit exceeds half of the value of the improvements. In this case the formula used in examples one and two are not appropriate because zero can not be used as a denominator but obviously the value of the permit exceeds half of the improvement value.

APPENDIX X PLANTING STANDARD

A. The best way to plant (see diagram attached).

1. After selecting a suitable location, mark out a planting area that is five times the diameter of the planting ball. Use a rototiller or shovel to loosen and mix the soil in this entire area to a depth of about 12 inches.

2. In the center of the prepared area, dig a shallow hole to set the tree or shrub. The hold should allow the root ball to sit on solid ground rather than loose soil. Once the ball is set the hole, its upper surface should be level with the existing soil.

3. After the tree is properly situated, cut and remove the rope or wires holding the burlap in place and securing any part of the tree.

4. Backfill around the root area, and gently firm the soil to prevent major air pockets. Do not pack the soil. Water can be used to help the soil settle and prevent overpacking. Rake the soil even over the entire area, and cover it with two to four inches of mulch. Maintaining the mulch layer carefully will improve tree growth substantially.

5. Water berms or dikes are not recommended as they encourage abnormal root growth.

6. It is best not to stake the tree, but if wind is a problem or the tree starts to lean, support it with a flexible stake so the trunk will sway in the wind. The movement is necessary for building the trunk's strength. Remove the stake and wire after one growing season since leaving wire or string around the tree can cause death.

7. Do not wrap the trunk with "protective" tape. It will slow the tree's ability to adapt to the site and provide a home for insects. Tree barks needs air and sunlight in order to build a healthy protective sheath.

Section 13: Stormwater Management

(a) The governing authority believes the City's stream systems are a valuable natural resource that requires joint and cooperative action by the City and the development

industry to resolve existing stormwater management and flooding problems, prevention of their worsening or recurrence while utilizing this resource for the good of the entire City.

The development industry and the City shall cooperate to control water quality and maintain the City's drainage and stream systems from stormwater runoff resulting from development activities.

(b) Standards.

(1) The City of Dunwoody shall require all land development to comply with the criteria, technical specifications, and standards of the Georgia Stormwater Management Manual, as may be hereafter amended. The rainfall intensities used in hydrologic and hydraulic computations shall be those published in the Georgia Stormwater Management Manual.

(2) Applicability. A combination of storage and controlled release of stormwater runoff shall be required for all development and construction for the entire site which meets one (1) or more of the following criteria:

(A) Increases the peak rate of runoff from the site by more than one (1) cubic foot per second for a ten-year frequency storm;

(B) Involves the creation of five thousand (5,000) square feet or more of impervious cover, or that involves other land development activities of one (1) acre or more;

(C) Includes the creation, addition or replacement in redevelopment of five thousand (5,000) square feet or more of impervious cover, or that involves other land development activity of one (1) acre or more;

(D) Any new development or redevelopment, regardless of size, that meets the definition of a stormwater hotspot; or

(E) Land development activities that are smaller than the minimum applicability criteria set forth in items (A) and (B) above if such activities are part of a larger common plan of development, even though multiple, separate and distinct land development activities may take place at different times on different schedules.

(3) Exemptions. The provisions of this section shall not apply to the following criteria:

(A) Individual single-family or duplex residential lots that are not part of a subdivision or phased development project unless they meet one (1) of the criteria listed above in (b)(2);

(B) Additions or modifications to existing single-family or duplex residential structures unless it meets one (1) of the criteria listed above in (b)(2);

(C) Agricultural or silvicultural land management activities within areas zoned for these activities; and,

(D) Repairs to any stormwater management facility or practice deemed necessary by the Director.

(E) The Director may exempt the owner from those provisions of this section where complete compliance with those specific provisions is physically impossible.

(F) If the installation of a stormwater management facility would reduce downstream flood peaks by less than one (1) percent.

(G) The requirements, or portions thereof, of subsections (2) and (3) above shall not be waived if the Director determines that such waiver would increase known flooding problems, or exceed the capacity of the downstream drainage system.

(H) A waiver of these minimum runoff quantity control requirements may be granted only after a written request is submitted by the applicant containing descriptions, drawings, and any other information that is necessary to evaluate the proposed land disturbing activity. A separate written waiver request shall be required if there are subsequent additions, extensions, or modifications, to the development which would alter the approved stormwater runoff characteristics of a land disturbing activity receiving a waiver.

(I) Appeals from said waiver decisions may be taken to the Board of Zoning Appeals pursuant to the provisions of Section 8(c) of this Article.

(4) If forty (40) percent of a site is to be redeveloped, all stormwater requirements must be met for the redeveloped area only and the non-disturbed area will be treated as predeveloped prior to the redevelopment. But if more than forty (40) percent of the site is to be redeveloped, then the entire site must meet all stormwater requirements.

(5) A downstream peak flow analysis will include the assumptions, results and supporting calculations to show safe passage of post-development design flows downstream. The analysis of downstream conditions in the report shall address each and every point or area along the project site's boundaries at which runoff will exit the property. The analysis shall focus on the portion of the drainage channel or watercourse immediately downstream from the project. This area shall

extend downstream from the project to a point in the drainage basin where the project area is ten (10) percent of the total basin area. In calculating runoff volumes and discharge rates, consideration may need to be given to any planned future upstream land use changes. The analysis shall be in accordance with the Georgia Stormwater Management Manual.

(6) Detention designs may be rejected by the Director if they incorporate structures and facilities that will demand considerable maintenance or will be difficult to maintain or will utilize numerous small structures if other alternatives are physically possible.

(7) Discharge velocities from detention facilities shall be reduced to provide a non-erosive velocity flow from a structure, channel, or other control measure as set forth in the approved Georgia Stormwater Management Manual.

(8) Stormwater management and flood control facilities may include both structural and nonstructural components. Natural or planted vegetation as well as other natural runoff conduits are examples of these non-structural components and shall be retained where practicable. In addition, these components must provide for or enhance stormwater quantity and/or quality control or other stormwater benefits.

(9) The drainage system being developed shall have adequate capacity to accommodate the flow from all upstream areas for a one hundred-year storm event.

(10) The drainage system from a proposed development must discharge into an outfall that has adequate capacity to accommodate the runoff from the development. If the connecting downstream system is not able to accommodate the allowable design flows from the site, then the design engineer must design drainage facilities with the capacity to over-detain flows so they can be accommodated by the existing downstream conveyance structures whereby allowing the existing downstream system to operate correctly. If downstream easements are needed to extend the drainage system to an adequate outfall, the developer shall obtain these easements.

(11) A landscaping plan shall be submitted for all detention and other storage facilities as part of the overall drainage plan.

(12) Land uses within the intermediate regional floodplain shall not diminish or restrict the capacity of the channels or floodplains of the stream, its tributaries, drainage ditches or any other stormwater management facilities or systems and shall not increase the IRF elevation or velocity or concentration of flow in downstream areas. The development permit shall be denied if the required hydrologic studies reveal that a request for filling or grading within the intermediate regional floodplain would overload the capacity of the channel downstream or increase flood stages upstream, unless equivalent flow and storage capacity is replaced and

maintained by the owner within the intermediate regional floodplain. Altered sections of the intermediate regional floodplain shall have a positive slope so as to provide positive drainage back to the stream flow line and this section must be maintained by the owners in perpetuity so as to prevent or remove silt buildup.

(13) Excavation within floodplain areas shall not be permitted unless the excavation can be accomplished in such a manner that the existing low level drainage pattern through the floodplain shall be maintained. The area of compensation within the floodplain shall be considered as ineffective flow area for the purpose of calculating floodplain elevations to meet no-rise certification requirements. The amount of compensation shall be limited to one hundred fifty (150) cubic yards per acre of floodplain area.

(14) The live detention storage to be provided shall be calculated on the basis of the one hundred-year frequency rainfall as published in the Georgia Stormwater Management Manual. The detention system required shall be necessary to handle the runoff of a one hundred-year rainfall, for any and all durations from the post-development, with a release rate that does not exceed the pre-development release rate during the same duration storm. Detention control structures and other drainage improvements shall be located and designed to prevent erosion damage to adjacent property owners.

(15) When the applicant requests and the Director determines that development and construction projects are too small, or that engineering and economic factors make combined detention or other stormwater management facilities more practical, the City may authorize the joint construction of these facilities to serve two (2) or more properties by two (2) or more applicants. This authorization shall be granted by the Board of Zoning Appeals upon application for approval being submitted through the Director. Where joint detention facilities serving two (2) or more properties are approved for construction, no use of land or occupancy of buildings within the properties served by these facilities shall be permitted until completion of the detention facility, except upon approval of the Board of Zoning Appeals.

(16) The following requirements shall apply to the installation, development and maintenance of all stormwater and sedimentation control facilities designed for temporary storage of stormwater runoff:

(A) Permanent fencing at least four (4) feet in height shall be required around all facilities having a temporary water storage depth of greater than four (4) feet or those designated by the board of health as constituting a public health hazard.

(B) This fencing shall be designed, installed and maintained to allow the free flow of runoff and sediment into the facility. Fencing shall be established on the outside edge of a facility. The fence shall include a gate of

sufficient size to permit entrance of equipment necessary to allow periodic maintenance activities. The gate shall be placed in a manner such that the gate does not obstruct reasonable access or become obstructive. The Director may waive fencing in nonresidential areas where a pond is more than five hundred (500) feet from a residential district and in residential districts when detention is provided in natural areas such as stream channels and fencing in the opinion of the Director would damage the environment or affect stream flow.

(C) The access easement to the facility shall not have a profile slope steeper than thirty-three (33) percent and a cross slope of no more than ten (10) percent. The elevation of the maintenance easement around the facility shall be established at the top of the dam or wall elevation and be constructed with a cross slope of no more than ten (10) percent to the drainage facility. Fencing that complies with the requirement of subsection (b)(16)(B) of this section shall be constructed on the outside edge of the maintenance easement. Gates that comply with the requirements of subsection (b)(16)(B) of this section shall be constructed on each maintenance easement.

(D) Detention and sedimentation control facilities shall not be placed in any of the following:

(i) Transitional buffer zones as defined by the City of Dunwoody Zoning Ordinance.

(ii) Floodplains.

(iii) Wetlands.

(iv) Stream buffer zones.

(v) State buffer zones.

(E) Perforated standpipes or a French drain, in accordance with published design standards available from the Director, or other methods which will achieve equal performance to prevent standing water and inadequate drainage, shall be installed within all the detention and sedimentation control facilities.

(F) Except as otherwise provided in this section, the commercial and/or multifamily residential property owner shall be responsible for the maintenance of the stormwater management facilities during grading, construction, and following final approval of the completed project. This maintenance and certification obligation shall be binding on all future owners, successors and assigns of the property.

(G) In the case of single-family residential subdivisions approved after the date of adoption of this provision, and in accordance with the requirements of Article III of this Chapter, the City may assume maintenance responsibility one (1) year after the release of the performance bond for subdivision streets. A special drainage district as authorized by the Georgia Constitution, Article IX, Section II, Paragraph VI, may be established for property in a single-family residential subdivision at the time the plat is finally recorded, and will be so noted on the plat. Upon completion of developer maintenance, all detention ponds shall have a positive slope to the outlet in order to facilitate complete drainage.

(H) Stormwater management facilities in single-family residential subdivisions constructed under permits issued prior to the adoption of the City ordinance assigning maintenance responsibility will not be accepted for City maintenance unless individually approved by and at the discretion of the Board of Zoning Appeals and suitable access easements are provided. At the time the Director accepts a detention facility for City maintenance, a special drainage district may be established that includes all properties for which the detention facility is designed to compensate for increased peak runoff rates due to development.

(17) In residential districts, not less than seventy (70) percent of the minimum lot area, as established by applicable zoning district development standards, shall be above the intermediate regional flood elevation contours with the exception that lots in the R-150 district shall conform to requirements of the R-100 district.

(18) All buildings located adjacent to the intermediate regional floodplain shall be constructed so that all portions of the structure, including the basement floor or crawl areas, shall be not less than three (3) feet above the intermediate regional flood elevations; however, structural support units may be located within the intermediate regional floodplain, provided they do not conflict with the hydrologic design characteristics of the approved plans and do not conflict with other requirements of this Article. Any structure or manufactured home so erected must be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure, and be constructed with flood-resistant materials and utility equipment resistant to flood damage. Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Floodproofing of residential construction will be in accordance with subsection (b)(10) of this section. When floodproofing is utilized for a nonresidential structure, the owner of the property shall obtain written certification from a registered professional engineer or architect and shall provide such certification to the Director before the Director approves such activity.

(19) The profile elevation of the centerline of all public streets shall be constructed a minimum of one (1) foot above the intermediate regional flood elevation contours. The Director may grant exceptions to this provision in cases where construction of the street elevation is below the intermediate regional flood elevation and elevation contours would improve drainage or reduce the effects of flooding.

(20) Special drainage system maintenance requirements are as follows:

(A) Pursuant to all applicable City and County law, trash, garbage, construction materials, construction by-products or other debris shall not be deposited in any part of the drainage system.

(B) No restriction or barriers, including fences, may be placed in the drainage system or intermediate regional floodplain without first obtaining a development permit. When on-site or off-site debris has accumulated within an intermediate regional floodplain in such a manner as to interfere with the free flow of water so as to increase the risk of hazardous inundation of upstream properties adjacent to the intermediate regional floodplain, the Director shall require the owner of the property where this debris was generated, if its source can be identified, to clear and remove the debris so as to permit the free flow of water.

(C) No impoundment of water which retains in excess of five-tenths (0.5) acre-ft of runoff shall be removed without first obtaining a development permit, which shall only be issued after competent engineering studies provided by the applicant show that this removal will not adversely affect downstream properties.

(D) No permanent structures or additions shall be constructed within the intermediate regional floodplain other than those non-building facilities required or authorized by the Director which will not conflict with the hydrologic design characteristics of the approved development and construction plans. Land within the intermediate regional floodplain may be used to meet setback, yard, open space and buffer requirements in accordance with applicable provisions of the City of Dunwoody Zoning Ordinance and the buffer requirements of this Chapter.

(21) Any proposal for development in a regulatory floodway as identified on the flood boundary-floodway map must be accompanied by engineering certifications assuring that no increase in the flood levels of the base flood would be caused by the proposed development. Such proposals include culverts and bridges.

(22) New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundations and other exterior walls below the base flood elevation shall be designed to preclude finished living space and

designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls, as follows:

(A) Designs for complying with this requirement must either be certified by a currently state-registered professional engineer or currently state-registered professional architect and meet the following minimum criteria:

(i) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding.

(ii) The bottom of all openings shall be no higher than one (1) foot above grade.

(iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(B) Electrical, plumbing and other utility connections are prohibited below the base flood elevation.

(C) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(D) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

Section 14: Water Quality Control

The following provisions are included in the land development regulations in order to control the water quality of storm runoff from all development and construction activities and all developed sites:

(a) Standards.

(1) New development and redevelopments in the City of Dunwoody must use the stormwater quality site development review tool to facilitate the evaluation of the project in accordance with recommendations of this ordinance and the Georgia Stormwater Management Manual.

(2) At a minimum, new projects shall include stormwater quality provisions and the BMPs necessary to accomplish each of the following.

(A) Water quality BMPs must be installed on all developments to improve the water quality of the storm runoff from the development site. Stormwater management systems (which can include both structural stormwater controls and better site design practices) must be designed to remove eighty (80) percent of the average annual post-development total suspended solids load. As a minimum, the runoff from the first one and two-tenths (1.2) inches of rainfall must be treated. Acceptable BMPs for treating stormwater runoff are set forth in the Georgia Stormwater Management Manual.

(B) BMPs shall be used to control discharges into the local drainage system of any organic or inorganic matter that cause or tend to cause pollution of such waters.

(i) Minimization of impervious areas within developments and minimization of impervious areas directly connected to the local drainage system is encouraged as a non-structural BMP for water quality and quantity control.

(ii) A plan shall be provided to protect all existing wetland/floodplain areas within the development site.

(b) Drainage plans. The following performance criteria shall be used by the City in evaluating all drainage plans, unless otherwise provided for in this section:

(1) Water quality. All stormwater runoff generated from a site shall be adequately treated before discharge. It will be presumed that a stormwater management system complies with this requirement if:

(A) It is sized to treat the prescribed water quality treatment volume from the site, as defined in the Georgia Stormwater Management Manual;

(B) Appropriate structural stormwater controls or nonstructural practices are selected, designed, constructed or preserved, and maintained according to the specific criteria in the Georgia Stormwater Management Manual; and,

(C) Runoff from a stormwater hotspot and activities identified by the City of Dunwoody are adequately treated and addressed through the use of appropriate structural stormwater controls, nonstructural practices and pollution prevention practices.

(c) Stream channel protection. Protection of stream channels from bank and bed erosion and degradation shall be provided by using all of the following three (3) approaches:

(1) Preservation, restoration and/or reforestation (with native vegetation) of the applicable stream buffer;

(2) Twenty-four-hour extended detention storage of the one-year, twenty-four-hour return frequency storm event;

(3) Erosion prevention measures such as energy dissipation and velocity control.

(d) Overbank flooding protection. Downstream overbank flood and property protection shall be provided by controlling (attenuating) the post-development peak discharge rate to the pre-development rate for the twenty-five-year, twenty-four-hour return frequency storm event. If control of the one-year, twenty-four-hour storm is exempted, then peak discharge rate attenuation of the two-year through the twenty-five-year return frequency storm event must be provided.

(e) Extreme flooding protection. Extreme flood and public safety protection shall be provided by controlling and safely conveying the one hundred-year, twenty-four-hour return frequency storm event such that flooding is not exacerbated.

(f) Structural stormwater controls. All structural stormwater management facilities shall be selected and designed using the appropriate criteria from the Georgia Stormwater Management Manual. All structural stormwater controls must be designed appropriately to meet their intended function. For other structural stormwater controls not included in the Georgia Stormwater Management Manual, or for which pollutant removal rates have not been provided, the effectiveness and pollutant removal of the structural control must be documented through prior studies, literature reviews, or other means and receive approval from the Director before being included in the design of a stormwater management system.

(g) Stormwater credits for nonstructural measures. The use of one (1) or more site design measures by the applicant may allow for a reduction in the water quality treatment volume required. The applicant may, if approved by the Director, take credit for the use of stormwater better site design practices and reduce the water quality volume requirement. For each potential credit, there is a minimum set of criteria and requirements that identify the conditions or circumstances under which the credit may be applied. The site design practices that qualify for this credit and the criteria and procedures for applying and calculating the credits are included in the Georgia Stormwater Management Manual.

(h) Drainage system guidelines. Stormwater conveyance facilities, which may include but are not limited to culverts, stormwater drainage pipes, catch basins, drop inlets, junction boxes, headwalls, gutter, swales, channels, ditches, and energy dissipaters shall be provided when necessary for the protection of public right-of-way and private properties adjoining project sites and/or public right-of-ways. Stormwater conveyance facilities that are designed to carry runoff from more than one (1) parcel, existing or proposed, shall meet the following requirements:

(1) Methods to calculate stormwater flows shall be in accordance with the Georgia Stormwater Management Manual;

(2) All culverts, pipe systems and open channel flow systems shall be sized in accordance with the stormwater management plan using the methods included in the Georgia Stormwater Management Manual; and

(3) Design and construction of stormwater conveyance facilities shall be in accordance with the criteria and specifications found in the Georgia Stormwater Management Manual.

(A) Stream buffers shall be established along all streams throughout the City.

(i) Stream buffers shall consist of an undisturbed stream buffer a minimum of seventy-five (75) feet from each stream bank and shall preserve any existing mature riparian forest that can provide shade, leaf litter, woody debris and erosion protection to the stream. Land use in the stream buffer is limited to stormwater channels, footpaths, and utility or roadway crossings, except as otherwise provided below.

(ii) Within the stream buffer, the Director may approve specific encroachments of multi-use trails that are part of a Master Plan for Multi-Use Trails in the City of Dunwoody approved by the City Council. Such encroachments shall be limited to specific locations not less than twenty-five (25) feet from the banks of state waters when, after study of alternative trail alignments, the Director determines that there is no feasible alternative to the proposed encroachment. Such encroachments shall be designed to minimize impervious surfaces and shall incorporate BMPs and other mitigation practices that minimize the impact of encroachments on water quality.

(iii) The stormwater discharge crossing a stream buffer or state buffer zone shall be designed to ensure that sheet flow is established through the stream buffer and prevent channelized flow through the stream buffer.

(iv) Piping of streams shall not be allowed in a stream buffer except where a variance is granted as provided in Article II Section 8(b)(3). However, perpendicular crossings of roads and utility crossings such as sewer pipes and water pipes may be allowed, but should be kept to an absolute minimum. Within transitional buffer zones, a property owner may remove unwanted ground cover (e.g. poison ivy) using hand tools, and in conformance with section 11(b)(4)(C)(xv).

Section 15: Groundwater recharge area

Development within groundwater recharge areas, as delineated by the Georgia Department of Natural Resources' (DNR) Significant Recharge Areas, Hydrological Atlas 18 (1989 Edition) and the DNR's Pollution Susceptibility Map, shall meet the criteria for the protection of groundwater recharge areas established in Chapter 391-3-16-.02 of the DNR's Rules for Environmental Planning Criteria.

Article III: Subdivisions

Division 1: Generally

Section 1: Title

This Article shall be known, cited, and referred to as the subdivision regulations of the City of Dunwoody.

Section 2: Effective Date

These subdivision regulations shall become effective upon adoption of this ordinance by the City Council.

Section 3: Policies and Purposes

(a) Policies.

(1) It is declared to be the policy of the City of Dunwoody to consider the subdivision of land and the subsequent development of the subdivided land as subject to the control of the City pursuant to the City's official Comprehensive Plan in order to promote the orderly, planned, efficient, and economical development of the City.

(2) Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace.

(3) The existing and proposed public improvements shall conform to and be properly related to the proposals shown in the Comprehensive Plan, official map, and the capital budget and program of the county, and it is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in building and housing codes, zoning ordinances, the comprehensive plan, official map and land use plan, and the capital budget and program of the City.

(b) These regulations are adopted for the following purposes:

(1) To protect and provide for the public health, safety, and general welfare of the citizens of the City of Dunwoody.

(2) To guide the future growth and development of the City in accordance with the Comprehensive Plan.

(3) To protect and conserve the value of land and the economic stability of all communities in the City and to encourage the orderly and beneficial development of the City through appropriate growth management techniques, including consideration of the timing and sequencing of development, consideration of infill development in existing neighborhoods and nonresidential areas with adequate public facilities.

(4) To guide public policy and both public and private actions in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and public services and support facilities.

(5) To provide for the safe and efficient circulation of traffic throughout the City, having particular regard to avoidance of congestion in the streets and highways and the pedestrians and bicycle traffic movements appropriate to the various uses of lands and buildings, and to provide for the proper location and width of streets and building lines.

(6) To assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in new land developments.

(7) To establish reasonable standards of design and procedures for subdivisions and re-subdivisions to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land.

(8) To ensure to the extent legally possible that public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed subdivision.

(9) To protect and restore the highest quality of the City's air and water resources; to assure the adequacy of drainage facilities; to safeguard the water table, and to encourage the wise use and management of natural resources throughout the City in order to preserve the integrity, stability, and beauty of the City and the value of the land.

(10) To preserve the natural beauty, environment, and topography of the City and to ensure appropriate development with regard to these natural features.

Section 4: Public Purpose

Regulation of the subdivision of land and the attachment of reasonable regulations to land subdivision is an exercise of valid police power delegated by the state to this City. A developer of land has the duty of compliance with the regulations set forth herein for design, dedication, improvement, and restrictive use of the land to conform to the physical and economic development of the City and to the health, safety, and general welfare of the future lot owners in the subdivision and of the community at large.

Section 5: Interpretation

In their interpretation and application, these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted. Any conflict between provisions should be resolved in the way that best serves the purposes of the regulations.

Section 6: Scope and applicability

These regulations shall apply to all subdivision of land, as defined in Article 1, Section 1 of this Chapter, located within the boundaries of the City of Dunwoody.

Section 7: Exemptions

(a) This Article does not apply to a lot or parcel of land established by deed or plat recorded among the land records of Dekalb County prior to the effective date of these subdivision regulations or the division or sale of land by judicial decree.

(b) For purposes of this Article, the division of land into two (2) lots shall be considered a subdivision but exempt from the plat review procedures provided that:

(1) Each proposed lot complies with the requirements of the City of Dunwoody Zoning Ordinance and all conditions of zoning;

(2) Each proposed lot fronts an existing paved public street, which contains the necessary right-of-way width required by this Chapter;

(3) All such plats are drawn to final plat standards in this Chapter; and

(4) The lot being divided is not a lot which resulted from a subdivision of property that was exempt from these regulations in the immediately preceding twenty-four (24) months.

Section 8: Plats not to be recorded until accepted; lots not to be sold in unaccepted subdivision

No person shall record any subdivision plat until it has been approved and accepted by the Director, as the City's designee, nor shall any lot be sold by reference to any subdivision plat whether recorded or not, if the plat is made after the effective date of this Chapter, unless it shall have been approved and accepted by the Director. The recording of a plat shall be based on an approved plat and shall not be recorded solely on the basis of a metes and bounds description.

Section 9: Issuance of building permits and certificates of occupancy; extension of services

No development permit, building permit, or certificate of occupancy shall be issued for a lot or plat subdivided or sold in violation of the provisions of these regulations, nor shall the City have any obligation to extend services to any parcel created in violation of these regulations.

Section 10: Power and duty of Planning Commission to hear variances, criteria to be used in deciding variances, appeals

(a) The Planning Commission, or a Design Review Board if one is created by the City, shall hear and decide applications for variances from the strict application of Division 3 of Article III of this Chapter 14 ("Design Standards"), where strict application of any regulation enacted in Division 3 of Article III would result in exceptional and undue hardship to the owner of such property. These regulations provide the minimum necessary requirements for subdivisions in the City of Dunwoody; thus, variances from the requirements of Division 3 of Article III shall be authorized only upon the Planning Commission or Design Review Board making all of the following findings:

(1) By reason of the shape or topographical conditions of a parcel of property which were not created by the owner or applicant, the strict application of Division 3 of Article III would deprive the property owner of rights and privileges enjoyed by other similarly situated property owners in the same zoning district;

(2) By reason of the shape or topographical conditions of a parcel of property which were not created by the owner or applicant, there is no opportunity for development under any design configuration allowed by these subdivision regulations unless a variance is granted;

(3) The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute the grant of a special privilege inconsistent with the limitations upon other property owners in the zoning district in which the subject property is located;

(4) The requested 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; and

(5) The requested variance will not in any manner vary the provisions of the City of Dunwoody Zoning Ordinance, the City of Dunwoody Comprehensive Plan or the zoning map of the City of Dunwoody.

(b) No variance shall be granted by the Planning Commission or Design Review Board to:

(1) Allow any variance which conflicts with or changes any requirement enacted as a condition of zoning or of a special land use permit by the City Council;

(2) Increase the density allowed on the property; or

(3) Vary the requirements set forth in Division 3, Part E of this Article.

(c) Applications for variances must be submitted in writing to the Director of Community Development along with the application for sketch plat approval or if a variance becomes necessary after the Planning Commission has approved the sketch plat, within thirty (30) days of discovery of the condition(s) requiring such a variance from the preliminary plat. Applications shall contain all those materials and documents required by the Director of Community Development that are necessary to demonstrate the necessity for the variance and compliance with the requirements of this Code. At a minimum, the variance application must contain a full explanation of the reasons for the variance and must include a plat that shows the proposed subdivision designed without the variance and a plat that shows the proposed subdivision designed with the variance.

(d) When the variance application is first considered by the Planning Commission or Design Review Board, the Director of Community Development shall provide the Planning Commission or Design Review Board with written findings of fact and a recommendation for approval or disapproval of the variance.

(e) Applications for variances that accompany the application for sketch plat approval shall be heard by the Planning Commission or Design Review Board contemporaneously with the public hearing on the sketch plat.

(f) Applications for variances from the preliminary plat shall be heard at a public hearing by the Planning Commission or Design Review Board at the next meeting of the Planning Commission or Design Review Board held after the filing of a complete application for variance from the preliminary plat. All land development activity associated with a proposed variance from a preliminary plat shall cease until a final decision on the variance is made by the Planning Commission or Design Review Board. Land development activity that is not related to the proposed variance may continue unabated.

(g) All decisions by the Planning Commission or Design Review Board approving or disapproving a variance must be issued in writing and must provide the grounds for the decision of the Planning Commission or Design Review Board. The Planning Commission or Design Review Board shall issue a final decision on a variance submitted with the application for a sketch plat at the same time that it issues the final decision

approving or disapproving the sketch plat. The Planning Commission or Design Review Board shall issue a final decision on a variance from the preliminary plat within fifty (50) days after the first meeting at which the Planning Commission or Design Review Board considers the variance. If a final decision is not made on a subdivision plat variance in accordance with the time constraints set forth in this section, the variance shall stand disapproved.

(h) Appeals of variances that accompany applications for sketch plat approval shall be made by writ of certiorari to the Superior Court of DeKalb County. Any person or entity (i.e., an owner, applicant, adjoining neighbor or a neighbor whose property line is within one thousand five hundred (1,500) feet of the nearest property line of the proposed subdivision) aggrieved by a variance decision of the Planning Commission or Design Review Board affecting a preliminary plat, may appeal such decision by filing a petition for writ of certiorari to the Superior Court of DeKalb County.

Section 11: Enforcement, violations and penalties

(a) General. It shall be the duty of the Director of Community Development to enforce this Chapter.

(b) Violations and Penalties. Any person, firm or corporation violating any of the provisions of these regulations shall be deemed guilty of an offense and upon conviction in Municipal Court shall be punished as is provided in Chapter 1 of the City of Dunwoody Code of Ordinances. Each violation of these regulations shall be considered a separate offense. The owner of any structures, buildings, lots or parcels or parts thereof, where anything in violation of these regulations exists, and any architect, builder, contractor or any other agent of the owner, or any tenant, who commits or assists in the commission of any violation, shall be guilty of a separate offense.

(c) Enforcement. Appropriate actions and proceedings, including the issuance of stop work orders and actions in a court of law, may be taken by the City of Dunwoody in law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation and to prevent illegal occupancy of a building structure or premises. These remedies shall be in addition to the penalties described above.

Division 2: Plat Approval Procedure

Part A. Conference

Section 1: Conference with City officials

Before filing the sketch plat for a subdivision for review and approval, the applicant shall meet with the Community Development Director or his/her designee to discuss the procedure for approval of a subdivision plat and the requirements as to general layout of streets, reservations of

open space, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing services, including schools. The Director may advise the applicant, when appropriate, to discuss the proposed subdivision with those officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction. This conference will allow early evaluation of the applicant's intentions and coordination with the comprehensive plan and the zoning ordinance. This conference will also allow City officials to discuss with the applicant the necessary regulations that will properly accomplish the project.

Part B: Sketch Plat

Section 1: Application and sketch plat required

The owner of the land where the proposed development is to occur, or his authorized agent, shall file a sketch plat with the Department of Community Development along with an application for approval. The application shall:

(1) Be made on forms prepared by the Department of Community Development;

(2) Be accompanied by minimum of eighteen (18) copies of the sketch plat, which must be prepared by a registered civil engineer, surveyor, architect, or landscape architect, as described in these regulations and complying in all respects with these regulations;

(3) Be accompanied by an application fee in the amount set by the City Council; and

(4) Include the name, address and telephone number of an agent who is authorized to receive all notices required by these regulations.

Section 2: Required information

The following existing conditions shall be shown on a sketch plat:

(1) *Boundary lines.* Perimeter boundary of the overall tract, bearings and distances, referred the legal point of beginning;

(2) *Streets on or adjacent to tract.* Name, right-of-way width, and location of streets on and adjacent to the tract, and any existing railroad, sidewalk, trail, or bike lane;

(3) *Contour data.* Topographic contour data at no more than two-foot elevation intervals. The source of this data shall be written on the plat. Existing contour data from the City of Dunwoody Geographic Information System Department may be used where available;

(4) *Tree survey.* A tree survey in compliance with Article 2, Section 12 or tree sample calculations where allowed by the City Arborist which may be submitted as a separate plan;

(5) *Historic resources.* Any building, structure, site or district identified as historic by the DeKalb County Historic Preservation Commission, the DeKalb County Historic Resources Survey, the City of Dunwoody Historic Preservation Commission, if one is established, the Comprehensive Plan, by listing on the Georgia or National Register of Historic Places, or by listing as a National Historic Landmark.

(6) *Natural features on tract.* Other conditions on the tract such as stream buffers, state waters, cemeteries, wetlands, existing structures, intermediate regional floodplain boundary (where available), rock outcroppings, and archeological resources;

(7) *Soils.* Location of soils as shown on Soil Survey of DeKalb County, Georgia by the United States Department of Agriculture;

(8) *Geographical data.* Numerical and graphic scales, north arrow, land lot and district numbers and lines, city and county names and limit lines;

(9) *Prior subdivisions.* Name and reference of any formerly recorded subdivision crossing any of the land shown on the plat;

(10) *Zoning district.* Show zoning district, case number and conditions of zoning;

(11) *Permits.* Show any special administrative permit number, special land use permit number, or Board of Zoning Appeals case number and conditions;

(12) *Variances.* Show any administrative variance approvals;

(13) *Septic tanks.* Show existing septic tank and drain field location or note absence;

(14) *Sewers.* Show size and location of sanitary sewer main(s) available;

(15) *Sewer easements.* Show a sanitary sewer easement with a minimum width of fifteen (15) feet of for all City and Dekalb County maintained lines not within City or County right-of-way, unless otherwise required by Dekalb County Water and Sewer Department;

(16) *Water mains.* Show size and location of water main(s) and fire hydrants;

(17) *Water main easements.* Show a water main easement with a minimum width of fifteen (15) feet for all City and County maintained lines not within right-of-way;

(18) *IRF.* Show on plan whether FEMA, City or Dekalb County benchmark used to establish IRF also identify location of Benchmark;

(19) *Wetlands.* Provide wetlands determination from U.S. Army corps of engineers;

(20) *Receiving waters.* Provide distance to and name of receiving waters;

(21) *Certificate of conformity.* Certification by the applicant that no lots platted are non-conforming or will result in any non-conforming lots.

(22) *Bury pits.* Show location of any existing inert waste bury pits.

(23) *Seal.* All sheets of plats must be sealed by a professional engineer, architect, surveyor, or landscape architect currently registered in the state of Georgia;

Section 3: Depiction of proposed physical layout

The following proposed features shall be shown on the sketch plat:

(1) *Title.* The title under which the proposed subdivision is to be recorded, if known, with the name of the property owner(s) and designers and the date of the plat;

(2) *Street names.* The name of all proposed streets.

(3) *Rights-of-way.* Street rights-of-way and widths indicated, including any necessary right-of-way required for improvements as shown on the thoroughfare plan;

(4) *Sidewalks.* All proposed sidewalk and bike lane locations;

(5) *Lots.* Lot lines, lot numbers, block letters, and the total number of proposed lots within the development;

(6) *Dedications.* Sites, if any, to be dedicated or reserved for common areas, public parks, open space, schools, playgrounds, multi-use trails, or other public uses, together with the purpose and the conditions or limitations of these dedications, if any;

(7) *Yards.* Minimum building setback lines as required under the yard requirements of the zoning ordinance;

(8) *Zoning conditions.* All conditions of zoning and proposed deed restrictions shall be recited on the sketch plat;

(9) *Corner lots.* Show that corner lots shall have an extra width of not less than fifteen (15) feet more than required for interior lots for the zoning district within which they are located;

(10) *Transitional buffers.* Show transitional buffers, if any, and any required screening fencing;

(11) *BMPs.* Show conceptual location of storm water management and water quality BMP facilities on sketch plat;

(12) *IRF*. Show proposed IRF contour, spot elevation (if available) and source;

(13) *Covenants.* Indicate whether the proposed subdivision will be subject to private covenants and whether a homeowner's association will be established;

(14) *Sewer easements.* Show a sanitary sewer easement with a minimum width of fifteen (15) feet for all City or Dekalb County maintained lines not within City or County right-of-way;

(15) *Water main easements.* Show a water main easement with a minimum width of fifteen (15) feet for all City or Dekalb County maintained lines not within right-of-way of City or County;

(16) *Fire hydrants.* Show new fire hydrant(s) and eight-inch fireline(s); and

(17) *Fencing.* Show any required fencing around detention ponds, if required.

(18) *Electrical service.* Show whether electrical service will be above ground or underground.

Section 4: Additional information to be filed with the sketch plat

The following additional information shall be submitted with the sketch plat:

(1) O*wner consent.* The property owner must consent in writing to the proposed development in a consent affidavit provided by the Director of Community Development with the application;

(2) *Taxes.* Provide statement from Dekalb County Tax Commissioner certifying that all ad valorem taxes on the property have been paid;

(3) *Location.* A small map of the City of Dunwoody depicting the subdivision location within the City;

(4) *Vicinity map.* Vicinity map at a scale of four hundred (400) feet to one (1) inch showing the location of the tract with reference to surrounding properties, streets,

municipal boundaries, and streams within five hundred (500) feet of the tract, and showing zoning districts of adjoining property;

(5) *Adjacent properties.* Names of adjoining property owners and the zoning classification of adjacent properties; and

(6) *Engineer.* Name, address and phone of developer and engineer on plat.

Section 5: Scale

Sketch plats shall be prepared at an appropriate scale of not more than one hundred (100) feet to one (1) inch. Maximum sheet size shall be twenty-four (24) inches by thirty-six (36) inches.

Section 6: Official acceptance of application and sketch plat

(a) The Director of Community Development shall give written notice to the applicant within seven (7) days from the date the sketch plat and application are submitted whether the sketch plat application is accepted for review and the official date of such official acceptance. An application shall be accepted when it fully complies with the requirements of Sections 1 through 5 of this Part.

(b) If the application and sketch plat are not accepted, the Director of Community Development shall inform the applicant of the deficiencies and request the applicant to resubmit the application and sketch plat with the additional information.

Section 7: Referral of sketch plat for review

(a) Upon official acceptance of the application and the sketch plat, the Director of Community Development shall provide copies of the sketch plat to the Community Development Department, Public Works, Police Department, and any other city department the Director determines should be consulted for the particularities of the proposed subdivision. Each such department and receiving entity shall review the sketch plat and shall make comments and recommendations regarding any required changes necessary to comply with all applicable regulations. Each department shall return its annotated copy of the sketch plat and written comments and recommendations to the Director within fourteen (14) days from the date of receipt.

(b) Once the Director of Community Development has received each department's comments and recommendations, the Director shall either notify the applicant that the sketch plat has been approved or notify the applicant that revisions to the sketch plat are required.

(c) In the event that any revisions to the sketch plat are required, the applicant may submit a revised sketch plat to the Director of Community Development and, if the applicant submits a revised sketch plat, the Director shall have fourteen (14) days to review the revisions and determine whether such revisions are sufficient for approval. If the

revisions are insufficient, the Director shall notify the applicant that further revisions to the sketch plat are required and for each set of revisions submitted by the applicant the Director shall have fourteen (14) days for review as described in this section.

(d) If a sketch plat is not approved within one hundred eighty (180) days of the official acceptance of the application, the application and sketch plat shall be considered withdrawn without further action by the City. The Director shall approve the sketch plat if the application and sketch plat conform to all requested revisions, the requirements of this Code and state law and shall deny the sketch plat if the application and sketch plat do not conform to all requested revisions, the requirements of this Code or State Law.

Section 8: Public Notification for sketch plats; and procedure for appeal

(a) When the sketch plat has been submitted, the applicant shall place a public notification sign on the site of the proposed subdivision within seven (7) days of submittal for 30 days. At the same time as the sign is posted, the applicant shall also place in a box, on site of the proposed subdivision, in a place which is accessible to the public, fifty (50) 11"× 17" copies of the proposed sketch plat. The Director shall verify that the sign has been posted. If applicant fails to properly post the required sign, the sketch plat shall not be approved until the applicant has properly posted the required notification sign and made copies of the plat available to the public in a box on the site in accordance with requirements set forth in this Code.

(b) Once the application has been submitted, the applicant and members of the public shall be allowed to submit written comments to the Community Development Director that supports or opposes the sketch plat.

(c) The Community Development Director may approve or disapprove the proposed sketch plat in accordance with the approval standards contained in Section 9 of this Part.

(d) Any person or entity (i.e., an owner, applicant, adjoining neighbor or a neighbor whose property line is within one thousand five hundred (1,500) feet of the nearest property line of the proposed subdivision) aggrieved by a denial or approval of a sketch plat, may appeal by filing a petition for writ of certiorari to the Superior Court of DeKalb County.

Section 9: Standards for approval of sketch plats; approved preliminary plats

(a) The Community Development Director shall not approve a sketch plat unless it is found that:

(1) Provisions have been made for a water supply system that is sufficient in terms of quantity, dependability, and quality for purposes of health, emergency, and adequate fire protection for the subdivision proposed;

(2) If a public sewage system is proposed, adequate provision has been made for such a system and, if other methods of sewage disposal are proposed, that such systems will comply with Federal, State, and local laws and regulations;

(3) Adequate areas have been allocated within a subdivision to meet the regulations in this Chapter for the long-term collection, management, and treatment of stormwater;

(4) The proposed subdivision is designed to avoid areas of flood plains, watercourses, wetlands, exceptional or specimen trees or woodlands;

(5) No platting of lots within the subdivision will create any non-conforming lots or increase the non-conformity of existing non-conforming lots on property within or adjacent to the subdivision;

(6) If the subdivision abuts a state highway, all applicable statutory provisions are followed, including the rules of Georgia Department of Transportation;

(7) The proposed subdivision meets all the requirements of this Chapter, the City of Dunwoody Zoning Ordinance, the official comprehensive plan, the official thoroughfare map, and all other standards and regulations adopted by all boards, commissions, agencies, and officials of the City of Dunwoody and all other applicable laws from other, relevant jurisdictions;

(8) A properly issued certificate of appropriateness, when the subdivision or portions thereof lie within a designated historic area that required such a certificate as may be required by State law or this Code; and

(9) Lot lines have been laid out so as to minimize crossing municipal or county boundaries;

(10) All requirements of Sections 2 and 3 of Part B of this Division have been fulfilled.

(b) The Director of Community Development may require the applicant to submit a site plan for any lot to demonstrate that the lot contains adequate buildable area that is suitable for the intended use.

(c) After review of the sketch plat and related comments, and where, in the judgment of the Director of Community Development, the sketch plat conforms to all of the requirements of this Chapter and the City of Dunwoody Zoning Ordinance, all conditions of zoning, and any other applicable City regulations or law, the Director of Community Development shall approve said sketch plat. The following wording for approval shall be shown on the sketch plat:

"This sketch plat has been submitted to and approved by the City of Dunwoody, on this _____ day of _____.

By: _____ (By Dir.)
Director of Community Development
City of Dunwoody, Georgia"

(d) A sketch plat shall become and will be known as a preliminary plat upon its approval by the Planning Commission.

Section 10: Scope of approval of approved preliminary plat; digital submission of preliminary plat

The preliminary plat shall not constitute nor provide assurance of approval of the final plat, but is to be used as the development design for the subdivision and for the acquisition of a development permit as provided for in the City of Dunwoody Zoning Ordinance. The preliminary plat shall be submitted to the Community Development Department in a digital format acceptable to the City, prior to or simultaneous with an application for a development permit.

Section 11: Expiration

The preliminary plat shall expire twenty-four (24) months from the date of the approval of the preliminary plat. If fifty-one (51) percent of linear feet of total road in the entire development shown on the preliminary plat is complete at the expiration of twenty-four (24) months from the date of the approval of the preliminary plat, then the Director of Community Development is authorized to grant a one-time, one year extension of the approval of the preliminary plat. An expired preliminary plat is null and void and is of no effect. An expired preliminary plat may not be renewed.

Section 12: Revised preliminary plat

If the approved sketch plat, which becomes the preliminary plat, is amended or altered by the applicant, without an approved variance, after approval as a sketch plat, then the applicant shall be required to re-submit the revised preliminary plat as a new sketch plat and begin anew the application process contained in Part B (Sketch Plat) of this Division (Plat Approval Procedure).

Part C: Final Plat

Section 1: Preparation

The applicant shall have a registered surveyor prepare the final plat of the subdivision. An application for final plat approval may be made when a preliminary plat of the proposed subdivision has been approved and construction of all required infrastructure is complete to ascertain its location as built.

Section 2: Filing; digital submission of final plat; fee

The final plat and a fee in the amount established by the City Council shall be filed with the City. The final plat and as-built drawings shall also be submitted in a digital format acceptable to the City.

Section 3: Review, certification by City departments

(a) Upon receipt of the final plat, the Director of Community Development shall forward copies of the final plat to the following City departments for certification that the improvements are complete and in conformity with the preliminary plat:

(1) Appropriate official of the Department of Community Development;

(2) Geographic information system department;

(3) Police and fire department;

(4) Public Works Department;

(5) Any other department or entity the Director of Community Development deems appropriate.

(b) Any department to which the final plat is submitted shall note on the plat whether the development meets or fails to meet the requirements of this Code and of that department, specifically, whether all improvements were properly completed and whether the improvements are in conformity with the preliminary plat. If the improvements are incomplete or if the improvements are not in conformity with the preliminary plat, the department shall note on the plat the manner in which the plat fails to meet these requirements. Each department must return its copy of the final plat with notations made within twenty-one (21) calendar days of receipt thereof.

(c) Upon receipt of the annotated copies from all of the departments which received the final plat for notation, the Director of Community Development shall independently review the final plat and determine whether it complies with all City zoning, environmental, and subdivision ordinances and regulations and all applicable State and Federal laws. The Director of Community Development shall certify in writing on the final plat his/her finding of whether the final plat complies with all City zoning, environmental, and subdivision ordinances and regulations and all applicable State and Federal laws.

(d) The final plat shall conform to the approved preliminary plat on file with the City and shall comply with the City of Dunwoody Zoning Ordinance including conditions of zoning.

(e) The final plat shall not be forwarded to the City Council until such time as the Director of Community Development certifies that the final plat conforms to the approved

preliminary plat and complies with all City zoning, environmental, and subdivision ordinances and regulations and all applicable State and Federal laws.

Section 4: Referral to the City Manager

(a) No later than fourteen (14) calendar days after receiving the annotated copies from all of the departments which received the final plat for notation, the Director of Community Development shall transmit the final plat, containing the certification required in Section 3(c) of Part C of this Division and any necessary supplemental materials to the City Manager for approval.

(b) The City Manager as the designee for the governing authority of the City shall approve or disapprove the final plat within ten (10) days of receiving the final plat, as indicted by a receipt stamp on the final plat. If the final plat is not approved or denied within ten (10) days of receipt, the final plat shall be approved automatically and the City Manager shall acknowledge and certify such approval. If the final plat is denied, the City Manager shall provide the reason(s) for denial in writing and such writing shall be given to the applicant with the denied plat. If the final plat is approved, the City Manager shall place the following wording on the original as follows:

"This plat has been submitted to and accepted by the City Manager of the City of Dunwoody, Georgia, and has been approved as required by State law and City codes as meeting all conditions precedent to recording in the Superior Court of Dekalb County.
Dated this _____ day of _____, _____.
By:_____
[City Manager as designee of the governing authority]"

(c) Final plat acknowledgement and approval by the City Manager shall constitute that approval, if any, required in order to file subdivision plats with the Clerk of the Superior Court of DeKalb County pursuant to O.C.G.A. § 15-6-67(d).

Section 5: Appeal of final plat decision

The decision of the City Manager to approve or disapprove the final plat may be appealed to the City Council by request in writing to the City Manager within thirty (30) days of the City Manager's decision. If no appeal is made within the thirty-day period, the decision of the City Manager shall be final. If an appeal is made to the City Council, the City Council shall set a hearing date for the appeal within thirty (30) days of the appeal being requested and the decision of the City Council shall be final. The City Council decision may be appealed only by a petition for writ of certiorari to the Superior Court of DeKalb County.

Section 6: Recording

The approved final plat shall be recorded with the Clerk of the Superior Court of DeKalb County by the Director of Community Development and returned to the applicant.

Section 7: Dedication offers

The filing and recording of the final plat by the Director of Community Development shall, upon completion of the improvements by the applicant and compliance with all procedures of this Chapter, be deemed an acceptance of the dedication of the streets and other public land as shown upon said plat on behalf of the public.

Section 8: Material specifications for drawing

The final plat shall be composed of mylar, or other durable, stable, and reproducible drafting medium approved by the Director of Community Development and must meet all provisions of the Georgia Plat Act, O.C.G.A. § 15-6-67.

Section 9: Scale

Final plats shall be prepared at a scale of not more than one hundred (100) feet to one (1) inch and shall have a maximum sheet size of not more than twenty-four (24) inches in width and thirty-six (36) inches in length, and a minimum sheet size of not less than seventeen (17) inches in width and twenty-one (21) inches in length.

Section 10: Compliance with zoning ordinance

The final plat shall comply with the requirements of the City of Dunwoody Zoning Ordinance and all conditions of zoning for the subject property to be shown in the upper right corner of the final plat with text height at a minimum of .18 inches for 24" × 36" sheet size and .09 inches for 17" × 21" sheet size.

Section 11: Required information

The final plat shall show the following:

(1) Sufficient data to determine readily and reproduce on the ground the location, bearings and lengths of every right-of-way, street line, lot line, boundary line and building line, whether curved or straight;

(2) Tract boundary lines, land lot and district lines, City and County limit lines, right-of-way lines of streets, easements and other rights-of-way and property lines of residential lots and other sites;

(3) All dimensions shall be accurate to the nearest one hundredth of a foot and all angles accurate to the nearest second;

(4) Name and right-of-way width of each street including necessary right-of-way required for present or future widening of major, minor, collector, residential or other streets as shown on the thoroughfare plan;

(5) Sidewalk and bike path locations and width;

(6) House numbers: numbers will be assigned by the Geographic Information System Department and placed on the final plat by the Director of Community Development;

(7) Title, north arrow, date, scale, land lot numbers and district numbers;

(8) Location, dimensions and purpose of easements and areas to be dedicated to public use, common areas or sites for other than residential use with notices stating their purpose and limitations;

(9) Intermediate regional floodplain contour line and setback line required by this Chapter, state waters/state streams, wetlands, and required stream buffers;

(10) Water and sewer utility locations, and the location and type of permanent stormwater management facilities and water quality facilities;

(11) Lots numbered in numerical order and blocks lettered alphabetically; all lot and block numerals shall be kept in a uniform sequence on all plats and units of the subdivision;

(12) Accurate location, material and description of monuments and markers; within each subdivision set one (1) monument on two (2) front corners of the property adjacent to existing rights-of-way on interior streets, or as otherwise approved by the development director; each monument shall be a minimum four-inch diameter disk by twenty-four-inch high concrete monument with brass caps set flush with finished grade; and

(13) Lots which shall not be built upon until detailed plans for grading and drainage have been approved by the Director of Community Development.

Section 12: Space for comments, certifications

A blank space of fifty (50) square inches shall be provided on the final plat to allow room for any stamps, notes, approval or denials as required to be placed thereon by City agencies and for the certification of the Director of Community Development and approval or denial by the City Manager.

Section 13: Surveyor's and owner's acknowledgments

The following wording for the engineer's [surveyor's] and owner's acknowledgments shall be shown and certified on the final plat:

(1) *Surveyor's acknowledgment.*

"In my opinion, this plat, drawn by me or under my supervision, was made from an actual survey, and is a correct representation of the land platted and has been prepared in conformity with the minimum standards and requirements of law. _____R.L.S. No._____."

(2) *Owner's acknowledgment.*

"I, _____, the owner of the land shown on this plat and whose name is subscribed hereto, acknowledges that this plat was made from an actual survey, and for value received the sufficiency of which is hereby acknowledged, do hereby convey all streets and rights-of-way, water mains and sewer lines shown hereon in fee simple to the City of Dunwoody, and further dedicate to the use of the public forever all alleys, parks, watercourses, drains, easements and public places hereon shown for the purposes and considerations herein expressed. In consideration of the approval of this development plan and other valuable considerations, the owner further releases and holds harmless the City of Dunwoody from any and all claims, damages or demands arising on account of the design, construction and maintenance of the property shown hereon; on account of the roads, fills, embankments, ditches, cross-drains, culverts, water mains, sewer lines, and bridges within the proposed rights-of-way and easements shown; and on account of backwater, the collection and discharge of surface water, or the changing of courses of streams.

"And further the owner warrants that he owns fee simple title to the property shown hereon and agrees that the City of Dunwoody shall not be liable to him/her, his/her heirs, successors or assigns for any claims or damages resulting from the construction or maintenance of cross-drain extensions, drives, structures, streets, culverts, curbs or sidewalks, the changing of courses of streams and rivers, flooding from natural creeks and rivers, surface waters and any other matter whatsoever. I further warrant that I have the right to sell and convey the land according to this plat and do hereby bind myself and owners subsequent in title to defend by virtue of these present.

"All single-family residential lots on this plat are included in a special taxing district for funding the maintenance of stormwater detention facilities required because of this development. [Note: This paragraph is only required in single-family residential subdivisions.]

"All roads have been properly designed and dedicated to accommodate any required parking in the right-of-way.

"In witness whereof, I have hereunto set my hand this _____ day of _____, _____.

(SEAL)
(Owner)_____
Witness:_____
Notary Public."

Section 14: Protective covenants to meet minimum zoning requirements

The final plat shall not contain protective covenants stipulating lower standards than the minimum restrictions required by the City of Dunwoody Zoning Ordinance.

Section 15: Disclosure statement required for residential subdivisions and multi-phase residential developments

(a) Before any final plat for any residential subdivision and any multi-phase residential development may be submitted for review by the City, a disclosure statement, sworn to by the applicant under penalty of perjury before a notary public or other officer authorized to administer oaths, must be filed with the Director of Community Development. The disclosure statement shall be in a form promulgated by the Director of Community Development and approved by the City Attorney.

(b) Any applicant for the final plat, intending to make written or oral representations to potential purchasers of homes in any residential subdivision and any multi-phase residential development must submit the information specified herein on the disclosure statement which shall be made available to members of the public by the Director of Community Development:

(1) An estimated date of completion of the entire residential subdivision;

(2) A statement of the average size of homes to be constructed in the subdivision, any specified style of architecture, landscaping, the type of construction materials to be used (i.e. brick, stone, stucco, pressboard, etc.), and the average size of lots;

(3) A statement of the applicant's commitment to build any community amenities within the subdivision, including but not limited to a clubhouse, tennis courts or swimming pool;

(4) A statement of the general terms and conditions at which the applicant proposes to dispose of the lots and/or homes in the residential subdivision;

(5) Copies of all forms of conveyance to be used in selling lots to potential purchasers;

(6) A statement of all deed restrictions, easements and covenants applicable to the residential subdivision;

(7) Copies of instruments creating any deed restrictions, easements and covenants applicable to the residential subdivision;

(8) A statement regarding whether there will be a mandatory membership in any homeowners association and if so, a copy of the budget for the association for its first year of operation including the estimated amount of the first year's assessments and the estimated amount of revenue to be subsidized by the developer; and

(9) An explanation of the timing and method of transfer of control of the association to the homeowners where there is a mandatory membership in the homeowner's association governing the residential subdivision.

(c) With respect to the first phase and subsequent phases of a multi-phase residential development, the applicant must also submit the following information:

(1) An estimated date of completion of each phase of a multi-phase residential development and estimated date of completion of all phases of the development;

(2) A statement of the average size of homes to be constructed in the future phases of the development, any specified type of architecture, landscaping, the type of construction materials to be used (i.e. brick, stone, stucco, pressboard, etc), and the average size of lots;

(3) A statement of any community amenities to be built within the development currently or in the future, including but not limited to a clubhouse, tennis courts or swimming pools the applicant is committed to constructing in future phases; and

(4) A statement of the general terms and conditions at which the applicant proposes to dispose of the lots and/or homes in the future phases of the development.

(d) If the applicant intends to make no representations or commitments to potential purchasers concerning each of the representations set forth in subsection (b) and (c), the applicant shall note the same in the disclosure statement filed with the Director of Community Development which statement shall be made available by the Director of Community Development to the public.

(e) After the required disclosure statement has been submitted, the Director of Community Development shall examine the information provided and determine whether the information submitted is consistent with the final plat and if the information is consistent, the Director of Community Development shall approve the disclosure statement in writing within thirty-five (35) days of submission of the statement.

(f) If it appears to the Director of Community Development that a disclosure statement is incomplete or fraudulent, the Director shall disapprove the disclosure statement and notify the applicant for the final plat in writing within fourteen (14) days after the initial submission of the statement. Such notification shall serve to suspend the review of the final plat by any City employee or official until the applicant files such additional information, as the Director shall require. No final plat may be certified by the Director until such time as the Director approves the applicant's disclosure statement.

(g) If at any time after approval of the disclosure statement the Director of Community Development becomes aware that the disclosure statement contains false or misleading information, or that the applicant is developing in a manner inconsistent with the approved disclosure statement, the Director shall disapprove the disclosure statement and notify the applicant in writing that the disclosure statement has been disapproved.

(h) Subsequent to the recording of the final plat for a residential subdivision and for each phase of a multi-phase residential development, the approved disclosure statement on file with the City shall be provided by any seller to potential purchasers at the execution of the purchase and sales contract or, if no such contract is executed, ten (10) days prior to the real estate closing on any property governed by this section.

Section 16: Violations

It shall be unlawful for any person to sell property in a residential subdivision or a multi-phase residential development without providing a potential purchaser with a copy of an approved disclosure statement as required by Section 15 of this Part. It shall be unlawful for any person to provide the Director of Community Development with false or misleading information in an approved disclosure statement as required by Section 15 of this Part. It shall be unlawful for any person to develop in a manner inconsistent with the approved disclosure statement. Any person, firm or corporation convicted of violating this section shall be subject to fine and/or imprisonment in accordance with Chapter 1 of this Code.

Part D: Revised Final Plat

Section 1: Procedure

(a) The original recorded plat shall be used for all revisions.

(b) When it becomes necessary to revise an original recorded final plat due to some error, required adjustment or desired adjustment, the applicant shall confer with the Director of Community Development to determine if the revision is a minor or major revision. The applicant's surveyor shall make the necessary corrections on the original final plat or prepare a new tracing of that portion of the subdivision involved. The subdivision name, date and book and page number of the original recording shall be noted on the new plat. If the original final plat is not available, then any proposed revision to the final plat shall be considered a major change.

(c) A minor change is one that corrects a drafting or scrivener's error or is otherwise administrative in nature and does not affect how the subdivision will be developed or built. A major change is any other change, including changes that alter how the subdivision will be developed or built, such as, but not limited to, changing or moving lot lines, increasing or decreasing the number of lots, changing the location of any public facilities or utilities, and revising protective covenants applying to the property.

(d) If the Director of Community Development determines the change is minor, then the Director will obtain the City Manager's acknowledgement, approval, and acceptance of the revised final plat, and shall file such revised plat with the Clerk of the Dekalb County Superior Court.

(e) If the Director of Community Development determines the change is major, the revised plat must proceed through the approval process for final plats described in this Code.

(f) The basis for the Director's characterization of the change as either major or minor shall be recorded in black ink on the revised plat.

Section 2: When new tracing required

If the original final plat is not available, the applicant shall prepare a new mylar or other durable, stable, and reproducible drafting medium approved by the Department of Community Development, in accordance with Section 1(b) of this Part.

Section 3: Revisions and explanation to be in black ink

Revisions and a notation explaining the revisions shall be shown in black ink on the revised plat.

Section 4: Space for certifications

A blank space consisting of not less than fifty (50) square inches shall be provided on the revised plat to accommodate required certifications.

Section 5: Scale

Revised plats shall be prepared at a scale of not less than fifty (50) feet to one (1) inch.

Section 6: Compliance with zoning ordinance

The revised plat shall comply with the regulations of the City of Dunwoody Zoning Ordinance, including all conditions of zoning, which are to be shown in the upper right hand corner of the revised plat.

Section 7: Inclusion of required wording

The revised plat shall show the following wording in black ink:

"This revised plat has been submitted to the City Manager of the City of Dunwoody, Georgia, and has been approved as required by State Law and City codes as meeting all conditions precedent to recording in the Superior Court of Dekalb County. This plat is hereby approved subject to any protective covenants shown hereon.

Dated this _____ day of_____

_____
City Manager
City of Dunwoody, Georgia"

Section 8: Original protective covenants not to be changed

All revisions to original plats shall be bound by the protective covenants on the original final plat and a statement to that effect shall be noted in black ink on the revised plat unless noted otherwise.

Section 9: City may require additional data

Other data which may be required in support of a revised final plat are: a final engineering design report on proposed revisions and such other certificates, affidavits, endorsements, or dedications as may be required by City officials in the enforcement of this Chapter.

Division 3: Design Standards

Part A: General Provisions

Section 1: Adequate public facilities

The applicant shall submit sufficient information and data with the application on the proposed subdivision to demonstrate compliance with the following:

(1) Comprehensive plan consistency required. Proposed public improvements shall conform to and be properly related to the City of Dunwoody Comprehensive Plan and all applicable capital improvement plans.

(2) Water. All habitable buildings and buildable lots shall be connected to a public water system capable of providing water for health and emergency purposes, including adequate fire protection.

(3) Wastewater. All habitable buildings and buildable lots shall be served by an approved means of wastewater collection and treatment.

(4) Stormwater Management. Drainage improvements shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent increases in downstream flooding as required under Article II, Section 13 (Stormwater Management) of this Chapter. Stormwater quality management facilities shall be adequate as required by Article II, Section 14 of this Chapter. The City of Dunwoody may require the use of control methods such as retention or detention, and or the construction of offsite drainage improvements to mitigate the impacts of the proposed developments.

(5) Roads. Proposed roads shall provide a safe, convenient, and functional system for vehicular, pedestrian, and bicycle circulation, shall be properly related to the comprehensive plan, and shall be appropriate for the particular traffic characteristics of each proposed development.

(6) Extension policies. All public improvements and required easements shall be extended through the parcel on which new development is proposed. Streets, water lines, wastewater systems, drainage facilities, electric lines, and telecommunications lines shall be constructed through new development to promote the logical extension of public infrastructure.

Section 2: Conservation of natural resources

(a) To better implement the policies and purposes of this Chapter, to protect the health, safety, and welfare of the citizens of the City of Dunwoody and to minimize the negative environmental effects of development, subdivisions shall be designed and developed to avoid areas of environmental sensitivity. The following land areas shall be preserved in their natural state or not subject to any development or land disturbance activity, and shall not be part of the buildable area:

(1) Wetlands; and

(2) The intermediate regional floodplain;

(b) Subdivisions shall be also laid out to:

(1) Avoid adversely affecting watercourses, ground water, and aquifer recharge;

(2) Minimize cut and fill;

(3) Minimize impervious cover and the environmental impacts of roads and access points;

(4) Minimize flooding; and

(5) Minimize adverse effects of noise, odor, traffic, drainage, and utilities on neighboring properties.

(c) The Director of Community Development shall not recommend approval for a sketch plat or parts thereof if the Director determines that:

(1) The areas listed in subsection (a) above have not been set aside and protected from development;

(2) The proposed subdivision does not comply with the requirements of subsection (b) above; or

(3) If the proposed subdivision is not in the best interest of the public health, safety, and general welfare of the City.

Part B: Streets

Section 1: Generally

(a) The provisions of this Part apply to streets in subdivisions and in other projects requiring a development or land disturbance permit from the City of Dunwoody.

(b) The arrangement, character, extent, width, grade and location of all subdivision streets shall conform to the provisions of this Chapter and to the thoroughfare plan. New streets shall be designed and located with consideration of their relation to existing and planned streets, to topographical conditions, to public convenience and safety in their appropriate relation to the proposed uses of the land to be served by the streets.

Section 2: Arrangement where not shown on thoroughfare plan

Where not shown in the thoroughfare plan, the arrangement of streets in a subdivision shall either:

(1) Provide for the continuation or appropriate projection of existing streets in surrounding areas; or

(2) Conform to a plan for a neighborhood approved or adopted by the board of commissioners to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.

Section 3: Minor streets/minor arterials

(a) Local residential streets shall be so designed to discourage speeding and encourage safe environment for pedestrians and bicyclists. They shall be designed to discourage high speed through traffic by the use of traffic calming devices.

(b) Within historic districts, the platting of lots and streets shall be compatible with the historic patterns that exist within the historic district except for numbered state or federal routes.

Section 4: Thoroughfare plan

The Director of Community Development and the Public Works Director shall review changes in the patterns of traffic, land development, and subdivisions, and prepare a report to the City Council with recommendations concerning appropriate revisions to the thoroughfare plan. Such review shall:

(1) Ensure safe and efficient access between neighborhoods and local services;

(2) Ensure the continuity and adequacy of local streets, collector streets and arterial streets to form a coherent and continuous system of routes;

(3) Identify applications of appropriate traffic calming and traffic management strategies to discourage unnecessary traffic and travel speeds in neighborhoods; and

(4) Ensure a coherent and continuous system for pedestrian and bicycle travel.

Section 5: Subdivisions bordering on or containing arterial streets, railroad right-of-way or limited-access highway right-of-way

Where a subdivision borders on or contains an arterial street (major thoroughfares, and minor thoroughfares), a railroad right-of-way or limited-access highway right-of-way, the Director of Community Development may require the following:

(1) Rear service alleys to facilitate traffic flow, safety and public services;

(2) Provision of one (1) or a pair of smaller marginal access streets approximately parallel to and on each side of this right-of-way at a distance suitable for the appropriate use of the intervening land as park or open space and to provide for multipurpose trails. These distances shall also be determined with due regard for the requirements of approach grades and future grade separations; or

(3) In the case of limited-access highways only, reverse frontage lots may be created with landscape buffers and a non-access reserve strip along the rear property line.

Section 6: Reserve strips

Reserve strips that separate developed or developable land from necessary access to streets shall be prohibited except when such access is controlled by the City of Dunwoody.

Section 7: Street intersection spacing

Street intersections with centerline offsets of less than one hundred twenty-five (125) feet as shown in the DeKalb County Standards for Construction and Design shall be prohibited in subdivisions.

Section 8: Intersections – Right angles

Street intersections in subdivisions shall be as nearly at right angles as practicable. No interior angle shall be less than seventy-five (75) degrees. Intersections or more than two (2) streets shall be designed according to the specific types illustrated in the DeKalb County Standards for Construction and Design.

Section 9: Intersections – Property line to be curved or mitered

At each street intersection in a subdivision the property line at each block corner shall either be mitered or rounded. A mitered property line shall be located on the interior chord of a convex curve or located fifteen (15) feet inside the tangent of a concave curve. A rounded property line shall be established with a curve of radius R varying with the interior angle as specified in the following table, unless sufficient data is presented to show that strict adherence to this requirement is impractical due to topographical or engineering considerations.

Table of Intersection Returs

TABLE INSET:

Interior angle in degrees	**R**	**R**
150 – 145	12	15
145 – 140	12	18
140 – 135	12	20
135 – 85	12	25
85 – 75	20	40
75 – 65	30	70
65 – 55	40	80
55 – 45	50	100
45 – 0	75	140

Section 10: Traffic improvements, street improvements, curb cuts, visibility requirements, and private street construction standards

(a) Each building shall be located on a lot or parcel that abuts a public street or private street. Private streets shall only be allowed if the development seeking to have a private street(s) is ten (10) acres or larger in size. The Planning Commission shall have the authority to

waive this minimum acreage requirement if all real property owners that abut the proposed private street agree to such waiver.

(b) Where this Chapter measures minimum building setback lines and frontages, or imposes development standards in connection with, or with reference to public streets, such measurements or standards set forth in the district regulations and supplemental regulations of the City of Dunwoody Zoning Ordinance, in this Chapter or elsewhere in the Code of the City of Dunwoody shall apply similarly for property abutting a private street where such private street has been approved by the Planning Commission. Nothing in this Article is intended to authorize any kind of development on a private street that would not be authorized where there was public right of way.

(c) Private streets within any zoning district shall not be used to satisfy the off-street parking requirements of the Code. Private streets within any district shall be assigned names and locations. The names of these streets shall be shown on plans required for the issuance of building and development permits as provided in this Chapter, Chapter 7 (Building Code), and the City of Dunwoody Zoning Ordinance. The Geographical Information Services department shall approve all private street names and addresses, thereby avoiding conflicting names and addresses.

(d) Lots may front on a public street or private street constructed to the standards found in this Chapter.

(e) Where sewer lines are constructed underneath a private street, the developer is required to grant an easement to the City for installation, maintenance and repair of such sewer lines.

(f) Private streets shall not be eligible for participation in the City's residential sidewalk district program as provided for in Chapter 23 (Streets and Sidewalks) of this Code.

(g) Developers and property owners' associations shall ensure access to all private streets by emergency and law enforcement vehicles and shall ensure that private streets are constructed to allow access by all emergency vehicles and law enforcement vehicles.

(h) The use of private streets may not result in an increase in permitted density above that which would otherwise be permitted by the applicable district regulations. Density calculations shall be made based on a public street system and the preliminary plat that provides for a private street shall be density neutral. Additionally, a utility easement(s) is not to be included in any plat as a part of an individual lot and thus such land that comprises the utility easement(s) cannot be used to calculate the required minimum lot size, or minimum front yard size.

(i) Private streets shall comply with requirements for public streets found in this Chapter and all other applicable sections of the Code of the City of Dunwoody. Private streets shall be surfaced with the same type of materials that are used by the City's Department of Public Works for the surfacing and resurfacing of public streets or with materials that are

as protective as those used by the City to surface and resurface streets so long as such alternative materials are approved by the Director of Public Works.

Section 11: Planning Commission approval to create a private street

(a) The Planning Commission shall authorize a private street where the Department of Community Development has certified that the applicant has submitted all required documentation as set forth herein and where the Planning Commission finds that:

(1) The location of the proposed private street(s) will not adversely impact use of any existing surrounding public street(s); and

(2) The location of the proposed private street will not adversely impact adjacent existing communities or neighborhoods; and

(3) The applicant has shown that there is the requisite legal mechanism for the maintenance of the proposed private street(s); and

(4) The applicant has provided written evidence that the proposed private street system is acceptable to the City departments or divisions responsible for law enforcement, sanitation, transportation and fire and rescue; and

(b) If the private street is to be located in a historic district as that term is defined in the Dekalb County Code of Ordinances or the City of Dunwoody Code of Ordinances, then the applicant must provide the Planning Commission with a certificate of appropriateness authorizing the private street from the Historic Preservation Commission of Dekalb County or the Historic Preservation Commission of Dunwoody, if one is created. If no such certificate of appropriateness is provided to the Planning Commission then the Planning Commission shall deny the application for a private street.

(c) Street rights-of-way shall be owned by the mandatory homeowners' association as required by Section 12 of this Part. Street rights-of-way shall comply with all the requirements set forth in this Code, including but not limited to the requirements set forth in this Chapter and in the City of Dunwoody Zoning Ordinance. An access easement and a utility easement shall entirely overlay the rights-of-way and shall be dedicated to the City of Dunwoody for public use. All applicable setbacks, lot widths and lot areas shall be measured from the homeowner's association right of way.

Section 12: Legal mechanisms of maintenance of private streets, resurfacing fund

(a) Maintenance of private streets.

(1) Each developer that chooses to include private streets within a condominium, as that term is defined by State Law, or any other residential, commercial, institutional, industrial or office development, shall organize and establish a property owners' association prior to recording of the final plat. Membership in

the property owners' association shall be mandatory for each original and successive purchaser of a lot, building or unit within the development. The property owners' association shall be organized so that it has clear legal authority to maintain and exercise control over the private street(s) and required improvements associated with private streets, including, but not limited to, sidewalks, bikeways, curbs and gutters, traffic signs and markings, associated landscaping and lighting, entry signs, monuments, perimeter walls and fences, entry gates and gatehouses. The declaration of covenants creating the property owners' association shall be recorded with the clerk of the Superior Court of DeKalb County and the recorded declaration of covenants and articles of incorporation creating the property owners' association shall provide that all private streets and associated improvements are owned by the property owners' association or are held in common by the property owners within the development. Said streets shall be properly maintained and insured with no liability or maintenance responsibilities accruing to the City. The recorded declaration of covenants and articles of association shall specifically require the property owners' association repair and maintain each private street in the same manner as similar public streets are maintained by the City and such maintenance and repair shall be performed in compliance with all City standards and all applicable provisions of law.

(2) Prior to any final plat approval, the developer shall submit articles of incorporation, declaration of covenants and bylaws for the property owners' association to the Department of Community Development. Those documents must thereafter be reviewed and approved by the City attorney.

(b) Maintenance fund. The declaration of covenants and articles of association shall provide for a street maintenance fund the proceeds of which shall be used solely for the purpose of regular maintenance of the street(s), whether for resurfacing or a similar purpose. For the purposes of providing further assurance that City funds shall not be used for maintenance of private streets, the developer shall submit proof of deposit of fifty (50) percent of the current estimate of resurfacing costs, as determined by the Director of Community Development or designee, in an interest bearing account on behalf of the property owners' association.

(c) Maintenance bond. At the end of the twelve-month maintenance period provided for in Division 4, Part D, Section 6 of this Article, a developer must provide a maintenance bond renewable annually to cover the cost of maintenance and repair for any private streets within a subdivision. The bond shall be for an amount equal to fifty (50) percent of the current estimate of resurfacing costs, as determined by the Director of Community Development or designee. The developer may avoid securing the maintenance bond set forth in this subsection if the developer submits proof to the Department of Community Development that one hundred (100) percent of the then-current estimate of resurfacing costs, as determined by the Director or designee, has been deposited in an interest-bearing account on behalf of the property owners' association. If the developer chooses this alternative, the declarations of covenants and articles of association shall specifically

require the property owners' association to continuously maintain one hundred (100) percent of the then-current estimate of resurfacing costs of the private streets in this maintenance fund.

(d) Assessment and liens. The property owners' association must be empowered to levy assessments against owners within the development for the payment of expenditures made by the association for maintenance of the private streets and other items set forth in subsection (a) herein. At least fifteen (15) percent of all fees or assessments paid shall be set aside in the maintenance fund. Any unpaid assessments shall constitute a lien in favor of the property owners' association on the lot, building or unit of the owner.

Section 13: Inspection of private streets within nine months of approval of the final plat; failure to correct deficiencies

(a) Within nine (9) months following approval of the final plat, the City's Director of Community Development or designee shall inspect the private street(s) to ensure compliance with all City standards and all applicable provisions of this Code including, but not limited to, the requirements set forth in law for public streets, curbs, sidewalks, signage and street lighting. The developer shall be notified of any deficiencies in writing and such deficiencies shall be corrected within sixty (60) days of the written notice of deficiencies unless the City agrees to extension of that period in writing.

(b) Failure to correct the complete list of deficiencies shall be a violation of this section and shall subject the developer to prosecution for a code violation in the Municipal Court of the City of Dunwoody. Any person found to have violated this section shall be subject to a fine of not less than five hundred dollars ($500.00) for each violation. A separate and distinct offense shall be regarded as committed each day on which such person shall continue any such violation.

(c) The Director of Community Development or designee shall deny the issuance of certificates of occupancy until all deficiencies have been corrected.

Section 14: Abandonment of existing public streets

(a) Any abandonment of a public street by the City pursuant to this section must comply with the applicable requirements set forth in State Law and this code, including but not limited to the requirements set forth in O.C.G.A. §§ 32-7-2(b) and 32-7-4 and as may hereinafter be amended.

(b) A property owner(s) may petition the City Council to abandon an existing public street that abuts the owner(s)' property. The petition must include documents that comply with all of the following requirements set forth in this section.

(c) The petition shall contain evidence that each abutting landowner to the public street seeks to have the street abandoned.

(d) The petition shall contain evidence that once abandoned pursuant to the requirements of State Law, all property owners that abut the street agree that ownership of the street shall be placed in a property owners' association. The petition shall include evidence that one hundred (100) percent of all property owners in the property owners' association have agreed that the street at issue may become private and have agreed to maintain and exercise control over the private street as required by this ordinance.

(e) The petition shall contain evidence that the property owners' association has the financial ability to maintain the street and associated improvements in perpetuity.

(f) The petition shall include evidence that the declaration of covenants and articles of association or other legal instrument(s) creating the property owners' association provide or have been amended to provide that membership in the property owners' association shall be mandatory for each original and successive purchaser of a lot, building or unit on the street.

(g) The petition shall include evidence that the property owners' association shall be organized so that it has absolute legal authority to maintain and exercise control over the private street(s) and required improvements associated with private streets, including, but not limited to, sidewalks, bikeways, curbs and gutters, traffic signs and markings, associated landscaping and lighting, entry signs, monuments, perimeter walls and fences, entry gates and gatehouses.

(h) The petition shall include evidence that the declaration of covenants creating the property owners' association shall be recorded with the clerk of the Superior Court of DeKalb County and the recorded declaration of covenants and articles of incorporation creating the property owners' association shall provide that all private streets and associated improvements are owned by the property owners' association or are held in common by the property owners within the development. Said streets shall be properly maintained and insured with no liability or maintenance responsibilities accruing to the City.

(i) The petition shall include evidence that the declaration of covenants and articles of association shall provide for a maintenance fund, the proceeds of which shall be used solely for the purpose of regular maintenance of the street(s), whether for resurfacing or similar purpose. For the purposes of providing further assurances that City funds shall not be used for maintenance of private streets, the property owners' association shall submit proof of a maintenance fund equal to fifty (50) percent of the current estimate of resurfacing costs, as determined by the Director of Community Development or designee, in an interest bearing account on behalf of the property owners' association.

(j) The petition shall include evidence that the property owners have a maintenance bond renewable annually in an amount equal to fifty (50) percent of the current estimate of resurfacing costs, as determined by the Director of Community Development or designee.

(k) The petition shall include evidence that the property owners' association is empowered to levy assessments against owners on the street(s) for the payment of expenditures made by

the association for maintenance of the private streets and improvements associated with private streets, including, but not limited to, sidewalks, bikeways, curbs and gutters, traffic signs and markings, associated landscaping and lighting, entry signs, monuments, perimeter walls and fences, entry gates and gatehouses and evidence that any unpaid assessments shall constitute a lien in favor of the property owners' association on the lot, building, or unit of the owner. At least fifteen (15) percent of all fees or assessments paid shall be set aside in the maintenance fund.

(l) The City Council shall not consider a petition for abandonment unless it:

(1) Contains all of the evidence and documents required by this ordinance and has been reviewed by the Planning Commission; and

(2) Is supported by an analysis by the Department of Public Works that shows that the street is no longer used by the public to the extent that it serves no substantial public purpose and that the public at large will benefit from its closure since the public will no longer be responsible for any costs to maintain and repair the street; and

(3) Is supported by an analysis by the Department of Community Development that shows that the abandonment of the street shall not negatively impact adjacent neighboring communities and the public at large.

Deferral of a petition and/or failure to provide a recommendation by the Planning Commission shall not prevent the City Council from taking any and all appropriate action with respect to the petition identified in this section.

Section 15: Street classification and right-of-way width

All streets shall be classified according to the table in this section. Street construction standards shall be no less than as follows:

TABLE INSET:

Type of Road	**Travel Lanes**	**Bike Lanes**	**Paving Width**	**Planting Strips**	**Sidewalks**	**Utility Strips**	**Property ROW**	**Under-ground utilities**	**Street Lights**
Parkway, 4 lane divided	4 @ 11’	2 @ 4’		2 @ 6’	2 @ 5’	2 @ 15’	120	Y	Y
Major arterial	4 @ 11’	2 @ 4’		2 @ 6’	2 @ 5’	2 @ 15’	100	Y	Y
Minor arterial	2 @ 11’	2 @ 4’		2 @ 6’	2 @ 5’	2 @ 15’	80	Y	Y
Residential arterial	2 or 4 @ 11’	2 @ 4’		2 @ 6’	2 @ 5’	2 @ 15’		Y	Y

Collector	2 @ 11’	2 @ 4’		2 @ 5’	2 @ 5’	2 @ 15’	70	Y	Y
Res. Pkwy (min. 100 homes)	2 @ 11’			2 @ 5’	2 @ 5’	2 @ 15’		Y	Y
Local residential	2 @ 12’	0		2 @ 5’	2 @ 5’	2 @ 14’		Y	Y
Local office and institutional	2 @ 12’	0		2 @ 5’	2 @ 5’	2 @ 15’		Y	Y
Local industrial	2 @ 14’	0		2 @ 5’	1 @ 5’	2 @ 15’		Y	Y
Alley, private	1 @ 12’	0		0	0	0	0	Y	O
Alley, public	1 @ 16’	0		0	0	0	20	Y	Y

Paving Width = travel lanes + bike lanes

Property Right-of-way = paving width + curb & gutter width + utility strip + bike lanes + other (median or shoulder)

Section 16: Improvements, right-of-way dedication

(a) All proposed new streets shall be designed and built according to one of the standards listed in Section 15 of this Part and as shown in the DeKalb County Standards for Construction and Design.

(b) Where a proposed subdivision or project requiring a land development permit has frontage on an existing public street, right-of-way shall be dedicated along that frontage so as to meet the standards of that street's classification in the City thoroughfare plan. The right-of-way shall be improved wherever required as further provided in this section. For existing streets on which a proposed subdivision or project requiring a land development permit has frontage, the applicant shall:

(1) Dedicate a minimum of fifty (50) percent of the required right-of-way width as measured from the centerline of the existing street right-of-way;

(2) Install all required sidewalks, street trees, streetlights, and place utilities according to the standards in Section 15 of this Part; and

(3) Provide a minimum of fifty (50) percent of the roadway pavement required in Section 15 of this Part and install it to the right-of-way centerline.

(c) Land reserved for any road purposes may not be counted in satisfying yard or area requirements on the City of Dunwoody Zoning Ordinance where the land is to be

dedicated to the public in fee simple or an easement associated with the road is granted to the City of Dunwoody.

(d) Right-of-way dedication and road widening shall extend for the full length of road frontage of the property under development and shall conform to the standards in these regulations. Flares at pavement ends may be required to extend beyond property under development.

(e) The City Council, after considering all related factors, may authorize deviations from this section as follows:

(1) Right-of-way dedication may be waived or modified if:

(A) Existing use of property is not to be substantially changed as a result of proposed development or construction;

(B) Existing government construction plans for the roadway indicate lesser right-of-way would be required for dedication; or

(C) The adjoining frontage is developed and the predominant existing right-of-way meets City standards.

(2) Road improvements may be waived or modified if:

(A) Existing use of property not to be substantially changed (i.e., traffic generation and ingress/egress would remain the same);

(B) Governmental construction plans for the road indicate a pavement width less than City standards (only the planned pavement width shall be required);

(C) No more than five (5) percent of average daily traffic generation would occur between 7:00 a.m. and 9:00 a.m. and 4:00 p.m. and 6:00 p.m., on weekdays;

(D) The existing road meets current county standards; or

(E) Widening would create a hazard to traffic, pedestrians, or bicyclists along the thoroughfare.

(3) The applicant may, with written concurrence of the Director of Community Development and the City attorney, provide payment to the City in lieu of road improvements when:

(A) Road improvements by state or local action are scheduled within twenty-four (24) months;

(B) Existing utility companies' improvements are situated so as to require their removal or relocation before road improvements should be accomplished;

(C) Improvements would be economically unfeasible or would cause unreasonable land development hardships because of topography, soils, bridges, grades, etc., and delay of improvements would not adversely impact the City's road system; and

(D) Payment for road improvements shall be in accordance with a schedule adopted by the City Council in January of each year and based on current street construction costs for the required section.

Section 17: Half Streets

Half streets are prohibited. The applicant shall be required to pave the full standard width of any existing unpaved public right-of-way or any proposed public street on which the proposed subdivision has frontage and access.

Section 18: Temporary dead-end streets

Temporary dead-end streets may be platted, if recommended by the Director of Community Development and approved by the City Manager, where the proposed subdivision adjoins property not yet subdivided or property that may be redeveloped. A temporary dead end street shall end in a temporary turn-around. The right-of-way of any temporary dead end street shall be carried to the boundary of the properties being subdivided. Street signs shall be posted stating: "No Exit -- temporary dead-end street."

Section 19: Permanent dead-end streets; cul-de-sac required

(a) Dead-end streets designed to be so permanently shall be provided with a cul-de-sac at the closed end and shall not exceed one thousand two hundred (1200) feet.

(b) The minimum outside radius of a cul-de-sac on a public street shall be forty (40) feet, measured to the inside face of the outside curb. Each cul-de-sac shall provide a landscaped island at the center, and the clear width of the paved roadway measured from the outside of the landscaped island to the inside face of the outside curb shall not be less than twenty-four (24) feet. The radius of the right of way for the cul-de-sac shall not be less than fifty (50) feet.

Section 20: Alleys

(a) Alleys shall be required wherever topography or the presence of arterial roads or other features makes vehicular access from the front of the lot impractical or unsafe. Where the alley serves as the primary means of vehicular access to the lot, it shall be dedicated as a public right-of-way and built to the standards required in these regulations/this Chapter.

(b) Alleys may be permitted as private streets providing secondary or service access and where the principal buildings have adequate access for emergency vehicles from a public street on their frontage. Private alleys may end in a turn-around. All alleys dedicated to the public shall provide a continuous connection between one (1) or more public streets. Alleys shall be paved and constructed to the same standards as the connecting public streets except that:

(1) The paved width of an alley shall be not less than twelve (12) feet;

(2) Alleys shall be constructed with flush curbs;

(3) Buildings shall be set back at least ten (10) feet from the back of curb of an alley.

Section 21: Street grades

(a) Subdivision street grades shall not exceed the following, with due allowance for reasonable vertical curves:

TABLE INSET:

Type	**Percent Grade**
Major arterial	8
Minor arterial	10
Residential arterial and alley	12
Collector street	12
Local residential	12
Alleys	12

(b) A sixteen (16) percent grade on local residential streets may be approved by the Director of Community Development where a sight distance in feet of ten (10) times the speed limit is maintained. An as built street profile may be required.

(c) No street grade shall be less than one (1) percent and no one (1) percent grade shall be longer than three hundred (300) feet.

(d) Up to a twelve (12) percent grade on alleys may be allowed, provided the development director approves any required drainage plan.

Section 22: Minimum horizontal curve radius

Subdivision streets with design speeds of twenty (20) miles per hour may not have a minimum centerline horizontal curve radius less than ninety (90) feet. No other subdivision street shall have a horizontal curve radius less than one hundred fifty (150) feet. Radius shall be measured from the centerline of the right-of-way.

Section 23: Minimum sight distance

All subdivision streets shall have a minimum sight distance of at least two hundred (200) feet.

Section 24: Design of intersections

Subdivision intersections shall not be designed in such a manner as to create a traffic hazard. A minimum of one hundred fifty (150) feet clear sight distance in each direction from the intersection shall be provided. Where a subdivision street enters an existing major or minor arterial, a minimum of two hundred fifty (250) feet sight distance in each direction shall be maintained. If, due to other restrictions, this minimum sight distance cannot be maintained, the applicant shall, at the applicant's expense, provide adequate traffic-control devices or other physical improvements subject to the approval and installation by the City.

Section 25: Access management

The following standards shall apply to all subdivisions and all projects requiring a land development permit where the primary access is from a state or federal highway or an arterial classified as a major, minor or residential arterial or collector street in the City of Dunwoody Transportation and Thoroughfare Plan. These standards shall apply unless a more restrictive standard is required by the Georgia Department of Transportation:

(1) Commercial or office properties may be required, based on site conditions as determined by the Director of Community Development, to provide a cross access drive and pedestrian access to allow circulation between sites. Cross access is not required between non-residential uses and single-family uses.

(2) Joint driveways, cross access easements and pedestrian access shall be established wherever feasible along a major or minor arterial or collector street. The building site shall incorporate the following:

(A) Continuous service drive or cross access corridor extending the entire length of each block served to provide for driveway separation of at least 1,000 feet of linear frontage along the thoroughfare.

(B) A design speed of ten (10) mph and a two-way travel aisle width of twenty-four (24) feet to accommodate automobiles, service vehicles, and loading vehicles.

(C) Stub-outs and other design features to indicate that abutting properties may be connected to provide cross access via a service drive.

(3) The Director may reduce the required separation distance of access points where they prove impractical, provided all of the following requirements are met:

(A) Joint access driveways and cross access easements are provided in accordance with this section.

(B) The site plan incorporates a unified vehicular and pedestrian access and circulation system in accordance with this section.

(C) The property owner shall enter a written agreement with the City of Dunwoody, recorded with the deed, that pre-existing connections on the site that do not meet the requirements of this section will be closed and eliminated after construction of each side of the joint use driveway.

(4) All developments shall have access to a public right-of-way. The number of access points shall be as follows:

Minimum Number of Access Points

TABLE INSET:

Type of Development	**Minimum No. of Access Points**	**Type of Primary Access**
Residential, under 75 units	1	Residential arterial or collector street
Residential, 76 to 150 units	2	Residential arterial or connector street
Residential, 151 – 300	3	Collector street
Residential, over 300 units	4	Collector street
Nonresidential, less than 300 required parking spaces	1	Collector street
Nonresidential, 300 – 999 required parking spaces	2	Major or minor arterial or collector street
Nonresidential, 1000 or more required parking spaces	2 or more as determined by the Department	Major or minor arterial or collector street

(5) The separation of access points on a major or minor arterial or collector street shall be determined by the speed limit of the road with the following minimum spacing requirements:

TABLE INSET:

Posted Speed Limit of Road	**Minimum Driveway Spacing**
Less than 35 MPH	125 feet
36 to 45 MPH	245 feet
Greater than 45 MPH	440

(A) The distance between access points shall be measured from the centerline of the proposed driveway or public street to the centerline of the nearest existing adjacent driveway or public street.

(B) Driveway spacing at intersections and corners shall provide adequate sight distance, response time, and permit adequate queuing space.

(C) No driveway, except residential access, shall be allowed within one hundred (100) feet of the centerline of an intersecting arterial or collector street.

(D) No non-residential access except right in/right out channelized access shall be allowed within one hundred (100) feet of the centerline of any other major or minor arterial.

(E) The requirements of this section are not intended to eliminate all access to a parcel of land that was legally subdivided prior to the enactment of this section.

(6) Where major or minor arterials or collector streets include medians, directional median openings shall be separated by a minimum of three hundred thirty (330) feet and full median openings shall be separated by a minimum of six hundred sixty (660) feet.

(7) All street design and other development activities, including landscaping, shall be arranged on site so as to provide safe and convenient access for emergency vehicles.

(8) Along major or minor arterials, residential arterials, or collector streets, a deceleration lane, a turn lane, larger or reduced turning radius, traffic islands or other devices or designs, including traffic calming devices and designs, may be required to avoid specific traffic hazards which would otherwise be created by the proposed driveway location.

(9) Deceleration lanes are required for subdivision entrances of subdivisions of twenty (20) or more units that provide less sight distance (in feet) than ten (10) times the posted speed limit (in miles per hour). The minimum deceleration lengths shall be as specified below. The Director may vary length requirements based upon a consideration of available sight distances.

Deceleration Lanes

TABLE INSET:

Operating Speed	**Deceleration Lanes**
Subdivision streets	Not required
35 MPH	150’ + 50’ taper
40 MPH	150’ + 50’ taper
45 MPH	150’ + 50’ taper
55 MPH	200’ + 150’ taper

Deceleration lanes located within 75' of an intersection radius may be extended to the intersection.

Section 26: Planting Strips

The City Arborist shall maintain a list of trees that are appropriate for the planting strips, and no trees other than those on the list shall be placed in the planting strips. The City Arborist shall also maintain specifications regarding spacing trees, and the appropriate time for planting. The trees may not count toward the fulfillment of the requirement to plant front yard trees but may fulfill any remaining density tree requirements under the tree protection ordinance, provided the requirements for tree type for planting strips are met.

Part C: Easements

Section 1: Scope

The provisions of this Division apply to easements for or in subdivisions.

Section 2: Permission for dedication required

The applicant must obtain permission from the Director of Community Development for the dedication of utility easements prior to the submission of the dedication.

Section 3: Floodplain easements – On site

Where a subdivision is traversed by a stream, or floodplain, a floodplain easement shall be dedicated to the City. The easement shall conform to the requirements of this Chapter and shall conform substantially to the limits of such stream or floodplain plus additional width as necessary to accommodate future access, but shall not exceed five (5) feet outside the edge of the floodplain.

Section 4: Drainage Easements – Off site

Where drainage system improvements are required on private land outside the subdivision, appropriate drainage rights must be secured by the applicant and indicated on the plat.

Section 5: Pedestrian and bicycle easements and path

Pedestrian and bicycle easements and paths shall be required in subdivision or projects requiring a land development permit to provide circulation or access to schools, parks, libraries, shopping centers, transportation centers and other community facilities. Such easements shall have a paving width of five (5) feet. Such paths shall be constructed according to the specifications set forth in the DeKalb County Standards for Construction and Design Drawings.

Part D: Blocks

Section 1: Generally

The lengths, widths and shapes of blocks in subdivisions shall be determined with due regard to:

(1) Provision of building sites suitable to the special needs of the type of use contemplated or for the conservation of open space or existing historic features;

(2) Zoning requirements as to lot sizes and dimensions;

(3) Needs for convenient access by pedestrians and bicyclists to public transit, nearby schools, or commercial districts, vehicular circulation at safe speeds and adequate access for emergency vehicles; and

(4) Limitations and opportunities of topography to minimize land disturbance and erosion.

Section 2: Desirable maximum and minimum lengths

The dimensions of blocks shall be designed to accommodate and promote vehicular circulation at safe speeds. The desirable maximum block length in a subdivision is one thousand two hundred (1,200) feet and the desirable minimum length is three hundred (300) feet.

Section 3: Mid-block easements and pedestrian paths

In blocks of eight hundred (800) feet or more, the Director of Community Development may require the reservation of a ten-foot easement and the paving of a five-foot wide path through the block to accommodate utilities, drainage-facilities, or pedestrian traffic. Such paths shall be constructed according to the specifications set forth in the City of Dunwoody Standards of Construction and Design Drawings or Dekalb County Standards of Construction and Design Drawings if the same has not been created by the City.

Part E: Lots

Section 1: Generally

The lot size, width, depth, shape and orientation and the minimum building setback, side yard, and rear yard lines in subdivisions shall be in accordance with requirements of the City of Dunwoody Zoning Ordinance.

Section 2: Corner lots

Corner lots for residential use in a subdivision shall have an extra width of not less than fifteen (15) feet more than required for interior lots by the City of Dunwoody Zoning Ordinance for the zoning district within which they are located in order to provide appropriate front building setback from and orientation to both streets.

Section 3: Frontage

Each subdivision lot shall front upon a publicly maintained street.

Section 4: Through lots and reverse frontage lots prohibited

Through lots and reverse frontage lots shall be prohibited in subdivisions except along limited access highways, such as interstate highways. Where it is necessary to provide separation of residential development from major arterials or to overcome specific disadvantages of topography and orientation, the lots fronting such features may be platted in greater depth so that dwellings may be set back an appropriate distance from the major arterial or other feature. Such lots may obtain vehicular access from a rear alley. Lots having access from a public alley shall not constitute a prohibited through lot. A landscape reservation of at least ten (10) feet in width, and across which there shall be no right of vehicular access, may be required along the lot lines of lots abutting any disadvantageous feature or land use where access should be restricted in the public interest.

Section 5: Side lot lines

Side lot lines in subdivisions shall be substantially at right angles or radial to street lines as they extend from the front lot line to the front building line.

Part F: Reservation of Open Spaces

Section 1: Open spaces required; purposes

(a) All residential subdivisions under five (5) acres or consisting of thirty-six (36) or less dwelling units may, and all residential subdivisions greater than five (5) acres or consisting of more than thirty-six (36) dwelling units shall be required to provide open space, in order to achieve the following public purposes:

(1) Conserve open land, including those areas containing historic or cultural resources, or sensitive natural features and wildlife habitats;

(2) Reduce erosion and sedimentation by minimizing land disturbance; and

(3) Preserve and develop an adequate-tree cover.

(b) Open space shall be a minimum of twenty (20) percent of the land in all new subdivision developments.

(c) Open space required by this section may be used in a variety of ways, including natural areas for wildlife and ecological functions, parks, gardens, landscaped medians, squares, village greens, courtyards, recreational space, or recreational facilities, provided the use is consistent with the requirements of this part.

Section 2: Restrictions on open space

No more than twenty (20) percent of the open space area may be covered with an impervious surface. Impervious surfaces may include paved trails, bike paths or multi-use paths, buildings, plazas, swimming pools, or athletic courts. Impervious surfaces in open space may not include sidewalks along public rights of way or parking lots, streets, or other areas for motorized vehicular use.

Section 3: Dedication of parks, open space, recreation areas and conservation easements

Parks, open space, multi-use trails, recreation areas and conservation easements may be offered for dedication to the City by the property owner.

Part G: Sites for Civic Uses

Section 1: Reservation of sites for civic uses

A developer may reserve and offer property within a subdivision as a site for a civic use, including but not limited to public schools, fire stations, police stations, or recreation centers. The developer shall allow a minimum period of one (1) year from the date of submittal of the preliminary plat during which time the proper authorities may authorize acquisition of the property for its intended civic purposes. If the reserved site has not been authorized for acquisition by the proper authorities within one (1) year, the reservation shall terminate unless extended by the developer. If not extended, development of the formerly reserved site must follow the standard plat approval process. An amended final plat for the entire subdivision shall then be processed in the required manner when submitted by the developer.

Division 4: Required Improvements

Part A: General Provisions

Section 1: Scope

This division applies to required improvements for or in subdivisions.

Section 2: Location of required utilities in public rights of way

All required utilities within City rights of way shall be located as shown in the City of Dunwoody Standards of Drawing and Specification, if existing, and if not existing, those shown in the DeKalb County Standards of Drawings and Specifications maintained by the Dekalb County Development Department and as otherwise provided herein.

Part B: Water

Section 1: Certification of final plat

There shall be a certification placed upon the final plat from the chief engineer of the Dekalb County water system, or such other watershed services provider as the City may contract with for provision of water services to the City, after the applicant has complied with the requirements of this part.

Section 2: Right to design water mains

The City, or its designated watershed services provider, shall have the right and privilege to design water mains and appurtenances of the right size and materials in subdivisions. The design will include necessary improvements to the water system, including extensions along the entire roadway frontage of the development.

Section 3: Materials, location of mains

(a) All materials for water mains in subdivisions will conform to specifications of the American Water Works Association.

(b) Water mains will be laid a minimum distance of four (4) feet back of the curbline.

Section 4: Fire hydrants

Fire hydrants will be installed in subdivisions so that all residential property will meet the requirements of the fire prevention code of Dekalb County, if the County continues to provide fire and rescue services to the City, or the fire prevention code of the City should the City create its own Fire Department. The location of fire hydrants shall be reviewed and approved by the

Public Works Director. Additional fire hydrant locations may be required to ensure water quality and air release standards.

Section 5: Water valves

Water valves will be installed in subdivisions to affect a minimum cutoff of mains in case of shutdowns.

Section 6: Stub-out services

Stub-out services will be installed in all cases where necessary to avoid cutting of pavement or sidewalks and will be placed on the lot as specified by the City.

Section 7: Determination of size of mains

Sizes of water mains in subdivisions will be determined by the City to ensure adequate domestic supply and fire protection for the subdivision.

Section 8: Submission of water service data for location of water system

(a) The applicant shall furnish data on the final subdivision plat in digitized form, and/or as required, to the Director of Community Development.

(b) The City shall design on this plat the location and size of all pipe, valves, fire hydrants, fittings and stubs to lots, consistent with design regulations promulgated by the Director of Community Development in conjunction with the City's watershed services provider. It will then furnish to the owner/applicant copies of this plat with a list of materials that will include the total linear feet of main to be extended.

(c) With this information the applicant will take bids from contractors and when the contract is awarded, furnish the City with a copy of the contract.

Section 9: Engineer's or surveyor's certification

The applicant's engineer or surveyor shall furnish the City with an engineer's certificate.

Section 10: Prerequisites to delivery of materials to contractor

(a) No materials to be used for subdivision water improvements will be delivered to the job site until the requirements of Sections 8 and 9 of this Part have been complied with.

(b) No work will commence on the water improvements until DeKalb County water and sewer division inspectors have inspected and approved all materials on the site for compliance with the materials specifications as published by the water and sewer division of the DeKalb County public works department.

(c) Any water line material or appurtenances found not to meet specifications shall be removed from the job site by the contractor prior to commencement of any water line construction activity.

Section 11: Final inspection; cost of labor information to be supplied

Upon completion of the job of installing water improvements in a subdivision, the owner/applicant's engineer and the City's watershed service provider will measure the work done showing station numbers to all valves, fire hydrants and other pertinent fittings including stub locations. The owner/applicant will furnish the City a copy of this report showing the work done. The owner/applicant will furnish the City with a final cost of the labor to install the materials.

Section 12: Material storage and responsibility

It shall be the contractor's responsibility to acquire, properly handle, store and protect all materials. The City shall not be held responsible for loss or damage to any materials. No damaged material shall be utilized in the water line construction.

Section 13: Excavation

(a) Depth. Trenches shall be excavated to a depth sufficient to provide a minimum of three (3) feet of cover over subdivision water mains, and two and one-half (2 1/2) feet over subdivision water service lines. In rock cuts, the excavation shall be of sufficient depth and width to provide a minimum of six (6) inches' earth cushion below and along the sides of the mains.

(b) Sheeting. The contractor shall install sheeting and bracing where necessary to prevent caving, to protect new work and to protect adjacent utility lines, and public and private property.

(c) Blasting. Blasting shall be permitted only with the written approval of the City for each location. The contractor shall provide adequate protection, such as mats, and permit only qualified, experienced personnel to supervise blasting. Approval by the City in no way relieves the contractor from any liability for any damages whatsoever resulting from the blasting operations.

Section 14: Pipe laying

Pipe laying shall conform to the specifications prepared and approved by the Community Development Department in effect at the time a development permit application is received by the Community Development Department. The Director of Community Development is authorized to promulgate specifications and regulations to govern and implement this provision.

Section 15: Backfilling

(a) All backfilling in subdivisions shall be done with material free from roots, stumps and other foreign material. No rock will be permitted within a distance of six (6) inches from the pipe or ground surface. Rock larger than twelve (12) inches in greatest dimension will not be allowed in any part of the trench. All rock larger than twelve (12) inches shall be disposed of by the contractor.

(b) The placing and compaction of all backfill material shall be as follows:

(1) Backfill from bottom of trench to one (1) foot above the top of the pipe shall be compacted in layers not exceeding six (6) inches, after compaction. Backfill along the sides and to the top of the pipe shall be hand tamped with acceptable hand tamps or mechanically operated hand-tampers, vibrators, etc.

(2) From a point one (1) foot above the top of the pipe to the surface of the trench, backfill shall be placed and compacted in layers not exceeding twelve (12) inches in thickness after compaction. The method of compaction in this section of the trench may be by any reasonable method that will give required compaction. After compaction, the dry weight per cubic foot of any six-inch depth of backfill shall be at least ninety-five (95) percent of the maximum dry weight per cubic foot, as determined by the American Association of State Highway Official Method T-99.

(3) The contractor shall restore to the original condition as at the start of the job, all shrubbery, grass, sod, fences, etc., disturbed during the contractor's operations.

Section 16: Pavement replacement

Cuts in existing street pavement and driveways will be patched by the applicant/owner. The applicant/owner shall maintain the cuts in good condition until a permanent patch is made. When necessary to abate dust, mud or potholing, the contractor shall furnish and install crushed rock or cold patch asphaltic concrete to the surface of the trench. Appropriate utility permits must be obtained from the Public Works Director prior to work being initiated.

Section 17: Barricades and lights

The contractor shall furnish and place sufficient barricades and lights to adequately protect the work on subdivision water improvements, and to protect all vehicular and pedestrian traffic. No street shall be completely blocked, without the permission of the Public Works Department.

Section 18: Testing

(a) All subdivision mains, including fire hydrants and service laterals, shall be subject to a minimum of one hundred fifty (150) pounds per square inch, hydrostatic test for a period

of three (3) hours. When static pressure exceeds one hundred (100) pounds per square inch, the test pressures shall be equal to static pressure plus fifty (50) pounds per square inch.

(b) The contractor shall fill the line slowly, taking care to blow off air at fire hydrants or service laterals at high points of line. If a fire hydrant or service lateral is not available at high points, the contractor shall furnish all materials and install one-and-one-half-inch blowoffs to relieve trapped air. After the line has been filled, pressure shall be increased to test pressure with a pump.

(c) A pressure gauge shall be installed on the discharge side of the pump. The pressure shall be maintained for three (3) hours; and during the last hour of the test period, the volume of water required to maintain the pressure will be measured. The leakage, or volume of water required, shall not exceed the requirements of the American Water Works Association Standard Specifications, C-600.87, or latest revision thereof. No line will be accepted until it has passed leakage test requirements. The contractor, at the contractor's option, may cover all joints prior to testing. However, if the water mains do not pass the leakage requirements, the contractor will be required to uncover joints and pipe until all leaks have been located and repaired. All visible leaks shall be repaired, regardless of results of leakage tests.

Section 19: Sterilization of mains

The contractor will furnish all chemicals, feeding equipment and manpower for the sterilization of water mains. The contractor is responsible for the disposal of dose water in accordance with Environmental Protection Division regulations. The contractor must employ a hydric meter to record the quantity of water used and reimburse the City’s watershed services provider for the appropriate amount.

Section 20: Cleanup

A thorough cleanup shall be made before final acceptance of subdivision water improvements. All excess rock shall be removed; private and public property shall be restored to original condition, and all excess water line materials removed from the job site.

Section 21: Service lateral locations

The contractor shall submit an as-built drawing showing the location, lot number and street address for each service lateral installed in a subdivision.

Section 22: Maintenance

(a) The owner/applicant shall maintain all water mains, appurtenances, trenches and other disturbed surfaces for a period of twelve (12) months after approval and acceptance by the City.

(b) The contractor shall be responsible for repairs to any leaking pipe, fittings, etc. Should any trench settle, the contractor shall promptly furnish and place fill to original grade. Should any leak or trench settlement occur under any pavement, the contractor will be held responsible for the cost of replacing the pavement.

Part C: Sewers

Section 1: Where laid; exceptions

(a) Sanitary sewers shall be laid in all streets, service connections installed to property lines, and connections made to trunk line sewers in all subdivisions including subdivisions with private disposal systems.

(b) The developer of a property adjacent to undeveloped and unserved land lying upgradient from the subject property, shall extend the sewer main to the outside boundary of the property being developed in order to allow for the future provision of sewer service to such unserved adjacent property unless waived by the Director of Community Development.

(c) In all developments with private disposal systems, lines shall be laid and temporarily plugged or capped at the points of service connections to the proposed trunk sewer line and individual lot lines in accordance with DeKalb County requirements and specifications.

(d) Corresponding service connections shall be installed and temporarily plugged or capped from each principal structure in such a manner that a proper service connection can be made when permanent sewer service is available. This subsection may be waived by the Director of Community Development based upon service feasibility to the principal structure as determined by the elevation of the structure with reference to the elevation of the proposed sewer line.

(e) The requirements of this section may be waived by the City Council. Applications for this waiver shall be submitted to the Council through the Director of Community Development, who shall schedule the request for a public meeting before the Council. The waiver may be granted by the Council if it finds that the property for which a waiver is sought is in accordance with applicable provisions of this Code and the DeKalb County board of health regulations concerning the minimum lot size for private disposal systems, and if the property is located in any of the following areas:

(1) An area of the City where, due to topographic or soil conditions, public sewer service is not feasible.

(2) An area of the City where the installation of sewer service is not scheduled under the approved capital improvements program of the City or DeKalb County.

(3) An area of the City where the installation of sewer service is not planned to be accomplished within a six-year period.

Section 2: Design

Design of the proposed sewer system within a development shall conform to the specifications prepared and approved by the Department of Community Development in effect at the time a development permit application is received by the Department of Community Development.

Section 3: Filing of plan

Filing of plans shall conform to the specifications prepared and approved by the Department of Community Development in effect at the time a development permit application is received by the Department of Community Development. The lowest minimum finished floor elevation shall be noted for each lot.

Section 4: Materials

Materials shall conform to the specifications prepared and approved by the Department of Community Development in effect at the time a development permit application is received by the Department of Community Development.

Section 5: Construction

Construction shall conform to the specifications prepared and approved by the Department of Community Development in effect at the time a development permit application is received by the Department of Community Development.

Section 6: Comments, recommendations to be marked on preliminary plan

Upon receiving the preliminary plat the, Director of Community Development will compare the proposed subdivision in relation to existing and proposed sewer systems. Comments, recommendations and changes deemed advisable will be marked on the preliminary plat and returned to the Director of Community Development.

Section 7: Certification on final plat

The Director of Community Development shall place certification upon the final plat after the applicant has complied with the sewer system requirements of DeKalb County. Such certification is required prior to final approval by the City Manager.

Section 8: Acceptance

The City or its designated wastewater services provider shall not accept the subdivision sewer project until the applicant has complied with all applicable requirements of the City and DeKalb County.

Section 9: Maintenance

(a) The owner/applicant shall maintain all sewer lines, appurtenances, trenches and other disturbed surfaces for a period of twelve (12) months after approval and acceptance by the City Manager and/or the City's wastewater services provider.

(b) The owner/applicant shall be responsible for repairs to sewer system. Should any trenches settle, the owner/applicant shall promptly furnish and place fill to original grade. Should any leaks or trench settlement occur under any pavement, the contractor will be held responsible for the cost of replacing pavement.

Part D: Streets

Section 1: Standards

(a) Generally. Street improvements shall be provided in each subdivision in accordance with the specifications in this part and the standard plans and specifications available from the City. The term "state transportation department specifications'" shall refer to the State Department of Transportation specifications in effect at the time the work is placed under contract. The references made to these specifications shall control the materials and equipment as well as the construction method of every class of work so applicable unless otherwise noted.

(b) Grading. The construction limits shall be cleared of all trees, stumps, brush and rubbish before grading operations are begun. No trees, stumps, brush or rubbish shall be placed in fill sections within the construction limits. Such debris shall be disposed of in a manner satisfactory to the Director of Community Development. Fill sections shall be placed in six-inch layers with each layer thoroughly compacted with a sheep foot roller or by other approved methods before the next layer is placed, compaction to be not less than ninety-five (95) percent as determined by AASHO, section T-99. Where unsatisfactory material is encountered (namely any material that will not compact properly, including solid rock) an additional twelve (12) inches shall be excavated below the subgrade elevation and backfilled with a select material. Where unstable material is used in fills, the fill shall be left twelve (12) inches below the subgrade elevation. This twelve-inch fill section shall be filled with select material. Streets shall be graded to width of not less than forty-two (42) feet in the center of the right-of-way to provide eight-foot shoulders in accordance with City's standard plan.

(c) Curbing. Header curbing shall be required on all streets and shall be furnished and installed by the applicant unless grassed swales are used for water quality control and approved by the Director of Community Development. The minimum classes and types of curbing permitted will be as follows:

(1) Granite curbing, class D or better.

(2) Other as approved by the Director of Community Development. All curbing shall be placed in firm, well-compacted subgrade, and curbing displaced prior to acceptance for maintenance by the City shall be reset or replaced. Specifications for the granite curbing are available from the City of Dunwoody Department of Community Development.

(d) Base and paving. All roadways shall be paved according to the specifications prepared and approved by the Director of Community development in effect at the time a development permit application is received by the Department of Community Development.

(e) As-built drawings for all new streets shall be submitted to the Department of Community Development depicting a street profile based on the centerline and fifty (50) foot stations.

Section 2: Street signs

(a) The City's standard steel post with horizontal reflectorized street nameplates with four-inch letters shall be furnished and set by the City at all subdivision street intersections.

(b) Street name signs shall have four-inch black letters on reflectorized silver background with black border. Nameplates shall be mounted parallel or nearly parallel to the street. The names shall be marked and visible from both sides. Signposts shall be ten-foot poles with at least three (3) feet well-embedded in the ground.

(c) The applicant shall pay to the City for each street name sign a fee in the amount established by the Director of Community Development and approved by the City Council.

(d) To ensure that all street markers are paid for by the applicant and installed at the proper time, the required street markers will be paid for by the applicant at the time of recording.

(1) For subdivisions recorded under a performance bond, the street marker will not be installed until the paving has been completed.

(2) For subdivisions recorded under a maintenance bond, the Public Works Department will be furnished a plat and a memo requesting that street markers be installed at the time of recording.

Section 3: Road hazards prohibited

Subdivision signs, planter boxes, and other similar permanent structures shall not be located on street rights-of-way and shall not be constructed in a manner which, in the opinion of the City, obstructs driveway sight distance or creates a traffic hazard; detailed plans for these structures shall be submitted to the Director of Community Development.

Section 4: Surface drainage specifications

(a) The size, length and location of all surface drainage pipes or structures shall be shown on the final subdivision plats and shall be subject to the approval of the Public Works Department. All storm drain pipes or culverts carrying stormwater from the street and adjacent property between or through lots shall be extended to at least thirty (30) feet behind the rear of the house. Stormwater must be released into a channel without causing scouring, erosion or resulting sedimentation to the receiving channel. When necessary, the outlet channel shall include structural and vegetative measures to assure non-erosion velocities. This requirement for pipe extension shall only apply to the discharge ends of piped systems.

(1) An exception to extending pipes thirty (30) feet behind the rear of the house may be made for pipes fifty-four (54) inches and larger where the house site is proposed to be more than thirty (30) feet from the center of the drainageway.

(2) An exception to extending pipes thirty (30) feet behind the rear of the house may be granted by the City when soil conditions prohibit erosion.

(3) An exception to extending pipes thirty (30) feet behind the rear of the house may be granted by the City where lots are at least one (1) acre in size, open channels are provided, and neither ponding nor erosion control will result.

(b) Installation, backfilling and compaction shall be in accordance with State Transportation Department specifications, sections 106 and 520. All pipes shall have a minimum cover of one (1) foot and headwalls or inlet basins constructed at the end of each pipe.

(c) The design of drainage structures shall be based on recognized hydrological formulas as outlined in the City of Dunwoody Stormwater Management Manual, or, if one is not in existence, the approved DeKalb County Stormwater Management Manual.

(d) A contour map with an interval of two (2) feet shall be submitted as part of preliminary plats; where available, the DeKalb County two-foot topographic map shall be used. As determined by the Director of Community Development, any lots within the subdivision which are undesirable for building due to bad drainage conditions shall be excluded, and no building shall be permitted thereon until these conditions have been corrected as specified by the Department.

Section 5: Plans, profiles to be approved

Four (4) copies of the complete plans and profiles for subdivision street improvements shall be submitted for review and recommendation of approval or denial by the Public Works Department prior to approval of the final plat.

Section 6: Bonds or escrow required

(a) If, at the time the final plat is submitted for approval, the construction of the street improvements has not been accomplished, then the final plat shall be disapproved. No performance bonds shall be allowed or authorized except the Director of Community Development shall require a performance bond to be filed with the City to ensure that all final road improvements required by this Code are made by the owner or applicant. The City shall accept no road until such time as all road improvements required by the City are made.

(b) After the work has been completed according to the City specifications and duly inspected by the City, then a maintenance bond shall be required equal to ten (10) percent of the estimated construction cost. The proposed maintenance bond shall be reviewed and approved as to form by the City Attorney prior to acceptance by the City. The maintenance bond shall cover the street improvements, drainage system, water system and sewer system. Funds may be placed in escrow with the City in lieu of maintenance bonds.

(c) The applicant shall be required to sign a maintenance agreement with the City, by which the applicant shall agree to maintain the streets, drainage, water quality BMPs, water and sewer systems, and rights-of-way for a period of twelve (12) months. During the applicant maintenance period, the City shall make inspections and instruct the applicant by letter as to what correction must be made.

(d) In case of emergency repairs, which must be made immediately, or required corrections, which are not made within thirty (30) days of notice, the City shall have the authority to make these corrections and recover costs from the applicant. In cases where funds are being held in escrow by the City, the cost of making these corrections shall be deducted from these funds, and the applicant charged with any costs above the amount of escrow funds.

(e) At the end of the twelve-month applicant maintenance period, the City shall make a final inspection and notify the applicant and the bonding company of any corrections to be made. If the work is acceptable, the Director of Community Development shall recommend to the City Attorney that all remaining escrow funds be released.

(f) Provided, however, in the discretion of the Director of Community Development, based upon:

(1) Weather conditions;

(2) Labor market;

(3) Material market; or

(4) Circumstances beyond the control of the applicant or the City unforeseen by either party,

The maintenance period may be extended for a definite period of time sufficient to make the necessary corrections by an agreement in writing executed by the City, the applicant and his/her surety. Provided further, that the applicant shall be responsible for any damages done to work already completed by him to the time of the extension agreement whether or not the City had accepted it.

(g) Maintenance bonds and acceptance by the City of any dedicated improvements shall be as one (1) package upon completion of all improvements, even though the final plat may have been approved prior to completion.

Section 7: Standard plans and specifications available

Standard City plans and specifications referred to in this part are on file and may be obtained from the Community Development Department. The plans are cross sections and construction drawings for a graded street, paved street, driveway section for curbed streets, brick catch basin, barricade for dead-end streets, twenty-four-inch concrete curb and gutter section and standard street marker.

Section 8: Sidewalks and bicycle lanes

(a) Sidewalks shall be required on all sides of street frontage on all new and improved local residential streets in all subdivisions and along the street frontage of all new and improved non-residential developments and as set forth in Division III, Part B, Section 15 of this Article, unless determined by the Planning Commission to be infeasible only due to severe cross-slopes, shallow rock, soil or topographic conditions. At a minimum, however, continuous sidewalks shall be required on at least one (1) side of all new and improved local residential streets. No other variances or exceptions are allowed.

(b) The Director of Community Development or the Planning Commission may require that sidewalks required pursuant to subsection (a) of this section be continued to the nearest major or minor arterial or collector street.

(c) A grassed, planted or landscaped strip, as set forth in Division III, Part B, Section 15 of this Article, shall separate all sidewalks from adjacent curbs, bridges excepted. The Director of Community Development may approve a variable sidewalk location and landscape strip width based on site conditions and future road expansions. Where sidewalks currently exist, new sidewalk construction or re-construction shall be continuous with existing sidewalks.

(d) Sidewalks shall be concrete and a minimum of five (5) feet wide and four (4) inches thick. In non-residential districts, where the Director of Community Development may approve sidewalks to be located immediately behind the curb, such sidewalks shall be six (6) feet in width. Concrete shall be Class "B", as defined by the Georgia Department of Transportation, and have strength of two thousand five hundred (2,500) psi at twenty-eight (28) days. Disturbed areas along sidewalks shall be backfilled, stabilized, and grassed. The required width of a sidewalk may be increased, as determined by the Director of Community Development, based on site conditions to ensure pedestrian safety. See also, Division III, Part B, Section 15 of this Article.

(e) Sidewalks shall be installed at the same time as the building construction, unless an alternative method is approved by the Director of Community Development. Sidewalks shall be completed prior to the issuance of certificate of occupancy for property on which the sidewalk fronts. The sidewalk plan shall be recorded on the final plat and all sidewalks completely installed prior to approval of the final plat.

(f) Sidewalks shall not be cut, removed or closed temporarily without a permit from the Public Works Department. Such permit shall not be issued unless safe, adequate, and convenient provision is made for pedestrian travel through the area that is disrupted. Damage to sidewalks caused during construction or development activity shall be repaired at no cost to the City within thirty (30) days or prior to issuance of a certificate of occupancy, whichever is earlier.

(g) In any "landmark district" or "historic district", as defined by the City, or if the City has not defined same by DeKalb County, where replacement or reconstruction of the sidewalk is deemed necessary, the sidewalk shall be replaced or reconstructed using materials, widths, and designs that are compatible with the historic materials and designs, if any, that exist within the historic district. Design compatibility shall be determined by the City of Dunwoody Historic Preservation Commission or, if one is not established by the City, by the DeKalb County Historic Preservation Commission.

(h) All sidewalk construction and repairs shall provide for wheelchair ramps to and from sidewalks at the intersection of each street corner and crosswalk. Access ramps shall be constructed pursuant to standards approved by the Public Works Department.

(i) No person shall construct a sidewalk on any street in the City without first having obtained a permit to do so from the Public Works Department. Any person constructing a sidewalk on a street, without first obtaining a permit, shall be in violation of this Code, and the Public Works Department shall be authorized to condemn the sidewalk and have it removed and replaced at no cost to the City.

(j) Bicycle lanes shall be required on new or substantially improved major or minor arterials, parkways, or collector streets where the posted speed limit is thirty-five (35) miles per hour or greater. Bicycle lanes may also be required by the Director of Community Development where necessary to provide connections to bikeways in concert with the

City bikeway master plan, if one is established by the City. Bicycle lanes shall be constructed as follows:

(1) Bicycle lanes, where required, shall be at least four (4) feet wide and placed in the outside lane of a roadway, adjacent to the curb or shoulder. When on-street parking is permitted, the bicycle lane shall be at least five (5) feet wide and located between the parking lane and the outer lane of moving vehicles. Bicycle pavement widths shall be in addition to the minimum pavement width required for the road. See also Division III, Part B, Section 15 of this Article.

(2) Bicycle lanes shall be delineated with signs and striping consistent with the latest edition of the manual for uniform traffic control devices, and approved by the Director of Community Development.

(3) Bikeways and bicycle lanes shall be constructed according to the most recent specifications set forth in American Association of State Highway and Transportation Officials (AASHTO) guidelines.

(4) The design, striping and sign system for bicycle lanes shall be coordinated with that of the vehicular road system to provide a safe and continuous route for bicycles. Deceleration lanes shall be striped so that bicycles can safely remain in a lane marked between the deceleration lane and the through traffic lane.

(k) No wall, fence, sign or other structure shall obstruct passage along a sidewalk or bicycle lane.

Section 9: Parking on public right-of-way

(a) For residential projects constructed under the provisions of the zoning ordinance as single-family attached residential projects, wherein title to the single-family unit is held by fee simple ownership, the City may assume maintenance responsibility one (1) year after the release of the subdivision bonds for parking constructed on public rights-of-way, in accordance with minimum City standards. A special parking maintenance district, as authorized by Ga. Const. art. IX, § II, ¶ VI, comprised of all property within such single-family attached residential subdivision, may be established by Resolution of City Council for the maintenance of such parking constructed on the public right-of-way at the time the subdivision plat is finally recorded, provided such plat is so noted as required by subsection (b) of this section.

(b) Final subdivision plats for single-family attached residential projects shall have the following notation when a special district is to be established for City maintenance of parking within the public right-of-way:

"All single-family residential lots on this plat are included in a special taxing district for funding the maintenance of parking provided in the development."

(c) If the City creates a special parking district, as authorized by Ga. Const. art. IX, § II, ¶ VI, revenue to fund City parking maintenance will be obtained by an ad valorem tax levied on all properties within such parking district. Such ad valorem millage will be set annually by the City Council when other ad valorem millage rates are set. No assessment will be made in a special parking district in the calendar year in which it is established.

Section 10: Underground utilities

All utilities are required to be placed underground in all new subdivisions of two (2) or more lots except where no utility improvements are required by this Chapter, or where the Director of Community Development determines underground utilities are infeasible due to shallow rock, high water table, or other similar geologic or hydrologic conditions.

Section 11: Streetlights

Streetlights consistent with Georgia Power specifications, are required in all new subdivisions of two (2) or more lots except where no utility improvements are required by this Chapter. Streetlights shall be provided on the same side of the street as sidewalks.

Part E: Private Sewage Disposal

Section 1: Submission of information with preliminary plat

At the time of submittal of the preliminary subdivision plat and application to the Director of Community Development, the applicant shall submit to the DeKalb County Board of Health the following information when public sewers are not available to the proposed subdivision:

(1) Four (4) copies of a sewer feasibility report;

(2) Four (4) copies of soil data records on forms provided by the Board of Health; and

(3) Four (4) copies of the subdivision analysis record on forms provided by the Board of Health.

Section 2: Contour intervals

Topographic data submitted to the City pursuant to the provisions of this Division shall show contour intervals of two (2) feet; where available, the DeKalb County two-foot topographic map shall be used.

Section 3: Soil Analysis

Soil analysis shall be conducted in accordance with Chapter 13 (Health Regulations), Article 9 (On-site Sewage Disposal) of the DeKalb County Code.

Section 4: Analysis of preliminary plat

(a) Upon receiving the preliminary plat from the Department of Community Development and data required in sections 1-3 of this Part from the applicant, the DeKalb County Board of Health personnel shall make an overall analysis of the subdivision and shall indicate in writing on the preliminary plat the results of this analysis. The plat shall then be returned to the Department of Community Development.

(b) Regarding the preliminary analysis, each lot shall have sufficient area and topographic features to accommodate the installation of an individual sewage disposal system in accordance with regulations applicable to these installations.

(c) Any condition in the area to be subdivided found to be in violation of any health regulation shall be sufficient grounds for disapproval of the preliminary plat.

Section 5: Inspection of lots; signing of final plat

(a) Upon receiving the final plat from the City and when streets have been cut and individual lots are staked and identified, the Board of Health personnel will inspect each lot for adaptability to individual sewage disposal systems.

(b) After the above inspection has been completed, the Board of Health shall render a written report to the Director of Community Development that shall include changes or recommendations or deletions. The final plat shall be signed by the authorized representative of the Board of Health, written report attached, and returned to the City.

Section 6: Issuance of septic tank permits

No septic tank permits shall be issued until four (4) copies of the approved final plat, signed by the City Manager, have been submitted to the Board of Health. The four (4) copies of the approved plat shall be provided by the City.

Section 7: Drainage between lots

Where drainage between subdivision lots is involved and pipe is required, a watertight pipe shall be used and shall extend for a sufficient depth of the lot and not terminate at some point just behind the building line causing pools to be formed or stormwater flooding the area of the septic tank drain field.

Section 8: Facilities discharging into public waters; review of plans

The State Department of Natural Resources is authorized by the Georgia Water Quality Control Act to review plans and specifications of all sewage treatment facilities discharging into any waters of the state.

Section 9: Board of Health recommendations

The Board of Health may reject any or all domestic sewage disposal systems and may recommend in lieu thereof the extension of the public sewerage system or the installation of any approved temporary community sewerage system conforming to the Georgia Water Quality Control Act.

Section 10: Impoundment permit

Where ponds one-tenth (1/10) of an acre or larger are located in a subdivision or adjoin a subdivision, an impoundment permit shall be obtained in compliance with the impounded water regulations of the State Board of Natural Resources.

Section 11: Compliance with Board of Health requirements

All septic tank systems shall conform to the requirements of the Board of Health.

Article IV: Floodplain Management

Division 1: Findings of Fact and Statement of Purpose

Section 1: Findings of fact

(a) The flood hazard areas of the City are subject to periodic inundation which results in loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(b) These flood losses are caused by uses that are inadequately elevated, floodproofed, or protected from flood damage. The cumulative effects of obstructions in areas of special flood hazards which increase flood heights and velocities also contribute to the flood loss.

Section 2: Statement of purpose

(a) It is the purpose of this Article to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Protect human life and health;

(2) Minimize expenditure of public money for costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;

(6) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;

(7) Ensure that potential buyers are notified that property is in an area of special flood hazard; and

(8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Section 3: Methods of reducing flood losses

(a) In order to accomplish its purposes, this Article includes methods and provisions to:

(1) Restrict or prohibits uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(4) Control filling, grading, dredging, and other development which may increase flood damage; and

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Division 2: Definitions

Section 1: Specific definitions

Unless specifically defined below, words or phrases used in this Article shall be interpreted so as to give them the meaning they have in common usage and to give this Article its most reasonable application.

Accessory use means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

Alluvial fan means a geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity floods, debris flows, erosion, sediment movement and deposition, and channel migration.

Apex means the point of highest elevation on an alluvial fan, which on undisturbed fans is generally the point where the major stream that formed the fan emerges from the mountain front.

Appeal means a request for a review of the Floodplain Coordinator's interpretation of any provision of this Article.

Area of shallow flooding means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard. See "Special flood hazard area."

Base flood means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this Article. It is equivalent to the "intermediate regional floodplain" (IRF), previously used in Dekalb County.

Basement means any area of the building having its floor subgrade i.e., below ground level on all sides.

Building. See "Structure."

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations or storage of equipment or materials.

Encroachment means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood, flooding, or flood water means:

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows); and

(2) The condition resulting from flood-related erosion.

Flood boundary and floodway map (FBFM) means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

Flood hazard boundary map means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards.

Flood Insurance Rate Map (FIRM) means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

Floodplain or *flood-prone area* means any land area susceptible to being inundated by water from any source. See "Flooding."

Floodplain Coordinator is the individual appointed to administer and enforce the floodplain management regulations.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations mean this Article and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes Federal, State or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents (Refer to FEMA technical Bulletins TB 1-93, TB 3-93, and TB 7-93).

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot; also referred to as "regulatory floodway".

Floodway fringe is the area of the floodplain on either side of the regulatory floodway where encroachment may be permitted.

Fraud and victimization as related to Division 6, Variances, of this Article, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City Council will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty (50) to one hundred (100) years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

Functionally dependent use means a use which cannot perform its intended purposes unless it is located or carried out in close proximity to water. The terms include only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and do not include long-term storage or related manufacturing facilities.

Governing body is the local governing unit, i.e., county or municipality, that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

Hardship as related to Division 6, Variances, of this Article means the exceptional hardship that could result from a failure to grant the requested variance. The City Council

requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a State inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved State program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

I.R.F. means the intermediate regional flooding delineated in the Dekalb County tax maps. It is based in the first set of FIRM maps and was never upgraded with revised issues as they were released by FEMA. This delineation is no longer valid after February 15, 1995 when Dekalb County’s geographic information system was available. It remains a useful tool as guide when locating parcel in the tax maps but must not be used for a final flood zone determination.

Levee means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such a closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

Lowest flood means the lowest floor of the lowest enclosed area, including basement (see "Basement").

(1) An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking or vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:

(A) The wet floodproofing standard in Division 5, Section 6(a)(3) of this Article.

(B) The anchoring standards in Division 5, Section 6(a)(1) of this Article.

(C) The construction materials and method standards in Division 5, Section 6(a)(2) of this Article.

(D) The standards for utilities in Division 5, Section 7 of this Article.

(2) For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements. This prohibition includes below-grade garages and storage areas.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision means a parcel (or contiguous parcels) or land divided into two (2) or more manufactured home lots for rent or sale.

Market value shall be determined by estimating the cost to replace the structure in new condition and adjusting that cost figure by the amount of depreciation which has accrued since the structure was constructed. The cost of replacement of the structure shall be based on a square foot cost factor determined by reference to a building cost estimating guide recognized by the building construction industry. The amount of depreciation shall be determined by taking into account the age and physical deterioration of the structure and functional obsolescence as approved by the floodplain coordinator, but shall not include economic or other forms of external obsolescence. Use of replacement costs or accrued depreciation factors different from those contained in recognized cost estimating guides may be considered only if such factors are included in a report prepared by an independent professional appraiser and supported by a written explanation of the differences.

Mean sea level means, for purposes of the national flood insurance program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

New construction for floodplain management purposes, means structures for which the "start of construction" commenced on or after the effective date of floodplain management

regulations adopted by this community, and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by this community.

Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other materials in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

One-hundred-year flood or *100-year flood.* See "Base flood."

Public safety and nuisance as related to Division 6, Variances, of this Article means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle means a vehicle which is:

(1) Built on a single chassis;

(2) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light-duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Remedy a violation means to bring the structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing state or federal financial exposure with regard to the structure or other development.

Repetitive loss structure means a building covered by a contract for flood insurance that has incurred flood-related damages on two (2) occasions during a ten-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded twenty-five (25) percent of the market value of the building at the time of each such flood event.

Riverine means relating to, formed by, or resembling a river (including tributaries), streams, brooks, etc.

Sheet flow area. See "Area of shallow flooding."

Special Flood Hazard Area (SFHA) means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as zone A, AO, A1-A30, AE, A99 or AH.

State of construction includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab for footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations or State or local health, sanitary, or safety code specifications which have been identified

by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

(2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Variance means a grant of relief from the requirements of this Article which permits construction in a manner that would otherwise be prohibited by this Article.

Violation means the failure of a structure or other development to be fully compliant with this Article. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Article is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Watercourse means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Zone A means the special flood hazard areas inundated by the 100-year flood; base flood elevations are not determined.

Zone A1-A30 and zone AE means the special flood hazard areas inundated by the 100-year flood; base flood elevations are determined.

Zone AO means the special flood hazard areas inundated by the 100-year flood; with flood depths of one (1) to three (3) feet (usually sheet flow on sloping terrain); average depths are determined. For areas of alluvial fan flooding, velocities are also determined.

Zone AH means the special flood areas inundated by the 100-year flood; flood depths of one (1) to three (3) feet (usually areas of ponding); base flood elevations are determined.

Zone A99 means the special hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a federal flood protection system under construction; no base flood elevations are determined.

Zone B and zone X (shaded) means areas of 500-year flood; areas subject to the 100-year flood with average depths of less than one (1) foot or with contributing drainage area less than one (1) square mile; and areas protected by levees from the base flood.

Zone C and zone X (unshaded) means areas determined to be outside the 500-year floodplain.

Zone D means areas in which flood hazards are undetermined.

Division 3: General Provisions

Section 1: Lands and structures to which this Article applies

This Article shall apply to all areas of special flood hazards within the jurisdiction of the City, and all new or substantial improvement residential units, all subdivisions, non residential structures, manufactured homes, recreational vehicles, and utilities. This Article will be enforced in areas outside the floodplain where runoff poses a risk similar to the special flood hazard areas.

Section 2: Basis for establishing the areas of special flood hazard

The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the flood insurance study (FIS) date June 15, 1994 and accompanying flood insurance rate maps (FIRMs) and flood boundary and floodway maps (FBFMs), dated June 15, 1994, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this Article. This FIS and attendant mapping is the minimum area of applicability of this Article and may be supplemented by studies for other areas which allow implementation of this Article and which are recommended to the City Council by the floodplain coordinator. The study, FIRMs and FBFMs are on file at the Department of Public Works or may be found at the Dekalb County Department of Public Works, division of roads and drainage. Areas of special flood hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a FIS.

Section 3: Compliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Article and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation of this Chapter. Any person who violates this Article or fails to comply with any of its requirements shall, upon conviction thereof, be subject to a fine and/or imprisonment in accordance with Chapter 1 of the City of Dunwoody Code of Ordinances. Each day such violation continues shall be considered a separate offense. Nothing herein shall prevent the City Council from taking such lawful action as is necessary to prevent or remedy any violation.

Section 4: Repetitive loss structure and cumulative substantial damage

A building must be brought into compliance with requirements for new construction if it has incurred flood-related damages on two (2) occasions during a ten-year period in which the cost of repairing the flood damage, on the average, equaled or exceeded twenty-five (25) percent of the market value of the building at the time of each such flood event, or damage of any origin

is sustained whereby the cost of restoring the building to its before damage condition would equal or exceed fifty (50) percent of the market value of the building before the damage occurred.

Section 5: Mandatory purchase of flood insurance

In the event that a property owner chooses not to purchase flood insurance on property at risk, or does not comply with a notice to bring a building into compliance, reducing the community efforts for flood protection, the insurance premium discount for the community's property owners as a community rating system participant, may not apply.

Section 6: Abrogation and greater restrictions

This Article is not intended to repeal, abrogate, or impair any existing easements, covenant, or deed restrictions. However, where this Article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section 7: Interpretation

(a) In the interpretation and application of this Article, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Section 8: Warning and disclaimer of liability

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the City Council, any officer or employee thereof, the State of Georgia, or the Federal Insurance Administration, Federal Emergency Management Agency, for any flood damages that result from reliance on this Article or any administrative decision lawfully made hereunder.

Section 9: Severability

This Article and the various parts thereof are hereby declared to be severable. Should any section of this Article be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Article as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

Division 4: Administration

Section 1: Establishment of development permit

A development permit shall be obtained before any construction or other development begins within any area of special flood hazard established in Division 3, Section 2 of this Article. Application for a development permit shall be made on forms furnished by the floodplain coordinator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required.

(1) Application stage:

(A) Site plan, including but not limited to:

(i) For all proposed structures, spot ground elevations at building corners and twenty-foot or smaller intervals along the foundation footprints, or one (1) foot contour elevations throughout the building site; and

(ii) Proposed locations of water supply, sanitary sewer, and utilities; and

(iii) If available, the base flood elevation from the flood insurance study and/or flood insurance rate map; and

(iv) If applicable, the location of the regulatory floodway; and

(B) Foundation design detail, including but not limited to:

(i) Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and

(ii) For a crawl space foundation, location and total net area of foundation openings as required in Division 5, Section 6(a)(3) of this Article and FEMA Technical Bulletins 1-93 and 7-93; and

(iii) For foundations placed on fill, the location and height of fill, and compaction requirements (compacted to 95 percent using the Standard Proctor Test Method); and

(C) Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Division 5,

Section 6(a)(3)(B) of this Article and FEMA Technical Bulletin TB 3-93; and

(D) All appropriate certifications listed in Division 5, Section 6(a)(4) of this Article; and

(E) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(2) Construction stage:

(A) For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or floodproofing level immediately after the lowest floor or floodproofing is completed. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for non residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

(B) Any work undertaken prior to submission of these certifications shall be at the permit holder's risk. The administrator shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

Section 2: Designation of the ordinance administrator

The Director of Community Development is hereby appointed to administer, implement, and enforce this Article by granting or denying development permits in accord with its provisions.

Section 3: Duties and responsibilities of the floodplain coordinator

(a) The duties and responsibilities of the Floodplain Coordinator shall include, but not be limited to the following:

(1) Permit review. Review all development permits to determine that:

(A) Permit requirements of this Article have been satisfied,

(B) All other required State and Federal permits have been obtained,

(C) The site is reasonably safe from flooding, and

(D) The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this Article, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

(2) Review, use and development of other base flood data.

(A) When base flood elevation data has not been provided in accordance with Division 3, Section 2 of this Article, the Floodplain Coordinator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal or State agency, or other source, in order to administer Division 5. Any such information shall be submitted to the City Council for adoption; or

(B) If no base flood elevation data is available from a Federal or State agency or other source, then a base flood elevation shall be obtained using one (1) of two (2) methods from the FEMA publication "Managing Floodplain Development in Approximate Zone A Areas - A Guide for Obtaining and Developing Base (100-year) Flood Elevations" dated July 1995 in order to administer Division 5:

(i) Simplified method:

a. 100-year or base flood discharge shall be obtained using the appropriate regression equation found in a U.S. Geological Survey publication, or the discharge-drainage area method; and

b. Base flood elevation shall be obtained using the Quick-2 computer program developed by FEMA; or

(ii) Detailed method:

a. 100-year or base flood discharge shall be obtained using the U.S. Army Corps of Engineers' HEC-HMS computer program; and

b. Base flood elevation shall be obtained using the U.S. Army Corps of Engineers' HEC-RAS computer program.

(3) Notification of other agencies. In alteration or relocation of a watercourse:

(A) Notify adjacent communities and the Georgia Department of Water Resources prior to alteration or relocation;

(B) Submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency; and

(C) Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

(4) Documentation of floodplain development. Obtain and maintain for public inspection and make available as needed the following:

(A) Certification required by Division 5, Section 6(a)(3) and Section 9 of this Article (lowest floor elevations);

(B) Certification required by Division 5, Section 6(a)(3)(C) of this Article (elevation or floodproofing of nonresidential structures);

(C) Certification required by Division 5, Section 6(a)(3)(B) of this Article (wet floodproofing standard);

(D) Certification of elevation required by Division 5, Section 8(b) of this Article (subdivision standards);

(E) Certification required by Division 5, Section 11(a) of this Article (floodway encroachments).

(5) Map determinations. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard. Where there appears to be a conflict between a mapped boundary and actual field conditions, grade and base flood elevations shall be used to determine the boundaries of the special flood hazard area. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in subsection (6).

(6) Remedial action. Take action to remedy violations of this Article as specified in Division 3, Section 3 of this Article.

(7) The adopted method for disclosure at the time of sale or rental of a property is accomplished by providing to the interested parties, general public, realtor, insurance, mortgage and engineering consulting firms of an electronic database listing all properties in the floodplain, annually updated, and free of charge. Permits issued for construction in the floodplain shall be forwarded to the City's recorder.

(8) All records pertaining to the provisions of this Article shall be maintained in the Department of Community Development and shall be open for public inspection.

Section 4: Appeals

The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Coordinator in the enforcement or administration of this Article.

Division 5: Provisions for Flood Hazard Reduction

Section 1: Floodplain management planning and public information

(a) To comply with requirements of the community rating system, the City adopts the following:

(1) A floodplain management plan and progress that will be reported in the annual re-certification process. This plan will be updated for each subsequent two-year period.

(2) Public information shall include, but it is not limited to, elevation certificate repository, map information, outreach projects, hazard disclosure, flood protection, and flood protection assistance.

Section 2: Geographical information system

For all final floodplain determinations the City adopts the geographical information system's maps compiled using the aerial photography taken February 22, 1995 which are available to the public in the GIS's department products office, including, but not limited to: 1" = 200' planimetric/topographic maps, 1" = 600' aerial photograph contact print copies, and 1" = 3000' comprehensive land use plan, survey control monument locations and thoroughfare plan.

Section 3: Reserved

Section 4: Stream dumping penalties

Any natural growth or human-made debris that reduces the carrying and storage capacity of the City drainage system may be a violation of this Article. Any person who dumps log, trash, trees, and similar debris, shall, upon conviction, is subject to a fine and/or imprisonment according to Chapter 1 of the City of Dunwoody Code of Ordinances.

Section 5: Plan review and field inspections of structures

The building code effectiveness grading used by the community rating system required from Dekalb County, in October 1999, to perform plan review and field inspections of one- and two-family dwellings to obtain additional insurance benefits for its citizenry. Plan review and

field inspections of one- and two-family dwellings in the floodplain, as they relate to flood prevention and protection, will be effective [and] start upon approval of this Article.

Section 6: Standards of construction

(a) No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this Article and other applicable regulations. In all areas of special flood hazards the following standards are required:

(1) Anchoring.

(A) All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(B) Manufactured homes shall meet the anchoring standards of Section 9 of this Division.

(2) Construction materials and methods. All new construction and substantial improvements shall be constructed:

(A) With flood resistant materials as specified in FEMA Technical Bulletin TB 2-93, and utility equipment resistant to flood damage;

(B) Using methods and practices that minimize flood damage;

(C) With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and

(D) Within zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

(3) Elevation and floodproofing. (See Division 2, Section 1 of this Article, definitions for "basement," "lower floor," "new construction," "substantial damage" and "substantial improvement.")

(A) Residential construction, new or substantial improvement, shall have the lowest floor, including basement:

(i) In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on

the FIRM, or elevated at least (3) three feet above the highest adjacent grade if no depth number is specified.

(ii) In an A zone, elevated (3) three feet above the base flood elevation; said base flood elevation shall be determined by one (1) of the methods in Division 4, Section 3(a)(2) of this Article.

(iii) In all other zones, elevated (3) three feet above the base flood elevation.

Upon the completion of the structure, the elevation of the lowest flood including basement shall be certified by a registered professional engineer or surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the floodplain coordinator.

(B) Nonresidential construction, new or substantial improvement, shall either be elevated to conform with subsection (a)(3) of this Section or together with attendant utility and sanitary facilities:

(i) Be floodproofed below the elevation recommended under subsection (a)(3) of this Section so that the structure is watertight with walls substantially impermeable to the passage of water;

(ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(iii) Be certified by a registered professional engineer or architect that the standards of this subsection (a)(3) are satisfied. Such certification shall be provided to the floodplain coordinator.

(C) All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement shall follow the guidelines in FEMA Technical Bulletins TB 1-93 and TB-7-93, and must exceed the following minimum criteria:

(i) Have a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; or

(ii) Be certified by a registered professional engineer or architect.

(D) Manufactured homes shall also meet the standards in Section 9 of this Division.

(E) Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of this Article, shall be undertaken only if the non conformity is not furthered, extended or replaced.

Section 7: Standards for utilities

(a) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:

(1) Infiltration of flood waters into the systems, and

(2) Discharge from the systems into flood waters.

(b) On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

Section 8: Standards for subdivisions

(a) All preliminary subdivision proposals shall identify the special flood hazard area and the elevation of the base flood.

(b) All subdivision plans will provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood elevation, the lowest floor and pad elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Coordinator.

(c) All subdivision proposals shall be consistent with the need to minimize flood damage.

(d) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(e) All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

Section 9: Standards for manufactured homes

(a) All manufactured homes that are placed or substantially improved, within zones A1-30, AH, and AE on the community's flood insurance rate map, on sites located:

(1) Outside of a manufactured home park or subdivision,

(2) In a new manufactured home park or subdivision,

(3) In an expansion to an existing manufactured home park or subdivision, or

(4) In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated three feet above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(b) All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH and AE, on the community's flood insurance rate map that are not subject to the provisions subsection (a) above will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:

(1) Lowest floor of the manufactured home is three (3) feet above the base flood elevation, or

(2) Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Coordinator.

Section 10: Standards for recreational vehicles

(a) All recreational vehicles placed on sites within zones A1-30, AH, and AE on the community's flood insurance rate map will either:

(1) Be on the site for fewer than one hundred eighty (180) consecutive days, and be fully licensed and ready for highway use, where a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(2) Meet the permit requirements Division 4 of this Article and the elevation and anchoring requirements for manufactured homes of Section 9(a) above.

Section 11: Floodways

(a) Located within areas of special flood hazard established in Division 3, Section 2 of this Article are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters, which carry debris, potential projectiles, and erosion potential, the following provisions apply.

(1) Prohibit encroachments, including fill, new construction, substantial improvement, and other new development unless certification by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood elevation during the occurrence of the base flood discharge.

(2) If subsection (a)(1) above is satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Division 5.

Division 6: Variance Procedure

Section 1: Nature of variance

The variance criteria set forth in this Division of the Article are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this article would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristics must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the City Council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this Article are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

Section 2: Appeal board

(a) In passing upon requests for variances, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Article, and the:

(1) Danger that materials may be swept onto other lands to the injury of others;

(2) Danger of life and property due to flooding or erosion damage;

(3) Susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the existing individual owner and future owners of the property;

(4) Importance of the services provided by the proposed facility to the community;

(5) Necessity to the facility of a waterfront location, where applicable;

(6) Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(7) Compatibility of the proposed use with existing and anticipated development;

(8) Relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;

(9) Safety of access to the property in time of flood for ordinary and emergency vehicles;

(10) Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and

(11) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(b) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and

(2) Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the floodplain coordinator in the office of the clerk of Superior Court of Dekalb County in a manner so that it appears in the chain of title of the affected parcel of land.

(c) The Floodplain Coordinator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency.

Section 3: Conditions for variances

(a) Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Divisions 4 and 5 of this Article have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

(b) Variances may be issued for the repair or rehabilitation of historic structures (as defined in Division 2, Section 1 of this Article) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(c) Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.

(d) Variances shall only be issued upon a determination that the variance is the "minimum necessary" considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this Article. For example, in the case of variances to an elevation requirement, this means the City Council need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the City Council believes will both provide relief and preserve the integrity of the local ordinance.

(e) Variances shall only be issued upon a:

(1) Showing of good and sufficient cause;

(2) Determination that failure to grant the variance would result in exceptional "hardship" (as defined in Division 2, Section 1 of this Article) to the applicant; and

(3) Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (as defined in Division 2, Section 1 of this Article - see "Public safety or nuisance"), cause fraud or victimization (as defined in Division 2, Section 1 of this Article) of the public, or conflict with existing local laws or ordinances.

(f) Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of subsection (a) through (e) above are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

(g) Upon consideration of the factors of Section 2(a) above and the purposes of this Article, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Article.

STATE OF GEORGIA
COUNTY OF DEKALB

ORDINANCE NO. 2008-12-51

AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 17, TRAFFIC AND PUBLIC ROADWAYS, PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF DUNWOODY, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 17 (TRAFFIC AND PUBLIC ROADWAYS) AS ATTACHED HERETO AND INCOPORATED HEREIN

WHEREAS: The Ordinance relating to Chapter 17, Traffic and Public Roadways, is hereby adopted and approved, and is attached hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 17 of the Code of Ordinances of the City of Dunwoody, Georgia; and

WHEREAS: This Ordinance shall become effective upon its adoption.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF DUNWOODY HEREBY ORDAINS that Chapter 17, Traffic and Public Roadways, is hereby adopted and approved as part of the Code of Ordinances for the City of Dunwoody, Georgia. Any ordinance in conflict with this ordinance is hereby repealed.

SO ORDAINED AND EFFECTIVE this the 18th day of December, 2008.

Approved:

_____

Ken Wright, Mayor

Attest:

_____

Joan Jones, Acting City Clerk
(Seal)

Approved as to Form and Content:

_____

Brian Anderson, City Attorney

Chapter 17: Traffic and Public Roadways

Article 1: Traffic Control

Section 1: Adoption of State and Federal Laws

(a) For the purpose of regulating vehicles and traffic in the City, there is hereby adopted the following Federal regulations:

(i) Parts 382, 383, 390, 391, 392, 393, 395, 396, and 397 of Title 49 of the U.S. Code of Federal Regulations, "The Commercial Motor Vehicle Safety Act of 1986;" and

(ii) The Federal "Out of Service" Criteria as amended from time to time.

These provisions are adopted as fully as if set out at length herein.

(b) Adoption of state law by reference.

(i) Pursuant to Chapter 6 of Title 40 of the Official Code of Georgia Annotated, Code Sections 40-6-372 through 40-6-376, Code Sections 40-6-1 through 40-6-395, known as the "Uniform Rules of the Road" and the definitions contained in Code Section 40-1-1 are hereby adopted as and for the traffic regulations of this Municipality with like effect as if recited herein.

(ii) *Penalties*. Unless another penalty is expressly provided for by law, every person convicted of any provision of this ordinance shall be punished as provided by Chapter One, Article 3, Section 1 of this Code of Ordinances.

(iii) *Effective date*. This ordinance shall take effect from and after its passage by the City Council of the City of Dunwoody.

(c) Any ordinance and/or part of this Chapter of the Code of Dunwoody, which specifically designates the speed limits on the public streets of the City and/or which designates one way streets, are not affected by the adoption of the "Uniform Rules of the Road."

(d) The Police Department is hereby empowered and authorized to enforce all provisions of this Chapter upon all roads in the City of Dunwoody.

Section 2: Temporary Traffic Regulations

In cases where traffic upon the streets of the City may become congested upon occasions of parades, at theaters, and other public assemblages where large numbers of vehicles are assembled, the police may make temporary rules directing and regulating the traffic in these congested districts, and any person, who, after being warned of the temporary traffic regulations, shall violate them shall be liable for that violation as for other violations of this Code.

Section 3: Funeral Processions

(a) A "Funeral Procession" is a group of vehicles traveling from a funeral home or similar business to a cemetery or other proper burial site. Funeral processions shall be lead by a funeral vehicle such as a hearse, and all cars in the procession shall burn regular headlights and stay in close formation.

(b) Vehicles of a funeral procession shall have the right-of-way over all vehicles, except authorized emergency vehicles, provided such vehicles shall identify themselves by

burning regular headlights and shall keep in close formation. When the lead vehicle in a funeral procession has entered an intersection on a green light, all other cars in the procession may proceed through the intersection, even though such signal may change to red.

Section 4: Speed Limits on Certain Streets; violations

(a) Speed limits enumerated. The maximum speed limits on the public streets or parts of the public streets are set forth in **Exhibit A**, identified as "Dunwoody Speed Limits," and by this reference incorporated herein. Exhibit A establishes speed limits for all roadways currently within the territorial boundaries of the city.

(b) It shall be unlawful for any person to drive within or upon any of the streets in the City of Dunwoody at a rate of speed in excess of the speed limit as listed for such street in Exhibit A and as posted on each such street.

(c) Amendment to Exhibit A. The City may add to or amend the list of roadways designated in Exhibit A from time to time pursuant to the statutes and regulations governing the establishment or alteration of speed limits and zones in the State.

(d) Exhibit A incorporated by reference. Exhibit A referenced in this section, as amended from time to time, is incorporated herein by reference as if set out in its entirety and the original shall be maintained in the office of the City Clerk, and a copy shall be maintained in the office of the Public Works Director, and available for inspection by the public during city business hours.

Section 5: Skateboards and Bicycles

(a) No person shall ride a bicycle or propel rollerskates, skateboards, or other similar devices upon a public street, highway, or sidewalk in a manner which would constitute an unreasonable danger to the public or which would disrupt the public's ordinary and customary use of such street, highway or sidewalk.

(b) No person shall ride a bicycle or propel rollerskates, skateboards, or other similar devices on sidewalks which are properly designated for pedestrians only. The Chief of Police and the Department of Public Works, after approval of the Public Works Director, are authorized to erect or have erected signs on any sidewalk or roadway prohibiting the riding of bicycles or propelling of rollerskates, skateboards, or other similar devices. When such signs are in place, no person shall disobey the signs.

(c) Whenever any person is riding a bicycle or skating upon a sidewalk, that person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing the pedestrian.

(d) Any person violating any provision of this section is guilty of a violation of this Code; provided, however, that any offender under the age of 17 years shall be treated as provided by O.C.G.A. Title 15, Chapter 11 (O.C.G.A. § 15-11-1 et seq.). The parent of

any child and the guardian of the person of any ward shall not authorize or knowingly permit that child or ward to violate any provision of this section.

Section 6: Private Residential Property Trespass and Private Residential Property Trespass Towing

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

Park means to park unattended or abandon a vehicle on private residential property without authority or permission of the owner or occupant of the private residential property.

Private residential property means residential property within the City which is privately owned and which contains not more than four residential units thereon.

Vehicle means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

Wrecker or wrecker service shall mean an automotive vehicle with hoisting apparatus and equipment for towing vehicles which meets the qualifications imposed by the State of Georgia Public Service Commission and the City for nonconsensual towing pursuant to the provisions of O.C.G.A. § 44-1-13, as may be amended from time to time, and Chapter 11 of the transportation rules of the State of Georgia Public Service Commission, as may be amended from time to time.

(b) Prohibited on private residential property without invitation. It shall be unlawful for any person to park a vehicle upon private residential property in the City without invitation or permission from the owner or person in legal possession of the premises. Any person or his or her authorized agent entitled to the possession of any parcel or space of private residential property shall have the right to remove or cause to be removed from the private residential property any vehicle thereon which is not authorized to be at the place where it is found and to store or cause to be stored such vehicle.

(c) Removal and storage. Upon notification by a person entitled to the possession of private residential property that a vehicle is trespassing thereon, the City Police Department shall provide such person with the name and telephone number of the City's authorized wrecker service for nonconsensual towing, as determined by resolution of the City Council of the city. The City Police Department shall not contact the wrecker service directly for the removal of the trespassing vehicle from the private residential property, but shall assist the person owning the private residential property by providing the name and telephone number of the city's authorized wrecker service for nonconsensual towing.

(d) State law adopted. The provisions of O.C.G.A. § 44-1-13 are hereby adopted by reference.

Section 7: Vehicles propelled by human or animal power prohibited on limited-access highways

It shall be unlawful for any person to push or drive any vehicle upon the limited-access highways of the City which is propelled by human or animal power, including any bicycle, tricyle, pushcart, animal-drawn vehicle of any kind and any vehicle incapable of a speed of at least forty-five (45) miles per hour.

Section 8: Sanitation vehicles

All employees and vehicles of the City, when engaged or used in performance of sanitation or solid waste collection and disposal service, shall have the right-of-way in the use of the streets, and may use any part thereof in cleaning up and washing streets.

Section 9: Limitation on turning around

The driver of any vehicle shall not turn that vehicle so as to proceed in the opposite direction upon any street in a business district, or upon any street between intersections. These turns may be made outside of a business district at intersections not controlled by a traffic signal.

Article 2: Traffic Signs, Signals and Markings

Section 1: Removal of signs from public right-of-way

The Public Works Department may remove any signs located in public rights-of-way.

Section 2: Installation

The Public Works Department shall cause to be placed and maintained traffic-control signs, signals and devices when and as required under this Chapter and other traffic ordinances of the City to make effective the provisions of this Chapter and those ordinances. The Public Works Department may cause to be placed and maintained such additional traffic-control devices as deemed necessary to regulate traffic under this Chapter and other traffic ordinances of the City or under State law, or to guide or warn traffic.

Section 3: Designation of crosswalks; establishment of safety zones; marking of traffic lanes

The Public Works Department may:

(1) Designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where there is particular danger to pedestrians crossing the roadway and at such other places as deemed necessary. The City may make proper studies of all existing crosswalks not at roadway intersections and shall abolish those which are unnecessary.

(2) Establish safety zones of such kind and character and at such places as necessary for the protection of pedestrians.

(3) Mark lanes for traffic on street pavements at places consistent with this Chapter and other traffic ordinances of the City.

Section 4: Specifications of traffic control devices

All traffic-control signs, signals and devices shall conform to specifications in the Manual on Uniform Traffic-Control Devices adopted by the State Transportation Board. All signs and signals required hereunder for a particular purpose shall so far as practicable be uniform as to type and location throughout the City. All traffic-control devices so erected and not inconsistent with the provisions of State law or this Chapter shall be official traffic-control devices.

Article 3: Truck Routes

Section 1: Enactment authority

The Mayor and City Council of Dunwoody, Georgia, under the authority of Article 9, Section 2, Paragraph II (Home Rule For Municipalities) and Article 9, Section 2, paragraph III (Supplementary Powers) of the 1983 Constitution of the State of Georgia, as amended, hereby ordain and enact into law this Article.

Section 2: Purpose

The Governing Authority of the City of Dunwoody, Georgia, is authorized to adopt ordinances for the governing and policing of areas within the city limits for the purpose of protecting the public health safety and welfare. Specifically, the governing authority may provide for the regulation and control of motorized vehicles on the streets of the City; plan, designate, improve, manage, control and maintain an adequate city roadway system; and determine the maximum load, weight and vehicle dimensions which can be safely transported over each bridge on the city roadway system. Accordingly, the Mayor and City Council hereby enact the following provisions in an effort to regulate and control motorized vehicles within the city limits for the purpose of protecting and preserving the public health, safety, and welfare of the citizens; to thereby curb the usage of certain residential streets in the City by trucks as cut through routes, and to discourage the parking of such vehicles on these streets and public right of ways.

Section 3: Definitions

As used in this Article, unless the context clearly requires otherwise, the following words or phrases shall have the following meanings:

"*Driver*" means every person who drives or is in actual physical control of a vehicle.

"*Bimodal semitrailer*" means a detachable load-carrying unit designed to be attached to a coupling on the rear of a truck by which it is partially supported during movement over the highway and designed either with retractable flanged wheels or to attach to a detachable flanged wheel assembly for movement on the rails.

"*Governing authority*" means the Mayor and City Council of Dunwoody, Georgia, and where delegated by the Mayor and Council, the City of Dunwoody Police Department and/or any other city personnel.

"*Gross weight*" means the weight of a vehicle without load plus the weight of any load thereon.

"*Motor vehicle*" means every vehicle that is self propelled.

"*Operator*" means any person who drives or is in actual physical control of a motor vehicle.

"*Owner*" means a person, other than a lienholder or security interest holder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in or lien by another person but excludes a lessee under a lease not intended as security except as otherwise specifically provided in this Article.

"*Person*" means every natural person, firm, copartnership, association, or corporation.

"*Pneumatic tire*" means every tire in which compressed air is designed to support the load. A vehicle shall be considered equipped with pneumatic tires when pneumatic tires are used on all wheels.

"*Pole trailer*" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

"*Police officer*" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

"*Public or private property*" means the right-of-way of any road or highway; any body of water or watercourse or the shores thereof; any park, playground, building, refuge or conservation or recreation area, and residential or farm properties, timberland or forest.

"*Private road or driveway*" means every way or place in private ownership and used for vehicular traffic by the owner and those having express or implied permission from the owner, but not by other persons.

"*Roadway*" means that portion of a street, road, or highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" shall refer to any such roadway separately, but not to all such roadways collectively.

"*Semitrailer*" means a detachable load-carrying unit designed to be attached to a coupling on the rear of a truck by which it is partially supported.

"*Sidewalk*" means that portion of a street between the curb lines, or the lateral lines of a railway, and the adjacent property lines, intended for use by pedestrians.

"*Stand or standing*" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

"*Stop or stopping*":

(a) When required, means complete cessation from movement; or

(b) When prohibited, means any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

"*Tractor*" means any self-propelled vehicle designed for use as a traveling power plant or for drawing other vehicles but having no provision for carrying loads independently.

"*Trailer*" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

"*Truck*" means any motor vehicle having a gross weight of 18,000 pounds or over which is designed and used for the transportation of merchandise or freight.

"*Truck camper*" means any structure designed, used or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office or commercial space.

Section 4: Restrictive vehicles required to use truck routes; exceptions

All trucks are prohibited from using roadways within the city limits of Dunwoody, except those roadways authorized by this Article as truck routes, including any amendments hereof, or as may be further designated by the governing authority as truck routes, except when:

(a) The terminal, parking lot, repair garage, or headquarters of the restricted motor vehicle is not a designated truck route, ingress to and egress from those places shall be made by the most direct route available between the terminal, parking lot, repair garage or headquarters and nearest designated truck route;

(b) A delivery or pickup is to be made at a location which is not on a designated truck route; ingress to and egress from that location shall be made by the most direct route available between that location and the nearest designated truck route;

(c) A delivery or pickup is to be made by a truck, road tractor, combination road tractor-trailer within any area which is not on a designated truck route; such delivery or pickup shall not be made between the hours of 7:00 a.m. and 7:00 p.m.

Section 5: Truck routes; posted regulatory signs

A list and map of approved truck routes shall be kept on file with the Dunwoody Police Department and the City Clerk. The list of truck routes may be revised as deemed necessary by the Dunwoody Police Department with the approval of the governing authority, with the entire list requiring renewal by the governing authority biannually. All listed routes will be further identified by posted regulatory signs.

Section 6: Use of temporary truck routes by restricted vehicles

If a designated truck route, or any portion thereof, shall be under repair or otherwise temporarily out of use, restricted vehicles, as defined in this Article, shall use other temporary truck routes as may be designated by the governing authority and further identified by the posting of the regulatory traffic control sign.

Section 7: Evidence required for restricted vehicle to be off truck route

When upon roadways other than those designated as truck routes, any person driving or in charge or control of any of the motor vehicles restricted by this Article shall be prepared to present for inspection of police officers his log book, weight slips, delivery slips or other written evidence of his or her destination and point of origin to justify the presence of the restricted vehicle on a roadway other than a designated truck route.

Section 8: Weight of vehicle and loads

No vehicle shall be operated on any roadway within the city limits of Dunwoody, Georgia, designated as a truck route, with a total gross weight in excess of 56,000 pounds unless the vehicle is making a pickup or delivery on such road. The maximum gross weight of any vehicle operating on any roadway within the city limits of Dunwoody, Georgia, shall not exceed 80,000 pounds.

Section 9: Weight limitations on streets, bridges and culverts

(a) It shall be unlawful to operate any motor vehicle on any street within the city limits of Dunwoody, Georgia, where the weight of such motor vehicle, with or without load, is in excess of the weight as limited by this Article and where signs indicating such limitations are posted. Further, it shall be unlawful to drive any motor vehicle over a bridge or culvert within the city limits of Dunwoody, Georgia, over the weight capacity shown on said bridge and/or culvert.

(b) The driver and/or owner shall be liable to the City for any and all damages caused by driving an overweight motor vehicle over any street, bridge and/or culvert with a posted sign. These damages are in addition to any fine or punishment that may be assessed for violation of this Article.

Section 10: Enforcement of weight and load limitations

(a) Any person who violates the load limitations provisions of this Article shall be conclusively presumed to have damaged the public roads, including bridges within the city limits by reason of such overloading and shall, in addition to any other penalty at law, recompense the City for such damages in accordance with O.C.G.A. § 32-6-27, as same may be amended.

(b) Any owner or operator of a vehicle which is operated on the public roads within the city limits of Dunwoody, Georgia, in violation of the weight limits provided in this Article shall be required, in addition to paying the monies provided in subsection (a) of this section, to unload all gross weight in excess of 6000 pounds over the legal weight limit before being allowed to move the vehicle.

(c) Any person authorized by State law and this Article to enforce this Article may seize the offending vehicle of an owner who fails or whose operator has failed to pay the monies proscribed in subsection (a) of O.C.G.A. § 32-6-27 and hold such vehicle until the proscribed moneys are paid. Any authorized person seizing such vehicle under this subsection or subsection (b) of this section may, when necessary, store the vehicle, and the owner thereof shall be responsible for all reasonable storage charges thereon. When any vehicle is seized, held, unloaded or partially unloaded under this section, the load or any part thereof shall be removed or cared for by the owner or operator of the vehicle without any liability on the part of the authorized person or the City because of damage to or loss of such load or any part thereof.

Section 11: Parking of trucks and trailers

It shall be unlawful to park any truck or any trailer which is designated by the Department of Public Safety for a license tag in a weight category heavier than 6,000 pounds on the right-of-way of any residential street or upon residential zoned property, unless said vehicle is making a delivery to said residential property. School buses shall not fall under this section. This section shall not apply to construction vehicles, trailers, or equipment temporarily located within a construction area, provided such vehicles, trailers or equipment are used in connection with dwelling units under construction within such construction area.

Section 12: Parking or storage of unlicensed, inoperable vehicles, trailers or equipment

Vehicles and trailers of any kind without current license plates, or vehicles, trailers or equipment permitted to remain in an inoperable condition for more than 30 days, shall not be parked or stored on or about any property within a residential zoned district. Provided, however, this section shall not apply to vehicles, trailers or equipment stored in an enclosed structure or appropriately covered and located in the rear yard area.

Section 13: Penalties; enforcement generally

(a) Any person who violates this Article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not more than $1,000.00 or no more than 60 days in jail or both for each occurrence; and each occurrence shall be deemed a separate offense.

(b) Unless otherwise specifically provided by resolution of the Mayor and City Council, the enforcement of this Article shall be within the jurisdiction of the City's Police Department and any other City Officer authorized by the State of Georgia to make misdemeanor criminal arrests. Persons designated by the governing authority are hereby authorized to issue citations or summons or both, charging violations under this Article, returnable to a court or courts having jurisdiction over state traffic offenses or other courts having jurisdiction over violations of city ordinances.

(c) For purposes of enforcing the provisions of this article, any City of Dunwoody, Georgia, court or courts having jurisdiction over state traffic offenses or other courts having jurisdiction over violations of city ordinances shall be entitled to take such action to ensure compliance, and the person convicted shall reimburse the City for any cost or expense associated with such compliance efforts, and the City shall be entitled to place a lien on the property or require a bond from the person to secure payment and reimbursement for these expenses.

Article 4: Stopping, Standing and Parking

Section 1: Signs required for enforcement

When by this Chapter or any other ordinance or order of the Public Works Department any parking time limit is imposed or parking is prohibited on designated streets, it shall be the duty of the Public Works Department to erect appropriate signs giving notice thereof, and no

regulations shall be effective unless these signs are erected and in place at the time of any alleged offense. At least one (1) sign shall be erected in each block on each side of the street where parking is either prohibited or restricted.

Section 2: Emergency parking restrictions

When not inconsistent with this Chapter or any other ordinance, the Chief of Police has authority in an emergency to prohibit the parking or stopping of vehicles on any street or portion of a street or to close a street to traffic. All these orders shall be temporary only.

Section 3: Authority to prohibit parking on certain streets

When not inconsistent with this Chapter or any other ordinance, the Chief of Police may prohibit parking or stopping of vehicles on any street or portion of a street when traffic and engineering surveys indicate that stopping or parking may impede the free flow of traffic on the street.

Section 4: Loading and unloading at angle to curb; permit

The Chief of Police may issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms or conditions of these permits. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle, and shall grant to that person the privilege as therein stated in this section. It shall be unlawful for any permittee or other person to violate any of the special terms or conditions of the permit.

Section 5: Leaving vehicle unattended; setting brakes, stopping motor

No person having control or charge of a motor vehicle shall allow such vehicle to stand on any street unattended without first setting the brakes thereon and stopping the motor of the vehicle and, when standing upon a perceptible grade, without turning the wheels of this vehicle to the curb or the side of the street or highway.

Section 6: Parking prohibited in certain places

(a) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the direction of a police officer or traffic-control device, at any place prohibited by ordinance and indicated by official signs or markings.

(b) No person shall move a vehicle, not lawfully under such person's control, either into any prohibited area or move and leave such vehicle away from a curb such distance as is prohibited by this Chapter or other ordinance.

(c) At the locations designated by the Public Works Department or, if no such designation has been made by the Public Works Department, by Dekalb County ordinances, as indicated by official signs or markings, parking is prohibited as indicated.

Section 7: Parking not to obstruct traffic

No person shall park any vehicle upon a street in such manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for free movement of vehicular traffic.

Section 8: Parking for certain purposes prohibited

No person shall park a vehicle upon any roadway for:

(1) Displaying the vehicle for sale.

(2) Washing, greasing or repairing the vehicle, except repairs necessitated by sudden emergency; in such emergency the vehicle shall be moved or towed away with all due haste.

(3) Displaying advertising.

Section 9: Parking adjacent to schools

(a) The Public Works Department may erect signs indicating no parking upon that side of any street adjacent to any school property when such parking would interfere with traffic or create a hazardous situation.

(b) When official signs are erected indicating no parking upon that side of a street adjacent to any school property, no person shall park a vehicle in such designated place.

Section 10: Parking on narrow streets

(a) The Public Works Department may erect signs indicating no parking upon any street when the width of the roadway does not exceed twenty (20) feet, or upon one (1) side of a street as indicated by signs when the width of the roadway does not exceed thirty (30) feet.

(b) When official signs prohibiting parking are erected upon narrow streets, no person shall park a vehicle upon such streets in violation of the sign.

Section 11: Parking on one-way streets

The Public Works Department may erect signs upon the left-hand side of any one-way street to prohibit the standing or parking of vehicles. When these signs are in place, no person shall stand or park a vehicle upon such left-hand side.

Section 12: Parking on one-way roadways

If a highway includes two (2) or more separate roadways and traffic is restricted to one (1) direction upon such roadway, no person shall stand or park a vehicle upon the left-hand side of such one-way roadway, unless signs are erected to permit such standing or parking. The Public Works Department may determine when standing or parking may be permitted upon the left-hand side of the one-way roadway and erect signs giving notice thereof.

Section 13: Hazardous or congested places

(a) The Public Works Department may determine and designate by proper signs, places not exceeding one hundred (100) feet in length in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

(b) When official signs are erected at hazardous or congested places as authorized herein, no person shall stop, stand or park a vehicle in such designated place.

Section 14: Designation of curb loading zones

The Public Works Department may determine the location of passenger and freight curb loading zones and shall place and maintain appropriate signs indicating them and stating the hours during which the provisions of this section are applicable.

Section 15: Freight curb loading zones

(a) No person shall stop, stand or park a truck for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to these zones are in effect, nor stop, stand or park any other vehicle for the unloading or loading of materials.

(b) The driver of a passenger vehicle may stop temporarily at a place marked as a freight curb loading zone for the purpose of and while actually engaged in loading and unloading passengers when such stopping does not interfere with any motor vehicle used for the transportation of materials which is waiting to enter or about to enter the zone.

Section 16: Parking of taxicabs and busses regulated

The driver of a bus or taxicab shall not park upon any street in any business district at any place other than at a bus stop, or taxicab stand, respectively, except that this provision shall not prevent the driver of such vehicle from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in loading and unloading passengers, and except for making emergency repairs. The provisions of this section shall not apply to common carriers stopping at regular designated passing or layover locations.

Section 17: Use of bus and taxicab stands restricted

No person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand, when such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter the zone.

Section 18: Bus stops

(a) A no parking zone of eighty (80) feet shall be created at all bus stops for the purpose of loading and unloading passengers.

(b) These no parking zones shall be marked by signs and, in addition, these zones in all congested areas shall have the curbs painted yellow. This proper marking of zones shall be maintained by the companies operating buses in and out of these zones.

(c) Buses or any vehicles parked in these zones for the purpose of loading and unloading passengers shall pull as close to the curb as possible.

(d) This section does not prohibit buses from loading and unloading at platforms at loading zones where they are provided for that purpose in the street.

Section 18: Restrictions on parking heavy or oversized vehicles, campers, boats, etc., on residential streets

(a) No person shall park or stand any bus, truck or other freight- or passenger-carrying vehicle in excess of one-half-ton capacity upon any public street or highway for a period longer than one (1) hour at any time during the day or night.

(b) No person shall stop or stand any truck or bus with a body more than eight (8) feet (or 2.4384 m.) wide or ten (10) feet (or 3.048 m.) high on any street or public place without the driver or chauffeur being actually present and in charge thereof.

(c) No person shall park or stand any truck camper, camper trailer, motor home, boat, boat trailer or other recreational vehicle on any residential street or public place for more than one (1) hour at any time during the day or night.

Section 19: Fire Zones

The Fire Chief may designate any area on public property or private property used for public purposes as restricted areas to be known as fire zones in accordance with International Fire Code and State Law. Standing or parking a vehicle in a fire zone shall be a violation of this section and the City may enforce this section by the issuance of a citation and the immediate removal of the vehicle to an impound lot.

Section 20: Use of parking facilities on City property

The City Manager may designate certain spaces or areas as reserved for all elected officials, designated administrative officials whose position responsibilities require the provision of a reserved parking space for efficiently discharging those responsibilities and for other general purposes such as court and visitor parking. Occupancy of these reserved spaces or areas by other than those individuals assigned to use the spaces or areas shall be deemed a violation of this section. The Public Works Department shall be responsible for posting of signs to ensure effective notice to parking facility users as to the regulations governing and limitations on the use thereof. It shall be unlawful to park any private vehicle in any City parking facility for a period of more than twelve (12) hours in any one (1) day or to park a commercial or freight-carrying vehicle or trailer in these lots except by written permission of the City Manager.

Section 21: Parking prohibited during certain hours

(a) When prohibited by this Chapter or any other ordinance or by order of the City, no person shall park a vehicle during the hours prohibited at places so indicated by official signs.

(b) When so indicated as provided in subsection (a) of this section, parking is prohibited on the streets or portions designated by the Public Works Department or, if such designation has not been made, as designated by Dekalb County.

Article 5: Traffic Calming Measures

Section 1: Definitions

For purposes of this Article, certain terms and words are defined. Where words have not been defined, but are defined in a subsequent sub-section of this Article, those words shall have the meaning as defined therein. The following words, terms and phrases when used in this Article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

AASHTO means the American Association of State Highway and Transportation Officials.

Affected area means a geographic portion of a neighborhood consisting of all property owners whose quality of life as a resident in the neighborhood, and not necessarily as a traveler through the neighborhood, is being directly impacted by the cut-through or speeding traffic problem being addressed. The affected area will include all lots from which residents must traverse the traffic calming measure. The affected area will also include all lots from which residents may have an alternate route without traffic calming measures but whose lots have driveways that access the residential street for which traffic calming measures are sought.

Department means the Public Works Department.

Eligible petitioner means the person whose name is recorded as a property owner in the tax records maintained by the Dekalb County's tax commissioner and board of tax assessors for the address listed on the petition that falls within the affected area.

Initiator is a real property owner who has requested an initial interest petition form and/or has assumed a primary role in circulating the initial interest petition and the subsequent traffic-calming petition and undertakes to serve as the City's sole contact with respect to the progress of the initial interest petition and any subsequent traffic study and traffic-calming petition.

I. T. E. means the Institute of Transportation Engineers.

MUTCD means the Manual on Uniform Traffic Control Devices.

Real property owners means homeowners or other real property owners as indicated in the tax records maintained by the Dekalb County tax commissioner and board of tax assessors.

Reference number means the number assigned to a completed initial interest petition which meets the City's criteria for a study that will be used to determine the order in which traffic studies will be conducted.

Residential street means a street classified and defined as "residential" in the records of the City of Dunwoody Community Development Department.

Traffic-calming measures means those methods and processes, prescribed by "AASHTO" or other nationally recognized organizations, that the City may use to reduce aggressive driving behavior that impairs the quality of life of its citizens in any neighborhood in which the posted speed limit is no greater than thirty (30) miles per hour. Such measures include, but are not limited to, speed humps, bicycle lanes, center traffic islands, splitter islands, and striping and turn restriction lanes.

Traffic-calming program guidelines means the guidelines for the design and application of speed humps and alternative traffic-calming measures as adopted by Dekalb County with the traffic-calming program in May 1995 and revised thereafter in March 2001, or as may hereafter be revised by the City of Dunwoody.

Traffic study means the process by which data pertinent to the flow, rate of speed and density of traffic, collected over a defined period of time, is measured and analyzed to determine its impact on the safety of citizens within a neighborhood or affected area.

Section 2: Application

The provisions of this Article shall govern in the event that there is any conflict between the provisions of this Article and the provisions in the Speed Humps and Alternative Traffic-Calming Measures Program adopted by Dekalb County in 1995 and amended thereafter, as well as the Guidelines for the Design and Application of Speed Humps and Alternative Traffic-

Calming Measures Manual adopted by Dekalb County in 1995 and amended thereafter, collectively referred to herein as the traffic-calming program. The City hereby adopts the current Dekalb County Speed Humps and Alternative Traffic-Calming Measures Program and the current Dekalb County Guidelines for the Design and Application of Speed Humps and Alternative Traffic-Calming Measures Manual, and as they may be amended hereafter by the City. All initial interest petitions and traffic studies pending as of the effective date of the ordinance adopting this Article shall be required to comply with and shall be subject to the provisions of this Article.

Section 3: Procedure for requesting a traffic study

(a) The City shall require the filing of the initial interest petition on a form promulgated by the Department Director or designee.

(b) Any person(s) interested in pursuing the installation of traffic-calming measures on a residential street, upon request to the Department, will be provided with an initial interest petition for the Department to perform a traffic study. The initial interest petition must be marked with the date on which it is required to be returned to the Department, hereinafter referred to as the return date. Such return date shall be forty-five (45) days after the date the Department issues the initial interest petition. The initial interest petition will allow for persons to sign in favor of requesting a traffic study or to register their opposition to the conduct of a traffic study.

(c) All persons signing an initial interest petition to request that the Department carry out a traffic study shall hereinafter be referred to as applicants. All persons opposed shall hereinafter be referred to as opponents.

(d) All applicants and opponents must be either real property owners or rental occupants.

Section 4: Initial Interest Petition

(a) The Department will not consider an initial interest petition unless it is complete, as that term is defined herein, and unless at least twenty (20) percent of the real property owners or rental occupants on the residential street are in favor of the traffic study.

(b) The completed initial interest petition shall be filed with the Department by the return date as provided for in Section 3(b) above or it shall be deemed abandoned and any further action by the City will require a new initial interest petition.

(c) In order to be considered complete, the initial interest petition shall include all of the following:

    (1) The full name, signature, home address, and daytime telephone number of each person that signed the initial interest petition.

    (2) The date upon which each person signed the initial interest petition.

(3) A description of the precise area for which the traffic study is requested by reference to the name of the subdivision or popular name of the neighborhood, or the bridges, streets, roads and where appropriate with house numbers that identify the area where a perceived speeding or cut-through problem exists.

(4) The name, address and telephone number of an initiator.

(d) Only one (1) real property owner or renter for each street address may sign the initial interest petition.

Section 5: Evaluating the initial interest petition and informing the initiator

(a) Upon receipt of a completed initial interest petition, the Department will make a determination as to whether at least twenty (20) percent of the real property owners or rental occupants on the residential street are in favor of the traffic study.

(b) After the Department has received the complete initial interest petition, no signature will be withdrawn from an initial interest petition unless the Department is notified in writing within thirty (30) days, that there is reasonable proof that fraud or other impropriety occurred regarding the obtaining of the petitioner's signature.

(c) Within sixty (60) days, the initiator of the initial interest petition will be notified in writing by the Department as to whether the initial interest petition meets the criteria for a traffic study. In the event that the Department decides to conduct a traffic study, the written notification to the initiator will include a reference number assigned to the initial interest petition for the conduct of the study.

(d) In the event that the initiator moves away or is otherwise no longer a point of contact for the Department and a new initiator's name or address has not been provided to the Department, the Department shall consider the initial interest petition abandoned and shall cease all work on processing of the initial interest petition and any subsequent traffic study.

Section 6: Traffic study to comply with national standards

National standards promulgated by the American Association of State Highway and Transportation Officials, the Institute of Transportation and other national standards shall govern the execution of traffic studies and the design and installation of traffic-calming measures.

Section 7: Priority for the conduct of traffic studies

(a) The Department will conduct traffic studies based on the reference number assigned to the completed initial interest petition.

(b) The Department reserves the right to change the order in which a traffic study is conducted where the Department determines that there is an initial interest petition

further down the waiting list for an area that may relate to, or be affected by, another traffic study to be conducted on a neighboring street or in a neighboring area.

Section 8: The affected area and the traffic-calming plan

(a) Where a traffic study is warranted it will be conducted at a time to be determined by, and within the sole discretion of, the Department.

(b) Upon completion of a traffic study, the Department shall make a determination as to whether the results clearly demonstrate that the installation of traffic-calming measures are warranted based upon the criteria established in the traffic-calming program guidelines.

(c) When considering traffic-calming program guidelines relating to speeding, the determination regarding whether the established criteria for traffic-calming measures have been met will be based on a comparison of actual study speeds obtained to the posted speed limit. When considering the criteria in traffic-calming program guidelines that relate to cut-through, the determination will include a comparison of cut-through traffic volumes obtained in a study to allowable volumes of cut-through traffic established in those guidelines.

Section 9: Notification that traffic-calming measures are not warranted

Following the completion of the study, if the Department Director or designee determines that no traffic-calming measures are warranted, then the Department Director or designee shall notify the initiator of that conclusion in writing.

Section 10: Notification to the initiator for commencement of traffic-calming conceptual design and presentation of the traffic calming plan for public hearing

(a) Where traffic-calming measures are warranted the Department shall, within a reasonable time following the completion of the traffic study, not to exceed twelve (12) months, prepare a traffic-calming conceptual plan and notify the initiator in writing about the traffic-calming conceptual plan.

(b) The traffic-calming conceptual plan must identify the affected area and include a recommendation for a specific traffic-calming measure or a combination of such measures that the Department has determined to provide the most effective solution to the speeding and/or cut-through problems identified in the traffic study for installation in the affected area, having regard to the pavement width, grades, the physical features of the proposed location for the installation measures and any structures that facilitate drainage. The plan may also include alternative measures that could be installed to provide some relief to the speeding and/or cut-through problems identified in the traffic study for installation in the affected area, having regard to the pavement width, grades, the physical features of the proposed location for the installation measures and any structures that facilitate drainage.

(c) A public comment period, not to exceed twelve (12) months, shall commence on the date that the letter of notification is sent to the initiator pursuant to subsection (a). During that public comment period, Department staff assigned to work on the traffic-calming conceptual plan shall meet with the initiator(s) and other interested persons for neighborhood input and public comment on the traffic-calming conceptual plan.

(d) The Department shall, within 60 days of the completion of the public comment period present the traffic-calming conceptual plan to the City Council for a public hearing at a regularly scheduled meeting, of the City Council.

(e) The date, time, place and purpose of the public hearing must be advertised in the City's legal organ at least once within three (3) weeks prior to the hearing. The Department shall also post signs within the affected area informing residents of the date, time and place of the public hearing and its purpose.

(f) The City Council may vote to accept or reject the Department's recommendation for installation of the most effective traffic-calming measures, or to accept any alternative measures provided by the Department. Additionally, the City Council may vote to defer the item for up to sixty (60) days for additional review by staff with respect to the traffic-calming measures recommended and the affected area to which the proposed measures would apply.

Section 11: Traffic calming petition; choice of measures

(a) Following the public hearing at which the City Council accepts the recommended or alternative measures, the Department Director or designee shall provide the initiator with a traffic-calming petition form to be used for recording all of the signatures. The petition must set forth the traffic-calming measures approved by the City Council that shall be the subject of the vote and the eligible petitioners will thereby have the opportunity to vote in favor or in opposition to the approved measures. No other measure may be included on the petition.

(b) The initiator is responsible for circulating the traffic-calming petition to all eligible petitioners in the affected area.

(c) A traffic-calming petition must be returned to the Department within ninety (90) days of the City Council’s decision allowing the installation of traffic-calming measures or it will be deemed abandoned and no further action shall be taken on the traffic calming petition or the initial interest petition from which it arose.

(d) The traffic-calming petition shall indicate the full name, signature, home address date, and daytime telephone number for each person signing the selection petition.

(e) The tax records maintained by Dekalb County's tax commissioner and board of tax assessors shall control in determining whether a signatory to the petition is a real property owner and thus an eligible petitioner.

(f) In the event that the City Council votes to reject the Department's recommendation no further action shall be taken with respect to traffic calming measures for at least twelve (12) months.

Section 12: Creation of a special tax district and assessment of costs associated with the maintenance of the traffic-calming measure

(a) In order to be eligible for the creation of special tax district the petition must secure signatures in favor of the installation of traffic-calming measures from eligible petitioners representing sixty-five (65) percent of properties in the affected area.

(b) In the event that the petition secures the requisite percentage of signatures in favor of the approved traffic-calming measure or combination of traffic calming measures, the Director of the Department shall present a Resolution to the City Council at a regularly scheduled meeting and the City Council shall thereafter by said Resolution approve the creation of a special tax district. Advertising for said meeting must comply with Section 10(e) above.

(c) The special tax district shall be created to include all of real property in the affected area for which the traffic-calming measure was approved. An annual maintenance charge in an amount to be determined by the City Council shall be assessed to and collected from property owners within the affected area as part of their annual property tax assessment for the maintenance of the traffic-calming measures installed pursuant to the creation of the special tax district.

Section 13: Removal of traffic-calming measures

(a) Upon presentation of a petition from eligible petitioners representing sixty-five (65) percent of the properties in the affected area, traffic-calming measures previously installed may be removed. No such petition shall be presented earlier than twelve (12) months after initial installation of the traffic-calming measure(s).

(b) A removal petition may be obtained from the Department Director or the Director's designee.

(c) The removal petition shall be returned and filed with the Department within ninety (90) days of the date on which it was provided pursuant to a request or it shall be deemed abandoned and any further action by the City shall require a new removal petition.

(d) The removal petition shall be presented to the City Council at a public hearing within sixty (60) days of the receipt of the petition. The date, time, place and purpose of the public hearing must be advertised in the City's legal organ at least once within three (3) weeks of the hearing. The Department shall also post signs within the affected area informing residents of the date, time and place of the public hearing and its purpose.

Article 6: Abandoned Vehicles

Section 1: Definitions

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

Commercial motor vehicle means any self-propelled or towed vehicle, or combination of such, designed or used to transport passengers or property and satisfies all or one of the following criteria:

(1) Has a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds;

(2) Is designed or used to transport more than eight passengers, including the driver, for compensation;

(3) Is designed or used to transport more than 15 passengers, including the driver, and is not for compensation; or

(4) Is used in transporting hazardous material in a quantity requiring placards in accordance with the motor carrier safety rules prescribed by the United States Department of Transportation, 49 CFR 172.500--172.560.

Recreational vehicle means any self-propelled or towed vehicle, or combination of such, used for leisure time activities or as a dwelling unit while traveling. Examples include a camper, a motor home and a travel trailer.

Trailer means any nonautomotive vehicle designed to be towed for the purpose of transporting or carrying objects or persons.

Section 2: Parking or abandonment prohibited

It is unlawful for any person to park or abandon a commercial motor vehicle, recreational vehicle, or trailer upon the streets or upon the rights-of-way of the streets and allow said commercial motor vehicle to remain parked or abandoned for more than 72 consecutive hours.

Section 3: Removal and storage

Should any sworn police officer find any motor vehicle that has been parked or abandoned as aforesaid, he shall have the right to impound the vehicle and to have same removed from the streets at the expense of the owner, and charge the owners storage.

STATE OF GEORGIA
COUNTY OF DEKALB

ORDINANCE NO. 2008-12-52

AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 23, STREETS AND SIDEWALKS, PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF DUNWOODY, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 23 (STREETS AND SIDEWALKS) AS ATTACHED HERETO AND INCOPORATED HEREIN

WHEREAS: The Ordinance relating to Chapter 23, Street sand Sidewalks, is hereby adopted and approved, and is attached hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 23 of the Code of Ordinances of the City of Dunwoody, Georgia; and

WHEREAS: This Ordinance shall become effective upon its adoption.
.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF DUNWOODY HEREBY ORDAINS that Chapter 23, Streets and Sidewalks, is hereby adopted and approved as part of the Code of Ordinances for the City of Dunwoody, Georgia. Any ordinance in conflict with this ordinance is hereby repealed.

SO ORDAINED AND EFFECTIVE this the 18th day of December, 2008.

Approved:

_____
Ken Wright, Mayor

Attest:

_____
Joan Jones, Acting City Clerk
(Seal)

Approved as to Form and Content:

_____
Brian Anderson, City Attorney

Chapter 23: Streets and Sidewalks

Article I: In General

Section 1: Procedure for changing street names

(a) An application requesting a street name change shall be submitted to the Department of Community Development and contain the following:

(1) A written petition bearing signatures of a minimum of fifty-one (51) percent of the property owners fronting the street. The property owners signing shall also constitute a minimum of fifty-one (51) percent of the linear street frontage. Linear street frontage shall include frontage of properties that abut both sides of the street right-of-way.

(2) Existing and proposed street names.

(3) Reason for requesting change.

(4) Map showing street or portion of street affected by change.

(5) A filing fee in the amount established by action of the City Council, a copy of which is on file in the office of the City Clerk.

(b) The application shall be processed and scheduled for public hearing as follows:

(1) The proposed name shall be checked by the City to ensure non-duplication.

(2) Public hearings before the Planning Commission and the City Council may coincide with the schedule for rezoning cases.

(3) The City shall notify, by regular mail, all owners of record who have property fronting on the affected street, according to tax records available to the Department, of the time and place of the public hearings. The postmaster shall also be notified of the hearings by regular mail.

(4) Legal notice of the application and the date, time and place of the public hearings shall be published in the official legal organ of the City at least ten (10) days prior to the first public hearing.

(5) The application shall be forwarded with the Community Development Department's recommendation to the Planning Commission for consideration at the scheduled public hearing and then forwarded to the City Council with the recommendations of the Department of Community Development and the Planning Commission.

(6) The final decision on the proposed change shall be made by the City Council after having held the scheduled public hearing.

(7) Petitioners shall bear all costs necessary for street marker changes as determined by the City.

(c) Applications affecting the same street or portion thereof shall not be submitted more than once every twenty-four (24) months.

(d) Requests initiated by any department or agency of the City shall be submitted to the Department of Community Development. Review and processing procedures shall be the same as that of a property owner's application except that the fee and a property owner's petition shall not be required in requests of this nature.

Section 2: Construction work on major streets, intersections; time restrictions

No construction work or maintenance work shall be done within the traffic lanes of major through streets or intersections thereof from the hours of 7:00 to 9:00 a.m., and 4:00 to 6:00 p.m., Monday through Friday. All underground construction work shall be paved or covered with steel plates during such rush hours or at other times when construction is not being accomplished. A list of the streets is on file with the Department of Public Works. This section does not apply to emergency repairs.

Section 3: Street lighting standards – Adoption

(a) To ensure adequate illumination of the public rights-of-way for the promotion of safety and security for the users of these rights-of-way and adjacent properties, the American National Standard Practice for Roadway Lighting of the Illuminating Engineering Society, 1981 edition, as approved by the American National Standards Institute, is adopted as the standard (except as noted in subsection (b) below) for the installation and operation of public right-of-way lighting in the City of Dunwoody. Permanent copies of the standard are on file with the Public Works Department.

(b) Lighting fixtures installed within the public rights-of-way to be operated for the purpose of street illumination shall comply with these standards. The minimum average horizontal footcandle illumination level by roadway classification shall be:

TABLE INSET:

Roadway Classification	**Commercial Area**	**Intermediate Area**	**Residential Area**
Major	2.0	1.4	1.0
Collector	1.2	0.9	0.6
Local or Residential	0.9	0.6	0.4

The uniformity of illumination shall be such that the point of lowest illumination shall have at least one-third of the average horizontal footcandle required illumination level, except that on local or residential streets it may be not less than one-sixth of the average.

Section 4: Street lighting standards – Compliance

(a) Any party requesting permission to install or operate lighting fixtures within public rights-of-way shall furnish plans and specifications to the Public Works Department for approval showing how the proposed lighting meets the standards, and no lighting shall be installed or operated without this approval. Should the Department disapprove the request to install or operate lighting fixtures within any right-of-way, the same shall be communicated in writing to the party requesting approval. The written communication shall include the specific reasons for disapproval. Any disapproval of a light or lighting system by the Department may be appealed to the City Council. If any party desires to appeal an adverse decision by the Department, a Notice of Appeal shall be filed with the Department within thirty (30) days from the date following the written notice of disapproval, and it shall be the responsibility of the Department to transmit forthwith to the City Council all papers and allied documents constituting the record upon which the action appealed from was taken and to ensure that the appeal is promptly placed upon the agenda of the Council for its determination. The City Council may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from.

(b) Roadway or street lighting luminaires or fixtures installed within the public rights-of-way as security lights, or for the purpose of lighting areas other than the public streets, shall be mounted on the side of the pole opposite from the street and shall be oriented in such a manner to ensure that the lateral light distribution pattern is parallel to the street, and that the vertical light distribution, at the initial light source, is perpendicular to the street, so as to protect the users of the street from objectionable glare. The approval of the City shall be obtained before installation of these lights.

(c) Other lighting fixtures to be installed within or outside of public rights-of-way for whatever purpose shall be installed and operated in such a manner to prevent glare from being a hazard to or interfering with the normal use of the public rights-of-way.

Section 5: Public transportation carrier transit bus stop shelters

Bus stop shelters may be erected on private property, public streets, public property, or public rights-of-way by a public transportation carrier or as authorized by a public transportation carrier, subject to the following conditions:

(1) Plans and specifications for the proposed installations shall be submitted and approved by the City in accordance with City requirements.

(2) Bus stop shelters may be erected at any bus stop utilized by a public transportation carrier.

(3) The owner or constructor of the bus stop shelter shall be responsible for the maintenance of the structure.

(4) A bus stop shelter may be erected only at bus stops identified by a public transportation carrier providing service to that location. The public transportation carrier may contract with appropriate subcontractors to provide and maintain bus stop shelters at various locations.

(5) Bus stop shelters may carry advertising placed upon them, subject to the following rules or regulations:

(A) Such advertising matter must be attached to the shelter and not extend out beyond the parameters of the shelter;

(B) Bus stop shelters carrying advertising matter must be constructed so as not to obstruct vision triangles at intersecting driveways and rights-of-way;

(C) Advertising shall not violate ordinances or state law obscenity provisions;

(D) Advertising shall not contain flashing lights or lights that would interfere with motorists on the roadway.

(E) Comply with all applicable local, State and Federal regulations.

(6) A bus stop shelter must conform to the reasonable rules and regulations established under this section, including the following:

(A) Bus stop shelters should be at least forty-eight (48) inches from the curb, where no curb or gutter is present the front of the bus shelter shall be at least ten (10) feet from the edge of the main traveled roadway;

(B) Bus stop shelters shall permit a clearance of at least forty-eight (48) inches on pedestrian paths, driveways, sidewalks, drainage structures, etc.;

(C) Sides and/or internal dividers in shelters shall be constructed to provide visibility of waiting passengers to the oncoming traffic flow on the road, highway or street on which the shelter is located, provided, however, one double-faced panel containing advertising may be attached to the end of the shelter farthest from the traffic flow on the side of the street on which the shelter is located;

(D) Each bus stop shelter shall be properly lighted to ensure public safety and provide complete visibility of the shelter from the abutting roadway.

(E) Comply with all local, State and Federal regulations.

(7) On application by a public transportation carrier or a contractor authorized by a public transportation carrier to provide bus stop shelters to a public transportation carrier, a permit shall be issued to build a shelter and allow advertising thereon unless there is adequate reason for denying the permit.

(8) Any public transportation carrier which provides more than one (1) bus stop shelter shall make application for a permit to cover each of its various locations.

(9) An application for a building permit for construction of a bus shelter shall be submitted and accompanied by the following:

(A) Authorization and approval of the public transportation carrier and the Georgia Department of Transportation.

(B) Plans and specifications for the proposed installation.

(C) If a bus shelter is to be erected or maintained on property other than the right-of-way of a public road or street, an authorization of the owner of the property.

(10) The public transportation carrier shall remove the shelter upon the request of the City upon the City showing that such shelter poses a traffic hazard, impediment to pedestrian traffic or other reasonable cause.

(11) Notwithstanding any other ordinance or part of ordinance prohibiting the construction of bus stop shelters or commercial advertising on public rights-of-way, a bus stop shelter complying with the provisions of this section may be constructed on public rights-of-way and have commercial advertising placed thereon and the provisions of this section shall control such construction and advertisement.

Section 6: Permit, franchise fee required prior to installation of poles, pipes, etc., on public roads or alleys

(a) No person shall install, construct, maintain or cause to be installed, constructed or maintained any pipe, main, conduit, cable, wire, pole, tower, traffic or other signal and other equipment, facilities, appliance, receptacle or sign, in, on, along, over or under the public roads or alleys of the City which are a part of the City street or County road system without first obtaining a permit therefor and paying franchise fees hereafter provided; provided, however, that such franchise fees shall not be in excess of those paid by such persons as may be authorized by any federal regulatory agency where applicable.

(b) There is assessed a fee in the amount established by action of the City Council, a copy of which is on file in the office of the City Clerk, for the use of pipes, mains, conduits, cables, wires, poles, towers and public rights-of-way.

(c) For each sign and each receptacle on the public right-of-way, excepting those used in connection with the collection and delivery of the United States mail, there is assessed a fee in the amount established by action of the City Council, a copy of which is on file in the office of the City Clerk.

Section 7: Defacing streets, sidewalks or curbs

It shall be unlawful for any person to mark or otherwise deface any public sidewalk, street, or curb in the City by painting any numbers, symbols, or advertising thereon, regardless of the purpose. This section does not apply to public utilities and their agents, Metropolitan Atlanta Rapid Transit Authority, and other governmental agencies.

Article II: Excavations

Section 1: Definitions

In this Article, "excavation" means the removal of earth, rock or other soil materials for the purpose of installing utility facilities, non-single-family residential building foundations, or other similar uses.

Section 2: Applicability

This Article applies to all excavations made for the purposes of land development, utility installations, building construction or similar activity within the City.

Section 3: Federal regulations – Adopted

Any person making an excavation shall meet the requirements as set forth in the Federal Occupational Safety and Health Regulations for construction, as adopted April 17, 1971, and each amendment thereafter, with the exceptions and amendments included in this Article.

Section 4: Federal regulations – Amendments and exceptions

The following amendments and exceptions shall apply to the development requirements adopted by Section 3 above:

(1) Excavations involved in the construction of a basement or foundation for a single-family residential structure are exempt from all of these requirements, with the exception that any excavation or foundation grading on which construction does not proceed within thirty (30) days shall be fenced, so as to prevent general public entrance to the building site, or filled in. However, an extension may be allowed if justified and if approved by application to the City.

(2) The administration and enforcement of the provisions of this Article shall be the responsibility of the department having applicable jurisdiction over the type of work involved.

(3) Table P-2, the line reading "ten (10) to fifteen (15) feet, likely to crack" and the column "Maximum Spacing, Vertical Feet," shall contain the number "4."

Article III: Moving Buildings and Other Oversize Loads

Section 1: Purpose

The purpose of this Article is to establish uniform permitting regulations and procedures for the moving of houses and other oversize loads on City roads, streets and bridges, thereby protecting private property and lives against loss and damage, protecting the public investment in rights-of-way, roadbeds, traffic signs and signalizations and other structures, controlling and regulating the flow of traffic and ensuring the safety of the public.

Section 2: Variances

The Public Works Department shall be authorized to grant a variance from the requirements of this Article, but only where, by reason of the exceptional historical, architectural or social uniqueness or significance of the structure, the strict application of the provisions of this Article would work an undue hardship upon the owner of the structure, and provided that the grant of any variance shall not substantially impair the intent and purpose of this Article and further provided that the provisions of this Article shall be complied with to the maximum extent possible.

Section 3: Permit required

No person shall move a house or other oversize load on any City road, street or bridge without a permit to do so issued by the Public Works Department.

Section 4: Application

(a) All persons desiring to obtain a permit under the provisions of this Article shall make application on the form prescribed by the City.

(b) The application shall include, but shall not be limited to, the following:

(1) Name, address and phone number of the mover/applicant.

(2) Name, address and phone number of the owner of the structure.

(3) Address of the present location of the structure.

(4) Destination of the structure.

(5) Name and address of insurance company.

(6) Total height, outside width and length of vehicle and load.

(7) Certification that the person making application on behalf of the mover has lawful authority to execute such application and that all requirements under this section, Sections 5 and 6 below have been met.

(8) The proposed date and time of the move.

(9) A statement that the mover/applicant agrees to hold the City harmless from all claims or causes of action arising out of any damage to a public road or bridge, to persons, to public or private property caused by a permitted load or vehicle, or its private escort vehicle, and to recompense the City for any expenditures made by the City to repair such damages caused by the permitted vehicle or load.

(c) As a condition to the issuance of a permit, the City, when deemed necessary in the interest of public safety, may require the use of a front or rear escort, or both, either or both of which may be a public safety vehicle.

(d) All permit applications must be filed at least five (5) days prior to the date of the proposed move and shall be accompanied by a fee in the amount established by action of the City Council, a copy of which is on file in the office of the City Clerk. If the application is not approved, the fee will be refunded to the applicant, less an administrative processing charge in the amount established by action of the City Council, a copy of which is on file in the office of the City Clerk.

Section 5: Scope limited

(a) Except as authorized under Section 2 of this Article, a permit under this Article shall not authorize the operation of a vehicle or load with:

(1) Total load length exceeding seventy-five (75) feet;

(2) Total load width exceeding fourteen (14) feet, including mirrors and accessories attached thereto; or

(3) Total height exceeding thirteen (13) feet, six (6) inches.

(b) Notwithstanding any provision of this Article to the contrary, no vehicle or load shall be operated over any bridge with a posted limit which is less than the total gross weight of the vehicle and its load or less than the total gross weight permitted under this Article.

Section 6: Conditions to issuance

In addition to compliance with other conditions imposed under the provisions of this Article, any person receiving a permit under this Article thereby certifies that such person will comply or has complied (as applicable herein) with the following conditions governing the operation of the permitted vehicle or load:

(1) Federal and state laws and regulations.

(2) The movement of the permitted vehicle or load will take place only on Monday through Thursday, and between 9:00 a.m. and 3:00 p.m.

(3) The permitted load or vehicle will not be operated over any City street or road other than those described or allowed in the permit.

(4) The operator of a permitted vehicle and load shall maintain fifty-foot intervals between each vehicle load. In addition, when the normal flow of traffic becomes impeded, such vehicle or load shall move off the traveled portion of the public road until such traffic congestion has been cleared. Normal movement may then be resumed until another traffic congestion occurs.

(5) The permittee shall maintain, during the existence of the permit, public liability and property damage insurance in at least the following amounts: public liability, five hundred thousand dollars ($500,000.00) each accident; five hundred thousand dollars ($500,000.00) each person injured; total property damage, five hundred thousand dollars ($500,000.00); provided that nothing herein shall prevent the City from requiring any additional undertaking or security as may be deemed necessary to compensate the City for any injury to any public property therein, including a bridge. Proof of such liability insurance and other security shall accompany the permit application.

(6) The permittee shall ensure that the operator of a leased vehicle carries on such operator's person written proof of the identity of the lessee.

(7) The permittee shall not allow the permit to be used other than for the movement by the particular vehicle for which the permit was issued.

(8) The minimum equipment which shall be used for moving a house is: a tandem truck, one (1) set of tandem dollies in good condition, and one (1) extra skidder or wrecker in good condition and capable of moving the whole load in case of a breakdown.

(9) The permittee shall measure the house and, prior to applying for a permit, check the route stated in the permit application to ensure obstacle clearance and necessary places periodically to pull off the road for the purpose of preventing unnecessary traffic congestion.

(10) Before moving a house, all masonry shall be removed from a masonry-veneered house.

(11) All mailboxes, highway signs and other movable obstacles to the move of the house shall be removed as the house approaches such an obstacle and re-erected immediately after the house passes such obstacle in equal or better condition than prior to removal.

(12) The movement shall be confined to the route stated in the application, and in no case shall exceed any straight line distance of fifty (50) miles.

Section 7: Route approval

Prior to the issuance of a moving permit under this Article, the transport route proposed by the mover/applicant must be reviewed and approved by the Public Works Department and Police Department. Unless no other reasonable alternative route exists, only those sections of City streets and roads designated as truck routes by the City shall be used for the moving of such structures.

Section 8: Revocation, suspension or denial

(a) The Public Works Director shall be authorized to deny, suspend or revoke a permit under this Article requested by an applicant or issued to a permittee. Permits may be denied, suspended or revoked for cause including, but not limited to, any of the following reasons:

(1) Failure to comply with the provisions of this Article.

(2) Repeated past violations by the applicant or permittee, of a relatively minor nature.

(3) A single, but aggravated violation.

(4) A material misrepresentation made by the applicant for a permit.

(5) Any other facts indicating that the applicant or permittee is a poor risk with regard to the safety of the traveling public and/or damage to public property.

(b) The City shall provide the applicant or permittee written notice of the decision to deny, revoke or suspend the application or permit. Such notice shall set forth in reasonable detail the reasons for such action and shall include notice of the right to appeal under the provisions of this Article.

Section 9: Appeals

An applicant or permittee under this Article shall be entitled to appeal a decision of the Public Works Director denying, suspending or revoking a permit, to the City Council or its designated hearing officer(s), by filing a notice of appeal with the Public Works Department within ten (10) days of the decision appealed from. The City Council or its designated hearing officer(s) shall schedule a hearing on the appeal to be held within thirty (30) days of the date the appeal is filed and shall provide the appellant notice of the date of such hearing.

Article IV: Utilities in City Right-of-Way

Section 1: Purpose; scope; exemption

(a) The purpose of this Article is to establish a uniform permitting process for the construction, maintenance, renewal, removal and relocation of pipes, mains, conduits, cables, wires, poles, towers and other equipment, facilities or appliances of any utility in, on, along, over or under those public roads under the control of the City Council, thereby protecting property against blight and depreciation, sustaining the stability of neighborhoods, preserving the City's natural beauty and aesthetics, and protecting the public investment in the rights-of-way, roadbeds and structures.

(b) This Article is intended to be administered in order to encourage innovative approaches and techniques to achieve effective and compatible use of that area traversed by a utility. The mandatory requirements of this Article are minimum requirements.

(c) Any City-owned utilities are exempt from this Article.

Section 2: Permit

(a) It shall be unlawful for any person to install, construct, maintain, renew, remove or relocate pipes, mains, conduits, cables, wires, poles, towers or other equipment, facilities or appliances of any utility in, on, along, over or under those public roads under the control of the City Council, without having first complied with all City ordinances regulating the use of City rights-of-way and without having first applied for and received a utility permit from the Public Works Department allowing such utility usage of the City rights-of-way.

(b) Where the City determines that the utility permit requests shall constitute a major utility action, as defined in subsection (d) below, the City may require the applicant to include in the application request a detailed statement on:

    (1) The environmental impact of the proposed action, including the impact upon property values.

(2) Any adverse environmental effects which cannot be avoided if the proposal is implemented.

(3) Alternatives to the proposed action.

(4) The relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity.

(5) Any irreversible and irretrievable commitments of resources which would be involved if the proposed action should be approved.

(c) Prior to submitting the environmental statement, the utilities shall consult with and obtain the comments of the general public affected, and all local, State and Federal agencies which have jurisdiction by law or special expertise with respect to any environmental impact involved.

(d) In this section, "major utility action" means any permit request involving the installation, construction, relocation or replacement of new transmission, distribution or trunk lines, or the installation or construction of a new substation, or the upgrading of a substation, where such action would require additional land acquisition.

Section 3: Design standards

(a) The type and size of utility facilities and the manner and extent to which they are constructed can materially alter the scenic quality, appearance and view of adjacent areas. Therefore:

(1) New installations of major utility facilities shall be avoided in established residential areas, scenic strips, public parks and recreation areas, schools and historical sites.

(2) In general, new aerial installations of communication and electrical power lines shall be located on major thoroughfares. Utility routes shall be designed to bypass existing developed residential areas and areas containing underground electrical and/or communication utilities. Where alternate routes are not available, the utility may be required to construct underground.

(b) Ground-mounted utility facilities shall be of a design compatible with the scenic quality of the property traversed.

(c) The utility shall be totally responsible for design and construction of the project.

(d) The utility shall be responsible for providing adequate safety measures for the public during installation, maintenance and operation of its facility.

(e) Every installation or relocation shall be considered as an individual installation and shall stand on its own merits.

Section 4: Plans and specifications

(a) Plans and specifications for major utility installation, construction, relocation or replacement shall be submitted to the Public Works Department and shall show in sufficient detail all pertinent data and features of the construction.

(b) All utility action permitted under the provisions of this Article shall conform with the current applicable sections of the Georgia Department of Transportation Standard Specifications For Construction of Roads and Bridges, the Georgia Department of Transportation Policy For Accommodation of Utilities, the National Electrical Safety Code, and the American National Standards Institute Standard Code For Pressure Piping.

Article V: Sidewalk Districts

Section 1: Program established

There is established a residential sidewalk district program whereby eligible residential areas may petition the City to install sidewalks within their neighborhood.

Section 2: Sidewalk district requirements

(a) A sidewalk district can only be established in residentially zoned districts where the streets or roads within the proposed sidewalk district have been accepted by the City for perpetual maintenance.

(b) Sidewalk construction must begin and end at existing sidewalks or public road intersections, or immediately across from public road intersections, but may extend past a public road intersection to complete the frontage adjoining the proposed sidewalk construction.

Section 3: Application and petition

(a) Application. Anyone who desires to have a sidewalk district created shall submit an application to the Director of Public Works or designee. Said application shall be made on forms made available by the Director of Public Works and shall at a minimum contain a plat showing the area of the proposed sidewalk district and the location of the proposed sidewalks.

(b) Estimate of costs.

(1) Based upon the plat submitted with the application, the Director of Public Works or designee shall prepare an estimate of the total project cost and pro rata cost per

property owner for the creation of the proposed sidewalk district, including the costs for the design, contracting, acquisition of rights-of-way, and inspection for sidewalk construction funded by the sidewalk district. The Director of Public Works' estimate may not establish a limit on the amount of the project costs and may not limit the amount that may be assessed against the property owners.

(2) If the application is incomplete or does not contain information sufficient for the Director of Public Works to prepare the estimate, then the Director of Public Works shall return the application to the applicant within thirty (30) days of receipt indicating the additional information required. Otherwise, the Director of Public Works shall prepare the estimate of costs and send the estimate to the applicant within ninety (90) days of receipt of a complete application.

(c) Petition.

(1) Circulation. The applicant shall be responsible for gaining the required signatures on a sidewalk district petition from property owners within the proposed sidewalk district.

(2) Contents. The petition shall contain the name, property address within the proposed sidewalk district, mailing address, and phone number of all property owners who sign the petition. If the property owner does not reside at the property within the sidewalk district, then the petition shall contain both the property address within the district and the property owner's actual address outside the district.

(3) Plat. The petition shall have attached to it a copy of the plat submitted to the Director of Public Works showing the boundaries of the proposed sidewalk district and a copy of the Director of Public Works' estimate of the total project cost and the pro rata cost per property owner.

Section 4: Procedure

(a) Return of petition. The petition for creation of the proposed sidewalk district must be returned to the Director of Public Works within ninety (90) days after the Director of Public Works notifies the applicant that the preparation of the estimate of costs and pro rata costs for the project is complete; however, the Director of Public Works has the discretion, for good cause shown, to extend the time for the return of the petition an additional thirty (30) days, for a total of one hundred twenty (120) days, when a request for such extension is made by the applicant to the Director of Public Works before the expiration of the original ninety-day period.

(b) Signatures. No assessment shall be made against abutting property, unless the same is consented to in writing by the owners of fifty-one (51) percent of the property abutting such improvements. Said consent shall be deemed to have been given if the requisite

number of signatures of such abutting property owner(s) is included in the petition requesting the proposed sidewalks and the creation of the assessment district.

(c) Notice. Upon the timely receipt of a petition containing the required number of signatures, the Director of Public Works shall cause the matter to be placed upon the City Council's public hearing agenda for a hearing on the creation of the proposed sidewalk district. The Director of Public Works or designee shall cause a notice to be published in the City's legal organ or a newspaper of general circulation in which the County sheriff's advertisements are published at least once ten (10) days prior to the date of said hearing, which notice shall give a brief description of the subdivision in which the work is to be done, the nature of the improvements to be made and the beginning and terminus of the road or street upon which such improvements are to be made and such notice shall set forth the time and place of the hearing.

(d) Notification of decision. Within sixty (60) days of a final decision on the petition by the City Council, the Director of Public Works or designee shall notify by certified mail, return receipt requested, each affected property owner of the decision of the City Council. If the final decision is an approval of the petition, then the Public Works Director shall notify each affected property owner by certified mail, return receipt requested, of a good faith estimate of the individual assessment. A final decision means the approval or denial of the petition by the City Council.

Section 5: Funding

(a) Assessment. Each owner of property abutting the sidewalks shall be assessed a share of the cost to be funded by the district, which cost shall be added to the ad valorem property taxes for each owner as provided in this section. No assessment shall be made against abutting property, unless the same is consented to in writing by the owners of fifty-one (51) percent of the property abutting such improvements. Abutting shall mean adjacent to, contiguous with, or adjoining.

(b) Pro-rata costs. Each property owner's share of the cost shall be determined as follows: the total cost of the project shall be calculated by the City, and the figure so derived shall be known as the total project cost. The City shall next determine the linear feet of sidewalk that was constructed. The total cost shall then be divided by the total linear feet of sidewalk to derive the cost per foot. Each property owner abutting the sidewalks shall then be assessed an amount that equals the linear feet of street frontage the property owner has multiplied by the cost per foot.

(c) Payment. The sidewalk tax assessment shall be paid by one (1) of two (2) options, as follows:

(1) Option one. The assessment may be paid in cash by the property owner within ninety (90) days of the mailing of the assessment by the City. If paid under this option, the assessment will not bear an administrative fee and no lien shall be recorded against the property. Payment shall be made to the "City of Dunwoody"

and delivered to the Public Works Department. If payment is not made in full within ninety (90) days of the City's initial billing of the assessment, then payment option two shall automatically take effect. Once option two is in effect, the payment via option two shall be the property owner's sole option until all assessment payments are satisfied.

(2) Option two. The assessment shall be paid in five (5) equal annual installments. Payment of each such assessment shall be due and payable within sixty (60) days from the mailing by regular mail of a bill from the City's Revenue Director. In the event option two is selected, the cost of processing, administration, recording the lien, and satisfaction of such lien shall be added to the assessment.

(d) The property owner shall advise any purchaser of its property within the sidewalk district of the assessment. The property owner may conduct a proration of the assessment with the purchaser. The City shall not be responsible for the proration of the assessments between sellers and purchasers nor shall the City be under any duty to notify any purchaser of the existence or liability for the assessment.

(e) If the assessment is not paid when due, the assessment shall be collected in the same manner as delinquent ad valorem taxes and shall be subject to the same interest and penalties.

(f) The assessment shall constitute a lien against the property and shall be recorded by the City Manager or designee in the lien records of the Clerk of the Dekalb County Superior Court.

(g) The fee for processing and administration of this option shall be established by the City Revenue Director and approved by the City Council.

DEKALB COUNTY
STATE OF GEORGIA

ORDINANCE 2008-12-53

AN ORDINANCE GRANTING COMCAST OF GEORGIA I, LLC A FRANCHISE AGREEMENT TO PROVIDE CABLE AND OTHER SERVICES TO SUBSCRIBERS WITHIN THE CITY BOUNDARIES, GRANTING THE RIGHT TO USE THE CITY'S PUBLIC RIGHTS OF WAY IN RELATION TO PROVISION OF SUCH SERVICES. PROVIDING FOR ASSOCIATED FRANCHISE FEES AND FOR OTHER PURPOSES.

WHEREAS, the Georgia General assembly authorized the creation of a created a new political subdivision, the City of Dunwoody (hereinafter, the "Franchising Authority") effective December1,2008 and

WHEREAS, Comcast of Georgia/Virginia, Inc (hereinafter, the "Grantee") provides cable and other services to subscribers in the newly incorporated area; and

WHEREAS, the Franchising Authority, pursuant to its charter and police powers; is authorized to regulate the public rights-of-way within the boundaries of the political subdivision; and

NOW, THEREFORE, THE COUNCIL OF THE CITY OF DUNWOODY HEREBY ORDAINS as follows:

Franchise Agreement

Between the

City of Dunwoody, Georgia

And

Comcast of Georgia I, LLC

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TABLE OF CONTENTS

Page

SECTION 1 GRANT OF AUTHORITY 1

SECTION 2 THE SYSTEM 6

SECTION 3 PEG ACCESS 7

SECTION 4 CUSTOMER SERVICE AND PRIVACY PROTECTION 8

SECTION 5 COMPENSATION AND OTHER PAYMENTS 9

SECTION 6 OVERSIGHT AND REGULATION 10

SECTION 7 ENFORCEMENT 12

SECTION 8 MISCELLANEOUS 13

APPENDICES

A. Defined Terms

B. Customer Service Standards

C. Description of the Service Area

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AGREEMENT

This ***AGREEMENT***, executed as of the 1st day of December, 2008 (the "Effective Date"), by and between City of Dunwoody, GA (hereinafter referred to as the "Franchising Authority"), and Comcast of Georgia I, LLC whose principal place of business is located at 2925 Courtyards Drive, Norcross, GA, (hereinafter referred to as the "Company"). For purposes of this Agreement, unless otherwise defined in this Agreement the capitalized terms, phrases, words, and their derivations shall have the meanings set forth in Appendix A.

W I T N E S S E T H:

The Franchising Authority, having determined that the financial, legal and technical ability of the Company is reasonably sufficient to provide the services, facilities and equipment necessary to meet the current and future cable-related needs of the community, desires to enter into this Franchise Agreement with the Company for the construction, operation and maintenance of a Cable System on the terms and conditions set forth herein. In consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby covenant and agree as follows:

SECTION 1
GRANT OF AUTHORITY

1.1 Grant of Franchise. The Franchising Authority hereby grants under the Cable Act a nonexclusive franchise (the "Franchise") to occupy and use the Streets within the Franchise Area in order to construct operate, maintain, upgrade, repair and remove the System, and provide Cable Services through the System, subject to the terms and conditions of this Agreement. This franchise authorizes Cable Service only and it does not grant or prohibit the right(s) of the company to provide other services.

1.2 Term of Franchise. This Franchise shall begin on the Effective Date and expire ten (10) years thereafter, unless renewed, terminated earlier pursuant to the terms of this Franchise Agreement, or the Consumer Choice for Television Act (O.G.C.A. 36-76-1 et seq.).

1.3 Renewal. Subject to Section 626 of the Cable Act (47 U.S.C. § 546) and such terms and conditions as may lawfully be established by the Franchising Authority, the Franchising Authority reserves the right to grant or deny renewal of the Franchise.

1.4 Reservation of Authority. Nothing in this Agreement shall (i) abrogate the right of the Franchising Authority to perform any public works or public improvements of any description, (ii) be construed as a waiver of any codes or ordinances of the Franchising Authority or of the Franchising Authority's right to require the Company or any Person utilizing the System to secure the appropriate permits or authorizations for such use, or (iii) be construed as a waiver or release of the rights of the Franchising Authority in and to the Streets. Notwithstanding the above, in the event of any conflict between this Franchise and any ordinance adopted by the Franchising Authority or any said regulation, the terms and conditions of this Franchise Agreement shall prevail.

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1.5 Competitive Equity and Subsequent Action Provisions

1.5.1 Company and the Franchising Authority acknowledge that there is increasing competition in the video marketplace among cable operators, direct broadcast satellite providers, telephone companies, broadband content providers and others; new technologies are emerging that enable the provision of new and advanced services to City residents; and changes in the scope and application of the traditional regulatory framework governing the provision of video services are being considered in a variety of federal, state and local venues.

1.5.2 Purposes. To foster an environment where video service providers using the Public Ways can compete on a competitively neutral and nondiscriminatory basis; encourage the provision of new and advanced services to City residents; promote local communications infrastructure investments and economic opportunities in the City; and provide flexibility in the event of subsequent changes in the Law, the Company and the Franchising Authority have agreed to the provisions in this Section1.5, and they should be interpreted and applied with such purposes in mind.

1.5.3 New Video Service Provider or Cable Service Provider. Notwithstanding any other provision of this Agreement or any other provision of Law, if any Video Service Provider ("VSP") or Cable Service Provider ("CSP") utilizing the public right-of-way (i) enters into any agreement with the Franchising Authority to provide video services or cable services to subscribers in the City, or (ii) otherwise begins to provide video services or cable services to subscribers in the City (with or without entering into an agreement with the Franchising Authority), the Franchising Authority, upon written request of the Company, shall permit the Company to construct and operate its Cable System and to provide video services or cable services to subscribers in the City under substantially the same agreement and/or under substantially the same terms and conditions as apply to the new VSP or CSP. The Company and the Franchising Authority shall enter into an agreement or other appropriate authorization (to the extent the Company determines such an agreement or authorization is necessary) containing substantially the same terms and conditions as are applicable to the VSP or CSP within sixty (60) days after the Company submits a written request to the Franchising Authority.

If there is no written agreement or other authorization between the new VSP or CSP and the Franchising Authority, the Company and the Franchising Authority shall use the sixty (60) day period to develop and enter into an agreement or other appropriate authorization (to the extent the Company determines such an agreement or authorization is necessary) that to the maximum extent possible contains provisions that will ensure competitive equity between the Company and other VSPs or CSP , taking into account the terms and conditions under which other VSPs or CSPs are allowed to provide video services or cable services to subscribers in the City.

1.5.4 Subsequent Change in Law. If there is a change in federal, state or local Law that provides for a new or alternative form of authorization, subsequent to the Effective date of this Franchise Agreement, for a VSP or CSP utilizing the public right-of-way to

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provide video or cable services to subscribers in the City, or that otherwise changes the nature or extent of the obligations that the Franchising Authority may request from or impose on a VSP or CSP providing video services or cable services to subscribers in the Franchise Area, the Franchising Authority agrees that, notwithstanding any other provision of Law, upon the written request and at the option of the Company, the Franchising Authority shall: (i) permit the Company to provide video services or cable services to subscribers in the City on substantially the same terms and conditions as are applicable to a VSP under the changed Law; (ii) modify this Agreement to comply with the changed Law; or (iii) modify this Agreement to ensure competitive equity between the Company and other VSPs or CSPs, taking into account the conditions under which other VSPs or CSPs are permitted to provide video services to subscribers in the City . The Franchising Authority and the Company shall implement the provisions of this Section 1.5.3 within sixty (60) days after the Company submits a written request to the Franchising Authority. Notwithstanding any provision of Law that imposes a time or other limitation on the Company's ability to take advantage of the changed law's provisions, the Company may exercise this rights under this Section 1.5.3 at any time, but not sooner than thirty (30) days after the changed law goes into effect. Notwithstanding the above, the Company may at any time, in its sole discretion, opt into a state issued franchise pursuant to the Consumer Choice for Television Act (O.C.G.A. 36-76, et. al.).

1.5.5. Effect on This Agreement. Any agreement, authorization, right or determination to provide video services to subscribers in the City under the preceding sections shall supersede this Agreement, and the Company, at its option, may terminate this Agreement or portions thereof, upon written notice to the Franchising Authority, without penalty or damages.

SECTION 2
THE SYSTEM

2.1 The System and Its Operations

2.1.1. Service Area. As of the Effective Date of this Agreement, the Company's operates a System within the Franchise Area as delineated in Appendix C. Upon the request of the Franchising Authority and not more than once annually, the Company shall provide a revised description of its Service Area.

2.1.2. System. The Company, as of the Effective Date of this Franchise Agreement, maintains and operates a 750 MHz system capable of providing over 250 Channels of video programming which Channels may be delivered by analog, digital or other transmission technologies.

2.1.3. System Technical Standards. Throughout the term of this Agreement, the System shall be designed, maintained and operated such that quality and reliability of System Signal will be in compliance with Section 624A (Consumer Electronics Equipment Compatibility Standards) of the Cable Act as may be amended from time to time.

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2.1.4. Testing Procedures; Technical Performance. Throughout the term of this Agreement, the Company shall operate and maintain the System in accordance with the testing procedures and the technical performance standards of the FCC detailed in Title 47 Telecommunication, Chapter 1 Federal Communications Commission, Part 76, Subpart K, 76.601, 76.605, 76.609, 76.610, and 76.611 which may change from time to time.

2.2 Requirements With Respect to Work on the System

2.2.1 General Requirements. The Company shall comply with ordinances and/or rules and regulations established by the Franchising Authority pursuant to the lawful exercise of its police powers and generally applicable to all users of the Streets. To the extent such local laws, ordinances or regulations clearly conflict with the terms and conditions of this Agreement, the terms and conditions of this Agreement shall prevail, except where such conflict arises from the Franchising Authority's lawful exercise of its police powers.

2.2.2 Protection of Underground Utilities. Both the Company and the Franchising Authority shall comply with Chapter 25-9 of the Official Code of Georgia Annotated, relating to notification prior to excavation near underground utilities, as now or hereafter amended.

SECTION 3
PEG ACCESS

3.1 PEG Access

3.1.1 Channel Capacity. The Company agrees to make available Channel capacity (up to one channel) on the digital tier to be designated for non-commercial, non-revenue generating governmental use. The capacity shall be determined in light of cable access related community needs and interests relative to the costs of such needs and interests. The Franchising Authority and the Company may jointly determine that the community needs and interests may better be served using video on demand, video streaming or other transmission technology.

3.1.2 Programming Obligations. The Franchising Authority shall not require the Company to exclusively dedicate a government access channel unless and until such time as the Franchising Authority produces fifteen (15) hours per month of non duplicative original programming for three consecutive months. For purposes of this Agreement, character generated or video bulletin board messages, traffic cameras, or other such passively produced content shall not count towards the fifteen (15) hours of non-duplicative, original programming. Additionally, no more than five (5) hours of the required fifteen (15) hours shall be meetings held by the Franchising Authority, its boards, authorities or associated organizations. Prior to dedicating an exclusive channel to the Franchising Authority, the Company shall cablecast the programming produced by the Franchising Authority.

The Franchising Authority shall provide the Company with written notice demonstrating the programming threshold and its desire to activate a government access channel dedicated

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to the Franchising Authority. The Company shall have three (3) months from receipt of such notice, or such longer period of time as may be reasonably necessary not to exceed six (6) months, to provide the channel. The Company shall promptly notify the Franchising Authority of such obligations and/or restrictions and present a reasonable time frame for providing the channel. The dedicated government channel may be delivered by analog, digital or other transmission technologies as determined by the Company in its sole discretion. The parties further agree that subscribers may require additional equipment to view such dedicated channels.

Once a channel is dedicated to the Franchising Authority for non-commercial, non-revenue generating, government access programming, the Franchising Authority must continue to produce and cablecast a minimum of fifteen (15) hours of non-duplicative, original programming per month. For purposes of this paragraph, character generated or video bulletin board messages, traffic cameras, or other such passively produced content shall not count towards the monthly fifteen (15) hours of non-duplicative, original programming. No more than five (5) hours of the required monthly fifteen (15) hours shall be meetings held by the Franchising Authority, its boards, authorities or associated organizations. Should the Franchising Authority not maintain the fifteen (15) hour programming per month threshold for any three (3) month period, then the Company may reclaim the channel capacity for its own use.

The Franchising Authority may cooperate with neighboring local governments to share a designated PEG channel as long as the parties collectively can meet the programming threshold outlined above.

3.2 Network Support and PEG Fees. The parties to this Agreement acknowledge that the Grantee had made certain capital investments as required by the Franchise Agreement between the Grantee, its Affiliates and DeKalb County, Georgia. As of the Effective Date, the Company collects additional fees from customers as reimbursement for those costs.

Additionally, the Grantee will incur significant costs associated with administration of this Franchise. To offset both the embedded capital costs and the one-time administrative costs, the parties agree that the Grantee may continue to pass through and retain fees up to $.70 per customer per month through December 31, 2009. These fees will be reflected on customer's bill as a "Network Support Fee" and "PEG Support Fee".

3.3 No Liability. The Company shall have no liability nor shall be required to provide indemnification to Franchising Authority for PEG programming cablecast over the System.

SECTION 4
CUSTOMER SERVICE AND PRIVACY PROTECTION

Customer Service. The Company shall comply in all respects with the requirements set forth in Appendix B. Individual violations of the standards do not constitute a breach of this Franchise Agreement.

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SECTION 5
COMPENSATION AND OTHER PAYMENTS

5.1 Compensation to the Franchising Authority. As compensation for the Franchise, the Company shall pay, or cause to be paid, to the Franchising Authority the amounts set forth in this Section 6.1.

5.1.1 Franchise Fees - Amount. The Company shall pay to the Franchising Authority franchise fees in an amount equal to five percent (5%) of Gross Revenue derived from the operation of the System to provide Cable Services in the Franchise Area. .

5.1.2 Franchise Fees - Payment. All such payments of franchise fees shall be made on a quarterly basis and shall be remitted simultaneously with the submission of the Company's franchise fee report required pursuant to Section 5.1.3.

5.1.3 Company to Submit Franchise Fee Report. The Company shall submit to the Franchising Authority a report not later than thirty (30) days after the last day of March, June, September and December throughout the term of this Agreement setting forth the Gross Revenue for the period ending on said last day.

5.1.4 Franchise Fee Payments Subject to Audit; Remedy for Underpayment. No acceptance of any franchise fee payment by the Franchising Authority shall be construed as an accord and satisfaction that the amount paid is in fact the correct amount or a release of any claim that the Franchising Authority may have for further or additional sums payable under this Agreement. Franchising Authority may conduct audit no more than once annually to ensure payments in accordance with the terms and conditions of the franchise agreement. The audit of the Company's records shall take place at a location, in the State of Georgia, determined by the Company. The Franchising Authority is prohibited from removing any records, files, spreadsheets or any other documents from the site of the audit. In the event, the Franchising Authority takes notes of any documents, records or files of the Company used to prepare an audit report, all notes shall be returned to the Company upon completion of the audit. The Audit period shall be limited to three years following the end of the quarter to which the disputed amount exists. Once any audited period of the Company has been the subject of a requested audit, such audited period shall not again be the subject of any audit., Not withstanding the foregoing, audits are limited to one (1) per year but they may cover up to three (3) years of operation.

If, as a result of such audit or any other review, the Franchising Authority determines that the Company has underpaid its fees in any twelve (12) month period by ten percent (10%) or more, then, in addition to making full payment of the relevant obligation, the Company shall reimburse the Franchising Authority for all of the reasonable costs associated with the audit or review, including all reasonable out-of-pocket costs for attorneys, accountants, and other consultants. Franchising Authority shall provide the Company with a written notice of audit results and a copy of the final report presented to the franchising authority. Moreover, any additional undisputed amounts owed to the Franchising Authority as the result of the

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audit shall be paid within 60 days, or other mutually acceptable timeframe from the date of the executed settlement agreement

5.2 Payments Not To Be Set Off Against Taxes or Vice Versa. The parties agree that the compensation and other payments to be made pursuant to this Section 6 of this Agreement are not a tax and are not in the nature of a tax and are in addition to any and all taxes of general applicability or other fees or charges (including any fees or charges which may be imposed on the Company for the use of poles, conduits or similar facilities that may be owned or Controlled by the Franchising Authority) which the Company or any Affiliated Person shall be required to pay to the Franchising Authority. Company and Franchising Authority further agree that franchise fee payments required under 5.1.1 of this Agreement shall be in lieu of permit fees and occupational license fee as required by the Franchising Authority. The Franchising Authority and the Company further agree that no additional taxes, licenses, fees, surcharges, or other assessments shall be assessed on the Company for or with respect to the use of the Streets nor shall the Franchising Authority levy any other tax, license, fee or assessment on the Company or its Subscribers that is not generally imposed and applicable to a majority of all other businesses.

5.3 Interest on Late Payments. If any payment required by this Agreement is not actually received by the Franchising Authority on or before the applicable date fixed in this Agreement, the Company shall pay interest thereon, from the due date to the date paid at rates published by the Internal Revenue Service for tax refunds and additional tax payments for the period of delinquency.

5.4 Service to Governmental and Institutional Facilities.

5.4.1 Complimentary Installation. The Company, shall, upon written request by the Franchising Authority, provide Standard Installation of one service outlet for each of the Franchising Authorities facilities, public primary or secondary school and library, which will be located no more than 125 feet from the Company's activated distribution plant. If the facility is located more than 125 feet from the Company's activated distribution plant, then the Company shall within thirty (30) days of receipt of written request from the Franchising Authority, provide a written estimate for the cost of extending plant to the school, library or government facility as well as any necessary inside wiring costs.

5.4.2 Complimentary Service. Within thirty (30) days of receipt of written notice by the Franchising Authority, the Company shall provide one outlet of basic and expanded basic tier Service to each public primary or secondary school and public library located in the Franchise Area.

5.4.3 Government Discounts. The Company may provide a government discount rate if the Franchising Authority requests additional outlets at a public school, public library or Service to a government facility.

SECTION 6
COMPLIANCE REPORTS

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6.1 Reports. Upon written request by the Franchising Authority and subject to Section 631 of the Cable Act, the Company shall promptly submit to the Franchising Authority such information as maybe necessary to reasonably demonstrate the Company's compliance with any term or condition of this Agreement

6.2 File for Public Inspection. Throughout the term of this Agreement, the Company shall maintain, in a file available for public inspection during normal business hours, those documents required pursuant to the FCC's rules and regulations.

6.3 Treatment of Proprietary Information. The Franchising Authority agrees to treat as confidential any requested documents submitted to the Franchising Authority that are labeled as Confidential or Trade Secret by the Company prior to submission, while at all times complying with the Georgia Open Records Act (O.C.G.A. § 50-18-70 et seq.). In the event that any other Person requests such documents, including requests pursuant to the Georgia Open Records Act, the Franchising Authority shall notify the Company of such request as soon as practicable, and in any case prior to the release of such information, by email or facsimile to the addresses provided in Section 11.6 hereof, so that the Company may take appropriate steps to protect its interests in the Requested Records, including seeking an injunction against the release of such Requested Records. Upon receipt of said notice, the Company may review the Requested Records in the Franchising Authority's possession and designate as "Confidential" or "Trade Secret" such additional portions of the requested documents as contain confidential or proprietary information .

The Company agrees to indemnify and hold harmless, including the payment of attorney fees, the Franchising Authority, its employees, agents, consultants and elected officials, for any claim arising out of the Franchising Authority's refusal to produce, in response to a request by any Person or entity other than the Company, documents the Company has designated as "Confidential" or "Trade Secret." The Company further agrees to indemnify and hold harmless, including the payment of attorney fees, the Franchising Authority, its employees, agents, consultants and elected officials for any claim arising out of the Franchise Authority's production, in response to a request by any person or entity, documents the Company has not designated as "Confidential" or "Trade Secret." The Franchising Authority will not disclose to any other Person any Requested Records labeled by the Company as "Confidential" or "Trade Secret" unless such disclosure is required by law or compelled by court order.

6.4 Emergency Alert System. Company shall install and maintain an Emergency Alert System in the County only as required under applicable Federal and State laws. Additionally, Franchising Authority shall permit only appropriately trained and authorized Persons to operate the Emergency Alert System equipment and shall take reasonable precautions to prevent any use of the Company's Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System.

6.4.1 Liability. The Company shall have no liability nor shall be required to provide indemnification to Franchising Authority for its use of the Emergency Alert System.

SECTION 7

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RATES

Rate Regulation. Franchising Authority and the Company recognize that as of the effective date of this agreement, the FCC has deemed that the Company is subject to effective competition within Franchise Area. The Franchising Authority and the Company reserve all rights regarding the regulation of rates.

SECTION 8
ENFORCEMENT

8.1 Notice of Violation. If the Franchising Authority believes that the Company has not complied with the terms of the franchise agreement, the Franchising Authority shall first informally discuss the matter with the Company. If such discussions do not lead to a resolution of the problem, the Franchising Authority shall notify the Company in writing of the nature of the alleged non-compliance. (Violation Notice).

8.2 Company's Right to Cure or Respond. Company shall have sixty (60) days from the receipt of the Violation Notice or a longer period of time as the Franchising Authority may specify to either respond, cure alleged noncompliance or if by the nature of the complained of event cannot be cured within a sixty (60) day period, Company shall in writing initiate reasonable steps to remedy the matter and provide franchising authority a projected resolution date.

8.3 Hearing. If the Company fails to respond to the Violation Notice received from the Franchising Authority, or the alleged matter of noncompliance is not remedied within the cure period set forth above, the Franchising Authority's governing body shall schedule a hearing if it intends to continue its investigation into the matter. The Franchising Authority shall provide the Company at least thirty (30) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing. The Company shall have the right to present evidence and to question witnesses. The Franchising Authority shall determine if the Company has committed a violation and shall make written findings of fact relative to its determination. If the violation is found, the Company may petition for reconsideration before any competent tribunal having jurisdiction over such matters.

8.4 Enforcement. Subject to applicable federal and State law, in the event the Franchising Authority, after the hearing set forth above, determines that the Company is in default of the provisions addressed in the Violation Notice, the Franchising Authority may:

(a) Seek specific performance damages; or

(b) Commence an action at law for monetary damages or seek other equitable relief; or

(c) In the case of a substantial default of a material provision of the Franchise, the Franchising Authority may seek to revoke the Franchise itself in accordance with subsection 8.1.5 below.

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8.5 Revocation

(a) Prior to the revocation or termination of the Franchise, the Franchising Authority shall give written notice to the Company of its intent to revoke the Franchise Agreement on the basis of noncompliance, by the Company, including three or more instances of substantial noncompliance with a material provision of the Franchise Agreement. The notice shall set forth the exact nature of the noncompliance. The Company shall have sixty (60) days from such notice to either object in writing and to state its reasons for such objection and provide an explanation or to cure the alleged noncompliance. If the Franchising Authority has not received a satisfactory response from the Company it may then seek to revoke the Franchise at a public hearing. The Company shall be give at least thirty (30) days prior written notice of such public hearing, specifying the time and place of such hearing and stating its intent to revoke the franchise.

(b) At the hearing, the Franchising Authority's governing board shall give the Company an opportunity to state its position on the matter, present evidence and question witnesses, after which it shall determine whether or not the Franchise shall be revoked. The public hearing shall be on the record and a written transcript shall be made available to the Company within ten (10) business days. The decision of the Franchising Authority's governing board shall be made in writing and shall be delivered to the Company. The Company may appeal such determination to an appropriate court, which shall have the power to review the decision of the Franchising Authority's Governing Board de novo. The Company may continue to operate the Cable System until all legal appeals procedures have been exhausted.

(c) Notwithstanding the above provisions, the Company does not waive any of its rights under federal law or regulation.

SECTION 9
ASSIGNMENTS
AND OTHER TRANSFERS

The Franchise shall be fully transferable to any successor in interest to the Company. A notice of transfer shall be filed by the Company to the Franchising Authority within 45 days of such transfer the transfer notification shall consist of an affidavit signed by an officer or general partner of the transferee that contains the following:

(a) An affirmative declaration that the applicant shall comply with the terms and conditions of this Agreement, all applicable federal, state laws and regulations, including municipal and county ordinances regarding the placement and maintenance of facilities in the public rights-of-way that are generally applicable to users of the public right of way specifically including Chapter 9 of Title 25, the Georgia utility Facility Protection Act

(b) A description of transferee's service area; and

(c) The location of the transferee's principal place of business and the names or names of the principal executive officer or officers of the transferee.

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SECTION 10
INSURANCE and INDEMNITY

10.1 Insurance

10.1.1 Liability Insurance. Throughout the term of this Agreement and to the extent required of other users of the Streets, the Company shall, at its own cost and expense, maintain a liability insurance policy or policies in an appropriate amount and provide the Franchising Authority with certificate(s) of insurance demonstrating that the Company has obtained the insurance.

10.1.2 Workers' Compensation. The Company shall ensure its compliance with the Georgia Workers' Compensation Act.

10.2 Liability and Indemnity. In accordance with Section 635A of the Cable Act, the Franchising Authority, its officials, employees, members or agents shall have no liability to the Company arising from the regulation of Cable Service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of this Franchise. Any relief to the extent such relief is required by any other provision of Federal State, or local law, shall be limited to injunctive relief and declaratory relief.

SECTION 11
MISCELLANEOUS

11.1 Controlling Authorities. This Agreement is made with the understanding that its provisions are controlled by the Cable Act, other federal laws, state laws, and all applicable local laws, ordinances, and regulations. To the extent such local laws, ordinances or regulations clearly conflict with the terms and conditions of this Agreement, the terms and conditions of this Agreement shall prevail, except where such conflict arises from the Franchising Authority's lawful exercise of its police powers.

11.2 Appendices. The Appendices to this Agreement, attached hereto, and all portions thereof and exhibits thereto, are, except as otherwise specified in such Appendices, incorporated herein by reference and expressly made a part of this Agreement.

11.3 Enforceability of Agreement; No Opposition. By execution of this Agreement, the Company and the Franchising Authority acknowledge the validity of the terms and conditions of this Agreement under applicable law in existence on the Effective Date and pledge that they will not assert in any manner at any time or in any forum that this Agreement, the Franchise, or the processes and procedures pursuant to which this Agreement was entered into and the Franchise was granted are not consistent with the applicable law in existence on the Effective Date.

11.4 Governmental Powers. The Franchising Authority expressly reserves the right to exercise the full scope of its powers, including both its police power and contracting authority, to promote

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the public interest and to protect the health, safety and welfare of the citizens of the City of Dunwoody, Georgia.

11.5 Entire Agreement. This Agreement, including all Appendices, embodies the entire understanding and agreement of the Franchising Authority and the Company with respect to the subject matter hereof and merges and supersedes all prior representations, agreements, and understandings, whether oral or written, between the Franchising Authority and the Company with respect to the subject matter hereof, including, without limitation, all prior drafts of this Agreement and any Appendix to this Agreement and any and all written or oral statements or representations by any official, employee, agent, attorney, consultant or independent contractor of the Franchising Authority or the Company. All ordinances or parts of ordinances or other agreements between the Company and the Franchising Authority that are in conflict with the provisions of this Agreement are hereby declared invalid and superseded.

11.6 Notices. All notices shall be in writing and shall be sufficiently given and served upon the other party by first class mail, registered or certified, return receipt requested, postage prepaid, or via facsimile (with confirmation of transmission) and addressed as follows:

THE FRANCHISING AUTHORITY:
City of Dunwoody
Attn: City Manager
_____
_____, __ _____

COMPANY:
Comcast of Georgia I, LLC
Attn: Vice President, Government & Community Affairs
2925 Courtyards Drive
Norcross, GA 30071

With a copy to:
Comcast Cable Communications, Inc.
Attn: Vice President, Government Affairs
600 Galleria Parkway, Suite 1100
Atlanta, GA 30339

And:
Comcast Cable Communications, Inc.
Attn: Legal Dept.
One Comcast Center
Philadelphia, PA 19103

11.7 Additional Representations and Warranties. In addition to the representations, warranties, and covenants of the Company to the Franchising Authority set forth elsewhere herein, the Company represents and warrants to the Franchising Authority and covenants and agrees (which representations, warranties, covenants and agreements shall not be affected or waived by any

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inspection or examination made by or on behalf of the Franchising Authority) that, as of the Effective Date:

11.7.1 Organization, Standing, and Authorization. The Company is a limited liability corporation validly existing and in good standing under the laws of the State of Georgia and is duly authorized to do business in the State of Georgia and in the Franchise Area.

11.7.2 Compliance with Law. The Company, to the best of its knowledge, is in substantial compliance with all material laws, ordinances, decrees and governmental rules and regulations applicable to the System and has obtained all government licenses, permits, and authorizations necessary for the operation and maintenance of the System.

11.8 Maintenance of System in Good Working Order. Until the termination of this Agreement and the satisfaction in full by the Company of its obligations under this Agreement, in consideration of the Franchise, the Company agrees that it will maintain all of the material properties, assets and equipment of the System, and all such items added in connection with any upgrade, in good repair and proper working order and condition throughout the term of this Agreement.

11.9 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted transferees and assigns. All of the provisions of this Agreement apply to the Company, its successors, and assigns.

11.10 No Waiver; Cumulative Remedies. No failure on the part of the Franchising Authority or the Company to exercise, and no delay in exercising, any right or remedy hereunder including, without limitation, the rights and remedies set forth in the preceding sections of this Agreement, shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other right or remedy, all subject to the conditions and limitations established in this Agreement. The rights and remedies provided herein including, without limitation, the rights and remedies set forth in Section 8 of this Agreement, are cumulative and not exclusive of any remedies provided by law, and nothing contained in this Agreement shall impair any of the rights or remedies of the Franchising Authority or Company under applicable law, subject in each case to the terms and conditions of this Agreement.

11.11 Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

11.12 No Agency. The Company shall conduct the work to be performed pursuant to this Agreement as an independent entity and not as an agent of the Franchising Authority.

11.13 Governing Law. This Agreement shall be deemed to be executed in the City of Dunwoody, State of Georgia, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of Georgia, as applicable to contracts entered into and to be performed entirely within that State.

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11.14 Claims Under Agreement. The Franchising Authority and the Company, agree that, except to the extent inconsistent with Section 635 of the Cable Act (47 U.S.C. § 555), any and all claims asserted by or against the Franchising Authority arising under this Agreement or related thereto shall be heard and determined either in a court of the United States located in Georgia ("Federal Court") or in a court of the State of Georgia of appropriate jurisdiction. To effectuate this Agreement and intent, the Company agrees that if the Franchising Authority initiates any action against the Company in Federal Court or in Georgia State Court, service of process may be made on the Company either in person or by registered mail addressed to the Company at its offices as defined in Section 11.7, or to such other address as the Company may provide to the Franchising Authority in writing.

11.15 Modification. The Company may at any time during the term of this Agreement seek a modification, amendment or waiver of any term or condition of this agreement. No provision of this Agreement nor any Appendix to this Agreement, shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the Franchising Authority and the Company, which amendment shall be authorized on behalf of the Franchising Authority through the adoption of an appropriate resolution, letter of agreement, or order by the Franchising Authority, as required by applicable law.

11.16 Delays and Failures Beyond Control of Company. Notwithstanding any other provision of this Agreement, the Company shall not be liable for delay in performance of, or failure to perform, in whole or in part, its obligations pursuant to this Agreement due to strike, war, or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of public enemy, accident, fire, flood or other act of God, technical failure, sabotage or other events, where the Company has exercised all due care in the prevention thereof, to the extent that such causes or other events are beyond the control of the Company and such causes or events are without the fault or negligence of the Company. In the event that any such delay in performance or failure to perform affects only part of the Company's capacity to perform, the Company shall perform to the maximum extent it is able to do so and shall take all steps within its power to correct such cause(s). The Company agrees that in correcting such cause(s), it shall take all reasonable steps to do so in as expeditious a manner as possible. The Company shall promptly notify the Franchising Authority in writing of the occurrence of an event covered by this Section 10.17. .

11.17 Duty to Act Reasonably and in Good Faith. The Company and the Franchising Authority shall fulfill their obligations and exercise their rights under this Agreement in a reasonable manner and in good faith. Notwithstanding the omission of the words "reasonable," "good faith," or similar terms in the provisions of this Agreement, every provision of this Agreement shall be deemed subject to this section.

11.18 Contractual Rights Retained. Nothing in this Agreement is intended to impair the contractual rights of the Franchising Authority or the Company under this Agreement.

11.19 Third Party Beneficiaries. Nothing in this Franchise or any prior agreement, is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of such agreements or Franchise.

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IN WITNESS WHEREOF, the party of the first part, by its Mayor, thereunto duly authorized by the City Council of said Franchising Authority, has caused the corporate name of said Franchising Authority to be hereunto signed and the corporate seal of said Franchising Authority to be hereunto affixed and the Company, the party of the second part, by its officers thereunto duly authorized, has caused its name to be hereunto signed and its seal to be hereunto affixed as of the date and year first above written.

SO ORDAINED AND EFFECTIVE this the 18th day of December, 2008.

City of Dunwoody, Georgia

Approved By: _____
Name:
Title Mayor
(Seal)

Approved as to form and content:

_____
Brian Anderson, City Attorney

Attest: _____
Joan C. Jones, Acting City Clerk

Date: _____

Comcast of Georgia I, LLC

By:_____
Name: John H. Ridall, Jr.
Title: President

Attest: _____

Date: _____

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APPENDIX A
DEFINED TERMS

For purposes of the Agreement to which this Appendix A is appended, the following terms, phrases, words, and their derivations shall have the meanings set forth herein, unless the context clearly indicates that another meaning is intended.

"**Abandonment**" means: (i) the cessation, by act or failure to act of the Company of the provision of all, or substantially all, of the Services then being provided over the System to Subscribers or the Franchising Authority for twenty-four (24) or more consecutive hours, except if due to an event beyond the control of the Company.

"**Affiliated Person**" means any Person who owns or controls, is owned or controlled by, or is under common ownership or control with the Company.

"**Agreement**" means the Agreement to which this Appendix A is appended, together with all Appendices attached thereto and all amendments or modifications thereto.

"**Basic Service**" means any service tier which includes the retransmission of local television broadcast signals and any equipment or installation used in connection with Basic Service. ok

"**Cable Act**" means Title VI of the Communications Act of 1934 as amended, 47 U.S.C. §§ 521 et esq.

"Cable service" means the one-way transmission to subscribers of video programming or other programming service and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. "Cable service" does not include any video programming provided by a commercial mobile service provider as defined in 47 U.S.C. §332(d).

"Cable service provider" means any person or group of persons (A) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system).

"Cable system" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide

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cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

(A) A facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;

(B) A facility that serves subscribers without using any public right-of-way as defined herein;

(C) A facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. §§201 - 276, except that such facility shall be considered a cable system, other than for purposes of 47 U.S.C. 541(c), to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services;

(D) An open video system that complies with 47 U.S.C. 573; or

(E) Any facilities of any electric utility used solely for operating its electric utility system.

"**Channel**" means a "Channel" or "cable Channel" as defined in the Cable Act.

"**Company**" means Comcast of Georgia I, LLC a limited liability corporation validly existing under the laws of the State of Georgia, whose principal place of business is located at 2925 Courtyards Drive, Norcross, GA 30071.

"**Control**" or "**Controlling Interest**" means actual working Control in whatever manner exercised, including, without limitation, working Control through ownership, management, debt instruments, or negative Control, as the case may be, and of the System, the Franchise, or the Company.

"**FCC**" means the Federal Communications Commission, its designee, or any successor thereto.

"**Franchise Area**" means the incorporated areas of the City**,** including any areas annexed by the Franchising Authority during the term of the Franchise.

"**Franchising Authority**" means the City of Dunwoody**,** Georgia, or lawful successor, transferee, designee or assignee thereof.

"Gross Revenues" means all revenues received from subscribers for the provision of cable service or video service, including franchise fees for cable service providers and video service providers, and advertising and home shopping services and shall be determined in accordance with Generally Accepted accounting Principles ("GAAP"). Gross revenues shall not include:

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(A) Amounts billed and collected as a line item on the subscriber's bill to recover any taxes, surcharges, or governmental fees that are imposed on or with respect to the services provided or measured by the charges, receipts, or payments therefore; provided, however, that for purposes of this definition of "Gross Revenue" , such tax, surcharge, or governmental fee shall not include any ad valorem taxes, net income taxes, or generally applicable business or occupation taxes not measured exclusively as a percentage of the charges, receipts, or payments for services to the extent such charges are passed through as a separate line item on Subscriber's bills;

(B) Any revenue not actually received, even if billed, such as bad debt;

(C) Any revenue received by any affiliate or any other person in exchange for supplying goods or services used by the provider to provide cable or video programming;

(D) Any amounts attributable to refunds, rebates, or discounts;

(E) Any revenue from services provided over the network that are associated with or classified as non-cable or non-video services under federal law, including, without limitation, revenues received from telecommunications services, information services other than cable or video services, Internet access services, directory or Internet advertising revenue including, without limitation, yellow pages, white pages, banner advertisements, and electronic publishing advertising. Where the sale of any such non-cable or non-video service is bundled with the sale of one or more cable or video services and sold for a single non-itemized price, the term "gross revenues" shall include only those revenues that are attributable to cable or video services based on the provider's books and records, such revenues to be allocated in a manner consistent with generally accepted accounting principles;

(F) Any revenue from late fees not initially booked as revenues, returned check fees or interest;

(G) Any revenue from sales or rental of property, except such property as the subscriber is required to buy or rent exclusively from the cable or video service provider to receive cable or video service;

(H) Any revenue received from providing or maintaining inside wiring;

(I) Any revenue from sales for resale with respect to which the purchaser is required to pay a franchise fee, provided the purchaser certifies in writing that it will resell the service and pay a franchise fee with respect thereto; or

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(J) Any amounts attributable to a reimbursement of costs including, but not limited to, the reimbursements by programmers of marketing costs incurred for the promotion or introduction of video programming.

"Normal Business Hours" The term "normal business hours" means those hours during which most other businesses in the community are usually and customarily accessible to customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.

"Normal Operating Conditions" The term "normal operating conditions" means those service conditions, which are within the control of the Company. Those conditions, which are not within the control of the Company, include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions, which are ordinarily within the control of the Company, include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.

"**Person**" means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for-profit, but shall not mean the Franchising Authority.

"**Responsible Franchising Official**" means the body, organization or official to whom the applicable rights or obligations have been delegated by the Franchising Authority pursuant to applicable law.

"Service Area" means the geographic territory within a municipality or unincorporated area of a county where a cable operator or video service provider provides or has proposed to offer cable service or video services pursuant to a franchise.

"**Signal**" means any transmission of radio frequency energy or of optical information.

"Standard Installation." The term "standard installations" means installations that are located within 125 feet of the existing Cable System

"**Streets**" means the surface of, and the space above and below, any and all Streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, docks, bulkheads, wharves, piers, public grounds and public places or waters within and belonging to the Franchising Authority and any other property within the Franchise Area to the extent to which there exist public easements or public rights of way.

"**Subscriber**" means any Person lawfully receiving any Service provided by the Company by means of or in connection with the System, whether or not a fee is paid for such Service.

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“Video Programming” means programming provided by, or generally considered comparable to programming provided by, a television broadcast station, as set forth in 47 U.S.C. §522(20).

“Video Service” means the provision of Video Programming through wireline facilities located at least in part in the public rights-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any Video Programming provided by a commercial mobile service provider as defined in 47 U.S.C. Section 332(d) or Video Programming provided as part of, and via, a service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

"Video Service Provider" means an entity providing video service, as defined herein. This term does not include a cable service provider.

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APPENDIX B
CUSTOMER SERVICE STANDARDS

[Code of Federal Regulations]
[Title 47, Volume 4, Parts 70 to 79]
[Revised as of October 1, 1998]
From the U.S. Government Printing Office via GPO Access
[CITE: 47CFR76.309]

[Page 561-563]

TITLE 47--TELECOMMUNICATION
CHAPTER I--FEDERAL COMMUNICATIONS COMMISSION (Continued)
PART 76--CABLE TELEVISION SERVICE--Table of Contents
Subpart H--General Operating Requirements

Sec. 76.309 Customer service obligations.

(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (c) of this section against cable operators. The franchise authority must provide affected cable operators ninety (90) days written notice of its intent to enforce the standards.

(b) Nothing in this rule should be construed to prevent or prohibit:

(1) A franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards set forth in paragraph (c) of this section;

(2) A franchising authority from enforcing, through the end of the franchise term, pre-existing customer service requirements that exceed the standards set forth in paragraph (c) of this section and are contained in current franchise agreements;

(3) Any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted herein; or

(4) The establishment or enforcement of any State or municipal law or regulation concerning customer service that imposes customer service requirements that exceed, or address matters not addressed by the standards set forth in paragraph (c) of this section.

(c) Effective July 1, 1993, a cable operator shall be subject to the following customer service standards:

(1) Cable system office hours and telephone availability--

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(i) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

(A) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.

(B) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

(ii) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

(iii) The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

(iv) Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.

(v) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

(2) Installations, outages and service calls. Under normal operating conditions, each of the following four standards will be met no less than ninety five (95) percent of the time measured on a quarterly basis:

(i) Standard installations will be performed within seven (7) business days after an order has been placed. ``Standard'' installations are those that are located up to 125 feet from the existing distribution system.

(ii) Excluding conditions beyond the control of the operator, the cable operator will begin working on ``service interruptions'' promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.

(iii) The “appointment window” alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

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(iv) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(v) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

(3) Communications between cable operators and cable subscribers--

(i) Notifications to subscribers--

(A) The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

(1) Products and services offered;

(2) Prices and options for programming services and conditions of subscription to programming and other services;

(3) Installation and service maintenance policies;

(4) Instructions on how to use the cable service;

(5) Channel positions programming carried on the system; and,

(6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.

(B) Customers will be notified of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by paragraph (c)(3)(i)(A) of this section. Notwithstanding any other provision of Part 76, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operator and the subscriber.

(ii) Billing--

(A) Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges.

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Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(B) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.

(iii) Refunds--Refund checks will be issued promptly, but no later than either--

(A) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(B) The return of the equipment supplied by the cable operator if service is terminated.

(iv) Credits--Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

(4) Definitions--

(i) Normal business hours--The term ``normal business hours'' means those hours during which most similar businesses in the community are open to serve customers. In all cases, ``normal business hours'' must include some evening hours at least one night per week and/or some weekend hours.

(ii) Normal operating conditions--The term ``normal operating conditions'' means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

(iii) Service interruption--The term “service interruption” means the loss of picture or sound on one or more cable channels.

[58 FR 21109, Apr. 19, 1993, as amended at 61 FR 18977, Apr. 30, 1996]

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APPENDIX C
SYSTEM DESCRIPTION

A description of the Company's service area if the service area is not equivalent to the franchise area, which description shall be sufficiently detailed so as to allow the franchising authority to respond to customer inquiries. The Company may supply a detailed map that fairly depicts the service area.

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CITY OF DUNWOODY
DECEMBER 8, 2008
COUNCIL MEETING MINUTES

The Mayor and Council of the City of Dunwoody held a Regularly-scheduled Council Meeting on Monday, December 8, 2008 at 7:00 p.m. The Council Meeting was held in the Dunwoody United Methodist Church, 1548 Mount Vernon Road, Dunwoody, Georgia 30338. Present for this meeting were the following:

District 1, Post 1,	Denis Shortal, Council Member
District 2, Post 2	Adrian Bonser, Council Member
District 3, Post 3	Tom Taylor, Council Member
At Large, Post 5	Danny Ross, Council Member
At Large, Post 6	John Heneghan, Council Member

Staff Present:	Brian Anderson, City Attorney
	Warren Hutmacher, City Manager
	Leonid Felgin, Assistant to Acting City Clerk

Mayor Pro Tem Shortal called the Meeting to order and announced that the Mayor was absent due to illness and Councilmember Wittenstein was out of town.

PLEDGE OF ALLEGIANCE led by Council Member Heneghan.

MINUTES:

Councilmember Ross motioned to approve the November 3, 2008 City Council Meeting Minutes. Council Member Heneghan seconded. Under discussion, Mayor Pro Tem Shortal mentioned one change on page three (3) of the Minutes. There being no more discussion, Mayor Pro Tem called for a vote on the Motion and the motion carried 5-0 and the Minutes approved as amended.

Council Member Heneghan moved to approve the November 14, 2008 City Council Meeting Minutes. Council Member Taylor seconded. Under discussion, Mayor Pro Tem Shortal suggested some cursory corrections. Councilmember Bonser requested clarification on certain figures being amended and Mayor Pro Tem agreed that no changes should be made to the number of firms interviewed pursuant to the RFPs. There being no more discussion, Mayor Pro Tem Shortal called for a vote and the motion carried 5-0 and the Minutes approved as amended.

AGENDA APPROVAL: Councilmember Heneghan moved to approve Agenda as presented. Councilmember Taylor seconded. There was no discussion. The motion carried 5-0.

PUBLIC COMMENT: Mayor Pro Tem requested public comments.

Bob Lundsten – Requested that the Council change the procedure on Public Comments and ask for comments at the time a certain action is being called for a vote. He stated that Dekalb County does this at their meetings and it is one of the few things that Dekalb County does correctly.

Mr. Sims – He wanted to thank the Council for its dedication and hard work. He added that when people voted for Dunwoody, they voted for change and the currently proposed ordinances show a Council who does not want to evolve and wants to try and make too perfect a City instead of making change and seeing what the result is. He wants the City to move up from the Dekalb ordinances instead of regulating like its surrounding sister cities.

Geri Penn – She is used to dealing with Dekalb County Code Enforcement and believes that the Dekalb ordinances are basically good. She also would like the City to revamp the boardinghouse provisions to protect against over-cluttering of cars and persons in such locations.

Mohamed Ketin – He stated that the alcohol license renewal is too complicated and causing him hardship. He already went through all of this last year with Dekalb and thinks that he should get a simple renewal.

Ken Thelin – He wanted to know what the procedure will be for building permits. He also wanted to know how long the moratorium will last so other people can get licenses and permits to keep businesses flowing. The moratorium is preventing people from being able to operate their businesses and is hurting a lot of people.

Elliott Usher – commercial developer – He wants to encourage the Council to expeditiously approve the Zoning Ordinance as there is a lot of construction going on and tenants need to be in really soon and that won't happen without certificates of occupancy and inspections, which do not happen until after the Moratorium is removed.

Sam Portis – business owner – expressed his opinion that the 60-day moratorium will hurt businesses and they will leave the City. The same thing happened in Sandy Springs before they figured out that it was hurting the business community. There is a need to expedite the process. He also had problems with Sandy Springs losing his applications and he hopes the same thing does not happen in Dunwoody.

Bob Dallas – Chamber of Commerce – he wants to maintain a business-friendly environment in the City. The businesses want to know what the plan is to move forward with licenses and allowing businesses to continue operating. He said that even the firms that are running the City departments cannot get business licenses to operate in the City legally, which he found to be amusing. He also announced that Dekalb will have a Zoning meeting on December 11th that may affect Dunwoody.

There were no further public comments at that time. At the conclusion, Mayor Pro Tem Shortal stated that the City will move as quickly as possible on all the issues raised.

CONSENT AGENDA: None.

UNFINISHED BUSINESS:

Transition Ordinance – The Second Read of Ordinance 2008-12-36, Providing for the Continuation of Ordinance and Law during the Transition Period Legislatively Established for the City of Dunwoody, Georgia and the adoption of Ordinances by the City of Dunwoody, Georgia was read by Assistant to Acting City Clerk Felgin. Councilmember Ross made a motion to approve Ordinance 2008-12-36 as presented. Councilmember Heneghan seconded. There was no discussion. Mayor Pro Tem Shortal called for a vote on the motion and the motion carried 5-0. ***(Ordinance 2008-12-36)***

City Attorney Brian Anderson explained the reason why these ordinances are being read again when they've been passed before. The City is taking the position that the ordinances will be passed in as many ways as possible to protect the City in all respects. Therefore, they were passed by Emergency Ordinance as allowed by law. They were also passed by a One-Read as allowed by the Charter, but since that provision of the Charter has not been tested in the courts, the City is again re-passing these ordinances using the two-read method.

Chapter 1, General Provisions - The Second Read of Ordinance 2008-12-37 approving Chapter 1: General Provisions of the City Code was read by Assistant to Acting City Clerk Felgin. Council Member Taylor made a motion approve Ordinance 2008-12-37 as presented. Council Member Bonser seconded. There was no discussion. Mayor Pro Tem Shortal called for a vote on the motion and the motion carried 5-0. ***(Ordinance 2008-12-37)***

Chapter 2, Administration - The Second Read of Ordinance 2008-12-38 approving Chapter 2: Administration of the City Code was read by Assistant to Acting City Clerk Felgin. Council Member Ross made a motion approve Ordinance 2008-12-38 as presented. Council Member Taylor seconded. There was no discussion. Mayor Pro Tem Shortal called for a vote on the motion and the motion carried 5-0. ***(Ordinance 2008-12-38)***

Chapter 4, Alcohol Beverages - The Second Read of Ordinance 2008-12-39 approving Chapter 4: Alcohol Beverages of the City Code was read by Assistant to Acting City Clerk Felgin. Council Member Ross made a motion approve Ordinance 2008-12-39 as presented. Council Member Heneghan seconded. There was no discussion. Mayor Pro Tem Shortal called for a vote on the motion and the motion carried 5-0. ***(Ordinance 2008-12-39)***

Chapter 10, Elections - The Second Read of Ordinance 2008-12-40 approving Chapter 10: Elections of the City Code was read by Assistant to Acting City Clerk Felgin.

Council Member Bonser made a motion approve Ordinance 2008-12-40 as presented. Council Member Taylor seconded. There was no discussion. Mayor Pro Tem Shortal called for a vote on the motion and the motion carried 5-0. ***(Ordinance 2008-12-40)***

Chapter 15, General Provisions - The Second Read of Ordinance 2008-12-41 approving Chapter 15: Business Occupation Taxes, Licenses and Regulation of the City Code was read by Assistant to Acting City Clerk Felgin. Council Member Heneghan made a motion approve Ordinance 2008-12-41 as presented. Council Member Ross seconded. There was no discussion. Mayor Pro Tem Shortal called for a vote on the motion and the motion carried 5-0. ***(Ordinance 2008-12-41)***

Chapter 18, Municipal Court - The Second Read of Ordinance 2008-12-42 approving Chapter 18: Municipal Court of the City Code was read by Assistant to Acting City Clerk Felgin. Council Member Taylor made a motion approve Ordinance 2008-12-42 as presented. Council Member Ross seconded. Under discussion, Councilmember Taylor stated that Dekalb Police needs the City to set-up the court as soon as possible so they could bring the citations there instead of Dekalb courts, as it would be more convenient for them. Councilmember Ross stated that the court should be ready shortly after January 1, 2009. City Attorney Anderson stated, in response to a question, that Dekalb ordinances will remain effective until January 1st when the City Ordinances will come into effect. There being no further discussion, Mayor Pro Tem Shortal called for a vote on the motion and the motion carried 5-0. ***(Ordinance 2008-12-42)***

Chapter 24, Taxation - The Second Read of Ordinance 2008-12-43 approving Chapter 24: Taxation of the City Code was read by Assistant to Acting City Clerk Felgin. Council Member Heneghan made a motion approve Ordinance 2008-12-43 as presented. Council Member Taylor seconded. There was no discussion. Mayor Pro Tem Shortal called for a vote on the motion and the motion carried 5-0. ***(Ordinance 2008-12-43)***

Georgia Power Franchise - The Second Read of Ordinance 2008-12-44 to Adopt and Approve the Electrical Franchise for Georgia Power was read by Assistant to Acting City Clerk Felgin. Councilmember Taylor made a motion to approve Ordinance 2008-12-44 as presented. Councilmember Bonser seconded. There was no discussion. Mayor Pro Tem Shortal called for a vote on the motion and the motion carried 5-0. ***(Ordinance 2008-12-44)***

REPORTS AND PRESENTATIONS

Introduction of new Police Chief – Mayor Pro Tem Shortal introduced the City's first Police Chief, William Grogan, and gave some background on him. The City Manager wanted to thank everybody who was instrumental in the committees and in the interviews and expending many hours to help the City hire its Police Chief so quickly. He stated that eight (8) people were interviewed and Chief Grogan was the only finalist. The City Manager praised Chief Grogan's ability. Chief Grogan then stood up to speak and stated

that this was a great opportunity to help build something special in the City and he was proud to be here.

Update on City Implementation – The City Manager stated that the City's new temporary headquarters is up and running at the address of 400 Northridge Drive, Suite 1250, in Sandy Springs, near GA-400. He said it was fitting that the City was starting up in Sandy Springs as Sandy Springs started up its city in Dunwoody. The City is currently looking for a permanent home in the Dunwoody Village or surrounding areas and hope to have it narrowed down to a location in the next sixty (60) days so it will be ready by the time the City needs it. The phone number to the City is currently 678-382-6700. A dynamic website is being developed at the present time and should be ready by mid-2009. Contract negotiations are ongoing with the three chosen firms to run the City and interviews are ongoing for the Finance Director and City Clerk, and the Municipal Court Clerk applications are still being submitted. The Municipal Court should be ready to go by January 1st. Councilmember Heneghan wanted an update on when building permits and inspections will be ongoing. The City Manager stated that they'll be ready to go as soon as the moratorium is lifted. In conclusion, the City Manager gave a brief update on the first busy week of the City. The City is also currently finalizing its banking and TAN with SunTrust Bank.

NEW BUSINESS

Chapter 7 – Building Code: The First Read of Ordinance to Adopt and Approve Chapter 7: Building Code, Providing for Inclusion and Identification in the Code of Ordinances for the City of Dunwoody, Georgia to be referenced in the future as Chapter 7 (Building Code) as Attached Hereto and Incorporated Herein was held. ***(First Read)***

Chapter 14 – Land Development and Environmental Protection: The First Read of Ordinance to Adopt and Approve Chapter 14: Land Development and Environmental Protection, Providing for Inclusion and Identification in the Code of Ordinances for the City of Dunwoody, Georgia to be Referenced in the future as Chapter 14 (Land Development and Environmental Protection) as Attached Hereto and Incorporated Herein was held. ***(First Read)***

Chapter 17 – Traffic and Public Roadways: The First Read of Ordinance to Adopt and Approve Chapter 17: Traffic and Public Roadways, Providing for Inclusion and Identification in the Code of Ordinances for the City of Dunwoody, Georgia to be referenced in the future as Chapter 17 (Traffic and Public Roadways) as Attached Hereto and Incorporated Herein was held. ***(First Read)***

Chapter 21 – Signs: The First Read of Ordinance to Adopt and Approve Chapter 21: Signs, Providing for Inclusion and Identification in the Code of Ordinances for the City of Dunwoody, Georgia to be referenced in the future as Chapter 21 (Signs) as Attached Hereto and Incorporated Herein was held. ***(First Read)***

Chapter 23 – Streets and Sidewalks: The First Read of Ordinance to Adopt and Approve Chapter 23: Streets and Sidewalks, Providing for Inclusion and Identification in the Code of Ordinances for the City of Dunwoody, Georgia to be referenced in the future as Chapter 23 (Streets and Sidewalks) as Attached Hereto and Incorporated Herein was held. ***(First Read)***

Chapter 27 – City of Dunwoody Zoning Ordinance: The First Read of Ordinance to Adopt and Approve Chapter 27: City of Dunwoody Zoning Ordinance, Providing for Inclusion and Identification in the Code of Ordinances for the City of Dunwoody, Georgia to be Referenced in the future as Chapter 27 (City of Dunwoody Zoning Ordinance) as Attached Hereto and Incorporated Herein was held. ***(First Read)***

Zoning Hearing Policies and Procedures: The First Read of Ordinance to Approve and Authorize the Mayor and City Council Zoning Hearing Policies and Procedures for the City of Dunwoody was held. ***(First Read)***

Sexually Oriented Businesses Licensing Ordinance: The First Read of Ordinance Establishing Licensing Requirements and Regulations for Sexually Oriented Businesses within Dunwoody, Georgia was held. ***(First Read)***

Comcast Franchise: The First Read of Ordinance Granting Comcast of Georgia I, LLC a Franchise Agreement to Provide Cable and Other Services to Subscribers within the City Boundaries, Granting the Right to Use the City's Rights-of-Way in Relation to Provision of such Services, Providing for Associated Franchise Fees and for Other Purposes was held. ***(First Read)***

ACTION ITEMS: Approval of Job Descriptions, Pay Rate Chart and Amended Position Allocation Chart – The City Manager introduced all of these Action Items at the same time and stated that this was a good start to putting the structure of the Police Department together: 1 Chief, 1 Deputy Chief, 3 Lieutenants, 6 Sergeants and other officers. This is as very lean structure and it includes no Captain positions.

Chief Grogan stated that the Executive Assistant Position would coordinate all the meetings of the Department, keep all files and organize the Department. It will have a background check as other positions in the Police Department do. City Manager Hutmacher also introduced the updated pay chart, updated with the new positions added and gave the low-to-high compensation for each position. Councilmember Heneghan expressed his desire to have a running count of the vacant versus filled positions so that the Council knows where they are on staffing levels. Chief Grogan stated that, ideally, he can make firm offers as soon as the Council approves these job descriptions and pay tables with a start date of January 1st. The Chief also discussed how the command structure will work with the Department and, in response to Mayor Pro Tem's question, stated that the Sergeants will be expected to patrol the streets. Mayor Pro Tem Shortal expects the Department to be lean and mean without too much fat and without becoming a police state. Councilmember Ross wanted to know the timelines on Department set-up. Chief Grogan stated that they're working on a timeline from a budgetary standpoint and

working on various necessary training that the officers will need to go through. In response to a question, Chief Grogan stated that, though the Executive Assistant position seems specialized, there will be people to fill in when he/she goes on vacation. He's not sure when the Police Department will go live but it will not be before April 1st. Councilmember Taylor wanted to recognize persons in the audience who were on the police task force and recognize all the work that they did and suggested that Chief Grogan utilize their help whenever possible in setting up the Police Department.

Job Description for Deputy Chief of Police – Councilmember Ross moved to approve the job descriptions for the Dunwoody Deputy Chief of Police. Councilmember Heneghan seconded. There was no discussion. Mayor Pro Tem called for a vote on the motion and the motion carried 5-0. ***(Action Item)***

Job Description for Lieutenant – Councilmember Heneghan moved to approve the job descriptions for the Dunwoody Police Department Lieutenant. Councilmember Taylor seconded. There was no discussion. Mayor Pro Tem called for a vote on the motion and the motion carried 5-0. ***(Action Item)***

Job Description for Execute Assistant – Councilmember Taylor moved to approve the job description for the Dunwoody Police Department Executive Assistant. Councilmember Ross seconded. Under discussion, Councilmember Heneghan wanted to make sure there is due diligence in hiring of officers of the highest integrity with a background check for every position. Seeing no further discussion, Mayor Pro Tem Shortal called for a vote on the motion and the motion carried 5-0. ***(Action Item)***

Amended Position Allocation Chart – Councilmember Heneghan moved to approve the Amended Position Allocation Chart for the Dunwoody Police Department. Councilmember Taylor seconded. Under discussion, the Mayor Pro Tem reiterated that the City needs a good Police Department with people on the street. Seeing no further discussion, Mayor Pro Tem Shortal called for a vote on the motion and the motion carried 5-0. ***(Action Item)***

Amended Pay Range Chart – Councilmember Ross moved to approve the Amended Pay Range Chart for the Dunwoody Police Department. Councilmember Bonser seconded. Under discussion, the City Manager stated, in response to a question, that the pay ranges come from studies, task force reports and surrounding cities and stated that as far as he knows they are competitive with Sandy Springs. Seeing no further discussion, Mayor Pro Tem Shortal called for a vote on the motion and the motion carried 5-0. ***(Action Item)***

Resolution to Serve as Official Notification of the City of Dunwoody's Intent to Start a Police Department On or Before August 31, 2009 - Assistant to Acting City Clerk, Leonid Felgin, read Resolution 2008-12-27 for consideration. The City Manager stated that the intent is still to start the Police Department by April 1, 2009. The reason for the August date is for purposes of getting an origination number from the GCIC and the date is the most flexible point allowed by the GCIC at this point in case it is necessary.

Councilmember Taylor moved to approve the Resolution. Councilmember Heneghan seconded. Under discussion, Councilmember Ross stated that past April 1st, it would be very expensive for the City to continue paying Dekalb County to run the police services. Seeing no further discussion, Mayor Pro Tem Shortal called for a vote on the motion and the motion carried 5-0. ***(Resolution 2008-12-27)***

OTHER BUSINESS: The Mayor Pro Tem asked City Attorney Anderson to brief the Council on the permits and licenses. Assistant City Attorney Bill Riley stated that the City notified Dekalb County at the earliest point they could, on December 1st, that they will take the power to do permits and zoning on December 31st. In the meantime, to avoid a backlog, the City will ask the vendors to do courtesy reviews since the City cannot accept the applications on its own behalf due to the moratorium and Dekalb having jurisdiction. The City intends to lift the Moratorium on December 31st, at which time the vendors can officially submit the applications to the City with recommendations ready. As it stands, the City will give full faith and credit to whatever inspections the County has already done. City Attorney Anderson stated that provisional applications for business licenses will also be taken before January 1st. On January 1st, new businesses must submit their applications and existing businesses have until March 15th to do so.

The Council then discussed whether to continue keeping the December 15, 2008 Work Session currently on the schedule or remake it into a Council Meeting. Councilmember Ross moved to make December 15, 2008 a Work Session followed immediately by a Council Meeting. Councilmember Taylor seconded. Under discussion, Councilmember Heneghan said there needs to be time to vet the changes done at a work session and it will not work to have the Council Meeting immediately after. Councilmember Ross believes that due to the holidays, this needs to be passed earlier since some of the Council Members will be out of town during the holiday week. Councilmember Taylor moved to amend the motion to one of deferring the vote on the December 15, 2008 Meeting. Councilmember Ross seconded. Under discussion, Mayor Pro Tem Shortal wanted to make sure the public can be notified of the decision prior to the meeting and was assured that it would be. Councilmember Heneghan would prefer ongoing modifications to be sent to Council on a continuous basis. Seeing no further discussion, Mayor Pro Tem called for a vote on amending the motion to state a deferral and the motion carried 5-0. Mayor Pro Tem then called for a vote on the amended original motion, to defer the decision on the December 15th meeting. A vote was held and the motion carried 5-0.

Mayor Pro Tem Shortal asked the City Attorney whether there is a process to shorten the alcohol licensing requirements. City Attorney Anderson stated that some things certainly can be streamlined and he'll look into it.

Councilmember Ross agreed with Bob Lundsten from earlier that there should be public comments before voting on ordinances as needed restricted to a 10-minute period.

PUBLIC COMMENT:

Mayor Pro Tem asked for any Public Comments. Seeing none, Mayor Pro Tem Shortal asked if there were any comments from the audience. A question was asked by an audience member as to what kind of graffiti violations would be looked at for the Dunwoody Ordinances. Chief Grogan stated his concern that it was important to get the graffiti off of any buildings soon and do it quickly. Another commenter from the audience stated that the Police Department could not get operational fast enough for her because of all the speeders on Tilly Mill Road flying by much faster than the Speed limit, which is 30 miles per hour there.

There being no further business, Council Member Heneghan made a motion to adjourn, seconded by Council Member Taylor. The motion carried 5-0 and the meeting was adjourned.

Approved by:

_____
Denis Shortal, Mayor Pro Tem

Attest:

_____
Joan Jones, Acting City Clerk

CONTRACT

BY AND BETWEEN

CITY OF DUNWOODY, GEORGIA

AND

LOWE ENGINEERS

FOR PROVISION OF

PUBLIC WORKS

MUNICIPAL SERVICES

THIS AGREEMENT is made and entered into this 17th day of December, 2008, by and between the CITY OF DUNWOODY, a Georgia municipal Corporation, (the "CITY"), and Lowe Engineers, a Georgia corporation (referred to as "Contractor").

The City and the Contractor may be collectively referred to as the "Parties" and each individually as a "Party".

WHEREAS, the City of Dunwoody has requested proposals for provision of certain services for the new City which was incorporated on December 1, 2008; and

WHEREAS, the City and the Contractor desire to establish a business relationship in which the Contractor will provide certain services to the City pursuant to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the terms and conditions sums hereinafter set forth and for other good and valuable considerations, the receipt and legal sufficiency of which are hereby acknowledged, it is hereby mutually agreed by and between the Parties as follows:

Section 1. Scope of Service. The Contractor agrees to provide to the City professional services set forth in Exhibit A hereof (hereinafter "Services").

1.1 In providing Services to the City, the Contractor shall (1) exercise the professional standard of skill and expertise prevailing in the State of Georgia in providing services to the City as set forth in this agreement; (2) act in a manner consistent with the applicable standards of regulatory, licensing, or other organizations or bodies of which the Contractor is a member or which is customary for the area of the service rendered.

1.2 The Contractor shall be responsible at the Contractor's expense for obtaining and maintaining in a valid status, all licenses, certificates, and permits necessary to perform the services herein. Contractor represents to the city that the Contractor is, and any subcontractors of the Contractor are, properly licensed and/or registered with the State of Georgia for the performance of the Services (if licensure and/or registration is required by applicable law).

1.3 Contractor shall maintain all records in accordance with all applicable laws and guidelines for municipalities, including GAAP, GASB and GFOA standards, and shall produce and deliver to the City Manager any and all information and reports as requested by the City Manager. All records and related materials belong to the City, as do all files, notes, returns, spreadsheets, and any and all other documents or files concerning customers of the City or customers who have been serviced by the City.

1.4 Except as otherwise specifically set forth, such services shall encompass those duties and functions of the type coming within the jurisdiction of and customarily rendered by municipal departments for those services in accordance with the Charter of the City, and the Statutes of the State of Georgia.

1.5 All communications to the Mayor, City Council and press shall be through the City Manager. All mass communications to residents shall be reviewed and approved by the City Manager prior to printing and dissemination.

1.6 All City owned equipment shall be used only for City purposes in performance of this Agreement, and shall not be used for any non-city or personal purposes.

1.7 Contractor shall comply with all OSHA and other applicable standards for work place safety. Contractor shall comply with all applicable laws regarding hazardous materials and maintain all required Manufacturer's Safety Data Sheets (MSDS) forms on site in the City.

1.8 Contractor Compliance with Laws. The Contractor shall comply with all applicable federal, state, local laws, ordinances, regulations, and resolutions. Without limiting the foregoing, Contractor shall comply with all wage and hour laws and OSHA and other applicable federal and state statutes, regulations and standards for workplace safety.

1.9 The Contractor shall perform the Services herein in accordance with this Agreement and shall promptly notify the city concerning ambiguities and uncertainties related to the Contractor's performance that are not addressed by the Agreement. In interpreting the Services and level of Services required hereunder, the Parties shall apply the principle that the City desires to provide the services within the City at a service level at least comparable to similar sized cities in the Atlanta area.

1.10 The Contractor acknowledges that all scope of work items identified in the City's Public Works RFP # 2008.003 dated October 31, 2008, RFP Addendum #2008.003.01 dated November 10, 2008 as well as the RFP Q&A document dated November 14, 2008 are addressed and contained in their Proposal and their Fee Schedule which is attached as Exhibit C.

1.11 The Contractor shall be responsible for providing all necessary cellular telephones, BlackBerry type devices, Air Cards, and other electronic mobile communication equipment as well as associated service costs for their employees that are employed to provide City Services to the City.

Section 2. Contractor Employees

2.1 Contractor shall furnish an Organizational Chart of proposed contractor employees for the Contractor Services as provided in Exhibit B, Organizational Chart section of the contract.

2.2 All personnel employed by Contractor in the performance of such services, functions and responsibilities as described and contemplated herein for the City shall be and remain Contractor employees (the "Contractor Employees").

2.3 Contractor shall be solely responsible for all compensation benefits, insurance and rights of the Contractor employees during the course of employment with Contractor. Accordingly, the City shall not be called upon to assume any liability for or direct payment of any salaries, wages, contribution to pension funds, insurance premiums or payments, workers compensation benefits under O.C.G.A. §34-9-1 *et seq.*, or any other amenities of employment to any of the Contractor Employees or any other liabilities whatsoever, unless otherwise specifically provided herein.

2.4 The Contractor Employees, when appropriate, shall wear attire with the logo of the City when they are performing Services for the City, except as otherwise directed by the City Manager.

Section 3. Compensation

3.1 The City shall pay the Contractor for the Contractor Services as provided in Exhibit C, Schedule of Values section of the contract as well as Exhibit D, the Letter of Understanding.

3.2 Reimbursable expenses for travel and lodging shall be paid to Contractor employees for any travel authorized by the City Manager that is in excess of twenty five (25) miles from the City Hall offices. All travel that is conducted for the General welfare of the Contractor employees or that which is beneficial to non-City related functions shall be paid for by the Contractor unless authorized by the City Manager. All approved mileage reimbursements shall be provided at the current cost per mile posted by the US Internal Revenue Service at the time of travel.

Section 4. Term and Termination

4.1 This Agreement shall commence on the 26th day of November, 2008, and continue for a period of thirteen (13) months terminating on the 31st day of December, 2009.

4.2 This Agreement may be terminated by either party upon material breach of any term, covenant or condition of this Agreement, upon the failure to cure any such breach within ten (10) days following written notice thereof.

4.3 The City may terminate this Agreement with or without cause upon ninety (90) days' written notice to the other party.

4.4 Contractor may terminate this Agreement at its discretion either with or without cause, by giving written notice thereof to City; provided, however, that such termination shall not be effective until the one hundred and eightieth (180th) day after receipt thereof by City.

4.5 The following events shall each be deemed to cause immediate termination thereof, and upon occurrence thereof, this Agreement shall automatically terminate without notice: (a) there are instituted proceedings by or against the Contractor in bankruptcy, the Contractor makes an assignment of its assets for the benefit of creditors, or the Contractor shall admit insolvency; or (b) the Contractor is indicted for or convicted of any felony or converts or embezzles any property or funds of others.

4.6 Effects of Termination or Failure to Renew. Upon termination or non-renewal of this Agreement, the Contractor shall: (a) immediately cease all use of, and return to the City within ten (10) days, any and all property of the City in the Contractor's possession at the date of termination furnished by the City and (b) immediately cease all activities promoting the City's business unless otherwise agreed between the parties. Upon termination or non-renewal of this Agreement, the Contractor and the City shall continue to use their best efforts to conclude transactions that have not been completed prior to termination or non-renewal.

4.7 The parties further agree that in the event of termination or non-renewal, neither party shall be liable to the other for compensation or damages for expenditures, investments, leases, or other commitments made in connection with the business of such party or in reliance on the existence of this Agreement.

4.8 In the event of termination by either party, the other party shall render such reasonable aid, coordination and cooperation as might be required for an expeditious and efficient termination of service.

Section 5. Option to Renew

5.1 This Agreement shall be automatically renewed for a period of two (2) one (1) year terms at the expiration of the initial term, unless the City furnishes Contractor affirmative written notice of its intent not to renew this Agreement not less than ninety (90) calendar days prior to the expiration of this Agreement.

Section 6. Default

6.1 An event of default shall mean a material breach of this Agreement. Without limiting the generality of the foregoing, an event of default shall include the following:

a. Contractor has not materially performed services per this Agreement on a timely basis;

b. Either Party made a representation or warranty hereunder or herein that was false or inaccurate in any material respect when made, or which materially and adversely affects the legality of this Agreement or the ability of either Party to carry out its obligations hereunder.

c. Contractor has been adjudged as bankrupt or Contractor makes a general assignment for the benefit of their creditors, appoints a receiver on account of their insolvency, or files a petition to take advantage of any debtor's act.

d. City had not paid the Contractor for services performed, which are not under dispute, within 60 days of receipt of an invoice.

6.2 In the event of a Default, this Agreement may be terminated by the performing party only after the performing party first provides written notice to the non-performing party of the Default, which notice shall specify the Default, provide both a demand to cure the Default and a reasonable time to cure the Default, and state a date upon which the Agreement shall be terminated if there is a failure to timely cure the Default. For purpose of this Section, "reasonable time" shall be ten (10) calendar days except when the failure to perform Services affects the public health, safety or welfare, in which case reasonable time may be less than ten (10) calendar days. A failure to cure a Default within the specified time shall result in termination of the Agreement on the date set forth in the Notice.

6.3 Any Party in Default shall be liable for all damages resulting from the Default.

6.4 The Party's rights and remedies as set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to the Party in law or in equity.

7. Representations and Warranties of the Contractor

7.1 The Contractor hereby warrants and represents and agrees with the City as follows:

(a) No approval, authorization, clearance, declaration, or order of or to any other person or entity is required in order to permit the Contractor to perform Contractor Services under this Agreement.

(b) Neither the execution of this Agreement nor the consummation of the transactions contemplated hereby will cause, or give any person ground to cause, the maturity, acceleration, or increase of any liability or obligation of the Contractor and will not conflict with, violate, or constitute default under any contract, agreement, duty, obligation, or instrument to which the Contractor is a party or to which the Contractor is bound.

(c) Contractor by execution hereof does hereby represent to City that Contractor has full power and authority to make and execute this Service Agreement, to the effect that the making and execution hereof shall create a legal obligation upon Contractor, which shall be legally binding upon Contractor.

(d) Nothing contained or any obligation on the part of Contractor to be performed hereunder shall in any way be contrary to or in contravention of any policy of insurance or surety bond required of Contractor pursuant to the laws of the State of Georgia.

8. Liability for Damages. The Contractor shall be fully responsible for any and all claims or damages whatsoever arising from any act or omission on his part made in connection with providing the Contractor Services.

Section 9. Indemnification.

9.1 Contractor shall indemnify, defend and hold harmless the City, its officers, agents, servants and employees from and against any and all liability, suits, actions, damages, losses and expenses, costs of every nature, including attorneys' fees, arising out of or resulting from the acts, omissions, or negligence of the Contractor, its employees, or its agents.

9.2 Should the City seek indemnification pursuant to the above, it shall give prompt notice to the Contractor of the assertion of any claim, or the commencement of any action, suit, or proceeding, in respect of which indemnity may be sought hereunder and will give the Contractor such information with respect thereto as the Contractor may reasonably request, but no failure to give such notice shall relieve the Contractor of any liability hereunder. The Contractor may, at its expense, participate in the defense of any such action, suit or proceeding involving a third party; provided, however, that such defense is conducted with counsel mutually satisfactory to the City and the Contractor. The City and the Contractor shall consult with each other regarding the conduct of such defense. If the defense is assumed by the Contractor, the Contractor shall submit any proposed settlement under this Section for the City's approval, which approval shall not be unreasonably withheld or delayed. The City shall have the right (but not the duty) to participate in the defense thereof, and to employ counsel, at its own expense (except that the Contractor shall pay the fees and expenses of such counsel to the extent the City reasonably concludes that there is a conflict of interest between the City and the Contractor), separate from counsel employed by the Contractor in any such action. The Contractor shall be liable for the fees and expenses of counsel employed by the City if the Contractor has not assumed the defense thereof. Whether or not the Contractor chooses to defend or prosecute any claim involving a third party, all the parties hereto shall cooperate in the defense or prosecution thereof and shall furnish such records, information, and testimony, and attend such conferences, discovery proceedings, hearings, trials and appeals, as may be reasonably requested in connection therewith.

9.3 In determining the amount of any loss, liability, or expense for which any City is entitled to indemnification under this Agreement, the gross amount thereof will be reduced by any insurance proceeds actually paid to any City under any insurance policies held by such City; provided, however, that if such party has been indemnified hereunder but does not actually receive such insurance proceeds until after being indemnified, such party shall reimburse the Contractor for amounts paid to such party to the extent of the insurance proceeds so received.

9.4 If both the Contractor and the City have insurance coverage respecting a particular claim for which indemnification is provided pursuant to this Section, the parties agree that the insurance coverage of the Contractor will be called upon before the insurance coverage of the City is called upon.

9.5 Contractor acknowledges that specific consideration has been paid or will be paid under this Agreement for this hold harmless and indemnification provision, and further agrees with the foregoing provisions of indemnity and with the collateral obligation of insuring said indemnity as set forth herein.

9.6 Nothing in this Section shall:

(a.) Limit or prevent the City or the Contractor from determining positions and actions relative to settlement or defense on any matter for which the City or the Contractor are responsible; or

(b) Limit or prevent either Party from joining the other party or any affiliate of a Party in any claim, suit, action or proceeding involving a Third Party Claim through interpleading, third-party claim, cross-claim or otherwise limit or prevent a Party from voluntarily joining any claim, suit, action or proceeding through intervening or as may otherwise be permitted by law or rule.

Section 10. Insurance

10.1 Contractor shall not commence work under this contract until Contractor has obtained

all insurance required under this Section. Certificates of insurance reflecting evidence of the required insurance will be provided to the City Manager for his approval, however, said approval by the City Manager shall not be unreasonably withheld.

(a) All insurance carriers, except Worker Compensation carrier, must have an A.M. Best Rating of A- VIII or higher. Surplus lines markets that operate on a non-admitted basis are exempt from this requirement provided that the contractor's broker/agent can provide financial data to establish that a market is equal to or exceeds the financial strengths associated with the A.M. Best rating of A- VIII or better

10.2 Contractor shall at all times carry professional liability insurance, workers' compensation insurance, comprehensive general liability insurance, and automotive liability insurance with policy limits and deductibles for each coverage at amounts reasonably approved by the City Manager, with such coverages specifying reasonable amounts of per occurrence, single limit, for property damage and bodily injury, including death, except that the dollar amount of workers compensation coverage shall be as provided by O.C.G.A. § 34-9-1 *et. seq*. Contractor shall be responsible for maintaining this professional liability insurance for a minimum of three (3) years from the date of expiration of this Agreement. Upon request of City, Contractor shall make available for inspection copies of any claims filed or made against any policy during the policy term. Contractor shall additionally notify City, in writing immediately, of any claims filed or made against any policy concerning or relating to this Agreement or the performance of any obligation under this Agreement.

(a) All insurance coverages required to be provided by the Contractor will be primary over any insurance program carried by the City

10.3 Policies shall be issued by companies authorized to do business under the laws of the State of Georgia, with financial ratings acceptable to the City Manager. The City shall be named as an additional insured on casualty policies. Contractor agrees to furnish City with at least forty-five (45) days prior written notice of any cancellation or reduction of coverage of any insurance policy required under this Agreement.

10.4 In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this contract, then in that event, Contractor shall furnish, at least ten (10) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the contract and extension hereunder is in effect. Contractor shall not continue to work pursuant to this contract unless all required insurance remains in full force and effect.

10.5 The costs of all policies of insurance required hereunder shall be the obligation of Contractor and the City shall in no way be responsible therefore.

10.6 Contractor shall provide the following insurances throughout the term of the Agreement, and shall provide to City Certificates of Insurance demonstrating compliance with this provision:

(a) Statutory Worker's Compensation and Employers Liability Insurance as required by the State of Georgia. Such workers compensation coverage shall be as provided by O.C.G.A. § 34-9-1 *et seq*.

(b) Comprehensive Automobile and Vehicle Liability Insurance with One Million Dollars ($1,000,000) combined single limits, covering claims for injuries to members of the public and/or damages to property of others arising from the use of Contractor owned or leased motor vehicles, including onsite and offsite operations.

(c) Commercial General Liability Insurance with limits of One Million Dollars ($1,000,000) per occurrence and Two Million Dollars ($2,000,000) in the aggregate, covering claims for injuries to members of the public or damages to property of others arising out of any covered acts

of the Contractor undertaken to provide services for the City as required in this Agreement or omission of Contractor or any of its employees, or subcontractors.

(d) Professional Liability Insurance with limits of One Million Dollars ($1,000,000) per occurrence and in the aggregate.

(e) Excess Liability Insurance with limits of One Million Dollars ($1,000,000).

10.7 Contractor shall incorporate a copy of the insurance requirements as herein provided in each and every subcontract with each and every Subcontractor in any tier, and shall require each and every Subcontractor of any tier to comply with all such requirements. Contractor agrees that if for any reason Subcontractor fails to procure and maintain insurance as required, all such required insurance shall be procured and maintain by Contractor at Contractor's expense.

10.8 The Contractor shall agree to waive all rights of subrogation against the City, the City Council members, its officers, officials, employees and volunteers from losses arising from work performed by the contractor for the City.

10.9 Special Form Contractors' Equipment and Contents Insurance covering owned, used, and leased equipment, tools, supplies and contents is required if needed to perform the services called for under this Agreement. The City will be included as a Loss Payee in this coverage for City owned equipment, tools, supplies and contents. The City shall not be responsible for any deductibles or coinsurance that may be applicable

10.10 Compliance by the Contractor and all subcontractors with the foregoing requirements as to carrying insurance shall not relieve the Contractor and Subcontractor of their liability provisions under this Agreement.

10.11 The Contractor shall at a minimum apply risk management practices accepted by the contractors' industry.

Section 11. Conflicts

11.1 Neither Contractor nor any of its employees shall have or hold any employment or contractual relationship that is antagonistic or incompatible with Contractor's loyal and conscientious exercise of judgment related to its performance under this Agreement.

11.2 Neither Contractor nor any of its officers or employees shall obtain any kickbacks or benefits for itself, themselves or other clients as a result of any City purchases or transactions.

Section 12. Non-discrimination

12.1 Contractor shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. Contractor shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.

Section 13. Independent Contractor

13.1 The parties agree that the Contractor is an independent contractor, and, as such, the Contractor is neither a partner, agent, employee, nor principal of the City, nor is the Contractor a joint venturer with the City.

Section 14. Attorney's Fees

14.1 If the either City is required to enforce the terms of this Agreement by court proceedings or otherwise, whether or not formal legal action is required, the Contractor shall pay the actual attorney's fees and costs incurred due to such of both the City and the Contractor.

Section 15. Data

15.1 Drawings, specifications, designs, models, photographs, computer CADD discs, reports, surveys and other data developed or provided in connection with this Agreement shall be the property of City and City shall have the full right to use such data for any official purpose permitted under Georgia Statutes, including making it available to the general public. Such use shall be without any additional payment to or approval by Contractor. City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any data developed or prepared under this Agreement.

15.2 No data developed or prepared in whole or in part under this Agreement shall be subject to copyright in the United States of America or other country, except to the extent such copyright protection is available for the City. Contractor shall not include in the data any copyrighted matter unless Contractor obtains the written approval of the City Manager and provides said City Manager with written permission of the copyright owner for Contractor to use such copyrighted matter in the manner provided herein.

15.3 The records of the Contractor related to the provision of Services such as public records as defined in the Georgia statutes ("GORA"), and records produced or maintained in accordance with this Agreement, are to be retained and stored in accordance with the City's records retention and disposal policies. Those records which constitute "pubic records" under GORA are to be at the City offices or accessible and opened for public inspection in accordance with GORA and City policies. Public records requests for such records shall be processed in accordance with City policies and shall be administered through the City Manager or his designee. Contractor agrees to allow access by the City and the public to all documents subject to disclosure under applicable law, as per the request of the City. For purposes of GORA, the City Manager is the custodian of all records produced or created as a result of this Agreement. All public records request shall go through the City Attorney for determination if records should be disclosed, before submitting the request to the Contractor. Nothing contained herein shall limit the Contractor's right to defend against disclosure of records alleged to be public.

Section 16. Compliance

16.1 Contractor shall fully obey and comply with all laws, ordinances and administrative regulations duly made in accordance therewith, which are or shall become applicable to the services performed under the terms of this Agreement.

16.2 Contractor acknowledges that the City is advised by its City Attorney and that, on all legal matters, Contractor shall abide by the advice and direction of the City Attorney in the performance of its duties as they relate to matters of the City.

16.3 Contractor acknowledges that the City is also advised by various other professionals (including, but not limited to, engineers, traffic engineers, planners, building officials, police officers and firefighters), and that, on all matters within their respective expertise, Contractor shall abide by their advice and direction in the performance of its duties as they relate to matters of the City.

16.4 Contractor shall obtain and keep an active business license and pay the associated tax to the jurisdiction(s) under which the Contractor operates for the benefit of the City of Dunwoody. This shall include all licensing requirements of Sandy Springs, Georgia during the operation of the temporary City Hall facilities which are located in Sandy Springs. Contractor shall obtain and post a Business Occupational Tax Certificate from Sandy Springs, Georgia as soon as practically possible after execution of the contract outlined herein.

Section 17. Audits and Inspections

17.1 The City may, at reasonable times, and for a period of up to three (3) years following the date of final performance of Services by Contractor under this Agreement, audit, or cause to be audited, those books and records of Contractor that are related to Contractor's performance under this Agreement. Contractor agrees to maintain all such books and records at its principal place of business for a period of three (3) years after final payment is made under this Agreement. Contractor shall make all necessary books and records available for audit in the City of Dunwoody, Georgia.

17.2 The City may, at reasonable times during the term hereof, inspect Contractor's facilities and perform such inspections, as the City deems reasonably necessary, to determine whether the services required to be provided by Contractor under this Agreement conform to the terms of this Agreement. Contractor shall make available to the City all reasonable facilities and assistance to facilitate the performance of inspections by the City's representatives.

Section 18. Governing Law and Venue

18.1 This Agreement shall be construed in accordance with and governed by the laws of the State of Georgia. Any legal actions concerning or relating to this agreement or the performance of its obligations under this Agreement instituted by a party hereto shall be brought in a court of competent jurisdiction located in DeKalb County, Georgia, and the parties consent to the venue therein and the jurisdiction of those courts over the parties and the subject matter, and waive any defenses with respect to venue and jurisdiction.

Section 19. Headings

This Agreement shall not be interpreted by reference to any of the titles or headings to the sections or paragraphs of this Agreement, which have been inserted for convenience purposes only and are not deemed a part hereof.

Section 20. Severability

If any provision of this Agreement or the application thereof to any person or situation shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable, shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

Section 21. Cooperation.

21.1 Each party hereby agrees to cooperate with the other parties hereto in every reasonable manner and to the fullest extent reasonably requested by the other, as appropriate, to enable the purposes of this Agreement.

Section 22. Entire Agreement

22.1 This Agreement and its attachments constitute the entire agreement between Contractor and City, and all negotiations and oral understandings between the parties are merged herein.

22.2 No modification, amendment or alteration in the terms or conditions of this Agreement shall be effective unless contained in a written document executed with the same formality as this Agreement.

Section 23. Waiver

23.1 The waiver by either party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement shall not be construed as a waiver of any future or continuing similar or dissimilar failure.

Section 24. Notices

Whenever either party desires to give notice to the other, it must be given by written notice, sent by certified United States mail with return receipt requested or hand delivered. Unless otherwise changed after providing proper Notice, the parties designate the following as the respective places for giving of notice:

For Contractor: **Lowe Engineers** - 2000 RiverEdge Parkway, Suite 400
Atlanta, GA 30328

For City: **City of Dunwoody** - P.O. Box 888074 - Dunwoody, GA 30356
Temporary Offices: 400 Northridge Road; Suite 1250, Atlanta, GA 30350

Section 25. Assignability

Contractor shall not assign any of the obligations or benefits imposed hereby or contained herein, without the written consent of the City, which consent must be evidenced by a duly passed Resolution. This contract for services is partially and/or fully assignable by the City on ninety (90) days notice to Contractor. No assignment shall release the Contractor from performance of any duty, obligation, or responsibility.

AGREEMENT BY AND BETWEEN CONTRACTOR AND THE CITY OF DUNWOODY FOR CONTRACT SERVICES AS SET FORTH HEREIN.

IN WITNESS WHEREOF, the parties hereto have caused their respective agents to execute this instrument on their behalf, at the times set forth below.

CONTRACTOR

_____ _____
By: DATE

ATTEST

_____ _____
DATE

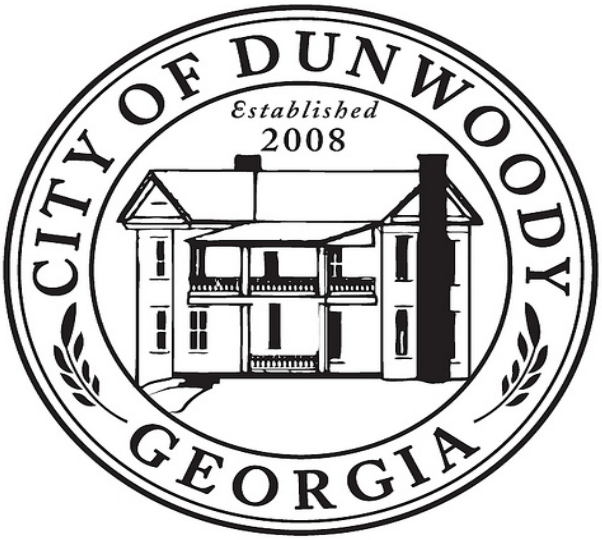
CITY OF DUNWOODY

_____ _____
By: Ken Wright DATE
Mayor

Approved as to form and legal sufficiency subject to execution
by the parties.

_____ _____
By: DATE
City Attorney

Exhibit A
Scope of Services



Public Works
Dunwoody, Georgia

Scope of Work
To Provide City Services

CONTRACT Number 2008.003

December 15, 2008

SECTION 3 – SCOPE OF SERVICES

1.1 GENERAL

Project Description

The City will commence municipal operations on December 1, 2008 in accordance with the recently approved City Charter. While City services will continue to be performed for the City of Dunwoody by DeKalb County from December 1, 2008 until December 31, 2009, some limited services required by this CONTRACT will commence on December 1, 2008. Beginning on January 1, 2009 all services required by this CONTRACT will begin under the direct operation and control of the newly formed City of Dunwoody at the direction of the Mayor, Council, and City Manager.

On December 1st, 2008 the successful Contractor shall have in place in the City of Dunwoody interim City Hall:

- A full time Public Works Director that will be taking direction from the City Manager.
- A list of available personnel or subcontractors that can directed (within an hour's notice) any of the tasks outlined in the Public Works CONTRACT under the direction of the Public Works Director or City Manager.
- An Administrative and Clerical employee under the direction of the Public Works Director

On January 1st, 2009 successful Contractor shall start adding personnel to support the Public Works obligations listed under this CONTRACT and to support the City Manager.

The Contractor shall read and acknowledge the Mission, Vision, and Values Statements for the City of Dunwoody and provide services which are in accordance with same. The Contractor shall understand and agree to comply with the Mission, Vision, and Values Statements. The statements are as follows:

Mission Statement
The mission of the City of Dunwoody is to provide the highest quality of life for those who live, work or play in our community and to foster an environment where business can prosper. We will serve all stakeholders in a transparent manner with resourceful, efficient, progressive and professional leadership.

Vision
Dunwoody will provide quality service to our citizens and support the largest economic engine in the Southeast by carefully and thoughtfully planning. We will be inventive, transparent and embrace responsible progress which is tempered by our rich history and our desire to maintain a small community atmosphere. Dunwoody is a community where activities are centered around the family, our schools, our churches and synagogues, and our beautiful parks.

Values
Goals
To make Dunwoody a better community, built on mutual respect and trust and to promote and maintain the highest standards of personal and professional conduct for all involved in City government – elected officials, City staff, volunteers, and members of the City's boards, commissions and committees. Contractor shall also abide by the City Ethics Policy as maintained in the City Ordinances.

1.2 SCOPE OF WORK

Public Works

REQUIRED SERVICES

General

The services required for which this CONTRACT is being issued shall include but not be limited to those outlined in this Section.

The intent of the Contracts is that the Contractor firm assumes full responsibility for the structure, planning, and implementation necessary to provide the required services to the City. Where the Contractor anticipates needs that may occur which are not specifically set forth hereunder, the Contractor is expected to identify with specificity those needs as part of its CONTRACT. The scope of work under this CONTRACT is to be in conformance with the overall Public Works Organizational Chart which is included as "Exhibit B."

All services and duties must be operational as of the date indicated in Section 1.1 of this CONTRACT.

Each of the services below shall include, as a material provision thereof, the attendance as necessary and/or requested of any and all meetings of the City Council to discuss and/or make recommendations regarding any matters within the purview of the requested services.

Whenever the requirement calls for the Contractor to develop and/or implement a policy, it shall be material provisions thereof that such policy shall be made in furtherance of the directives as provided to the Contractor by the City Manager. The Public Works portion of the Dunwoody City Services contracts shall include three separate components of Funding which will be included in the Public Works contract. These three components shall include the following:

1. Public Works Base Bid: General Maintenance and Inventory: Section 1.3
2. Planned Preventative Maintenance (Contractor to provide Unit Costs): Section 1.4
3. Capital Improvements (Money set aside in the City Budget to be used to Improve City Infrastructure): Section 1.5

1.3 PUBLIC WORKS BASE BID

1.3.1 Public Works Director

1.3.1.1 The successful Contractor shall provide and employ a Public Works Director (PWD) to manage the Public Works operations for the City under the direction of the City Manager. Provide the full name along with a current resume of the Director candidate. The candidate will be expected to be present during all interviews, presentations, and contract negotiations with the City.

1.3.1.2 The Contractor CONTRACT shall include an Organizational (Org) Chart for the proposed Public Works department. The Org. Chart shall identify the PWD as well as the other proposed positions (or functions) that will make up the Public Works department. All of the proposed personnel shall be under the supervision of a Professional Engineer (PE) who is currently registered in the State of Georgia. It is preferable, but not necessary, that a PE be an active member of the Public Works team. The Job Description for the Public Works Director is as follows:

TITLE: Public Works Director

JOB SUMMARY:

Performs highly responsible professional, administrative and technical work involved in planning and directing public works activities in the areas of construction, maintenance and cleaning of street, sidewalks and drainage; the maintenance and repair of cemetery and park buildings and grounds; and vehicle maintenance. Also performs supervisory and professional engineering work. Work involves the responsibility for long range and current planning, survey, design and inspection of all streets, parks and cemetery projects, and of all contract engineering projects. The employee delegates day-to-day activities to supervisory staff, but performs unusual tasks which require a high degree of skill and technical knowledge personally. The employee exercises independent judgment and discretion on all technical matters within the department subject to guidelines set by the City Manager. Employee reports to the City Manager for review of work and evaluation of performance.

SUPERVISION EXERCISED:
Exercises supervision over clerical, administrative, maintenance and professional staff as assigned.

ESSENTIAL DUTIES AND RESPONSIBILITIES:

- Supervises subordinate public work supervisors and department support staff, either directly or through subordinates.
- Determines work procedures, prepares work schedules, and expedites workflow.
- Issues written and oral instruction.
- Assign duties and examines work for exactness, neatness, and conformance to policies and procedures.
- Studies and standardizes department policies and procedures to improve efficiency and effectiveness of operating.
- Maintains harmony among workers and resolves grievances.
- Prepares composite reports from individual reports of subordinates.
- Adjusts errors and complaints.
- Prepares and documents budget requests; administers adopted budget in assigned area of responsibility.

- Plans, organizes, coordinates, supervises and evaluates programs, plans, services, staffing, equipment and infrastructures of the public works department.
- Evaluates public works needs and formulates short and long term plans to meet needs in all areas of responsibility, including streets, drainage, collection and disposal of trash, sanitation services, water and sewer maintenance, maintenance and repair of cemetery and park buildings and grounds, and vehicle maintenance.
- Oversees the development or update of the City Transportation Improvement Program, the Capital Improvement Program or other programs involving public works.
- Determines applicable codes, regulations, and requirements for assigned projects.
- Oversees the preparation of engineering plans and specifications, bidding, competency of contractors and vendors, and the selection criteria for public contracts.
- Oversees project management for the construction of assigned public works projects Oversees assigned projects to ensure contractor compliance with time and budget parameters for the project.
- Coordinates the preparation of reviews and updates street maps, storm drainage maps, data base, and comprehensive plans.
- Oversee the maintenance of infrastructure and other records.
- Responds to public or other inquiries relative to department policies and procedures. Evaluates issues and options regarding municipal public works and makes recommendations.
- Maintains regular contact with consulting engineers, construction project engineers, City, County, State and Federal agencies, professional and technical groups and the general public regarding division activities and services.
- Monitors inter-governmental actions affecting public works.

1.3.2 Inventory of City Assets

1.3.2.1 The successful Contractor shall provide an inventory of all transportation related assets which shall include but not be limited to: Traffic Signals, Street Signs,

Street Lights, Guard Rails, Sidewalks, Roads, Curb & Gutter, Traffic Calming Devices, Storm water catch basins and inlet structures. The asset inventory shall be in a manageable electronic database format approved by the City Manager and, once developed will become the property of the City of Dunwoody.

1.3.2.2 Some of these assets have been previously inventoried for the Citizen's for Dunwoody, Inc. and can be accessed through a hyperlink at www.boyken.com. Information related to Public Works provided on this and other public websites and forums are for information only and cannot be relied upon to be accurate or all encompassing. It is the Contractor's responsibility to verify and update all information provided or obtained from other sources. The Inventory of City Assets shall be completed in a reasonable period of time which shall not exceed 12 months from the initial contract date.

1.3.2.3 Contractor shall coordinate all aspects of intergovernmental relationships regarding Public Works activities in conjunction with the City Manager.

1.3.3 Geographic Information System (GIS)

1.3.3.1 Coordinate with all other necessary City and County personnel and/or contractors the transfer, maintenance, storage and retrieval of all documents and records from DeKalb County, Georgia, necessary for the effective implementation and operation of the City's GIS System provided under the Community Development department. The Contractor shall be responsible for determining the documentation necessary for transfer as well as coordinating and implementing the physical retrieval, reproduction and storage of the transferred records.

1.3.3.2 The Contractor shall be responsible for assisting in setting up the new GIS system with the County data in conjunction with the City of Dunwoody Community Development department.

1.3.3.3 The Contractor shall provide any GIS related information and/or data in response to requests and needs of City personnel as well as any other contractors who may be engaged in City of Dunwoody Public Works projects.

1.3.4 Comprehensive Transportation Plan

1.3.4.1 The Contractor shall inventory the City's existing road conditions and develop a re-paving plan with a long term schedule and associated annual costs. The Comprehensive Transportation Plan (CTP) shall also include but is not limited to:

- Development of a striping plan with an associated schedule and projected yearly costs.
- Evaluation of the performance of the existing traffic signal system and a transition plan for its upgrade.
- Interface with the Perimeter Community Improvement Districts (PCID) in accordance with their Memorandum of Understanding which is currently being developed.
- Contractor shall examine setting public space standards using the PCID standards for all Dunwoody commercial areas.
- Explore methods of improving traffic flow in a non grid environment.
- Implement the Street Smart recommendations regarding the establishment of a grid system in the revitalized commercial areas.
- Explore the use of under/over passes (grade separation) at key choke points.
- Explore providing appropriate infrastructure to increase and enhance the traffic flow of pedestrians and cyclists.
- Inventory of neighborhoods that need traffic calming projects and streamlining of the current traffic calming requirements and process.
- Utilize the latest GIS equipment and technology to map road and pavement condition data.

1.3.4.2 All of the above transportation elements shall be analyzed, evaluated, and synthesized into a single Comprehensive Transportation Plan. The CTP shall be the basis for the Capital Improvement projects outlined in Section 1.5.

1.3.5 Street Maintenance and Striping

1.3.5.1 The Contractor shall perform maintenance and repair of all City Streets including but not limited to Paving and Striping as directed by the City Manager. The City of Dunwoody has approximately 167.6 miles of road infrastructure as measured by the center line. The total amount of City roadway to be resurfaced shall be determined by the Comprehensive Transportation Plan.

1.3.5.2 Conduct all activities necessary to maintain a first quality roadway and bridge infrastructure system in accordance with American National Standards Institute (ANSI) and American Society for Testing and Materials (ASTM) standards, including but not limited to providing necessary maintenance of all roadways and bridges, which shall include minor repairs, cleaning, and repairs necessitated by storm events. When the Contractor is requested to provide these services, it may be

accomplished through subcontractors, provided however, when subcontracts are anticipated, the Contractor should include as part of its services the same information regarding said subcontractor as required of Contractor in Section 2.0 of the original CONTRACT. Contractor should further provide an estimate of annual costs for the services of said subcontractor as a separate section of the quotation submitted on this CONTRACT.

1.3.6 Sidewalks, Gutters and Related Street Areas

1.3.6.1 The City of Dunwoody has approximately 43 linear miles of existing sidewalks and may need another 20.7 linear miles in order to adequately serve the Major Arterial and Collector roads. It was also determined that 87 sidewalk intersection ramps were not in compliance with the American for Disabilities Act and should be scheduled for upgrades. The installation of any new sidewalks and curbing under this contract shall be completed in accordance with Georgia Department of Transportation (GDOT) as well as applicable ANSI and ASTM standards and as directed by the City Manager.

1.3.6.2 The Contractor shall conduct all activities necessary to maintain first quality sidewalks, gutters and related street areas including but not limited to providing all necessary maintenance and cleaning of the same as directed by the City Manager. The Contractor may provide this service by the use of subcontractors, provided however, when subcontracts are anticipated, the Contractor should include as part of its CONTRACT the same information regarding said subcontractor as required of Contractor in Section 2.0 hereof. Contractor should further provide an estimate of annual costs for the services of said subcontractor as a separate section of the quotation submitted on this CONTRACT.

1.3.6.3 The work shall include maintaining and clearing of the City's Rights-of Way (ROW), performing landscaping of median areas, and maintenance and upkeep of the City's streets and drainage systems, consistent with the workmanlike standards of the Department.

1.3.7 Traffic Signals, Street Signs and Street Lights

1.3.7.1 The Contractor shall maintain the proper operation of all Traffic Signals and Street Lights at all times within the City of Dunwoody. Traffic signals shall be operational continuously and Contractor shall be responsible for providing emergency response to signal outages or malfunctions. Contractor shall replace all

damaged or stolen street signs under this agreement up to an amount which shall be agreed upon with the City Manager during the contract negotiation process.

1.3.8 Parks and Recreation

1.3.8.1 Parks and Recreation services shall include, establishing, staffing (as needed to meet the requirements herein), and maintaining the Parks and Recreational facilities for the City. The inclusion of the Parks and Recreation in the City is dependent upon a successful negotiation with DeKalb County for the transfer of the assets. If such transfer is not accomplished by the start date of the contract, the city may request an appropriate reduction in the contract. There is a possibility that the City of Dunwoody will be responsible for maintaining the Parks and Recreational facilities for the City on January 1, 2009 regardless of the outcome of negotiations with Dekalb County. Vendors should be prepared to provide basic maintenance after this date. The areas of responsibility shall include, but not be limited to, the following:

1.3.8.2 Plan, implement and coordinate staffing and contract administration for the daily maintenance and use of all public parks and recreational facilities.

1.3.8.3 Assist in planning, implementing and coordinating staffing for the planning, promoting, and supervising of recreation programs and special events.

1.3.8.4 Plan, implement and coordinate staffing for the managing, coordinating and scheduling of City athletic facilities as needed.

1.3.8.5 Develop and recommend to the City Manager short, mid, and long range plans for capital improvements.

1.3.8.6 Establish, operate and oversee all aspects of emergency management procedures with local, state and federal agencies to ensure safe recreational system.

1.3.8.7 Conduct all activities necessary to identify, develop and prepare submissions for any federal, state or local funding and grant programs for improvements to the park and recreation system within Dunwoody, and provide fund oversight as required by law.

1.3.8.8 Develop and recommend to the City Manager a Programming and Management Plan for the continued operation of the Brook Run Skate Park.

1.3.8.9 The Parks and Recreational facilities that shall be maintained as outlined in the above activities include but are not limited to:

Dunwoody Park (the nature center and the baseball fields)
The Donaldson Chesnut Homestead
North DeKalb Cultural Center
Windwood Hollow Park
Dunwoody North Police Precinct
Brook Run (includes theater and skate park)

1.3.9 Motor Vehicles and Equipment

1.3.9.1 The Contractor shall be responsible for providing Motor Vehicles sufficient for the operations of the Public Works department as of the date indicated in Section 1.1 of this CONTRAC. This requirement shall exclude any specialized service related emergency vehicles such as Police, Medical and/or Fire Emergency Vehicles. Vehicle make, model and age shall be subject to the approval of the City Manager and capable of temporary branding to the City of Dunwoody standards.

1.3.9.2 The Contractor shall submit a detailed Motor Vehicle Use and Safety Policy for the use of such vehicles by any staff of Contractor sufficient to ensure that the City is protected regarding the use of said vehicles.

1.3.9.3 The Contractor shall further be responsible for all storage, maintenance, inspections, and other necessary service regarding the motor vehicles and equipment.

1.3.9.4 Insurance Requirements – Vehicle insurance coverage shall be current and maintained by the Contractor as indicated in Section 10 of the base Contract.

1.3.10 Storm Water

1.3.10.1 Coordinate with all other City personnel and/or contractors the transfer, maintenance, storage and retrieval of all documents and records from DeKalb County, Georgia, necessary for the effective implementation and operation of the City's storm water requirements under applicable, federal, state, and local laws. The Contractor shall be responsible for determining the documentation necessary for transfer as well as coordinating and implementing the physical retrieval, reproduction and storage of the transferred records.

1.3.10.2 Provide ongoing engineering, design and maintenance of storm water systems, as needed, to meet the needs of the City in accordance with all ANSI and ASTM standards and as directed by the City Manager..

1.3.10.3 Develop and implement all necessary policies, protocols, rules and regulations necessary to meet or exceed the City's storm water requirements under applicable, federal, state, and local laws, including but not limited to federal clean water requirements.

1.3.10.4 Integrate activities as necessary with the Community Development and other departments as necessary.

1.3.10.5 The City of Dunwoody intends to establish its own Storm Water Utility. The Contractor shall assist the City in setting up the Storm Water Utility.

1.3.10.6 The Contractor shall develop a capital plan for the storm water system.

1.3.11 Miscellaneous Design Services

1.3.11.1 Transportation services shall include, establishing, staffing (as needed to meet the requirements herein), and maintaining the Transportation requirements for the City. The areas of responsibility shall include, but not be limited to, the following:

1.3.11.2 The Contractor shall conduct all activities necessary to maintain a first quality traffic system, including but not limited to, conducting necessary studies and implementation of traffic control improvements which are not outlined in other section of this CONTRACT.

1.3.11.3 The Contractor shall conduct all activities necessary to maintain a first quality street system plan, including but not limited to, the coordination, review, and management of all contracts for streets, sidewalks and related projects.

1.3.12 Emergency Preparedness

1.3.12.1 Establish policies and guidelines, and coordinate, operate and maintain the city's emergency preparedness program in accordance with all applicable, federal, state, and local laws, as well as prudent local government practices.

1.3.12.2 Integrate and coordinate all emergency preparedness operations in conjunction with Homeland Security, Emergency 911, FEMA, GEMA, and NIMS.

1.3.12.3 Contractor shall be capable of assisting the Police Department with chains or other traction devices in the event of a snow or ice storm which may impair the traction of Police or other City vehicles.

1.4 PLANNED PREVENTATIVE MAINTENANCE (CONTRACTOR TO PROVIDE UNIT COSTS)

1.4.1 In addition to the Base Bid for the Maintenance of City Assets outlined in Section 1.3, the Contractor is requested to provide projected Unit Costs for additional Maintenance and Repair of traffic infrastructure which could be expected to be required on an annualized basis. Provide line item costs for the following activities. Unit prices shall be all inclusive with labor, material and miscellaneous taxes and expenses included for:

Sidewalk Repair:	Demolition (cost per linear foot-LF)
	New Sidewalk (LF)
Curb Repair:	Demolition (LF)
	New Curb (LF)
Pot Hole Repair:	Crew and Equipment (per day)
Asphalt Paving:	Demolition of existing (SY)
	Installation (SY)
Storm Drainage:	Structure Repair (EA)
New Pipe:	0 to 18″ (LF)
	20″ to 36″ (LF)
	38″ and larger (LF)
New Street Signs:	<= 12 SF
(incl. posts)	> 12 SF
New Traffic Lights:	EACH
Guard Rail Repair:	Demo and Install (LF)

Provide line item costs for all of the activities outlined in the Revised Fee schedule included as Exhibit C. Unit prices shall be all inclusive with labor, material, equipment and miscellaneous taxes and expenses included. All Public Works projects under this Contract which exceed twenty thousand dollars ($20,000.00) will require an RFP to be produced by the Contractor in conjunction with the City Manager. The RFP for the project must receive a minimum of three bids from qualified subcontractors prior to the awarding of the contract unless otherwise

directed by the City Manager. The successful bidder of these contracts shall supply a Payment and Performance Bond to the City in an amount acceptable to the City Manager.

1.4.2 In the event that significant pricing fluctuations occur in Labor or Materials after the above unit costs are provided, the Contractor shall provide back-up information to the City Manager in order to justify a change in the agreed upon unit pricing list. City Manager has the authority to accept or reject unit pricing changes.

1.5 CAPITAL IMPROVEMENTS

(Money set aside in the City Budget to be used to Improve City Infrastructure)

1.5.1 The city intends to set aside a portion of the Public Works funding to be used to improve City Infrastructure components which would include longer range projects and Emergency Preparedness requirements. It is the City's intent that the Capital Improvement projects would be bid out to subcontractors that would be managed by Contractor's Public Works Director. Alternatively, at the discretion of the City Manager, the Capital Improvement projects could be completed by the Contractor as approved by the City Manager and City Council.

1.5.2 The Contractor shall develop and recommend to the City Manager short, mid, and long range plans for capital improvements and implement plans as directed. Such plans should meet all requirements of the Department of Community Development and Comprehensive Land Use Plan.

1.5.3 The types of projects that would be included for consideration for the funding under the Capital Improvements budget include but are not limited to: Road Resurfacing, New Storm Drainage Requirements, Transportation Enhancements, and Traffic Calming Devices.

1.6 ALTERNATES

1.6.1 Deductive Alternate #1: **PARKS & RECREATION**

In the event the City of Dunwoody does not successfully take over the operations and maintenance of the Parks & Recreation assets from DeKalb County, provide a deductive alternate on an annual basis for services pertaining to the Parks & Recreation scope of services under this CONTRACT.

Exhibit B
Organizational Chart

Organizational Chart

Revised December 16, 2008

Richard Meehan, PE (100%)
Public Works Director

24 Hour On Call Staff
Richard Meehan, PE
Chris Owens, PE
Chuck Davis, PE
Alex Hoeflich, PE
Nathan Laird, EIT
David Brenning, EIT
Andrew Thompson, EIT

Chris Owens, PE (11%)
Deputy Public Works Director

Chuck Davis, PE (23%)
Deputy Public Works Director

Jada Drysdale (100%)
Admin Support

Parks and Recreation

Maintenance
Roadworx
Lou Earhrdt

Scheduling/Operations
Jada Drysdale

Planning/Programming
Chris Owens, PE

Stormwater

Maintenance
Roadworx
Lou Earhrdt

Engineering
Jim Seeba, PE (11%)

Stormwater Utility Development
Jim Seeba, PE

Capitol Planning

Inventory/Assesment
IMS
Stephen J Smith, PE

Planning/Programming
Cedric Clark (11%)
Garrin Coleman, PE (11%)

Comprehensive Transportation Plan
Cedric Clark,
Garrin Coleman, PE
Alex Hoeflich, PE

Roads/Streets Traffic

Maintenance

Roads, Signs & Lighting
Roadworx
Lou Earhrdt

Major Repairs
Blount Construction
Randall Popham

Traffic Signal
Control Specialists
Kenneth W Tharpe
Roadworx

Engineering

Traffic Engineering
Alex Hoeflich, PE (11%)

Utility/Right of Way Coordination/Permits
Andrew Thompson (11%)

Roadway & Sidewalk
Nathan Laird (4%)
David Brenning (5%)
Rafael Lawrence (5%)
Barrett Speir (4%)
Stephanie Box (4%)

Exhibit C
Schedule of Values

Lowe Engineers, LLC	11/20/2008, R 12/10/08, R 12/16/08, R 12/17/08			
Schedule of Values				
Section 1.3 Public Works Base Bid		Yearly		
Services	2008/2009	2010	2011	
Public Works Director & Support Staff	$ 536,889	$ 563,734	$ 591,920	
Inventory of Assets &GIS Interface	$ 200,000	$ 50,000	$ 50,000	
Motor Vehicles and Equipment	$ 36,000	$ 37,800	$ 39,690	
Total for 1.3 Base Bid=	**$ 772,889**	**$ 651,534**	**$ 681,610**	
Section 1.3 Public Works As-Directed		Yearly		
Services	2008/2009	2010	2011	
Comprehensive Transportation Plan	$ 10,000	$ 10,500	$ 11,025	
Street Maintenance, Management	$ 75,000	$ 78,750	$ 82,688	
Maintenance of Traffic Signals, Street Signs & Street Lights	$ 208,000	$ 218,400	$ 229,320	
Parks & Recreation Maintenance	$ 167,000	$ 175,350	$ 184,118	
Miscellaneous Design Services	$ 10,000	$ 10,500	$ 11,025	
Total for 1.3 As-Directed Services=	**$ 470,000**	**$ 493,500**	**$ 518,175**	
Section 1.4 Planned Preventative Maintenance Units Costs				
Service	Unit	Qty	Unit Cost	Estimate Amount for 2009
Sidewalk Repair				
Demolition (cost per LF)	LF	200	$ 5.00	$ 1,000
New Sidewalk	LF	200	$ 18.70	$ 3,740
Curb Repair				
Demolition	LF	200	$ 5.00	$ 1,000
New Curb	LF	200	$ 17.00	$ 3,400
Pot Hole Repair				
Crew, Equipment & Material				
2 Man Crew - Labor and equipment	Daily Cost	tbd	$ 1,500.00	tbd
2 Man Crew - Asphalt @ $63.1/tn	Daily Cost	tbd	$ 50.00	tbd
5 Man Crew - Labor and equipment	Daily Cost	tbd	$ 4,150.00	tbd
5 Man Crew - Asphalt @ $63.1/tn	Daily Cost	tbd	$ 252.00	tbd
8 Man Crew - Labor and equipment	Daily Cost	tbd	$ 5,500.00	tbd
8 Man Crew - Asphalt @ $63.1/tn	Daily Cost	tbd	$ 568.00	tbd
Asphalt Paving & Striping				
Demolition of Existing	SY	1000	$ 4.85	$ 4,850
Installation: 2 Lane Residential Street	SY	1000	$ 14.30	$ 14,300
New Street Signs				
Less than or equal to 12 SF	EA	10	$ 125.00	$ 1,250
Greater than 12 SF to 24 SF	EA	10	$ 150.00	$ 1,500
Sand/Salt Spreading Extended Operation	Lane Mile	tbd	$ 1,750.00	
Total for 1.4=				

Lowe Engineers, LLC	As of 12/18/08	
Project: City of Dunwoody Public Works		
Period: December 1, 2008 - December 31, 2009		
Month	Schedule of Values	
	Public Works Base Bid	
December 2008	$	59,453.00
January 2009	$	59,453.00
February 2009	$	59,453.00
March 2009	$	59,453.00
April 2009	$	59,453.00
May 2009	$	59,453.00
June 2009	$	59,453.00
July 2009	$	59,453.00
August 2009	$	59,453.00
September 2009	$	59,453.00
October 2009	$	59,453.00
November 2009	$	59,453.00
December 2009	$	59,453.00
Total Contract Value	$	772,889.00

Exhibit D
Letter of Agreement

LOWE
ENGINEERS

50 YEARS OF SERVICE

December 18, 2008

Warren Hutmacher
City Manager
City of Dunwoody
P.O. Box 888074
Dunwoody, GA 30356

RE: Schedule of Values - RFP Number 2008.003
Public Works - Dunwoody, Georgia

Dear Mr. Hutmacher:

It is our pleasure to submit the attached schedule of values cost tables in accordance with instructions and our meetings on December 10 and 16, 2008. Additionally we have provided some clarifications as requested.

Scope of Work: Our scope of work will include three sections. The first section is our base bid and provides the Public Works Director and his staff. The second section includes scope items and projects that will be authorized on an "As-Directed" basis by the City Manager. The third and final section includes planned preventative maintenance scope activities, also to be authorized when needed by the City Manager. Both the "As-Directed" and preventative maintenance activities will be authorized and funded by the City with amounts and level of effort to be determined by the City Manager and the Public Works Director. The preventative maintenance scope table unit values should be considered a planning "maximum" unit rate. These optional activities will be organized into projects for independent authorization and funding. The projects will be scheduled and scoped in such a way to increase efficiency and accomplish them for the planning unit rates or less.

Invoicing/Payment Terms: We would like to propose the following invoicing/payment terms:

1. Base Bid: For 2008/2009, we propose invoicing on a lump sum basis at the end of each month 1/13th of the total and request payment by the 15th of the following month.
2. Preventative Maintenance Costs: We propose invoicing effort and materials on a monthly basis, by the 15th of the following month, to allow time to gather sub-contractors material costs. Then we request payment of these invoices by the end of the following month. For example on February 15th, we will invoice for January work, and request payment by February 28, 2009.

Vehicles: Lowe will be purchasing two trucks for use on this project. Both will be white GM products. We will brand them in accordance with directions from the City. At the end of the three year contract term, we are willing to transfer ownership of the vehicles to the City at no cost. If the contract is terminated at one year, we are willing to transfer ownership at 2/3 of the

Lat: N33° 54' 23" • Long: W084° 26' 16"

2000 RiverEdge Parkway
Suite 400
Atlanta, Georgia 30328
P: 770.857.8400
F: 770.857.8401
www.loweengineers.com

cost. If the contract is terminated at the end of two years, we are willing to transfer ownership at 1/3 of the cost.

Mileage Reimbursement: We accept paragraph 3.2 which includes reimbursement of authorized mileage using current IRS rates.

Parks & Recreation Maintenance: Our proposed level of parks and recreation operations and maintenance involved the use of a two-man multi-purpose crew three days a week during the non-growing season (Nov-Mar) and five days a week during the growing season (Apr-Oct) and as needed during special events. Their duties will include landscape/grass maintenance, grounds pickup and routine maintenance, trash collection, building routine maintenance and cleanup. These items are included in the schedule of values and can be a deduct depending on the future situation of parks maintenance. Our full-time staff will assist in coordinating and scheduling activities. This effort is included in Public Works Director and Support Staff Fee. Items such as non-routine building and grounds repair including parking lot repair/paving, fence replacement, and replacement of major building components (HVAC, Water Heater) are not included in the Lump Sum Schedule of Values and would be performed under the Scope of Work Section 1.4 Allowance.

Stormwater Services Maintenance: Our proposed level of stormwater services maintenance is included within the line item "Street Maintenance". Stormwater maintenance activities were assumed to be part of the normal street maintenance. Capital items maintenance/replacement of the stormwater pipe system was assumed to be part of the stormwater utility, to be established in the future with separate funding.

Emergency Response: We will provide emergency response capability 24/7/365 for public works areas of responsibility. Details and on-call staff information will be provided to the City Manager.

We sincerely appreciate this opportunity to support the new City of Dunwoody in this important effort. Please contact me at 404-312-1843 or email at drysdale@loweengineers.com if you have any questions. Thanks.

Sincerely,
Lowe Engineers, LLC

Jon Drysdale, PE
Partner

Attachment: Schedule of Values

CONTRACT

BY AND BETWEEN

CITY OF DUNWOODY, GEORGIA

AND

CALVIN GIORDANO AND ASSOCIATES

FOR PROVISION OF

FINANCIAL AND ADMINISTRATIVE

MUNICIPAL SERVICES

THIS AGREEMENT is made and entered into this 17th day of December, 2008, by and between the CITY OF DUNWOODY, a Georgia municipal Corporation, (the "CITY"), and Calvin Giordano and Associates, a Florida corporation (hereinafter referred to as "Contractor").

The City and the Contractor may be collectively referred to as the "Parties" and each individually as a "Party".

WHEREAS, the City of Dunwoody has requested proposals for provision of certain services for the new City which was incorporated on December 1, 2008; and

WHEREAS, the City and the Contractor desire to establish a business relationship in which the Contractor will provide certain services to the City pursuant to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the terms and conditions sums hereinafter set forth and for other good and valuable considerations, the receipt and legal sufficiency of which are hereby acknowledged, it is hereby mutually agreed by and between the Parties as follows:

Section 1. Scope of Service. The Contractor agrees to provide to the City professional services set forth in Exhibit A hereof (hereinafter "Services").

1.1 In providing Services to the City, the Contractor shall (1) exercise the professional standard of skill and expertise prevailing in the State of Georgia in providing services to the City as set forth in this agreement; (2) act in a manner consistent with the applicable standards of regulatory, licensing, or other organizations or bodies of which the Contractor is a member or which is customary for the area of the service rendered.

1.2 The Contractor shall be responsible at the Contractor's expense for obtaining and maintaining in a valid status, all licenses, certificates, and permits necessary to perform the services herein. Contractor represents to the city that the Contractor is, and any subcontractors of the Contractor are, properly licensed and/or registered with the State of Georgia for the performance of the Services (if licensure and/or registration is required by applicable law).

1.3 Contractor shall maintain all records in accordance with all applicable laws and guidelines for municipalities, including GAAP, GASB and GFOA standards, and shall produce and deliver to the City Manager any and all information and reports as requested by the City Manager. All records and related materials belong to the City, as do all files, notes, returns, spreadsheets, and any and all other documents or files concerning customers of the City or customers who have been serviced by the City.

1.4 Except as otherwise specifically set forth, such services shall encompass those duties and functions of the type coming within the jurisdiction of and customarily rendered by municipal departments for those services in accordance with the Charter of the City, and the Statutes of the State of Georgia.

1.5 All communications to the Mayor, City Council and press shall be through the City Manager. All mass communications to residents shall be reviewed and approved by the City Manager prior to printing and dissemination.

1.6 All City owned equipment shall be used only for City purposes in performance of this Agreement, and shall not be used for any non-city or personal purposes.

1.7 Contractor shall comply with all OSHA and other applicable standards for work place safety. Contractor shall comply with all applicable laws regarding hazardous materials and maintain all required Manufacturer's Safety Data Sheets (MSDS) forms on site in the City.

1.8 Contractor Compliance with Laws. The Contractor shall comply with all applicable federal, state, local laws, ordinances, regulations, and resolutions. Without limiting the foregoing, Contractor shall comply with all wage and hour laws and OSHA and other applicable federal and state statutes, regulations and standards for workplace safety.

1.9 The Contractor shall perform the Services herein in accordance with this Agreement and shall promptly notify the city concerning ambiguities and uncertainties related to the Contractor's performance that are not addressed by the Agreement. In interpreting the Services and level of Services required hereunder, the Parties shall apply the principle that the City desires to provide the services within the City at a service level at least comparable to similar sized cities in the Atlanta area.

1.10 The Contractor acknowledges that all scope of work items identified in the City's RFP # 2008.001 dated October 31, 2008, RFP Addendum #2008.001.01 dated November 10, 2008 as well as the Financial and Administrative Services RFP Q&A document dated November 14, 2008 are addressed and contained in their Proposal and their Fee Schedule which is attached as Exhibit C.

1.11 The Contractor shall be responsible for providing all necessary cellular telephones, BlackBerry type devices, Air Cards, and other electronic mobile communication equipment as well as associated service costs for their employees that are employed to provide City Services to the City.

Section 2. Contractor Employees

2.1 Contractor shall furnish an Organizational Chart of proposed contractor employees for the Contractor Services as provided in Exhibit B, Organizational Chart section of the contract.

2.2 All personnel employed by Contractor in the performance of such services, functions and responsibilities as described and contemplated herein for the City shall be and remain Contractor employees (the "Contractor Employees").

2.3 Contractor shall be solely responsible for all compensation benefits, insurance and rights of the Contractor employees during the course of employment with Contractor. Accordingly, the City shall not be called upon to assume any liability for or direct payment of any salaries, wages, contribution to pension funds, insurance premiums or payments, workers compensation benefits under O.C.G.A. §34-9-1 *et seq.*, or any other amenities of employment to any of the Contractor Employees or any other liabilities whatsoever, unless otherwise specifically provided herein.

2.4 The Contractor Employees, when appropriate, shall wear attire with the logo of the City when they are performing Services for the City, except as otherwise directed by the City Manager.

Section 3. Compensation

3.1 The City shall pay the Contractor for the Contractor Services as provided in Exhibit C, Schedule of Values section of the contract as well as Exhibit D, Letter of Understanding.

3.2 Reimbursable expenses for travel and lodging shall be paid to Contractor employees for any travel authorized by the City Manager that is in excess of twenty five (25) miles from the City Hall offices. All travel that is conducted for the General welfare of the Contractor employees or that which is beneficial to non-City related functions shall be paid for by the Contractor unless authorized by the City Manager. All approved mileage reimbursements shall be provided at the current cost per mile posted by the US Internal Revenue Service at the time of travel.

Section 4. Term and Termination

4.1 This Agreement shall commence on the 26th day of November, 2008, and continue for a period of thirteen (13) months terminating on the 31st day of December, 2009.

4.2 This Agreement may be terminated by either party upon material breach of any term, covenant or condition of this Agreement, upon the failure to cure any such breach within ten (10) days following written notice thereof.

4.3 The City may terminate this Agreement with or without cause upon ninety (90) days' written notice to the other party.

4.4 Contractor may terminate this Agreement at its discretion either with or without cause, by giving written notice thereof to City; provided, however, that such termination shall not be effective until the one hundred and eightieth (180th) day after receipt thereof by City.

4.5 The following events shall each be deemed to cause immediate termination thereof, and upon occurrence thereof, this Agreement shall automatically terminate without notice: (a) there are instituted proceedings by or against the Contractor in bankruptcy, the Contractor makes an assignment of its assets for the benefit of creditors, or the Contractor shall admit insolvency; or (b) the Contractor is indicted for or convicted of any felony or converts or embezzles any property or funds of others.

4.6 Effects of Termination or Failure to Renew. Upon termination or non-renewal of this Agreement, the Contractor shall: (a) immediately cease all use of, and return to the City within ten (10) days, any and all property of the City in the Contractor's possession at the date of termination furnished by the City and (b) immediately cease all activities promoting the City's business unless otherwise agreed between the parties. Upon termination or non-renewal of this Agreement, the Contractor and the City shall continue to use their best efforts to conclude transactions that have not been completed prior to termination or non-renewal.

4.7 The parties further agree that in the event of termination or non-renewal, neither party shall be liable to the other for compensation or damages for expenditures, investments, leases, or other commitments made in connection with the business of such party or in reliance on the existence of this Agreement.

4.8 In the event of termination by either party, the other party shall render such reasonable aid, coordination and cooperation as might be required for an expeditious and efficient termination of service.

Section 5. Option to Renew

5.1 This Agreement shall be automatically renewed for a period of two (2) one (1) year terms at the expiration of the initial term, unless the City furnishes Contractor affirmative written notice of its intent not to renew this Agreement not less than ninety (90) calendar days prior to the expiration of this Agreement.

Section 6. Default

6.1 An event of default shall mean a material breach of this Agreement. Without limiting the generality of the foregoing, an event of default shall include the following:

a. Contractor has not materially performed services per this Agreement on a timely basis;

b. Either Party made a representation or warranty hereunder or herein that was false or inaccurate in any material respect when made, or which materially and adversely affects the legality of this Agreement or the ability of either Party to carry out its obligations hereunder.

c. Contractor has been adjudged as bankrupt or Contractor makes a general assignment for the benefit of their creditors, appoints a receiver on account of their insolvency, or files a petition to take advantage of any debtor's act.

d. City had not paid the Contractor for services performed, which are not under dispute, within 60 days of receipt of an invoice.

6.2 In the event of a Default, this Agreement may be terminated by the performing party only after the performing party first provides written notice to the non-performing party of the Default, which notice shall specify the Default, provide both a demand to cure the Default and a reasonable time to cure the Default, and state a date upon which the Agreement shall be terminated if there is a failure to timely cure the Default. For purpose of this Section, "reasonable time" shall be ten (10) calendar days except when the failure to perform Services affects the public health, safety or welfare, in which case reasonable time may be less than ten (10) calendar days. A failure to cure a Default within the specified time shall result in termination of the Agreement on the date set forth in the Notice.

6.3 Any Party in Default shall be liable for all damages resulting from the Default.

6.4 The Party's rights and remedies as set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to the Party in law or in equity.

7. Representations and Warranties of the Contractor

7.1 The Contractor hereby warrants and represents and agrees with the City as follows:

(a) No approval, authorization, clearance, declaration, or order of or to any other person or entity is required in order to permit the Contractor to perform Contractor Services under this Agreement.

(b) Neither the execution of this Agreement nor the consummation of the transactions contemplated hereby will cause, or give any person ground to cause, the maturity, acceleration, or increase of any liability or obligation of the Contractor and will not conflict with, violate, or constitute default under any contract, agreement, duty, obligation, or instrument to which the Contractor is a party or to which the Contractor is bound.

(c) Contractor by execution hereof does hereby represent to City that Contractor has full power and authority to make and execute this Service Agreement, to the effect that the making and execution hereof shall create a legal obligation upon Contractor, which shall be legally binding upon Contractor.

(d) Nothing contained or any obligation on the part of Contractor to be performed hereunder shall in any way be contrary to or in contravention of any policy of insurance or surety bond required of Contractor pursuant to the laws of the State of Georgia.

8. Liability for Damages. The Contractor shall be fully responsible for any and all claims or damages whatsoever arising from any act or omission on his part made in connection with providing the Contractor Services.

Section 9. Indemnification.

9.1 Contractor shall indemnify, defend and hold harmless the City, its officers, agents, servants and employees from and against any and all liability, suits, actions, damages, losses and expenses, costs of every nature, including attorneys' fees, arising out of or resulting from the acts, omissions, or negligence of the Contractor, its employees, or its agents.

9.2 Should the City seek indemnification pursuant to the above, it shall give prompt notice to the Contractor of the assertion of any claim, or the commencement of any action, suit, or proceeding, in respect of which indemnity may be sought hereunder and will give the Contractor such information with respect thereto as the Contractor may reasonably request, but no failure to give such notice shall relieve the Contractor of any liability hereunder. The Contractor may, at its expense, participate in the defense of any such action, suit or proceeding involving a third party; provided, however, that such defense is conducted with counsel mutually satisfactory to the City and the Contractor. The City and the Contractor shall consult with each other regarding the conduct of such defense. If the defense is assumed by the Contractor, the Contractor shall submit any proposed settlement under this Section for the City's approval, which approval shall not be unreasonably withheld or delayed. The City shall have the right (but not the duty) to participate in the defense thereof, and to employ counsel, at its own expense (except that the Contractor shall pay the fees and expenses of such counsel to the extent the City reasonably concludes that there is a conflict of interest between the City and the Contractor), separate from counsel employed by the Contractor in any such action. The Contractor shall be liable for the fees and expenses of counsel employed by the City if the Contractor has not assumed the defense thereof. Whether or not the Contractor chooses to defend or prosecute any claim involving a third party, all the parties hereto shall cooperate in the defense or prosecution thereof and shall furnish such records, information, and testimony, and attend such conferences, discovery proceedings, hearings, trials and appeals, as may be reasonably requested in connection therewith.

9.3 In determining the amount of any loss, liability, or expense for which any City is entitled to indemnification under this Agreement, the gross amount thereof will be reduced by any insurance proceeds actually paid to any City under any insurance policies held by such City; provided, however, that if such party has been indemnified hereunder but does not actually receive such insurance proceeds until after being indemnified, such party shall reimburse the Contractor for amounts paid to such party to the extent of the insurance proceeds so received.

9.4 If both the Contractor and the City have insurance coverage respecting a particular claim for which indemnification is provided pursuant to this Section, the parties agree that the insurance coverage of the Contractor will be called upon before the insurance coverage of the City is called upon.

9.5 Contractor acknowledges that specific consideration has been paid or will be paid under this Agreement for this hold harmless and indemnification provision, and further agrees with the foregoing provisions of indemnity and with the collateral obligation of insuring said indemnity as set forth herein.

9.6 Nothing in this Section shall:

(a.) Limit or prevent the City or the Contractor from determining positions and actions relative to settlement or defense on any matter for which the City or the Contractor are responsible; or

(b) Limit or prevent either Party from joining the other party or any affiliate of a Party in any claim, suit, action or proceeding involving a Third Party Claim through interpleading, third-party claim, cross-claim or otherwise limit or prevent a Party from voluntarily joining any claim, suit, action or proceeding through intervening or as may otherwise be permitted by law or rule.

Section 10. Insurance

10.1 Contractor shall not commence work under this contract until Contractor has obtained all insurance required under this Section. Certificates of insurance reflecting evidence of the required insurance will be provided to the City Manager for his approval, however, said approval by the City Manager shall not be unreasonably withheld.

(a) All insurance carriers, except Worker Compensation carrier, must have an A.M. Best Rating of A- VIII or higher. Surplus lines markets that operate on a non-admitted basis are exempt from this requirement provided that the contractor's broker/agent can provide financial data to establish that a market is equal to or exceeds the financial strengths associated with the A.M. Best rating of A- VIII or better

10.2 Contractor shall at all times carry professional liability insurance, workers' compensation insurance, comprehensive general liability insurance, and automotive liability insurance with policy limits and deductibles for each coverage at amounts reasonably approved by the City Manager, with such coverages specifying reasonable amounts of per occurrence, single limit, for property damage and bodily injury, including death, except that the dollar amount of workers compensation coverage shall be as provided by O.C.G.A. § 34-9-1 *et. seq*. Contractor shall be responsible for maintaining this professional liability insurance for a minimum of three (3) years from the date of expiration of this Agreement. Upon request of City, Contractor shall make available for inspection copies of any claims filed or made against any policy during the policy term. Contractor shall additionally notify City, in writing immediately, of any claims filed or made against any policy concerning or relating to this Agreement or the performance of any obligation under this Agreement.

(a) All insurance coverages required to be provided by the Contractor will be primary over any insurance program carried by the City

10.3 Policies shall be issued by companies authorized to do business under the laws of the State of Georgia, with financial ratings acceptable to the City Manager. The City shall be named as an additional insured on casualty policies. Contractor agrees to furnish City with at least forty-five (45) days prior written notice of any cancellation or reduction of coverage of any insurance policy required under this Agreement.

10.4 In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this contract, then in that event, Contractor shall furnish, at least ten (10) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the contract and extension hereunder is in effect. Contractor shall not continue to work pursuant to this contract unless all required insurance remains in full force and effect.

10.5 The costs of all policies of insurance required hereunder shall be the obligation of Contractor and the City shall in no way be responsible therefore.

10.6 Contractor shall provide the following insurances throughout the term of the Agreement, and shall provide to City Certificates of Insurance demonstrating compliance with this provision:

(a) Statutory Worker's Compensation and Employers Liability Insurance as required by the State of Georgia. Such workers compensation coverage shall be as provided by O.C.G.A. § 34-9-1 *et seq*.

(b) Comprehensive Automobile and Vehicle Liability Insurance with One Million Dollars ($1,000,000) combined single limits; covering claims for injuries to members of the public and/or damages to property of others arising from the use of Contractor owned or leased motor vehicles, including onsite and offsite operations.

(c) Commercial General Liability Insurance with limits of One Million Dollars ($1,000,000) per occurrence and Two Million Dollars ($2,000,000) in the aggregate, covering claims for injuries to members of the public or damages to property of others arising out of any covered acts of the Contractor undertaken to provide services for the City as required in this Agreement or omission of Contractor or any of its employees, or subcontractors.

(d) Professional Liability Insurance with limits of One Million Dollars ($1,000,000) per occurrence and in the aggregate.

(e) Excess Liability Insurance with limits of One Million Dollars ($1,000,000).

10.7 Contractor shall incorporate a copy of the insurance requirements as herein provided in each and every subcontract with each and every Subcontractor in any tier, and shall require each and every Subcontractor of any tier to comply with all such requirements. Contractor agrees that if for any reason Subcontractor fails to procure and maintain insurance as required, all such required insurance shall be procured and maintain by Contractor at Contractor's expense.

10.8 The Contractor shall agree to waive all rights of subrogation against the City, the City Council members, its officers, officials, employees and volunteers from losses arising from work performed by the contractor for the City.

10.9 Special Form Contractors' Equipment and Contents Insurance covering owned, used, and leased equipment, tools, supplies and contents is required if needed to perform the services called for under this Agreement. The City will be included as a Loss Payee in this coverage for City owned equipment, tools, supplies and contents. The City shall not be responsible for any deductibles or coinsurance that may be applicable

10.10 Compliance by the Contractor and all subcontractors with the foregoing requirements as to carrying insurance shall not relieve the Contractor and Subcontractor of their liability provisions under this Agreement.

10.11 The Contractor shall at a minimum apply risk management practices accepted by the contractors' industry.

Section 11. Conflicts

11.1 Neither Contractor nor any of its employees shall have or hold any employment or contractual relationship that is antagonistic or incompatible with Contractor's loyal and conscientious exercise of judgment related to its performance under this Agreement.

11.2 Neither Contractor nor any of its officers or employees shall obtain any kickbacks or benefits for itself, themselves or other clients as a result of any City purchases or transactions.

Section 12. Non-discrimination

12.1 Contractor shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. Contractor shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.

Section 13. Independent Contractor

13.1 The parties agree that the Contractor is an independent contractor, and, as such, the Contractor is neither a partner, agent, employee, nor principal of the City, nor is the Contractor a joint venturer with the

City.

Section 14. Attorney's Fees

14.1 If the either City is required to enforce the terms of this Agreement by court proceedings or otherwise, whether or not formal legal action is required, the Contractor shall pay the actual attorney's fees and costs incurred due to such of both the City and the Contractor.

Section 15. Data

15.1 Drawings, specifications, designs, models, photographs, computer CADD discs, reports, surveys and other data developed or provided in connection with this Agreement shall be the property of City and City shall have the full right to use such data for any official purpose permitted under Georgia Statutes, including making it available to the general public. Such use shall be without any additional payment to or approval by Contractor. City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any data developed or prepared under this Agreement.

15.2 No data developed or prepared in whole or in part under this Agreement shall be subject to copyright in the United States of America or other country, except to the extent such copyright protection is available for the City. Contractor shall not include in the data any copyrighted matter unless Contractor obtains the written approval of the City Manager and provides said City Manager with written permission of the copyright owner for Contractor to use such copyrighted matter in the manner provided herein.

15.3 The records of the Contractor related to the provision of Services such as public records as defined in the Georgia statutes ("GORA"), and records produced or maintained in accordance with this Agreement, are to be retained and stored in accordance with the City's records retention and disposal policies. Those records which constitute "pubic records" under GORA are to be at the City offices or accessible and opened for public inspection in accordance with GORA and City policies. Public records requests for such records shall be processed in accordance with City policies and shall be administered through the City Manager or his designee. Contractor agrees to allow access by the City and the public to all documents subject to disclosure under applicable law, as per the request of the City. For purposes of GORA, the City Manager is the custodian of all records produced or created as a result of this Agreement. All public records request shall go through the City Attorney for determination if records should be disclosed, before submitting the request to the Contractor. Nothing contained herein shall limit the Contractor's right to defend against disclosure of records alleged to be public.

Section 16. Compliance

16.1 Contractor shall fully obey and comply with all laws, ordinances and administrative regulations duly made in accordance therewith, which are or shall become applicable to the services performed under the terms of this Agreement.

16.2 Contractor acknowledges that the City is advised by its City Attorney and that, on all legal matters, Contractor shall abide by the advice and direction of the City Attorney in the performance of its duties as they relate to matters of the City.

16.3 Contractor acknowledges that the City is also advised by various other professionals (including, but not limited to, engineers, traffic engineers, planners, building officials, police officers and firefighters), and that, on all matters within their respective expertise, Contractor shall abide by their advice and direction in the performance of its duties as they relate to matters of the City.

16.4 Contractor shall obtain and keep an active business license and pay the associated tax to the jurisdiction(s) under which the Contractor operates for the benefit of the City of Dunwoody. This shall include all licensing requirements of Sandy Springs, Georgia during the operation of the temporary City Hall facilities which are located in Sandy Springs. Contractor shall obtain and post a Business Occupational

Tax Certificate from Sandy Springs, Georgia as soon as practically possible after execution of the contract outlined herein.

Section 17. Audits and Inspections

17.1 The City may, at reasonable times, and for a period of up to three (3) years following the date of final performance of Services by Contractor under this Agreement, audit, or cause to be audited, those books and records of Contractor that are related to Contractor's performance under this Agreement. Contractor agrees to maintain all such books and records at its principal place of business for a period of three (3) years after final payment is made under this Agreement. Contractor shall make all necessary books and records available for audit in the City of Dunwoody, Georgia.

17.2 The City may, at reasonable times during the term hereof, inspect Contractor's facilities and perform such inspections, as the City deems reasonably necessary, to determine whether the services required to be provided by Contractor under this Agreement conform to the terms of this Agreement. Contractor shall make available to the City all reasonable facilities and assistance to facilitate the performance of inspections by the City's representatives.

Section 18. Governing Law and Venue

18.1 This Agreement shall be construed in accordance with and governed by the laws of the State of Georgia. Any legal actions concerning or relating to this agreement or the performance of its obligations under this Agreement instituted by a party hereto shall be brought in a court of competent jurisdiction located in DeKalb County, Georgia, and the parties consent to the venue therein and the jurisdiction of those courts over the parties and the subject matter, and waive any defenses with respect to venue and jurisdiction.

Section 19. Headings

This Agreement shall not be interpreted by reference to any of the titles or headings to the sections or paragraphs of this Agreement, which have been inserted for convenience purposes only and are not deemed a part hereof.

Section 20. Severability

If any provision of this Agreement or the application thereof to any person or situation shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable, shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

Section 21. Cooperation.

21.1 Each party hereby agrees to cooperate with the other parties hereto in every reasonable manner and to the fullest extent reasonably requested by the other, as appropriate, to enable the purposes of this Agreement.

Section 22. Entire Agreement

22.1 This Agreement and its attachments constitute the entire agreement between Contractor and City, and all negotiations and oral understandings between the parties are merged herein.

22.2 No modification, amendment or alteration in the terms or conditions of this Agreement shall be effective unless contained in a written document executed with the same formality as this Agreement.

Section 23. Waiver

23.1 The waiver by either party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement shall not be construed as a waiver of any future or continuing similar or dissimilar failure.

Section 24. Notices

Whenever either party desires to give notice to the other, it must be given by written notice, sent by certified United States mail with return receipt requested or hand delivered. Unless otherwise changed after providing proper Notice, the parties designate the following as the respective places for giving of notice:

For Contractor: **Calvin Giordano & Associates, Inc**. - 1800 Eller Drive, Suite 600
Fort Lauderdale, FL 33316

For City: **City of Dunwoody** - P.O. Box 888074 - Dunwoody, GA 30356
Temporary Offices: 400 Northridge Road; Suite 1250, Atlanta, GA 30350

Section 25. Assignability

Contractor shall not assign any of the obligations or benefits imposed hereby or contained herein, without the written consent of the City, which consent must be evidenced by a duly passed Resolution. This contract for services is partially and/or fully assignable by the City on ninety (90) days notice to Contractor. No assignment shall release the Contractor from performance of any duty, obligation, or responsibility.

AGREEMENT BY AND BETWEEN CONTRACTOR AND THE CITY OF DUNWOODY FOR CONTRACT SERVICES AS SET FORTH HEREIN.

IN WITNESS WHEREOF, the parties hereto have caused their respective agents to execute this instrument on their behalf, at the times set forth below.

CONTRACTOR

_____ _____
By: DATE

ATTEST

_____ _____
DATE

CITY OF DUNWOODY

_____ _____
By: Ken Wright DATE
Mayor

Approved as to form and legal sufficiency subject to execution
by the parties

_____ _____
By: DATE
City Attorney

Exhibit A
Scope of Services

Financial and Administrative Services
Dunwoody, Georgia

Scope of Work
To Provide City Services

CONTRACT Number 2008.001

December 15, 2008

SECTION 1 – SCOPE OF SERVICES

1.1 General

Project Description

Beginning on January 1, 2009 all services required by this CONTRACT will begin under the direct operation and control of the newly formed City of Dunwoody at the direction of the Mayor, Council, and City Manager.

Contractor shall be responsible for coordination of moving all Financial and Administrative Service Contractor-related equipment and personnel from the temporary City Hall location at 400 Northridge Road; Atlanta, GA to the permanent City Hall location (TBD) within the city limits of Dunwoody.

On December 1, 2008 the following are required:

- Accounting and purchasing systems shall be required, along with monthly financial reporting.
- Revenue Collection for beer, wine and alcohol is in progress. The City has retained the service of E2Assure for these services. All other 2008 revenue requirements shall be started and be completed by December 31, 2008.
- Receptionist, and additional support as needed, to answer phones and direct telephone calls to the appropriate City employee or Contractor.
- Receptionist is to greet visitors to City Hall and provide proper customer service.
- Telephone system is to be operational and Contractor is to have been fully trained on the system prior to December 1.
- The Contractor shall be responsible for the coordination and management (Office Manager) of the office space with the Landlord.
- The Contractor shall be responsible to implement good practices of customer service for all visitors, staff and telephone operations.
- Start the records retrieval from DeKalb County and establish a records management program.
- Human Resource functions to support the recruiting, payroll, benefits, health insurance and other City specific human resource functions as required by State and Federal law.
- All items required by State law.

On January 1st, 2009 Contractor shall have in place all personnel available to staff the services required by this RFP and under the direct operation and control of the newly formed City of Dunwoody at the direction of the Mayor, Council, and City Manager.

The following items shall be considered the highest priority for the initial implementation of the city on January 1, 2009:

- Revenue Collection – establish process and system to collect all City revenue in a timely manner.
- Collection of taxes, assessments, fees, charges, grants, etc.
- Preparation of monthly financial reports
- Complete Accounting System in place in accordance with RFP
- Accounts Payable and Receivable fully operational
- Selection of Contractors for Purchasing
- Assist in the selection, recommendation and purchase of IT software/hardware by the City.
- Finalize a plan on retrieving all documents from DeKalb County and implement the plan.
- Human Resources functions to support hiring of City personnel and police force.
- All items required by State law

The Contractor shall read and acknowledge the Mission, Vision, and Values Statements for the City of Dunwoody and provide services which are in accordance with same. The Contractor shall understand and agree to comply with the Mission, Vision, and Values Statements. The statements are as follows:

Mission Statement
The mission of the City of Dunwoody is to provide the highest quality of life for those who live, work or play in our community and to foster an environment where business can prosper. We will serve all stakeholders in a transparent manner with resourceful, efficient, progressive and professional leadership.

Vision
Dunwoody will provide quality service to our citizens and support the largest economic engine in the Southeast by carefully and thoughtfully planning. We will be inventive, transparent and embrace responsible progress which is tempered by our rich history and our desire to maintain a small community atmosphere. Dunwoody is a community where activities are centered around the family, our schools, our churches and synagogues, and our beautiful parks.

Values
Goals
To make Dunwoody a better community, built on mutual respect and trust and to promote and maintain the highest standards of personal and professional conduct for all involved in City government – elected officials, City staff, volunteers, and members of the City's boards, commissions and committees. Contractor shall also abide by the City Ethics Policy as maintained in the City Ordinances.

1.2 Scope of Work

Financial and Administrative Services

REQUIRED SERVICES

General

The services required for which this CONTRACT is being issued shall include but not be limited to those outlined in this Exhibit.

The intent of the Contract is that the Contractor assumes full responsibility for the structure, planning, and implementation necessary to provide the required services to the City. Where the Contractor anticipates needs that may occur which are not specifically set forth hereunder, the Contractor is expected to identify with specificity those needs as part of its CONTRACT. The scope of work under this CONTRACT is to be in conformance with the overall Finance and Administrative Services Organizational Chart as defined in Exhibit "B".

Each of the services below shall include, as a material provision thereof, the attendance as necessary and/or requested of any and all meetings of the City Council to discuss and/or make recommendations regarding any matters within the purview of the requested services.

Whenever the requirement calls for the Contractor to develop and/or implement a policy, it shall be material provisions thereof that such policy shall be made in furtherance of the directives as provided to the Contractor by the City Finance & Administration Director and the City Manager. It is the intent to outline below

general requirements of the Contractor in the production of work at the direction of the City Finance & Administration Director.

1.3 FINANCE AND ACCOUNTING

1.3.1 Revenue Administration

1.3.1.1 It is the intent of the City of Dunwoody that the Contractor takes aggressive and proactive steps to collect any and all revenues due to the City in order to ensure timely and complete collection of the City's revenues. All 2009 revenues which have a 2008 deadline MUST be completed in accordance with the deadline. **No revenue must be lost due to missing a deadline**. Financial Services shall include, but not be limited to the following:

1.3.1.2 Coordinate with local, state and federal agencies charged with collection and disbursement of taxes, assessments, fees, charges and other impositions to ensure full and timely collection of all monies due to the City.

1.3.1.3 Assist the City Finance & Administration Director with the collection and disbursement of taxes, assessments, fees, charges, grants, and other impositions to ensure full and timely collection of all monies due to the City. Alcohol license volume is expected to be around 100 licenses and approximately 2000 business licenses. Contractor shall include in their fee structure all allowances necessary in the event the license volume is higher than expected.

1.3.1.4 Administer the fees, charges and their miscellaneous revenues pertaining to utilities, private enterprises and individuals as they interface with the City programs.

1.3.1.5 Recommend enforcement actions to the City Finance & Administration Director to induce payment in accordance with the City's policies and procedures.

1.3.1.6 Prepare monthly financial reports as directed by the City Finance & Administration Director.

1.3.2 Capital Program Administration:

1.3.2.1 Coordinate with the City Finance & Administration Director the capital needs of the City.

1.3.2.2 Assist in obtaining financing if necessary and maintain proper fund accounting procedures.

1.3.2.3 Assist in the administration and implementation of capital program financing.

1.3.3 Investment Services

1.3.3.1 Assist in investing City funds per approved City of Dunwoody policies.

1.3.3.2 Produce timely reports on the performance of the City's investments as directed by the Finance and Administration Director.

1.3.4 Fund Accounting

1.3.4.1 Establish and maintain a Fund Accounting System in accordance with Governmental Accounting Standards Board (GASB), Generally Accepted Accounting Principles (GAAP), the Uniform Accounting System prescribed by Department of Community Affairs and the rules of the Georgia Department of Audits and Accounts.

1.3.4.2 Prepare reports for Department of Community Affairs and State Revenue Department and distributions.

1.3.4.3 Prepare all other financial reports as required by applicable law and accounting standards.

1.3.5 Accounts payable/receivable

1.3.5.1 Install and administer the purchase order system and make timely payment of all invoices.

1.3.5.2 Coordinate tax collection, franchise fees, utility taxes and all other receivables to ensure full and timely receipt of all receivables.

1.3.6 General fixed asset accounting

1.3.6.1 Account for assets constructed by or donated to the City for maintenance.

1.3.6.2 Inventory and maintain a list of all City property in accordance with GASB #34 and the Georgia Department of Audits and Accounts.

1.3.7 Budgeting

1.3.7.1 Assist the City Finance & Administration Director with annual budgeting and budgeting maintenance per GASB and Governmental Finance Officers Association (GFOA) standards.

1.3.7.2 Liaison with all City departments on budget preparation and administration.

1.3.7.3 Provide material for and attend all budget meetings, hearing and public meetings.

1.3.7.4 Coordinate with other departments and governmental entities as necessary.

1.3.8 Forecasting

1.3.8.1 Assist City Finance & Administration Director with detailed financial forecasts and analyses.

1.3.8.2 Identify trends and analyze their impact upon City's finances, operations and capital.

1.3.8.3 Recommend policy and action recommendations.

1.3.8.4 Coordinate with other departments and governments.

1.3.9 Comprehensive Annual Financial Report (CAFR)

1.3.9.1 Prepare the Annual Financial Report for Units of Local Government, in accordance with Generally Accepted Accounting Principles as defined by the Government Finance Officers Association.

1.3.9.2 Strive for GFOA budget and CAFR annual awards.

1.3.10 Risk Management

1.3.10.1 Recommend and advise the City Finance & Administration Director of the appropriate amounts and types of insurance and assist with procuring all necessary insurance.

1.3.10.2 Process and assist in the investigation of insurance claims, in coordination with the City Attorney.

1.3.10.3 Develop and maintain a risk management claims review procedure, in coordination with the City Finance & Administration Director and City Attorney.

1.3.10.4 Review insurance policies and coverage amounts of City Contractors and make recommendations for changes.

1.3.11 Purchasing

1.3.11.1 Recommend to the City Finance & Administration Director and assist in the implementation of procurement policies and procedures.

1.3.11.2 Assist in selection of vendors.

1.3.11.3 Participate in county and state level purchase plans.

1.3.11.4 Prepare CONTRACT's, as directed by the City Finance & Administration Director.

1.3.11.5 Prepare and process requisitions.

1.3.11.6 Ensure that transparency and impartiality are hallmarks of the procurement process of the City of Dunwoody.

1.4 INFORMATION TECHNOLOGY

The City will own all hardware, software, and data. As new requirements arise, purchases must be authorized by the city and will become City property. The City anticipates 25 to 30 staff and Contractor personnel to be located within the City Hall and a Police Force of 35 to 40 personnel.

1.4.1 City Website

1.4.1.1 Design and maintain the City website including, but not limited to, City contact information, statistics, history, departmental and facility description, Council meeting schedule, meeting agendas, agenda packages, minutes, codes, ordinances, notices, pictures, and multimedia.

1.4.1.2 Publish City provided GIS database interface on the website.

1.4.2 Information Technology

1.4.2.1 Assist with the purchase of, install, configure, and maintain hardware and software sufficient to efficiently satisfy all City needs. Hardware includes, but is not limited to, desktop computers, laptop computers, peripherals, cell phones, mobile devices, copiers, printers, scanners, faxes, plotters, cameras, projectors, and audio recorders. Software includes, but is not limited to, systems for accounting, human resources, work order tracking, public works, capital planning, court management, police force, and geospatial information system (GIS) integration.

While the City owns the hardware and software, the Contractor must provide the expertise for planning, installation, configuration, and maintenance of all City IT systems to ensure City needs are met, systems are interoperable, and continuity is maintained during turnover of City personnel and Contractors. Boyken will provide these functions to establish initial services. One example is the setup of Peachtree Accounting to establish and initial financial system. The Contractor will be responsible for planning, installing, configuring, migrating data, and maintaining the final financial system.

1.4.2.2 Manage the inventory and licensing of all IT assets and report discrepancies to the City Finance & Administration Director.

1.4.2.3 Maintain software and hardware interoperability among users and systems. The local area network is TCP/IP based and IPV6 compatible. The computer network is based upon Microsoft Windows servers including Exchange and SQL. Computers are Microsoft Windows based and are loaded with the Microsoft Office Professional suite.

1.4.2.4 Maintain a three year replacement program for all computers and equipment.

1.4.2.5 Provide all users with email for internal and external communications, common contact lists, and scheduling.

1.4.2.6 Archive and retrieve all emails to comply with open records requests.

1.4.2.7 Provide for the centralized, electronic storage of the City's documents.

1.4.2.8 Ensure data security and integrity with a nightly backup (with offsite storage) and the ability to restore from a central location.

The backup site does not have to be hot. A reasonable expectation for the restoration of documents and emails is two hours and restoration of services within four hours.

1.4.2.9 Provide Internet access, anti-virus, anti-malware, anti-spam, and patch management for all users.

1.4.2.10 Provide firewall protection for the local area network.

1.4.2.11 Provide virtual private network connectivity for remote users.

1.4.2.12 Maintain local area network switches, cabling, and patch cords for communications, networking, and data sharing.

1.4.2.13 Administer network accounts and resource level security to systems, services, applications, databases, email, documents, and printers.

1.4.2.14 Administer network services including, but not limited to, Active Directory, DHCP, DNS, RPC, IIS, and Print.

1.4.2.15 Administer the Microsoft SQL server and provide connectivity to City applications requiring database storage and services.

1.4.2.16 Coordinate the procurement, installation, configuration and maintenance of all databases required of municipalities in the State of Georgia by any governmental agencies.

1.4.2.17 Upon request, provide schema and any and all database data in a standard SQL format for importation into a non Contractor database.

1.4.2.18 Security Component for I.T.

The CONTRACTOR shall maintain numerous security components that must be addressed including: ensure data security and integrity with nightly backups; provide anti-virus, anti-malware, anti-spam, and patch management; provide firewall protection for the local area network; provide a virtual private network connectivity for remote users; and administer network accounts and resource level security to systems, services, applications, databases, email, documents, and printers.

The Contractor shall provide technical solutions such as SSL to secure all Internet communications to protect the privacy of the citizens of Dunwoody and the integrity of its software systems. Additionally, the Contractor will be responsible for ensuring security for new City software systems including, but not limited to, finance, personnel, municipal court, and public safety.

1.4.3 Telephone System

1.4.3.1 Assist with the purchase of, install, configure, and maintain the phone system including the City Hall, Police Force, and remote connections such as parks to satisfy all needs of the City.

1.4.2.2 Maintain switches, cabling, and patch cords for all users.

1.4.3.3 Administer the phone system including, but not limited to, user configuration, phone features, hunt groups, auto-attendant, voice mail, facsimile, and conference bridges.

1.4.3.4 City telephones shall be manned from 7:30am until 6:00pm, Monday through Friday. After 6:00pm and on holidays, a voicemail recorder may be used.

The contractor shall provide adequate staff to manage incoming calls continuously after December 1, 2008 at 7am; furthermore this staff must be properly trained on managing the telephone system.

1.5 CONTRACT ADMINISTRATION AND PHYSICAL PLANT

1.5.1 Contract Administration

1.5.1.1 Assist the City Finance & Administration Director in negotiating City contracts, as directed by the City Finance & Administration Director.

1.5.1.2 Advise the City Finance & Administration Director on the status of negotiations as well as contract provisions and their impacts on the City.

1.5.1.3 Make recommendations on contract approval, rejection, amendment, renewal, and cancellation, as directed by the City Finance & Administration Director.

1.5.1.4 Provide contract administration and supervision of all contracts, as directed by the City Finance & Administration Director.

1.5.1.5 Ensure ongoing protection of City interests.

1.5.1.6 Ensure compliance with all laws related to bidding, contracting and purchasing as set forth in the State of Georgia.

1.5.1.7 Assist, create and coordinate any necessary grant applications and submissions as directed by the City Finance & Administration Director.

1.5.2 Physical Office Requirements

1.5.2.1 The City of Dunwoody shall provide office space for all full time office based employees proposed under this CONTRACT. The City of Dunwoody shall also supply furniture, fixtures and equipment for all city offices and employees. The Contractor shall assist the City Finance & Administration Director with maintenance of the office space and furnishings, fixtures, equipment and supplies including but not limited to procurement, repairs, cleaning, and maintaining good working order of all facilities commensurate with local governmental standards. This provision shall apply to all city offices including offices of the City Manager and associated staff (City Clerk, Municipal Court Clerk, City Attorney, Communications Director, etc.), City Finance & Administration Services, Community Development Services, Public Works Services and Public Safety Services. This provision, however, shall not apply to landscaping or maintenance of any City rights of way or land.

1.6. ADMINISTRATIVE AND FACILITY SERVICES

1.6.1 Policy Implementation

1.6.1.1 Assist City Finance & Administration Director with the research of current and likely future trends impacting the city.

1.6.1.2 Assist City Finance & Administration Director in preparing administrative and financial analysis of all available options.

1.6.1.3 Attend all City Council meetings, hearing and public meetings, as directed by the City Finance & Administration Director.

1.6.1.4 Assist City Finance & Administration Director with identification of significant policies and analyze their administrative and financial impacts.

1.6.1.5 Prepare plans and procedures to ensure implementation of the City Council's policies and directives, as directed by the City Finance & Administration Director.

1.6.1.6 Prepare status reports to advise the City Finance & Administration Director of the progress and results of public policy implementation.

1.6.2 Daily Communications

1.6.2.1 Respond to all inquires as directed.

1.6.2.2 Ensure compliance with all Open Records and Open Meetings laws as set forth in the Official Code of Georgia Annotated (O.C.G.A.).

1.6.3 Customer Service

1.6.3.1 Provide first tier response to customer inquiries.

1.6.3.2 Establish response protocols and direct customers to the appropriate party and set effective standards for response times.

1.6.4 Departmental Support

1.6.4.1 Provide overall administrative support of all City functions and departments.

1.6.5 Support of City Clerk

1.6.5.1 Support City Clerk in the recording and transcribing of all City Council meetings, hearings, work sessions and public meetings.

1.6.5.2 Assist City Clerk during Council meetings, take attendance, record motions and votes taken, and swear in witnesses of others presenting testimony to the Council.

1.6.5.3 Assist City Clerk in the review of documents to be presented to the Council, as directed by the City Finance & Administration Director.

1.6.5.4 Perform City Clerk's responsibilities upon City Clerk's absence.

1.6.5.5 Assist City Clerk in retaining public records and making them available for inspection by the public, in conformance with Georgia Law.

1.6.5.6 Assist the City Clerk in preparing all Council meeting agendas.

1.6.5.7 Assist the City Clerk in publishing all appropriate public notices.

1.6.5.8 Assist the City Clerk in serving administrative needs of any and all Boards, Authorities or other entities established by the City for the furtherance of City objectives.

1.6.6 Records Management

1.6.6.1 Retrieve Finance & Administrative documents related to the City of Dunwoody and its properties from DeKalb County. Establish a filing, retrieval and storage system for these documents both in electronic and hard copy formats.

1.6.6.2 Implement and maintain a records management system to facilitate creating and saving all documents into the system for archiving and retrieving these documents.

1.6.6.3 Protect integrity of all public records in accordance with the requirements of State law.

1.6.6.4 Promote sharing of information and collaborative work between all City staff.

1.6.6.5 Provide and maintain access to data to other City contract providers as necessary.

1.6.7 Public Relations

1.6.7.1 Assist in continuous dialog and communications with City residents with timely updates, as directed by the City Finance & Administration Director.

1.6.7.2 Promote City policy, programs and achievements.

1.6.7.3 Serve as a liaison with residents, civic groups and other governments, as directed by the City Finance & Administration Director.

1.6.7.4 Document important City events for future use in City developed publications.

1.6.7.5 Communications: Development of a Brand for the City Branding is not included in this CONTRACT.

1.6.8 Annual Reports

1.6.8.1 Assist the City Finance & Administration Director with the development of an Annual Report.

The term "assist" relates to the overall function of the selected Contractor to aid in the activities performed by the City Finance & Administration Director (such as research, decision making, follow-up, implementation, etc.) "Assist" in this reference is not meant to be interpreted as a specific full or part-time position dedicated to assisting the City Finance & Administration Director.

1.6.8.2 Provide effective written and non written communications to reflect the year's performance and assist the City Finance & Administration Director with informing residents of the City's actions and achievements.

1.6.8.3 Produce, print and deliver the annual reports as directed by the City Finance & Administration Director.

1.6.9 City Newsletter

1.6.9.1 Assist City Finance & Administration Director with the production, distribution and delivery of the City newsletter as required.

1.6.10 Support of Court Services

1.6.10.1 Provide support to the Municipal Court Clerk as required.

1.6.11 Election Support

1.6.11.1 Assist in the coordination of municipal and special elections as required, including but not limited to addressing polling station issues, preparation of ballot questions, or other related issues arising from election matters.

1.6.12 Human Resources

1.6.12.1 Ensure proper functioning of recruiting, payroll, benefits, health insurance and other City specific and general law provided human resources functions.

1.6.12.2 Establish a Code of Conduct for personnel that emphasize the responsibility of the staff to be professional, patient and responsive under all circumstances.

1.6.12.3 Establish and implement with all employees an Employee Policies and Procedures Manual, which shall include, but not be limited to, policies and procedures on carrying out duties to the City, consequences of noncompliance to policies, and functions and roles of the employees.

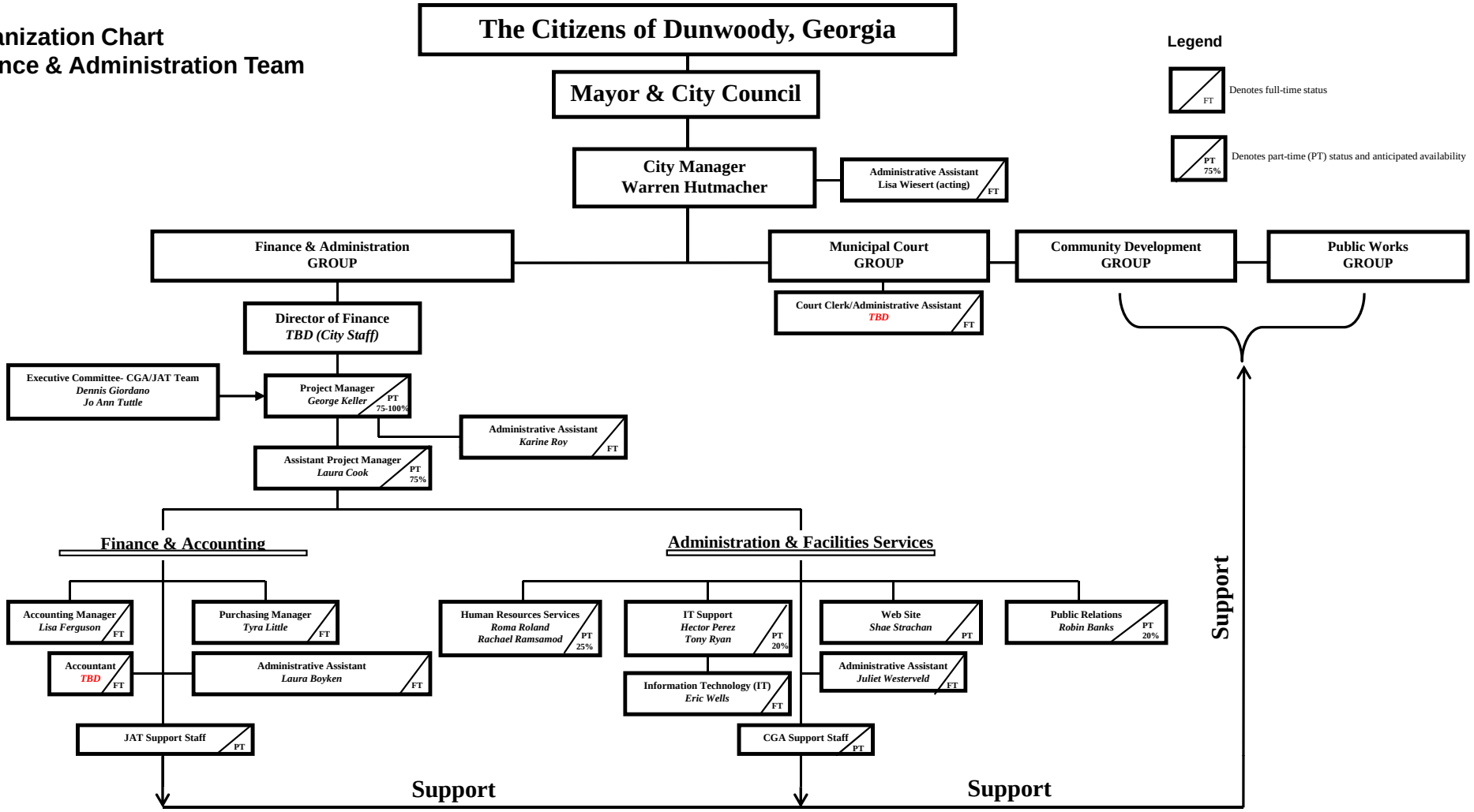
1.6.12.4 The City anticipates having approximately 8-10 employees, 30-45 police related staff plus Contractor staff.

1.6.13 HIPAA

1.6.13.1 Ensure that all City systems and procedures meet the requirements of Health Insurance Portability and Accountability Act (HIPAA).

Exhibit B
Organizational Chart

Organization Chart
Finance & Administration Team



Revised December 12, 2008

Exhibit C
Schedule of Values

CALVIN GIORDANO & ASSOCIATES, INC.

SCHEDULE OF VALUES

DATE: 12/11/2008
PROJECT NAME: City of Dunwoody
PERIOD TO/FROM: 11/26/08 - 12/31/09

	SCHEDULE OF VALUES			
Month	Finance, Purchasing, Accounting	Information Technololgy	Web Design	Total
December 2008	$ 115,715.38	$ 23,353.85		$ 139,069.23
January 2009	$ 115,715.38	$ 23,353.85		$ 139,069.23
February 2009	$ 115,715.38	$ 23,353.85		$ 139,069.23
March 2009	$ 115,715.38	$ 23,353.85	$50,000.00	$ 189,069.23
April 2009	$ 115,715.38	$ 23,353.85		$ 139,069.23
May 2009	$ 115,715.38	$ 23,353.85		$ 139,069.23
June 2009	$ 115,715.38	$ 23,353.85		$ 139,069.23
July 2009	$ 115,715.38	$ 23,353.85		$ 139,069.23
August 2009	$ 115,715.38	$ 23,353.85		$ 139,069.23
September 2009	$ 115,715.38	$ 23,353.85		$ 139,069.23
October 2009	$ 115,715.38	$ 23,353.85		$ 139,069.23
November 2009	$ 115,715.38	$ 23,353.85		$ 139,069.23
December 2009	$ 115,715.48	$ 23,353.85		$ 139,069.33
Total Contract Value	$ 1,504,300.00	$ 303,600.00	$50,000.00	$ 1,857,900.00

Exhibit D
Letter of Agreement

Calvin, Giordano & Associates, Inc.
EXCEPTIONAL SOLUTIONS

December 12, 2008

Mr. Warren A. Hutmacher, City Manager
City of Dunwoody
400 Northridge Road, Suite 1250
Dunwoody, Georgia 30350

Re: Calvin, Giordano & Associates / City of Dunwoody Services Agreement

Dear Mr. Hutmacher:

Consistent with our discussion and understanding on the morning of December 11, 2008, regarding the City of Dunwoody's services agreement for Finance and Administration, please accept the following responses. This correspondence serves to further modify the letters of November 21 and 24, 2008 regarding the same agreement and fee proposal.

1. The previous fee proposal for the additional Records Clerk position in support of the Municipal Court Clerk is hereby modified from the previous amount of $130,000 to $100,000; recognizing a lower base salary requirement.
2. The modified Schedule of Values for the 13 month period of December 1, 2008 through December 31, 2009 is attached as agreed to. The $50,000 fee for comprehensive Web site design services will be paid in lump sum upon completion and acceptance by the City, prior to April 2009. The reference to the flat fee of $30,000 for web site maintenance in 2010 and 2011 has been removed, understanding that actual costs for hosting and upgrades will be paid by the City to CGA at direct cost. Regular posting of information on the City Web Site will be conducted as part of the ongoing IT service fee.
3. A provision is be added to the services agreement which states the following concerning the hiring of CGA/JAT employees by the City of Dunwoody.
   "The City of Dunwoody shall not hire any CGA/JAT employee without prior written notice of 150 days, before the start date of employment with the City."
4. The proposed services agreement, with the above described modifications, is understood to include all functions and responsibilities described under the Scope of Services, for the agreed upon fee schedule, as amended.

Should you require any additional information or discussion, please contact me at 954-921-7781. Thank you again for this opportunity to serve with the City of Dunwoody.

Sincerely,

Dennis Giordano
President

Enc: Attachments, Schedule of Values & Organizational Chart

Engineering
Construction Engineering & Inspection
Municipal Engineering
Transportation Planning & Traffic Engineering
Surveying & Mapping
Planning
Landscape Architecture & Environmental Services
Construction Services
Indoor Air Quality
Data Technologies & Development
Emergency Management Services
Building Code Services

1800 Eller Drive, Suite 600
Fort Lauderdale, FL 33316
Phone: 954.921.7781
Fax: 954.921.8807

www.calvin-giordano.com

STATE OF GEORGIA
COUNTY OF DEKALB

ORDINANCE NO. 2008-XX-XX

AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 25, WATER, SEWER AND SEWAGE DISPOSAL, PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF DUNWOODY, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 25 (WATER, SEWER AND SEWAGE DISPOSAL) AS ATTACHED HERETO AND INCOPORATED HEREIN

WHEREAS: The Ordinance relating to Chapter 25, Water, Sewer and Sewage Disposal, is hereby adopted and approved, and is attached hereto as if fully set forth herein; and,

WHEREAS: This Ordinance is being adopted pursuant to the Intergovernmental Agreement between the City of Dunwoody and Dekalb County, as approved on December 1, 2008, and shall be designated as Chapter 25 of the Code of Ordinances of the City of Dunwoody, Georgia; and

WHEREAS: This Ordinance shall become effective upon its adoption.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF DUNWOODY HEREBY ORDAINS that Chapter 25, Water, Sewer and Sewage Disposal, is hereby adopted and approved as part of the Code of Ordinances for the City of Dunwoody, Georgia. Any ordinance in conflict with this ordinance is hereby repealed.

SO ORDAINED AND EFFECTIVE this the ____ day of _____, 2008.

Approved:

_____

Ken Wright, Mayor

Attest:

_____

Joan Jones, Acting City Clerk
(Seal)

Approved as to Form and Content:

_____

Brian Anderson, City Attorney

Chapter 25: Water, Sewers and Sewage Disposal

Article I: Dekalb County Water System

Division 1: Generally

Section 1: Definitions

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

Agreement means a contract for water service between Dekalb County and the City of Dunwoody.

Approved means accepted in writing for planning, installation or activation by the Director.

Appurtenance means an item attached to or made part of a water main to divert or control flow, excluding taps and waterlines.

As-built design means a graphical presentation of the characteristics and scope of work performed which has been prepared by the engineer and approved by Dekalb County.

Authorized person means a regular and designated employee of Dekalb County or its legal agent.

Backflow means the flow of water or other liquids, mixtures, gases or other substances into the distributing pipes of the potable water supply from any source or sources.

Backflow prevention device means any effective device, method or construction approved by Dekalb County, used to prevent backflow into a potable water system. The type of device used should be based on the degree of hazard, either existing or potential.

Back-siphonage means a form of backflow due to a negative pressure within a potable water system.

Back pressure means a form of backflow due to a negative pressure within a potable water system.

Billing period means the time interval between issuance of statements for service.

Commercial customer means a person receiving service at premises where such person engages in nonmanufacturing business operations, as licensed by the City.

Commodity charge means a billing to a customer reflecting the volume of water delivered.

Comprehensive plan means the currently adopted future land use plan for the City of Dunwoody.

Construction cost means the contractor's expense in constructing any additions or modifications to the water system.

Contractor means a person with whom Dekalb County or a developer contracts for execution of work.

Cross-connection means any actual or potential connection or structural arrangement between the public potable water system or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, and other temporary or permanent devices through which or because of which backflow can or may occur are considered to be cross-connections.

Customer means a person receiving water service from Dekalb County.

Department means the Public Works Department or such other department as may hereafter be designated to enforce this Article.

Developer means a person engaged in building residential subdivisions, commercial or industrial complexes.

Development means any action in preparation for construction activities which results in alteration of either land or vegetation. This definition shall not apply to individual single-family dwelling unit construction within a subdivision recorded subsequent to July 28, 1970, or to alteration, modification or additions to single-family dwelling units except for, in either case, individual single-family lots where site plans for each are required by special designation on the recorded plat or such lots are located within the intermediate regional floodplain.

Director means the Public Works director of Dekalb County, or when a department other than the public works department is designated to enforce provisions of this Article, the director of such department.

Dwelling means a domicile intended for one (1) or more families.

Dwelling unit means that portion of a dwelling in which only one (1) family resides.

Engineer means a professional engineer practicing civil-sanitary engineering who is licensed by the State.

Extension means an addition to the water system consisting of mains six (6) inches or larger in diameter and all appurtenances required or accepted by Dekalb county.

Fire hydrant means a system appurtenance for connection and flow control to temporary fire lines.

Fire line service means an unmetered or metered permanent connection to the system restricted to fire control use.

Guarantee deposit means a sum of money specified by Dekalb County deposited by a prospective customer as guarantee that bills for service will be paid.

Health hazard means an actual or potential threat of contamination, or pollution of a physical or toxic nature to the public potable water system or the consumer's potable water system to such a degree of intensity that there would be a danger to health.

Hearing means a public meeting called at the discretion of Dekalb County with appropriate public notice to evaluate merits of a system extension or modification.

Industrial customer means a person engaged in manufacture or processing of goods or materials, as licensed by Dekalb County.

Inspection means an action by an authorized person who may enter a customer's premises to inspect the water system and any plumbing connected thereto for their compliance with this Chapter.

Inspection fee means a charge to a customer, contractor, developer or other person for inspecting extensions or existing or new connections to the water system for their compliance with this Chapter.

Meter means a manufactured unit which is part of the system, used to measure and totalize volume of water flowing from the system into a customer's piping system.

Miscellaneous service means any noncontinuous service for which charges are set.

Off-site mains means system water mains installed outside of private property or tracts planned for development.

On-site mains means system water mains installed in easements or dedicated rights-of-way within private property or tracts planned for development.

Oversized mains means water mains sized for capacity in excess of that required to meet the short-term needs that prompted extension.

Planned extension means an extension of the water system by the county done as a programmed fulfillment of a step in its long-range planning process.

Plans means engineering drawings and specifications for extension of the system or for connections thereto, prepared by an engineer or by Dekalb County.

Plumber means a person licensed to render plumbing services in the City.

Plumbing means piping and associated fixtures on a premises that are connected in any way to the water system.

Plumbing fee means that fee paid for the issuance of a plumbing permit.

Potable water means water meeting the requirements of the latest United States Public Health Service set of regulations, Drinking Water Standards, for use in control of water quality for interstate carriers.

Premises means building, house, store, plant or any other place where people live, work or congregate.

Private water system includes the water source, delivery piping and all appurtenances, excluding building plumbing, that serve more than one (1) dwelling unit or a commercial or industrial premises as a potable water supply.

Property owner means a person holding legal title to a premises or an authorized representative thereof.

Sanitary sewer means a pipe which carries sanitary sewage and excludes groundwaters, surface waters and stormwaters.

Service means the acts and procedures of supplying water to system customers.

Service charge means billing for recurring service that is provided, whether service is used or not.

Service cock means the valve placed on the service connection which is used to turn on and turn off the flow of water from the water main to the premises.

Service connection means the procedure of making service available to a customer, which includes the service line, water meter, service cock and the tap on initial installation; subsequent service connections will normally only require a water meter.

Service connection charge means a charge made by Dekalb County for the service connection including the tap fee when performed.

Service line means the waterline from a tap to and including meter and service cock if they are required.

Standard Methods refers to Standard Methods for the Examination of Water and Wastewater, latest edition, published by APHA, AWWA, and WPCF.

Sterilize or *sterilization* means the procedure of disinfecting water mains, service lines, plumbing and appurtenances by Dekalb County-approved methods.

Subdivision means any tract of land, divided, planned or developed as a subdevelopment with two (2) or more residences, buildings or building sites.

Surge means a sudden pressure change in the water system caused by rapid valve operation.

Tap means the procedure and result of connecting a service line or water main to an existing or new water main.

Tap fee means a charge made by Dekalb County for making a tap on its water main.

Unsanitary means unclean, unhealthy or harmful to the public health.

Valve means a plumbing appurtenance used to control flow in a water main or service line.

Water main or line means a pipeline in the water system.

Water system or *system* means the interrelated network for purification and delivery of drinking water owned by Dekalb County, including all water mains, service lines and appurtenances.

Section 2: Cross-connection survey team

The cross-connection survey team shall work under the direction of the Department, and shall have authority for implementation of the cross-connection requirements of Dekalb County. It shall have responsibility to see that backflow prevention devices are installed where required, tested for proper functioning upon completion of installation, and periodically tested for proper functioning after installation.

Section 3: Feasibility of providing service

Water service and fire protection shall be provided in the order of application and only if determined to be feasible and consistent with sound system operation.

Section 4: Water quality standards; inspection; record of treatment operations

The system shall supply potable water meeting current drinking water standards established by Federal, State and local authorities. The system shall be open to inspection and

tests by such authorities upon reasonable notice. Dekalb County shall maintain a record of water treatment operations available for public inspection by appointment with the Director.

Section 5: Continuity of service; consistency of quality

The City and Dekalb County shall make every reasonable effort to provide continuous service and potable water. The City and Dekalb County do not warrant that system malfunctions will not result in service interruptions or pressure changes, nor do they guarantee that water quality will not vary, nor do they guarantee that it will be directly suitable for special commercial or industrial processes. Neither the City nor Dekalb County assumes any liability for damages caused by varying pressure, interrupted service or water quality changes.

Section 6: Emergency restriction of service

(a) The City and Dekalb County reserve the right to shut off or diminish flow in system mains due to repairs, emergencies or water shortage. Notice shall be given in the event of water shortage or prolonged routine maintenance interruptions of service. Notice is not required for emergency diversions of water or emergency repairs.

(b) During periods of dry weather, upon determination by Dekalb County that a water shortage or potential water shortage exists to the extent that Dekalb County water system may not have sufficient flows for domestic service and fire protection, the City or Dekalb County may issue such warning to the public as appropriate to effect conservation measures or the City or Dekalb County may by order or ordinance direct that unessential water usages, such as lawn watering and automobile washing, may be restricted to certain hours of the day or not permitted at all until the shortage or potential shortage no longer exists. Persons shall not violate such an order or ordinance.

(c) Any person who does anything prohibited or fails to do anything required either by this section or by an order or ordinance of the City or Dekalb County, upon citation and conviction of the violation in a court of competent jurisdiction, including the City of Dunwoody Municipal Court, shall be subject to the penalties in accordance with this section and Chapter 1 of the Code of the City of Dunwoody. Where any offense or violation continues from day to day, each day's continuance thereof shall be deemed a separate offense.

(d) For a first violation of the provisions of this section or of an order or ordinance of the City or Dekalb County pursuant to this section, the Director of Watershed Management of Dekalb County or designee shall issue a written warning of the violation and if the violation is not corrected immediately, a notice of violation shall be issued. If the first violation presents an imminent threat to public health or safety, the Dekalb County Director of Watershed Management, his designee or the City of Dunwoody Code Enforcement shall issue an immediate citation in lieu of a written warning.

(e) Upon conviction of any violation of this section or of an order or ordinance of the City or Dekalb County pursuant to this section, the court shall impose a fine of not less than two

hundred and fifty dollars ($250.00) in addition to any other penalty or punishment imposed by the court.

(f) Upon a second and subsequent conviction within a twelve-month period measured from the date of the first conviction of any violation of this section or of an order or ordinance of the City or Dekalb County pursuant to this section, the court shall impose a fine of not less than five hundred dollars ($500.00) in addition to any other penalty or punishment imposed by the court.

(g) Upon a third and subsequent conviction within a twelve-month period measured from the date of the first conviction of any violation of this section or of an order or ordinance of the City or Dekalb County pursuant to this section, the court shall terminate water service to the property where the violation occurred for a period of time to be determined in the discretion of the court, impose a fine of not less than one thousand dollars ($1,000.00) and impose a minimum jail sentence of twenty-four (24) hours.

(h) The penalties provided in this section are not cumulative and shall not prohibit the City or DeKalb County from pursuing any other civil or criminal remedies authorized by this Code, the Dekalb County Code of Ordinances, State, or Federal law.

Section 7: Enlargement, improvement of water supply

Dekalb County may contract for additional water sources to enlarge and improve the water supply. A public evaluation study prior to contracting shall be made to determine cost effectiveness and to assess the impact of substantial improvements.

Section 8: System financing

The system shall be self-sustaining from its revenues, grants and other incomes. Expansions and improvements of service shall be effected using funds in system accounts or by sale of system revenue certificates. The DeKalb County Public Works Department will prepare annual reports of planned expansion and improvement for review by the Dekalb County Board of Commissioners.

Section 9: General maintenance and protection of service policy

Dekalb County shall take all reasonable and necessary measures to protect the water system from contamination and to assure a continuous supply of potable water. Customers and other persons shall observe all procedures promulgated by Dekalb County to meet the above objectives with particular reference to the maintenance and protection procedures contained in this Article.

Section 10: Protection of water sources, storage facilities

No person shall enter the premises of water storage facilities or reservoirs without authorization from the Department. No person shall place any contaminating substances in water sources or water storage facilities.

Section 11: Connections, taps, etc., by authorized persons only

Waterlines shall not be uncovered or tampered with unless authorized by Dekalb County, nor shall any appurtenance of the system be operated except by an authorized person. No service connection shall be made except by an authorized person. No contractor, plumber or other person shall tap any water main without written permission from the Department. Service cocks shall be operated only by a contractor or plumber making repairs on plumbing or waterlines or by an authorized person.

Section 12: Proximity of water lines to sanitary sewers

No sanitary sewer shall be placed within ten (10) feet horizontally of a waterline nor less than three (3) feet above or below a waterline without special protection approved by the Department.

Section 13: Fire hydrant use

Fire hydrants shall not be operated without authorization from Dekalb County, except in case of fire. Use of fire hydrants is classified as temporary service and is subject to all procedures set forth by Dekalb County for such use.

Section 14: Surge protection

Customers shall not employ fast-acting valves on any line or connection thereto without surge protection approved by Dekalb County.

Section 15: Electrical grounding

No new or revamped wiring systems or electrical appliances that may induce shock shall be grounded to the water system or connected thereto. Grounding rods or other devices will be employed.

Section 16: Covering of appurtenances

Pavement or earthwork shall not be placed over any valve or box cover nor shall such appurtenances to the system be rendered inaccessible to Dekalb County.

Section 17: Location, ownership of facilities

The entire water system up to and including meters is the property of Dekalb County, except for other water systems connected by agreement. In no case shall mains or appurtenances be placed outside of public rights-of-way or appropriate easements. Title shall not be conveyed to Dekalb County for mains or appurtenances without simultaneous conveyance of necessary easements or rights-of-way. Title to any water system property or components shall not be conveyed to any person unless Dekalb County approves such to be obsolete, surplus, and not needed in long-range system plans and further provided that Dekalb County receives compensation or credit in amount of fair market value.

Section 18: Inspection of premises; right of entry

(a) Application for water service shall constitute agreement that a customer shall allow Dekalb County inspection of the premises for violation of this Article, maintenance of the system, meter reading, testing, surveys, and inspection of waterline construction. Entry to premises for any purpose other than routine and agreed-upon operations shall be preceded by due notice served as provided in this section.

(b) Due notice shall consist of a certified letter, return receipt requested, being mailed to the person refusing to allow entry. This notice shall require acknowledgement and agreement of that person to allow entry, giving ten (10) days' time after receipt of due notice for this to be made. When due notice is given for purpose of access for surveys or inspection, acknowledgement and agreement to allow entry shall be made within the same ten (10) days and no offense is presumed. Thereafter Dekalb County may issue citations by certified letter for each day of violation now presumed only after issuing a second due notice for violation as outlined above.

(c) Dekalb County and its authorized agents and employees may enter upon any lands in the City for the purpose of making such surveys, soundings, drillings, and examinations as Dekalb County may deem necessary or desirable to accomplish the purposes of planning and engineering water system improvements; and such entry shall not be deemed a trespass nor shall it be deemed an entry which would constitute a taking in a condemnation proceeding, providing that reasonable notice of such entry shall be done in a reasonable manner with as little inconvenience as possible to the owner or occupant of the property, and Dekalb County shall make reimbursement for any actual damages resulting from such entry or indemnify the City for same to the extent permitted by State law.

Division 2: Extensions of Service

Section 1: Planned Extensions to Developed Areas

Dekalb County may, as part of its continuing service to residents, extend water service without petition to developed areas presently obtaining service from other sources. In such cases,

a property owner must tie onto the Dekalb County system if service is available within three hundred (300) feet of the premises' property line after due notice from Dekalb county.

Section 2: Planned Extensions to developing areas

Dekalb County may, as part of its continuing service to residents, extend water service to areas planned for development or in the course of development provided that cost benefits analysis shows projected revenues or cost participation to be sufficient to warrant extension.

Section 3: Incorporation of private systems

Existing water systems in apartment and condominium developments, office complexes and similar developments including subdivision water mains may be incorporated into the Dekalb County water system on approval by Dekalb County. System water mains and appurtenances must meet Dekalb County standards for materials and design. Remedial work costs to meet standards shall be borne by developers, owners or customers using or administering the system prior to conveyance.

Section 4: Requests for installation of water mains on existing City or Dekalb County roads

(a) A request for the installation of a water main by City residents who live on existing City or Dekalb County roads not serviced by the water system shall be presented to the Board of Commissioners of Dekalb County through the Department on petition forms provided by the Department. The petitioner shall agree to pay the service connection charge for each residence prior to installation of the new main for use when the main is complete. This purchase will not be required if the petitioner has previously purchased a meter for the address in the petition.

(b) A maximum of one hundred (100) linear feet of water main will be installed by Dekalb County for each petitioner without charge. If additional footage is required to serve all petitioners, the petitioners shall reimburse Dekalb County for any excess footage at the per-linear-foot charge of an eight-inch line based upon the actual estimated cost of construction. This sum shall be on a pro rata basis or in a specified amount for each petitioner listed on the petition with the total of the amounts specified equaling the total reimbursable cost. Pro rata costs shall be equally divided based on the total number of petitioners rather than on the length required to cover the frontage of each petitioner.

(c) Prior to submission of the petition, the petitioner shall be provided with cost data by Dekalb County for the total length of water main installation required. The petition shall be presented to Dekalb County at which time a preliminary design will be prepared by Dekalb County for the water main as submitted. If a water main larger than eight (8) inches is required to conform with plans for future water service, cost data shall be prepared for both the eight-inch and larger mains and Dekalb County shall bear the difference in cost at that time.

(d) The Department shall, before placing the petition on the agenda, coordinate with the Dekalb County Board of Health to ascertain whether any health hazards exist in the petition area that may be alleviated or corrected by the installation of the requested water main.

(e) This information shall be presented for consideration by the Dekalb County Board of Commissioners together with the petition and estimate of cost for review and decision.

(f) The Dekalb County Board of Commissioners may waive the provisions of this section at its discretion, particularly in those instances where the Board of Health has determined that a health hazard exists as a consequence of the use of private water supply systems.

Section 5: Developer requests for extension or replacement of water mains on existing roads

Developer requests for the extension or replacement of water mains on existing City or Dekalb County roads shall be processed as follows:

(1) In the event Dekalb County's plans for future water service call for a main to be installed larger than the size of the main required to supply the development, then Dekalb County may pay the difference in cost of the materials to install the size main required by Dekalb County. The comparison of material costs will be based upon Dekalb County's material cost for the larger pipe. Payment by Dekalb County will be made upon completion and satisfactory inspection of the work by Dekalb County and upon receipt of a maintenance bond equal to ten (10) percent of the cost of the construction of the water to ten (10) percent of the cost of the construction of the water facility. The developer may provide a letter of escrow or letter of credit acceptable to Dekalb County in lieu of the maintenance bond required in this section. An eight-inch main will be considered as the minimum size main required to supply a development of any size.

(2) Water main design shall be accomplished by Dekalb County water system engineers unless otherwise authorized by Dekalb County.

(3) When the developer completes his work in accordance with Dekalb County specifications and the work has been duly inspected by the water and sewer division of public works, the developer shall provide "as-built" drawings in accordance with Section 6(2) below and any required easements for the water main installation to Dekalb County.

(4) After the work has been completed and inspected to the satisfaction of Dekalb County, the developer shall provide a maintenance bond equal to ten (10) percent of the costs of the construction of such facilities. The developer may provide a letter of escrow or letter of credit acceptable to Dekalb County in lieu of the maintenance bond required in this section.

(5) The developer shall be required to maintain the water lines for a period of twelve (12) months. During this developer maintenance period, Dekalb County shall make inspections and instruct the developer by letter as to what corrections must be made, if any.

(6) At the end of the twelve-month developer maintenance period, Dekalb County shall make a final inspection and notify the developer and the bonding company, if any, of any corrections to be made. If the work is acceptable at this time, the maintenance bond, letter of escrow or letter of credit shall be released.

(7) If required corrections are not made within thirty (30) days of notice, Dekalb County shall have the authority to make these corrections at the expense of the bonding company. In cases where funds are being held under letter of credit or letter of escrow, the cost of making these corrections shall be drawn by Dekalb County from these funds, and the developer charged with any costs above the amount of such funds.

(8) Dekalb County shall have full authority to inspect, test and sterilize all water mains installed under this section.

(9) No use shall be made of such systems nor shall Dekalb County accept such systems until the developer has complied with all the requirements of this section and until satisfactory sterilization and tests have been completed by Dekalb County.

Section 6: Installation of water mains in residential subdivisions

Water mains installed in residential subdivisions shall be installed subject to the following conditions:

(1) Water mains shall be designed by Dekalb County.

(2) Installation shall be accomplished by a qualified contractor and shall be in accordance with latest Dekalb County specifications. Upon completion of the water line construction, an engineer, registered in the State of Georgia must provide a statement that the system, as installed, is in accordance with the approved plans and specifications.

(3) Dekalb County shall have full authority to inspect, test and require sterilization of all water mains. No use shall be made of such systems until satisfactory sterilization and test have been completed.

(4) If it is necessary to route the proposed water main through private property of the developer for circulation or supply purposes, the developer will provide Dekalb County with the required easements. Requests for water mains should be submitted to the Public Works Department after the development plat has been

approved by the City Community Development Department. A sepia drawing of the proposed development and a properly executed request form should be submitted in order that a layout and estimate of the cost may be prepared by Dekalb County. All known requirements for water to satisfy the underwriters, as well as the needs of the prospective occupants, should be stated to assist in the preparation of the layout and estimate.

Section 7: Installation of water mains in dedicated streets of residential, commercial, industrial developments

(a) Installation of water mains in dedicated streets of residential, commercial and industrial developments shall be installed under the following conditions:

(1) Water mains to serve the development shall be designed by Dekalb County.

(2) Installation shall be accomplished by a qualified contractor approved by Dekalb County and shall be in accordance with latest Dekalb County specifications.

(3) Dekalb County shall have full authority to inspect, test and require sterilization of all water mains. No use shall be made of such systems until satisfactory sterilization and tests have been completed.

(b) Installation of water mains in commercial/industrial developments in other than dedicated streets shall be in accordance with the policy concerning shopping centers and other similar developments.

(c) Requests for water mains should be submitted to the Department after the development plat has been approved by the City of Dunwoody Community Development Department. A sepia drawing of the proposed development and properly executed request form should be submitted in order that a layout and estimate of the cost may be prepared by Dekalb County. All known requirements for water to satisfy the underwriters, as well as the needs of the prospective occupants, should be stated to assist in the preparation of the layout and estimate.

Section 8: Installation of water mains in shopping centers, certain apartment and condominium developments, developments not dedicating streets to City

(a) Shopping centers, apartment and condominium developments of R-A5 or greater density, and similar developments which do not dedicate streets to the City shall be served by a master meter. In cases where fire protection is required to be installed, an eight-inch or larger fire line main may be served through an eight-inch or larger master meter and potable water service taken from the fire line main within the development. As an alternate to this, an unmetered fire line may be installed with a separate master-metered potable water service line. Exception to the requirement for the master meter may be made when, in the opinion of Dekalb County, conditions are such that the installation of

individual meters within the development would prove more feasible than serving the development by a master meter.

(b) Installation of an eight-inch or larger water main within developments shall be subject to the following conditions:

(1) Design of all lines six (6) inches and larger shall be approved by Dekalb County, and all materials used in construction of the water main shall be in accordance with Dekalb County specifications.

(2) All water main materials and labor shall be paid for by the developer, and installation shall be in accordance with Dekalb County specifications and by a qualified contractor.

(3) Dekalb County shall have the full authority to inspect, test and require sterilization of all water mains. No use shall be made of such water mains until satisfactory sterilization and tests have been completed.

Section 9: Purchase of materials for water system construction on private property

(a) A water system constructed on private property will not be accepted for maintenance by Dekalb County unless all water line and appurtenant materials required for the installation is inspected by Dekalb County prior to construction and are found to meet the material specifications published by the Water and Sewer division of the Dekalb County Department of Public Works.

(b) All water system construction on private property must be inspected by Dekalb County during construction before maintenance acceptance will be considered.

(c) Any planned water system construction considered as private by the owner during the permitting and development review stage of plans review by the City and Dekalb County will remain private unless subparagraphs (a) and (b) are complied with.

Division 3: Initiation, Connection and Termination of Service

Section 1: Application for service for all classifications

Persons desiring water service shall file application with the Department and sign a standard contract form prior to receiving service. Application shall be made in person by customer or agent. A prospective customer will be assigned to the proper user classification. Separate application is required for each classification of service desired. A completed application in the form prescribed by Dekalb County shall be received at least ten (10) days prior to service connection availability. The use of water service binds a person as if such person had signed a contract.

Section 2: Application for miscellaneous services

Written application for miscellaneous services shall be made to the Department, which shall prescribe uniform procedures and guidelines for initiation of such services. Miscellaneous services shall be scheduled in the order of approved application except in cases of emergency or requirement for financial participation by Dekalb County or the City of Dunwoody requiring approval of the Dekalb County Board of Commissioners and/or the Dunwoody City Council.

Section 3: New service connections

Where a service line does not exist to premises, Dekalb County shall tap the water main and install a service line, including meter, meter box and service cock. Service connection shall be made only by an authorized person. No contractor, plumber or other person shall tap any water main without written permission from Dekalb County. The customer at this point shall connect the plumbing to the water system. Only one (1) service line shall be provided per application. Service cocks shall be operated only by an authorized contractor or plumber making repairs on plumbing or waterlines, or by an authorized person.

Section 4: Existing connections

Where a service line exists, Dekalb County shall determine whether this service line is to be used or requires replacement. Where service line replacement is required, the application shall be charged as though it were a new service connection. Service connection shall be made as provided for a new service connection.

Section 5: Metering

(a) Definitions. For the purposes of this Article, certain terms and words are defined. Where words have not been defined, but are defined elsewhere in the City of Dunwoody Code, those words shall have the meaning as defined therein. The following words, terms, and phrases, when used in this section shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Apartment means one (1) or more rooms with a private bath and kitchen facilities comprising an independent self-contained residential unit in a building(s).

Condominium for the purposes of this section is defined in the same manner as it is defined in the City of Dunwoody Zoning Ordinance.

Master meter means a utility-owned meter that measures and totalizes the volume of water flowing from the water distribution system into a multifamily dwelling unit as that term is defined in the City of Dunwoody Zoning Ordinance, building piping system.

Newly constructed apartment means any structure for which a building permit for construction of an apartment is issued after June 1, 2008.

Newly constructed single-family dwelling or condominium means any structure for which a building permit for construction of a single-family dwelling or condominium is issued after June 1, 2008.

Separate water meter means a utility-owned meter that measures and totalizes the volume of water flowing from the water distribution system into a single family dwelling or condominium's piping system.

Single-family dwelling for the purposes of this section is defined in the same manner as it is defined in the City of Dunwoody Zoning Ordinance but also includes dwelling units on an individual lot attached to another dwelling unit by a common party wall, commonly referred to as a town house or town home.

Sub-unit water meter means water meters owned and managed by the property owner with a utility-owned master meter that bills for water service based on volume of use. Sub-unit water meters shall allow for the water use in each apartment to be tracked separately.

(b) Meters. All users except those classified as fire line users shall be metered. All meters shall be sized on the basis of expected volume of water usage. All meters, except sub meters, are part of the service line provided by Dekalb County and are the property of Dekalb County.

(c) Sub-unit water meters for newly constructed apartments. No water shall be furnished to any newly constructed apartment except through sub-unit water meters so that the water use in each apartment can be accurately tracked. Sub-unit water meters allow tenants to know how much water they use and may encourage wiser use of water. Water service however, shall be billed by Dekalb County on a master meter basis and the property owner and/or landlord is responsible for paying Dekalb County for all charges contained in such bills. The enactment of this section in no way prevents property owners and/or landlords from using sub-unit water meters to bill each tenant for actual water usage which will encourage wiser use of water by tenants in apartments.

(d) Separate water meters for single family dwellings and condominiums. No water shall be furnished to any newly constructed single-family dwelling or condominium except through separate water meters. Water service shall be billed by Dekalb County to the property owner based on individual unit water meters and each property owner is responsible for paying Dekalb County for all charges contained in such bills.

Section 6: Inspection of service connections

All plumbing or yard piping connections to a service line shall be subject to inspection by an authorized person prior to service connection. Refusal to allow inspection shall result in refusal of service until inspection is permitted. Inspection may include requirement that plumbing and piping plans be submitted where, in the Director's opinion, possibility of system contamination or cross-connection may result from service connection. In no case shall service connection be made until all inspection requirements are met.

Section 7: Refusal of service

Water service may be refused only for the following justifications; reapplication may be made where reasons are rectified:

(1) Refusal to allow entry. Where admittance to property for necessary work or inspection is not allowed, Dekalb County may refuse service.

(2) Damage to system by connection. Where in the opinion of Dekalb County connection will seriously reduce system pressure and fire protection, Dekalb County may refuse service.

(3) Remoteness from system. Where connection requires investment in transmission mains that would not be justified by likely revenues, Dekalb County may refuse service or require substantial cost sharing by the customer.

(4) Technical infeasibility. Where connection would require special pumps or other devices to effect service, Dekalb County may refuse service or require substantial cost sharing by the customer.

(5) Health hazard. Where connection could cause contamination of the system, Dekalb County may refuse service.

(6) Unpaid water bills. New connections or reconnections shall not be made until all previous financial obligations to the system have been met or resolved. This paragraph only applies to owner-occupied property.

(7) Fraudulent misrepresentation in application. If water service has been approved for a location, and thereafter it is determined that the application for the water service contained false or misleading information or omitted material facts, or that the water is being used in or upon the premises for purposes not set forth in the application made for the water service, then the water shall be shut-off by Dekalb County, and shall remain shut-off by Dekalb County, until the application for water service has been corrected to the satisfaction of Dekalb County or until all unauthorized use of water has ceased and any past due sums payable for the water service account have been fully paid to Dekalb County.

Section 8: Customer-requested termination

A customer shall give at least ten (10) days' notice of desire to terminate service to the Dekalb County Finance Director, who will advise the customer of approximate date. However, Dekalb County is not bound to terminate on a certain date. Service turnoff shall be done only by an authorized person.

Section 9: Termination due to violation of operation and maintenance procedures

(a) If Dekalb County determines that procedures established by Dekalb County for operating and maintaining the system are being violated by a user or other person, Dekalb County will give due notice as provided herein. If such violation continues, service to the responsible person shall be terminated and penal actions as provided herein may be taken.

(b) Assessments of all penalties shall be preceded by due notice, except in case of emergency requiring termination of service. Due notice shall be given by a certified letter, return receipt requested, mailed to the person presumed to be violating a section of this Article. This notice shall set forth remedial action required of that person, giving ten (10) days' time after receipt of due notice for remedial action to be completed. If Dekalb County determines after this period that the violation continues unremedied, the Director may recommend to the proper authorities that the presumed violator be cited for each day that the violation continues unresolved not including the ten-day period.

(c) When due notice is given for purpose of access for surveys or inspection, acknowledgement and agreement to allow entry shall be made within the same ten (10) days and no offense is presumed. Thereafter, Dekalb County may issue citations by certified letter for each day of violation now presumed only after issuing a second due notice for violation as outlined above.

Section 10: Termination due to improper usage

(a) The making of improper connections to the system endangering system integrity or possibly leading to system contamination shall be cause for immediate termination of service. Restoration of service after rectification of improper connection shall be treated as a reconnection. Improper usage not determined by Dekalb County to be of emergency potential shall result in termination after due notice is given.

(b) Assessments of all penalties shall be preceded by due notice, except in case of emergency requiring termination of service. Due notice shall be given by a certified letter, return receipt requested, mailed to the person presumed to be violating a section of this Article. This notice shall set forth remedial action required of that person, giving ten (10) days' time after receipt of due notice for remedial action to be completed. If Dekalb County determines after this period that the violation continues unremedied, Dekalb County may recommend to the proper authorities that the presumed violator be cited for each day that the violation continues unresolved not including the ten-day period.

(c) When due notice is given for purpose of access for surveys or inspection, acknowledgement and agreement to allow entry shall be made within the same ten (10) days and no offense is presumed. Thereafter, Dekalb County may issue citations by certified letter for each day of violation now presumed only after issuing a second due notice for violation as outlined above.

(d) Any person or user of the system who has been found to be in violation of mandatory water restrictions or mandatory water conservation policies as imposed by the Director shall first be issued a notice of violation. If the violation is not remedied within a specified reasonable time to be determined by the Director, a summons shall be issued for the violator to appear in recorder's court. If the person or user of the system continues to be in violation of mandatory water restrictions or mandatory water conservation policies thereafter, the continuing violation shall be cause for immediate termination of service. Restoration of service after rectification shall be treated as a reconnection.

Section 11: Violations and penalties

(a) Whenever the Director determines that a violation of this Article has occurred, the Director shall serve upon the violator a notice of violation. The notice of violation shall be in writing, include a description of the property sufficient for identification of where the violation has occurred, list the provisions of this Article which have been violated, and state that, if the violation is not remedied within a specified reasonable time to be determined by the Director, a summons shall be issued for the violator to appear in the City of Dunwoody Municipal Court. The notice of violation shall set forth the potential penalty involved and the fact that each day the violation continues shall constitute a new and separate violation.

(b) If the violation has not been remedied within the time specified in the notice of violation, the Director shall issue a summons to the violator to appear in Municipal Court. The summons shall be in writing, include a description of the property sufficient for identification of where the violation has occurred, list the provisions of this Article which have been violated, set forth the penalty if the violator is convicted of the violation, and state that each day the violation continues shall constitute a new and separate violation.

(c) Notwithstanding the foregoing, the Director may issue a summons to appear in Municipal Court or terminate connection to the water system without first issuing a notice of violation if, in the judgment of the Director, the violation constitutes a threat to the public health, safety, general welfare, or to the water system. Nothing in this code section shall limit the authority of the Director to take any action, including emergency action to terminate connection to the water system or any other enforcement action, without first issuing a notice of violation.

(d) Any person who shall do anything prohibited or fail to do anything required by the provisions of this Article shall be guilty of a violation of this Article and upon conviction in Municipal Court shall be subject to the maximum fine or imprisonment or both as set forth in Chapter 1 of this Code. Each day of violation is considered a separate offense and is subject to the maximum fine or imprisonment or both as set forth in Chapter 1 of this Code.

Section 12: Authority to write summons

The Director may designate authorized personnel of the Department to write summons to appear before a court pertaining to violations of this Article.

Division 4: Rates and Charges

Section 1: Generally

(a) All water system rates and charges shall be as established by Dekalb County, a copy of which is on file in the office of the Clerk of the Dekalb County Board of Commissioners, upon recommendation by the Director.

(b) Procedures for revenue collection shall be established by the Dekalb County Finance Director.

Section 2: Classification of users

The following list of system users establishes classifications of service as a basis of charges:

(1) Single. All dwelling, commercial and industrial customers are in this classification who use all of the water supplied through a connection for any use besides fire protection.

(2) Fire line. A customer shall only use the connection applied for under this classification for fire protection.

(3) Combined potable and fire line. Any shopping center and/or other development served by a combination potable and fire line located outside the public right-of-way shall be classified as a combined potable and fire line user, where either of the following exists:

(A) A fire line main is served through a master meter with potable water service taken from that fire line main within the development.

(B) Potable water is taken from the fire line through multiple meters.

(4) Multiple. No multiple dwelling, commercial or industrial customers shall be on one (1) meter, except in case of apartments, shopping centers and office parks, where in the judgment of the Director multiple meters are impractical. Approved multiple category customers shall have one (1) meter per premises and shall be charged as single category users.

(5) Temporary. Temporary use permits shall be granted for periods not exceeding thirty (30) days. After permit expiration Dekalb County may, at its option, renew

the permit or assign the customer to a permanent classification. This service shall not be used for permanent installation.

(6) Flat rate. Any existing flat rate customers shall be changed to single or fire line as appropriate. There shall be no unmetered or flat rate customers except as provided under temporary and fire line classifications.

(7) Illegal. Any user who has not made application for service and received a service connection or whose service has been terminated or who uses a connection for purposes other than as provided in the user's assigned classification is an illegal user.

Section 3: Recurring charges

The following charges are set by Dekalb County and shall be billed on a recurring basis as continuing charges:

(1) Service. All classifications of users except fire line shall be billed a base charge for service availability, whether service is used or not. This charge shall be fixed on the basis of meter size. For combined potable and fire line users who provide a specific means of determining the requirements of the development, such as by the installation of private meters by the owner, the service charge shall be based on the number and size of private meters installed.

(2) Commodity. All classifications of users except fire line shall be billed a commodity charge in addition to a service charge on the basis of actual volume of water delivered at the single unit volume rate set by Dekalb County.

(3) Fire line. Fire line customers shall be billed for service availability on the basis of diameter of connection to system mains and number of fire hydrants on premises. If a building complex has establishments each with different owners, then the fire line charges will be prorated by the Director based on square footage protected. For combined potable and fire line users:

(A) Where fire hydrants are installed on private lines served through a master meter and/or where such lines serve building sprinkler systems, the owner will be billed for fire service availability on the basis of diameter of connection required to the system mains for fire protection only and on the number of hydrants. There will be no charge, however, for any hydrant which is determined by Dekalb County to be adjacent to and available to a public roadway. In addition, potable water readiness to serve charge will be based on the size line required for estimated average flow based on commodity billing as determined by Dekalb County.

(B) Where an owner elects to dedicate lines and rights-of-way outside the public road right-of-way in order to utilize multiple meters and where such

lines have hydrants installed or serve building sprinkler systems, the owner will be billed for fire service availability on the basis of diameter of connection required to the system mains for fire protection only and on the number of fire hydrants. There will be no charge, however, for any hydrant which is determined by Dekalb County to be adjacent to and available to a public roadway. If a building complex has establishments each with different owners, then the fire line charges will be prorated by Dekalb County based on square footage protected.

(4) Contract. Contract service is only by agreement. Billing shall be on the basis of a service charge plus metered volume of water delivered at the unit volume rate set by Dekalb County. Billing shall be at equal periods set by Dekalb County and not less than semiannually.

Section 4: Miscellaneous charges

(a) Certain noncontinuous services provided by the Dekalb County water system have set charges as designated by Dekalb County. Charges shall be reviewed from time to time to assure that they cover the cost of services.

(b) A charge shall be set by Dekalb County for installing a service line and meter based on the size of the meter. This charge shall apply to all classifications except fire line users.

Section 5: Special assessments

The following charges must be ascertained by the Director on a case-by-case basis reflecting exigencies involved:

(1) Damage. Dekalb County shall determine charges to be assessed against any person causing damage to any part of the water system.

(2) Unauthorized activity. Such actions include any connection to or tampering with the system without prior approval of Dekalb County. Charges assessed shall reflect Dekalb County's assessment of costs involved in inspecting such work or in taking remedial action. Additionally, persons involved shall be assessed such charges as would apply were the work preauthorized and shall be subject to other penalties.

(3) Replacement of improvements. Persons engaged in work affecting or connecting to the system shall bear the total cost of replacement of any improvements or for making such improvements whole again. These include, but are not limited to, grassing, embankments, pavement and base curbing to Dekalb County standards. After due notice, Dekalb County may elect to proceed with restorative work and charge the damaging person on a materials and force account basis.

(4) Service termination. A single charge shall be set for termination of service whether initiated by the customer or by Dekalb County. Customers relocating within the system service area must terminate old service and make new application.

(5) Reconnection fee. A charge shall be set for resumption of service to a customer where termination was due to failure to pay bills. New or relocated customers using an existing service line are charged under this paragraph. All previous bills shall be paid before a service reconnection will be made. This paragraph only applies to owner-occupied property.

(6) Meter testing. Dekalb County may periodically test all meters on its system. A customer may request a test to be made without charge.

(7) Tap fee. A fee shall be set by Dekalb County for providing a connection for a service line or water main to an existing or new water main. Fee shall be based on diameter of service line or water main to be connected to the tap.

(8) Inspection and sterilization. Dekalb County shall establish a list of charges for inspection and line sterilization which shall apply to various categories of construction, duly reflecting force and material requirements.

(9) Temporary use. Temporary use charges shall be set by Dekalb County on a case-by-case basis; such fees shall be no less than the sum of appropriate recurring charges and miscellaneous charges. Such temporary uses, whether connected to mains or fire hydrants, shall be metered. Fire hydrant connections shall also be approved by the Dekalb County Department of Fire and Rescue Services or, if the City has its own Fire Department, the City of Dunwoody Fire Department.

(10) Other services. For any services not falling within these definitions, Dekalb County may fix a charge on the basis of cost of labor and materials required.

Section 6: Revenue collections

(a) Payment. A meter reading of all water meters and fire line checks shall be made by Dekalb County on a regular basis. All bills are issued by and shall be paid to the Dekalb County Finance Department. Payment is due within ten (10) days of issuance and may be made by mail or in person at the address noted on the statement. Failure to receive the bill shall not relieve the customer of payment responsibility.

(b) Delinquent payment. Notice of delinquent payment shall require payment within ten (10) days of the date due. Service will be terminated after that period without notice. Failure to receive a bill shall not relieve a customer of payment responsibility.

(c) Excess payments and refunds. Excess payments for all customers shall be credited to the next billing unless service is terminated or written refund request is made.

(d) Liability of owner. When service is terminated to a rented premises, service may be restored to the premises upon request of a party, renter or owner, who is not personally liable for or who did not personally apply for water service previously and who was previously not delinquent in payment of the water bill at these premises.

(e) Estimated bills. Dekalb County may estimate bills in the case of a broken, inaccurate or inaccessible meter on the basis of previous billings, adding retroactive charges where appropriate.

(f) Contested charges. A customer may make written notice of an error in charges. In such cases the customer shall make payment equal to that portion of charges uncontested or equal to previous billing, whichever is larger, by payment due date. The Dekalb County Finance Director will review contested charges and adjust the next billing as appropriate. The customer may make written request for a hearing with the Director or the Director's representative if the review is unsatisfactory. Payment must be made for reviewed contested charges when due. Credit shall be made if findings are reversed by the Director, whose decision is final.

(g) Discounts. No discounts shall be made for payments due or for large volume use. Discounts in the form of credits or refunds may be made for change in meter sizes or charged materials returned to Dekalb County in satisfactory condition.

(h) Application fee. Any applicant for water or sewer service shall complete an application for service, shall provide Dekalb County with identification for billing purposes, and shall pay an application fee to Dekalb County. Application fees shall be set by Dekalb County.

Article II: Private Water Systems

Section 1: Generally

Private water systems and vendors shall be governed by all criteria in this Chapter relating to water purity, protection of supply and system sanitation, and shall be licensed by Dekalb County or its designee.

Section 2: Approval of plans

All plans for private water systems shall be prepared by a Dekalb County engineer and approved by Dekalb County prior to construction. Materials of construction shall meet minimum standards set by Dekalb County for the public water system.

Section 3: Connection to public water system

No connection shall be made between the Dekalb County water system and a private water system except by approval of Dekalb County. Such approved connections shall be metered and equipped with backflow prevention devices approved by Dekalb County and subject to all conditions of this Chapter.

Section 4: No County or City Warranty

By its regulation of private water systems and suppliers, neither Dekalb County nor the City assumes any liability for the purity of such water or for damages caused by operators of private facilities.

Article III: Sewers and Sewage Disposal

Division 1: Generally

Section 1: Definitions

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

Approval authority means the Environmental Protection Division of the Georgia Department of Natural Resources, Municipal Permitting Program.

Authorized person means a regular employee of Dekalb County or the City authorized to enforce the provisions of this Article. Authorized representative of the user:

(1) If the user is a corporation:

(A) The president, vice-president, secretary, or treasurer of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(B) The manager of one (1) or more manufacturing, production or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars ($25,000,000.00) (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the user is a Federal, State or local government facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee.

(4) The individuals described in paragraphs (1) through (3), above, may designate another authorized, representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Department.

BOD (biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at two hundred (200) centigrade, usually expressed as a concentration (e.g., mg/l).

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge of wastes from the drainage pipes within the walls of a building and conveys this discharge to the building sewer beginning ten (10) feet outside the inner face of the building.

Building sewer means the extension from the building drain to the public sanitary sewer system or other place of disposal.

Categorical Pretreatment Standard or *Categorical Standard* means any regulation containing pollutant discharge limits, promulgated by the federal EPA in accordance with Sections 307(b) and (c) of the Federal Clean Water Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405--471.

Categorical user means any significant industrial user that is subject to categorical pretreatment standards.

COD (chemical oxygen demand) means the amount of oxygen equivalent that the organic matter in a sample utilizes in the presence of a strong chemical oxidant (expressed in milligrams per liter).

Combined sewer means a sewer intentionally receiving groundwaters, surface waters, and stormwaters together with sewage.

Constituents means the combination of particles or pollutants which exist in wastes.

Control manhole means a manhole on or near a user's property used for sampling purposes through which the user's discharge to the sanitary sewer passes.

Department means the Public Works Department of Dekalb County or, where applicable, of the City of Dunwoody.

Designated area means any tract of land, parcel of land, subdivision or section of the City of Dunwoody which, by virtue of its topography or existing sanitary sewer facilities, can be treated as a unit. The Director shall be the sole judge as to the boundaries, limits, and extent of these areas, whether or not these areas abut present public roads.

Director means the Public Works Director or any of that person's authorized representatives.

Environmental Protection Agency or *Federal EPA* means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

Existing source means any source of discharge, the construction or operation of which commenced prior to the publication by the Federal EPA of proposed categorical pretreatment

standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Federal Clean Water Act.

Federal Clean Water Act or *Clean Water Act* shall mean the Federal Water Pollution Control Act, as amended, presently codified at 33 U.S.C § 1250 et seq., and all regulations adopted pursuant thereto.

Flammable means any material which is easily ignited and burns with unusual rapidity as defined by the National Fire Protection Association.

Flush toilet means the common sanitary flush commode in general use for the disposal of human excrement.

Garbage means putrescible animal and vegetable wastes resulting from the domestic and commercial preparation, cooking and disposing of food, and from the handling, storage and sale of produce, tin cans, glass containers and newspapers.

Georgia EPD or *EPD* means the Environmental Protection Division of the Georgia Department of Natural Resources.

Grab sample means a sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

Indirect discharge or *discharge* means the introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Federal Clean Water Act.

Industrial wastes means the liquid wastes and solid and gaseous materials contained therein, of whatever nature, arising out of any manufacturing, processing, fabricating, treating, renovating or any other commercial operation.

Inspection fee means the amount of money charged to the contractor or plumber for each inspection.

Instantaneous maximum allowable discharge limit means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate of the duration of the sampling event.

Interference means a discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal, and therefore is a cause of violation of the county's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or thereunder, stringent regulations: permits issued or any more state or local Section 405 of the Federal Clean Water Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and

Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Lot of land means the smallest unit, owned by the same party or parties, into which any tract or parcel of land has been divided either by deed, plat or any other means of subdivision.

Medical waste means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

New source means:

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

(A) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(B) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(C) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does-not create a new building, structure, facility or installation meeting the criteria of section (1)(B) or (C) above but otherwise alters, replaces or adds to existing process or production equipment.

(3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(A) Begun, or caused to begin, as part of a continuous onsite construction program

(i) Any placement, assembly or installation of facilities or equipment; or

(ii) Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or

(B) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this paragraph.

Noncontact cooling water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

Objectionable means unacceptable, unsatisfactory or displeasing to the physical senses.

Outlet means point of discharge into a watercourse, pond, ditch, lake, stream or other body of surface water or groundwater.

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

Person means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity; or their legal representatives, agents or assigns. This definition includes all federal, state and local governmental entities.

pH means a measure of the acidity or alkalinity of a solution, expressed in standard units.

Plumbing fee means that fee paid to Dekalb County for the issuance of a plumbing permit.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity or odor).

Premises means building, house, store, plant or any other place where people live, work or congregate.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

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

Pretreatment standard or *standards* means prohibited discharge standards, categorical pretreatment standards and local limits.

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

Prohibited discharge standards or *prohibited discharges* means the absolute prohibitions against the discharge of certain substances.

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of foods, which have been cut in such a way that all particles will be carried freely under the flow conditions normally prevailing in public sanitary sewers, with no particle larger than one-half (1/2) inch in any dimension.

Publicly owned treatment works or *POTW* means a "treatment works", as defined by Section 212 of the Federal Clean Water Act (33 U.S.C. § 1292) which is owned by Dekalb County. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

Public sewer means a common sanitary sewer directly controlled by Dekalb County and approved by Dekalb County for use as a sanitary sewer.

Sanitary sewer means a pipe which carries sewage and by design excludes groundwaters, surface waters and stormwaters.

Septic tank means a subsurface impervious tank designed to temporarily retain sewage or similar waterborne wastes together with the following:

(1) A sewer line constructed with unperforated pipe, with sealed joints, connecting the impervious tank with a plumbing stub-out.

(2) A subsurface drainage field system consisting of piping and other materials producing drainage of the clarified discharge from the tank while distributing it underground to be filtered or absorbed.

Sewage means the water-carried wastes, including human excrement and grey water (household showers, dishwashing operations, etc.) from residences, business buildings and institutions.

Sewer means an artificial, usually subterranean, conduit to carry off sewage.

Sewer system and *sewerage* means all facilities for collecting, pumping, treating, transporting and disposing of sewage.

Sewer tap fee or *tap fee* means the service charge for making a connection to the sewer system.

Significant industrial user means:

(1) A user subject to categorical pretreatment standards; or

(2) A user that:

(A) Discharges an average of one hundred thousand (100,000) gallons per work month or twenty-five thousand (25,000) gallons per day of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

(B) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(C) Is designated as such by Dekalb County or the City of Dunwoody on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(3) Upon finding that a user meeting the criteria in subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, Dekalb County may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Slug load or *slug* means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards of this Chapter; or, any discharge in which the concentration of any given constituent exceeds, for any period longer than fifteen (15) minutes, five (5) times the average twenty-four-hour concentration of that constituent during normal operations.

Storm drain or *storm sewer* means a sewer which carries stormwaters and surface waters and drainage, excluding sewage and industrial wastes.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting from such precipitation, including snowmelt.

Subdivision means any tract of land divided, planned or developed as a subdevelopment with two (2) or more residences, buildings or building sites.

Suspended solids means solids that either float on the surface of or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

Unsanitary means unclean, unhealthy or harmful to the public health.

User or *industrial user* means a source of indirect discharge.

Wastewater means the liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater discharge permit means a permit in the form prescribed by Dekalb County, which establishes the wastewater characteristics which a significant industrial user may contribute or cause to be contributed to the sewer system.

Wastewater treatment plant or *treatment plant* means that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

Section 2: ***Reserved***

Section 3: Violations and penalties

(a) Whenever the Director of the Dunwoody Public Works Department, or, if designated by an intergovernmental agreement with Dekalb County, the Director of the Dekalb County Public Works Department, or their designee determines that a violation of this Article has occurred, the Director shall serve upon the violator a notice of violation. The notice of violation shall be in writing, include a description of the property sufficient for identification of where the violation has occurred, list the provisions of this Article which

have been violated, and state that, if the violation is not remedied within a specified reasonable time to be determined by the Director, a summons shall be issued for the violator to appear in the Dunwoody Municipal Court. The notice of violation shall set forth the potential penalty involved and the fact that each day the violation continues shall constitute a new and separate violation.

(b) Notwithstanding the foregoing, the Director may issue a summons to appear in Municipal Court without first issuing a notice of violation if, in the judgment of the Director, the violation constitutes a threat to the public health, safety, general welfare, or to the sewer system.

(c) If the violation has not been remedied within the time specified in the notice of violation, the Director shall issue a summons to the violator to appear in Municipal Court. The summons shall be in writing, include a description of the property sufficient for identification of where the violation has occurred, list the provisions of this Article which have been violated, set forth the penalty if the violator is convicted of the violation, and state that each day the violation continues shall constitute a new and separate violation.

(d) Nothing in this code section shall limit the authority of the Director to take any action, including emergency action or any other enforcement action, without first issuing a notice of violation.

(e) Any person who shall do anything prohibited or fail to do anything required by the provisions of this Article shall be guilty of a violation of this Article and upon conviction in Municipal Court shall be subject to the maximum fine or imprisonment or both as set forth in Chapter 1 of this Code. Each day of violation is considered a separate offense and is subject to the maximum fine or imprisonment or both as set forth in Chapter 1 of this Code.

Section 4: Authority to write summons

The Director may designate authorized personnel of the Department to write summons to appear before a court to answer questions pertaining to violations of this Article.

Section 5: Right to entry: inspection and sampling of industrial or commercial properties

The Director and other employees designated by the Director, bearing proper credentials and identification, shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the Director or his designees ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying and the performance of any additional duties.

(1) Where the user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable

identification, the Director or his designees will be permitted to enter without delay for the purposes of performing specific responsibilities.

(2) The Director or his designees shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operation.

(3) The Director may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated quarterly to ensure their accuracy.

(4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Director or his designees and shall not be replaced. The costs of clearing such access shall be borne by the user.

(5) Unreasonable delays in allowing the Director or his designees access to the user's premises shall be a violation of this Article.

(6) If the Director or his designees has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Article, or that there is a need to inspect and/or sample as a part of a routine inspection and sampling program designed to verify compliance with this Article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Director may seek issuance of an inspection warrant from the Dekalb County Recorder's Court or other court of competent jurisdiction.

Section 6: Right of entry to inspect private properties

The Director and the Director's designated agents, bearing proper credentials and identification, shall be permitted to enter during reasonable working hours, except in the event of an emergency, all private properties through which Dekalb County or the City holds a duly negotiated easement for the purposes of, but not limited to, measurement, maintenance, observation, repair and sampling any portion of the sewage system lying within the easement. All entry and subsequent work on the easement shall be done in full accordance with the terms of the specific easement pertaining to the property involved. Specific permission is granted the Director and the Director's designated agents, upon proper notification, to enter all private properties for the purpose of surveying or inspecting the premises, or sampling or monitoring of wastewater. While working on private properties referred to in this section, all Dekalb County or City employees shall observe all safety rules applicable to the premises. The owner of the private properties shall not be held liable for injury to Dekalb County or City employees while on the owner's properties.

Dekalb County or the City, and its authorized agents and employees, may enter upon any lands in the City for the purpose of making such surveys, soundings, drillings, and examinations as Dekalb County or the City may deem necessary or desirable to accomplish the purposes of planning and engineering sewer system improvements; and such entry shall not be deemed a trespass nor shall it be deemed an entry which would constitute a taking in a condemnation proceeding, providing that reasonable notice of such entry shall be done in a reasonable manner with as little inconvenience as possible to the owner or occupant of the property, and Dekalb County or the City, depending on which governmental unit's effected such entry, shall make reimbursement for any actual damages resulting from such entry.

Section 7: Inspection warrants

The Director, in addition to other procedures provided, may obtain an inspection warrant for the purpose of inspection or investigation of conditions relating to the enforcement of this Article, compliance with the terms of any permit, or observation, measurement, sampling or testing with respect to any federal or state regulation, and periodic investigations in accordance with the provisions of this Article.

(1) Inspection warrants may be issued by a court of competent jurisdiction when the issuing judge is satisfied that the Director has established by 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 the property or that there is a condition, object, activity, or circumstance which legally justifies such an inspection of the property.

(2) An inspection warrant will be validly issued only if it meets the following requirements:

(A) The warrant is attached to the affidavit required to be made in order to obtain the warrant.

(B) The warrant describes, either directly or by reference to the affidavit, the property upon which the inspection is to occur and is sufficiently accurate that the executor of the warrant and the owner or occupant of the property can reasonably determine from it the property for which the warrant authorizes an inspection.

(C) The warrant indicates the conditions, objects, activities or circumstances which the inspection is intended to check or reveal.

(D) The warrant refers, in general terms, to the Code provisions sought to be enforced.

Section 8: Discontinuance of water services for nonpayment of sewer bill

(a) This section only applies to owner-occupied property. The policy of discontinuing the furnishing of water at any meter service where there is a delinquent sewer bill after the occupant of the premises has been notified of the delinquency and has failed to remove the delinquency by payment of the bill is continued in full force and effect.

(b) Where there remains a delinquent sewer bill at any meter service after the occupant of the premises thereof has been notified by the inclusion of the amount of the past due bill in a current water bill or a separate bill and given an opportunity to pay the bill and refuses to promptly pay it, water service to this meter service shall be discontinued regardless of whether the bill remaining delinquent was incurred by a prior owner or occupant of the premises, and water shall not again be supplied to this building, place or premises through the Dekalb County Water System until the arrears are fully paid.

(c) Upon the failure or refusal of the owner or occupant to pay the delinquent sewer bill, the Department shall remove the meter serving the premises, and service shall not be restored to the premises until a fee for installation of a new meter has been paid in advance. Such fee shall be a fee in the amount established by action of Dekalb County, a copy of which is on file in the office of the Clerk of the Dekalb County Board of Commissioners.

Section 9: Mandatory connections to public sanitary sewer

(a) The owner of all houses, buildings or properties used for human occupancy, employment, recreation and other such purposes, located within the geographic boundaries of the City of Dunwoody and abutting on any street, alley or right-of-way in which there is now located a public sanitary sewer, is required to install, at the owner's expense, suitable toilet facilities, and to connect such facilities directly to the public sanitary sewer. In accordance with the provisions of this Article, the owner has twenty-four (24) months after the date of official notice to accomplish this, provided that the public sanitary sewer is within one hundred (100) feet of the property line.

(b) Exceptions to the provisions of subsection (a) of this section may be granted by the City upon application.

Section 10: Private sewage disposal facilities generally

Except as specifically permitted by this Article or by the Dekalb County Board of Health, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other similar facility intended or used for the disposal of sewage.

Section 11: Discharge of untreated sewage or polluted waters

It shall be unlawful to discharge to any outlet or to any portion of the public storm drain system, or to any natural stream within the geographic boundaries of the City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with

provisions of this Article. Nothing in this section shall be construed to require the City or Dekalb County to treat the outflow from the public storm drain system.

Section 12: Deposit of objectionable waste on public or private property

It shall be unlawful for any person to place, deposit or permit the deposit of, in any unsanitary manner, human or animal excrement, garbage or objectionable wastes on any public or private property within the geographic boundaries of the City.

Section 13: Nonavailability of public sanitary sewer

Where a public sanitary sewer is not available, the building sewer shall be connected to another means of sewage disposal. The private sewage disposal system must comply with all applicable regulations of the Department, the Dekalb County Board of Health, and the Georgia Department of Human Resources. Unless specific exceptions are made, a private sewage disposal facility in the City shall consist of an approved septic tank.

Section 14: General prohibition

It shall be a violation of this Article for any person to maliciously or negligently break, damage, destroy, deface or tamper with any part of the sewer system.

Section 15: Severability

If any term, requirement or provision of this Division or application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Division or the application of such terms, requirements and provisions to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term, requirement or provision of this Division shall be valid and be enforced to the fullest extent permitted by law.

Division 2: Sewer Construction and Assessments

Section 1: Compliance with agreements

The operation of the sanitary sewer system shall remain in compliance with all sanitary sewer usage agreements between Dekalb County and the City, as well as between Dekalb County and other counties, municipalities and agencies.

Section 2: Sanitary sewer main extensions

(a) The Dekalb County sanitary sewer main extension policy shall apply to the extension or replacement of existing sanitary sewer mains on existing City roads or other dedicated rights-of-way to serve new developments. The City hereby adopts the Dekalb County sanitary sewer main extension policy by reference as it currently exists and as it may be

amended in the future. A developer may request the application of this policy if a project site is not adjacent to an existing main or the existing main is inadequate to serve the proposed development.

(b) The developer may apply for pre-approval of the sewer main extension application with the understanding that such reimbursement shall be made only after the developer has complied with all the requirements of this section. Conversely, the developer may apply for reimbursement after complying with all the requirements of this section and such reimbursement shall be made on approved applications if funds are available for that purpose. Approval of all application requests shall be within the sole discretion of Dekalb County or, if designated by agreement, the City.

(c) Sanitary sewer mains approved and installed under this section shall be subject to the following conditions:

(1) All materials shall meet the specifications of Dekalb County's Department of Public Works, Water and Sewer Division.

(2) A sanitary sewer main design shall be prepared by and furnished to Dekalb County or, if designated by agreement, the City by a registered professional engineer licensed by the State.

(3) The developer shall contract for the installation of the sewer lines and shall furnish Dekalb County a copy of the contract. When the work has been completed according to the specifications and duly inspected by Dekalb County or its designee, the developer shall provide "as-built" drawings and any required easements of the sewer main installation to Dekalb County or, if designated by agreement, the City. As-built drawings shall be completed under the direction of an engineer/land surveyor licensed in the State of Georgia and sealed.

(4) After the work has been completed and inspected to the satisfaction of Dekalb County and, if designated, the City, the developer shall provide a maintenance bond equal to ten (10) percent of the costs of the construction of such facilities. The developer may provide a letter of escrow or letter of credit acceptable to Dekalb County in lieu of the maintenance bond required in this section.

(5) After receiving the maintenance bond, letter of escrow or letter of credit, Dekalb County shall reimburse the developer a sum equivalent to fifty (50) percent of the cost of the sewer main materials required to supply the proposed development. An eight-inch main will be considered as the minimum size main required to supply a development of any size. In the event Dekalb County's plans for future sewer service call for a sewer main to be installed larger than the size of the main required to supply the development, then Dekalb County may:

(A) If the size of sewer main planned by Dekalb County is fifteen-inch or smaller, pay the difference in cost of the materials to install the size main required by Dekalb County plans.

(B) If the size of sewer main planned by Dekalb County is greater than fifteen-inch, pay the difference in both the cost of labor and materials to install the size main required by Dekalb County plans.

(6) The developer shall be required to maintain the sanitary sewer lines for a period of twelve (12) months. During this developer maintenance period, Dekalb County shall make inspections and instruct the developer by letter as to what corrections must be made, if any.

(7) At the end of the twelve-month developer maintenance period, Dekalb County shall make a final inspection and notify the developer and the bonding company, if any, of any corrections to be made. If the work is acceptable at this time, the maintenance bond, letter of escrow or letter of credit shall be released pursuant to Dekalb County policy.

(8) If required corrections are not made within thirty (30) days of notice, Dekalb County shall have the authority to make these corrections at the expense of the bonding company. In cases where funds are being held under letter of credit or letter of escrow, the cost of making these corrections shall be drawn by Dekalb County from these funds, and the developer charged with any costs above the amount of such funds.

(9) Dekalb County shall have the full authority to inspect and test all sanitary sewer mains installed under this section.

(10) No use shall be made of such systems nor shall Dekalb County, or the City, accept such systems until the developer has complied with all the requirements of this section and until satisfactory tests and inspections have been completed.

(11) In calculating Dekalb County participation for material costs, the maximum material costs considered will be Dekalb County's contract price for like material.

(d) Private sanitary sewer extensions will not be accepted for maintenance by Dekalb County unless materials used for installation are inspected and approved by Dekalb County prior to construction and are found to meet Dekalb County specifications and unless the installation was inspected by Dekalb County during construction.

Section 3: Submission of petition

(a) Whenever the owners, as listed on the latest ad valorem tax digest, of fifty-one (51) percent or more of the property within any designated area petition Dekalb County for sewer facilities, and this action requires the laying of a lateral sewer, the petition shall be

filed with the Department. The petition shall be examined to see if the signatures are valid and if it sufficiently describes the services required. Then Dekalb County shall initiate, per its adopted policies, a preliminary engineering survey to make sure that the proper designated area is described. Cost for construction and engineering services are also estimated at this time. The petition would then be advertised and a public hearing would be held before the Dekalb County Board of Commissioners. If Dekalb County approves the petition, construction will be programmed.

(b) All assessments against property and the owners thereof for the construction of sewers shall be liens upon the property by Dekalb County or, if designated by agreement, the City from the date of adoption of the resolution authorizing the construction of the sewer lines.

Section 4: Public hearing; public notices

(a) When a petition for the construction of a sanitary sewer line has been filed on behalf of a person or when a recommendation for construction has been made by the head of any board or department of Dekalb County or the City, then a public hearing will be held before the Dekalb County Board of Commissioners. The Department shall notify the Dekalb County Board of Commissioners of the impending petition. The Department shall then give notice to all persons concerned by publication of a notice pursuant to Dekalb County policy for placing notices of public hearings for a period of at least twenty (20) days prior to the hearing. The notice shall state the date and location of the proposed public hearing and shall give a general description of the proposed sanitary sewer construction.

(b) All owners of property abutting the proposed sanitary sewer line who shall be assessed for the cost of construction shall be notified in writing by Dekalb County at least twenty (20) days prior to the hearing. All notices pursuant to this section shall be addressed to the owners listed on the latest ad valorem tax digest of Dekalb County at the addresses indicated.

Section 5: Notification of abutting property owners of public hearing

In addition to the published notice of a public hearing on a petition for sanitary sewer construction, all owners of property abutting the proposed sanitary sewer line who shall be assessed for the cost of construction shall be notified in writing by the Department at least twenty (20) days prior to the hearing. All notices pursuant to this section shall be addressed to the owners listed on the latest Dekalb County ad valorem tax digest at the addresses indicated. The records of Dekalb County showing evidence of the mailing of the notices shall be prima facie evidence, and failure of the owner of any property concerned to receive a notice shall in no way affect the validity of the proceedings or the assessment. The purpose of this written notice is to furnish the owner with an additional statement of the public hearing.

Section 6: Conduct of hearing

At the hearing provided for in this Division, any person whose property or interests are affected by the proposed sanitary sewer may appear before the Dekalb County Board of Commissioners, in accordance with the Dekalb County rules for same. The decision of Dekalb County with respect to the approval or rejection of the proposed sanitary sewer shall be final and conclusive. Any decision by Dekalb County in favor of the construction will indicate a public need for the sanitary sewer, and this shall make all matters pertaining to the construction of the sanitary sewer and the assessment of costs against the abutting property owners legal and binding.

Section 7: Procedures after plans and specifications received

When Dekalb County has received plans, specifications and necessary engineering data, Dekalb County will determine the names of all property owners affected and procure the necessary right-of-way for construction of the sanitary sewer line as specified. Before final approval of any plans, Dekalb County will also ensure that sufficient stub-out connections are designated to adequately serve the territory affected.

Section 8: Performance of construction

All sanitary sewers will be constructed by Dekalb County or by such contractors as Dekalb County may designate from time to time. All sanitary sewer construction performed by a private contractor shall be guaranteed against defects in contractor-supplied material and workmanship for a minimum period of one (1) year from the final inspection date. Construction will be under the supervision of Dekalb County.

Section 9: Assessments generally

(a) After the construction of a sanitary sewer line has been completed, the Department shall make up an assessment roll properly describing the sanitary sewer line and containing the names of all owners of abutting property. Each owner's property abutting the sanitary sewer shall be correctly described as it pertains to the construction. The cost of the sanitary sewer shall then be shared among the various property owners on a prorated basis depending on the number of linear feet each has abutting the sanitary sewer line. The actual assessment shall be calculated using a value in dollars and cents per linear foot based on the average cost for construction of all petitioned sanitary sewer lines in Dekalb County the previous year. Assessment rates will be approved by Dekalb County on an annual basis.

(b) The minimum assessment shall be for sixty-five (65) feet, whether or not a sanitary sewer line has to extend that distance to service a property or not.

Section 10: Assessment computations; double-frontage lots, owners previously assessed, residences not totally served by gravity sewer

(a) Whenever a tract of land abuts a sanitary sewer line on both the front and the rear, and the tract of land cannot be subdivided into two (2) or more separate lots fronting each of the abutting sewers, then the property shall be assessed only for the side with the greater frontage.

(b) Several considerations shall be made before determining whether or not a tract of land can be subdivided. If the topography of the land makes it impractical to construct a building on one (1) of the lots, or to provide sanitary sewer service to one (1) of the lots, then the tract of land is not suitable for subdivision.

(c) Property owners who have contributed to the cost of existing sanitary sewers, whether by private contract, the original subdivisions or previous Dekalb County assessment, shall be exempted from current assessment. However, if property owners or previous owners did not contribute to the construction cost of existing sanitary sewers, they shall be assessed in the same manner as any other abutting property owner.

(d) When all floor levels of a residential unit are not served by the sewer by gravity, then the property will be assessed a percentage of the total assessment equal to a percentage of the total number of fixtures in a house or building that are actually served by the sewer main by gravity.

Section 11: Assessment of corner property

Corner property shall be assessed under this Division in the following manner:

(1) Where the sanitary sewer abuts the property only on the front, the property shall be assessed for the amount of frontage.

(2) Where the sanitary sewer abuts the property on both the front and side, the property shall be assessed for the frontage; the first one hundred fifty (150) feet of the side abutting shall be exempted from assessment; the next one hundred (100) feet of the side abutting shall be subject to assessment; and the remainder of the side abutting beyond two hundred fifty (250) feet shall be treated as outfall sewer and not assessed.

(3) Where the sanitary sewer abuts the property on the side only, the property shall be assessed for the frontage; the first one hundred fifty (150) feet abutting on the sides shall be exempted; the next one hundred (100) feet of the sides abutting shall be subject to assessment; and the remainder of the side abutting beyond two hundred fifty (250) feet shall be treated as outfall sewer and not assessed.

(4) Where the sanitary sewer abuts property that is pie-shaped or has an unusual frontage and that frontage is greater than the largest normal-shaped and assessed

property, the property will be assessed for the same number of front feet as the largest, normal-shaped assessable property in the petitioned area. Dekalb County shall have the responsibility for determining what properties are to be considered pie-shaped or unusual.

Section 12: Outfall sewers

(a) In this section, "outfall sewer" means a section of sanitary sewer line, either in a public street or across private property, which normally does not provide direct service to the abutting property. Usually the outfall sewer is a section of a trunk sewer providing service to several street sanitary sewers serving properties and its cost is not included in the assessment rate. However, when an outfall does provide direct service to the abutting property, the cost of constructing the outfall shall be assessed against the abutting property owners.

(b) Property owners desiring connection to outfall sewers may do so with concurrence of the Director and shall pay an assessment based on the current year linear foot rate prior to their obtaining a sewer connection permit.

(c) Exceptions to the provisions of this section may be granted by the Department upon application.

Section 13: Payment of assessments

Whenever a sanitary sewer line has been constructed in accordance with this Division and the cost thereof has been assessed against the benefiting property, then the respective owners shall be notified of the assessment and they shall be required to pay in cash, within sixty (60) days, to the Dekalb County Finance Department, pursuant to the intergovernmental agreement with the City, the amount of the assessment. If the amount of the assessment causes a financial burden on the owner, then the owner may extend the assessment and pay it in annual installments. However, no less than one-fifth of the total assessment shall be paid within sixty (60) days after notification.

Section 14: Extension of payments

If the property owner requires an extension in the payment of an assessment under this Division, then the owner must execute in writing an extension agreement with Dekalb County stating that the owner shall pay a twenty-percent down payment and, in a maximum of four (4) equal annual installments, the amount of the assessment, less the cash down payment put forth on the due date. The extension agreement must be executed on or before the due date of the assessment. In the agreement, the owner must acknowledge the fact that throughout, the extension remains legal and valid, and all liens remain in force. The unpaid portion of the assessment shall bear interest at a rate specified by the Dekalb County Code. Interest charges shall be assessed from the due date and shall be included in the installments. The agreement shall be negotiable in form, and Dekalb County will reserve the right to transfer or assign it to third

parties. If ever the owner defaults in the payment of any installment, then the entire assessment shall immediately become due and payable.

Section 15: Executions for failure to pay

Should the owner of any property against which a sanitary sewer assessment has been levied fail to execute a payment extension agreement as provided in this Article, or fail to pay the assessment in cash within sixty (60) days, or fail to pay the remainder of the assessment after default on extension, then an execution shall be issued in rem against the property and in personam against the owner in the name of the Dekalb County Board of Commissioners. The execution shall be recorded on the general execution docket in the office of the Clerk of the Dekalb County superior court and shall include sums to cover principal, interest and administrative costs. All adjoining property owned by the same party or parties shall be covered in the execution.

Section 16: Assessments to be liens

All assessments against property and the owners thereof for sanitary sewer construction shall be liens upon the property from the date Dekalb County authorizes construction. All assessments shall be posted in an improvement docket and kept on file with the Dekalb County Finance Department. Properties assessed shall be described in the docket in a manner sufficient to identify them with the section of the sanitary sewer they abut.

Section 17: Assessments after previous exemptions

(a) The Department may grant property abutting sanitary sewer lines an exemption from assessment. Often this occurs when private property is used, through negotiation of an easement, in the laying of a sanitary sewer line. Property thus exempted can be connected to the sewerage system at any future date without being liable for assessment.

(b) If, however, the property was exempted for another reason, such as the elevation of the property, and it is improved at a later date to a condition whereby sanitary sewer service can be attained and is required, then, if this occurs within twenty-five (25) years after the completion of the sanitary sewer, the property is subject to assessment under the provisions of this Division. If the improvement occurs more than twenty-five (25) years after construction, the property may not be assessed.

Section 18: Service connections

(a) After sanitary sewer lines have been constructed and tied into the Dekalb County sewerage system, each abutting property owner who has contributed to the costs of construction through assessment may desire a service connection. To make such a connection, the property owner shall hire, at the owner's expense, a plumber or contractor to lay pipe from the building drain to the stub-out provided. Before this service line can be connected to the sanitary sewer, the owner shall secure a permit from Dekalb County by paying a plumbing fee and a sewer tap fee. If the service line then passes the

inspection criteria of Dekalb County, the owner may have it connected into the sewerage system.

(b) When no stub-out or other means of connection is provided so as to service the building drain, it shall be the responsibility of Dekalb County to provide a stub-out for the property owner at no cost if the property owners, present or past, have contributed to the cost of the existing sewer either by the original subdivision or by Dekalb County assessment.

(c) When a property owner desires connection to the sewerage system after construction of the sanitary sewer line, and no owner of the property has contributed to the costs of constructing the sanitary sewer line, the owner must pay a proportionate cost of construction based on the current year linear foot rate prior to obtaining a sewer connection permit.

Division 3: Building Sewers and Connections

Section 1: Applications for building sewer permits

Applications for building sewer permits shall be supplemented by plans, specifications and other information considered pertinent to the issuance of a permit. At the time the application is filed, a plumbing and inspection fee in an amount established by Dekalb County, a copy of which is on file in the office of the Clerk of the Dekalb County Board of Commissioners, shall be paid to Dekalb County. Installations and their respective tapping fees, as set by Dekalb County, shall be placed in one (1) of two (2) categories, residential or nonresidential. Proposed nonresidential discharges which meet the definition of significant industrial user shall also obtain a wastewater discharge permit as described in Division 4 of this Article. Nonresidential development has the option of requesting a recalculation of the tap fee based on actual water consumption after the first year of occupancy in a new building.

Section 2: Separate building sewer for each building

A separate and independent building sewer shall be provided for every building. An exception is made where one (1) building stands at the rear of another on an interior lot and no private sanitary sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway; then, the building sewer from the front building may be extended to the rear building and the whole system considered one (1) building sewer.

Section 3: Old building sewers in new buildings

Old building sewers may be used in connection with new buildings only when they are found, upon examination and test by Dekalb County, to meet all requirements of this Article.

Section 4: Location of building sewer and building drain

Unless otherwise authorized in writing by the Department, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which a building drain is too low to permit gravity flow to the public sanitary sewer, sewage carried by this drain shall be lifted by an approved sewage ejector to a height to permit gravity flow. All sewage ejector installations shall be approved by Dekalb County.

Section 5: Owner to bear installation, connection costs

The owner shall bear all costs and expenses incident to the installation and connection of the building sewer. The owner shall compensate Dekalb County for any loss or damage that may have occurred to the public sanitary sewer as a result of the installation of the building sewer.

Section 6: Conformity to Dekalb County specifications

The size, slope, alignment and materials used in constructing a building sewer; the methods used in excavating, placing of the pipe, and backfilling of the trench; and the testing of the pipe shall all conform to the specifications, guidelines and other applicable rules of Dekalb County.

Section 7: Connection of building sewer into public sewer

(a) The connection of the building sewer into the public sanitary sewer shall conform to the requirements and regulations of Dekalb County. All connections shall be made gastight and watertight. Any deviation from specified procedures must be approved in writing by the Department before installation.

(b) An applicant for a building sewer permit shall notify the Department when the building sewer is ready for inspection and connection to the public sanitary sewer. Service shall not be instituted until the plumbing fee and sewer tap fee are paid and the connection is approved. Excavations necessary for the accomplishment of the connection shall be adequately guarded with barricades and lights, so as to protect the public from hazard. All excavations greater than five (5) feet deep shall be covered when excavation is not being conducted. Streets, sidewalks, parkways and other public property disturbed in the course of work shall be restored at the owner's expense, in compliance with Dekalb County specifications.

Section 8: Connection of surface runoff and groundwater sources to public sewer

Connection, directly or indirectly, of roof downspouts, exterior foundation drains, area drains or other sources of surface runoff is not permitted to a building drain or building sewer connected to a public sanitary sewer. Existing connections of these items to a building sewer shall be disconnected when the building sewer is connected to the public sanitary sewer system.

Section 9: Connecting to public sewer without paying fees or obtaining permit

It is unlawful to connect to the public sanitary sewer without payment of the prescribed fee and without a permit. If such a sewer connection is made, a current sewer tap fee, the fee at the time the connection was discovered, will be assessed; back sewer use charges will be made and interest at the rate specified in Chapter 2 of the Dekalb County Code will be charged.

Section 10: Maintenance and repair responsibility for building sewer service connections to public sanitary sewer system

The property owner shall be responsible for maintenance and repair of building sewer service connections to the public sanitary sewer system on private property. DeKalb County will be responsible for maintenance and repair of building sewer service connections within City or Dekalb County street rights-of-way and sanitary sewer easements.

Division 4: Wastewater Discharge Permits

Section 1: Wastewater discharge permit required

All significant industrial users connected to, proposing to connect to or otherwise contributing to the POTW shall obtain a wastewater discharge permit. Proposed new significant users shall apply at least ninety (90) days prior to connection to the sewer system and shall obtain such permit prior to contributing to the system.

(1) The Director may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this Division.

(2) The Director may deny permission to discharge or condition discharges from new, increased or significantly changed contributions from any industrial user, significant or otherwise, located within the City or in outside jurisdictions discharging to Dekalb County's POTW.

(3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this Division and subjects the wastewater discharge permittee to the sanctions set out in this Division. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements, or with any other requirements of Federal, State and local law.

Section 2: Application

Users required to obtain a wastewater discharge permit shall complete and file with the Department an application in the form prescribed and furnished by Dekalb County and accompanied by a fee in the amount established by Dekalb County, a copy of which is on file in the office of the Clerk of the Dekalb County Board of Commissioners.

Section 3: Compliance with all applicable regulations

Wastewater discharge permits shall be subject to all provisions of this Article and all other applicable regulations, user charges and fees established by Dekalb County.

Section 4: Permit contents

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Director to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal and protect against damage to the POTW.

(1) Wastewater discharge permits must contain:

(A) A statement that indicates wastewater discharge permit duration, which in no event shall exceed three (3) years;

(B) A statement that the wastewater discharge permit is nontransferable, except as defined in Section 5 of this Division;

(C) Effluent limits based on applicable pretreatment standards;

(D) Self monitoring, sampling, reporting, notification and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency and sample type based on Federal, State or local law;

(E) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State or local law.

(2) Wastewater discharge permits may contain, but need not be limited to, the following:

(A) Limits on the rate of discharge, time of discharge and/or requirements for flow regulation and equalization;

(B) Requirements for the installation of pretreatment technology, pollution control or construction of appropriate containment devices designed to reduce, eliminate or prevent the introduction of pollutants into the treatment works;

(C) Requirements for the development and implementation of accidental discharge/slug control plans or other special conditions including

management practices necessary to adequately prevent accidental, unanticipated or non-routine discharges;

(D) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(E) Requirements for installation and maintenance of inspection and sampling facilities and equipment;

(F) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

(G) Other conditions as deemed appropriate by the Director to ensure compliance with this ordinance and State and Federal laws, rules and regulations.

Section 5: Expiration and renewal

Wastewater discharge permits shall be issued for a specified time period, not to exceed three (3) years. The user shall apply for permit reissuance a minimum of one hundred twenty (120) days prior to the expiration of the user's existing permit. If no new local, State or Federal pretreatment requirements are impending on the user and the user has had no violation of the existing permit, the permit shall be renewed for a time period at least equal to the existing permit. All other expiring permits shall be reviewed and revised or renewed as determined by the Director. Should a timely applied for permit expire before issuance of a new permit by Dekalb County, the existing permit shall continue in force until the new permit is issued.

Discharge permits are issued to a specific user for a specific operation and normally are not transferable to any succeeding user or the current user for a new operation. Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least sixty (60) days advance notice to the Director and the Director approves the wastewater discharge permit transfer. The notice to the Director must include a written certification by the new owner or operator which:

(1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(2) Identifies the specific date on which the transfer is to occur; and

(3) Acknowledges full responsibility for complying with the existing wastewater discharge permit. Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

Section 6: Reporting requirements

(a) Baseline monitoring reports.

(1) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Director a report which contains the information listed in paragraph (b) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Director a report which contains the information in paragraph (b) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants to be discharged.

(2) Users described above shall submit the following information:

(A) *Identifying information.* The name and address of the facility including the name of the operator and owner.

(B) *Environmental permits.* A list of any environmental control permits held by or for the facility.

(C) *Description of operations.* Brief description of the nature, average rate of production and standard industrial classifications of the operation(s) carried out by the user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated process.

(D) *Flow measurement.* The measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams.

(E) *Measurement of pollutants.*

(i) The categorical pretreatment standards applicable to each regulated process.

(ii) The results of sampling and analyses identifying the nature and concentration of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations shall be reported. The sample shall be representative of daily operations and shall be analyzed in

accordance with procedures set out in Section 11 of Division 5 of this Article.

(iii) Sampling must be performed in accordance with procedures set out in Section 11 of Division 5 of this Article.

(F) *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and. requirements.

(G) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional treatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

(H) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with Section 7 of this Division.

(b) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by subsection (a)(2)(G) above:

(1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards;

(2) No increment referred to above shall exceed nine (9) months;

(3) The user shall submit a progress report to the Director no later than fourteen (14) days following each date in the compliance schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay and, if appropriate, the steps being taken by the user to return to the established schedule.

(4) All compliance schedule progress reports must be signed and certified in accordance with Section 7 of this Division; and

(5) In no event shall more than nine (9) months elapse between such progress reports to the Director.

(c) Report on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment

standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Director a report containing the following information: flow measurements; measurement of pollutants; and the certification statement, as described in subsection (b) above, the baseline monitoring report. All compliance reports must be signed and certified in accordance with Section 7 of this Division.

(d) Discharge monitoring reports (self-monitoring reports). All significant industrial users shall, at a frequency determined by the Director and specified in the wastewater discharge permit but in no case less than twice per year, submit a report on the nature and concentration of pollutants in the discharge which are limited by pretreatment standards, and the measured daily flows for the reporting period. All discharge monitoring reports must be signed and certified in accordance with Section 7 of this Division.

(1) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(2) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Director, using the procedures prescribed in this Division, the results of the additional monitoring shall be included in the report.

(e) Notice of violation/repeat sampling and reporting. If sampling performed by a user indicates a violation, the user must notify the Director's designee as identified in the wastewater discharge permit within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analyses and submit the results of the repeated testing to the Director within thirty (30) days of becoming aware of the violation. The user is not required to resample if the Department monitors at the user's facility at least once a month, or if the Department samples between the user's initial sampling and when the user receives the results of that sampling.

(f) Reports of changed conditions. Each user must notify the Director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

(1) The Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 2 of this Division.

(2) The Director may issue a wastewater discharge permit under Section 1 of this ordinance or modify an existing wastewater discharge permit under section 25-246 of this division in response to changed conditions or anticipated changed conditions.

(3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty (20) percent or greater, and the discharge of any previously unreported pollutants.

Section 7: Signatories and certification

All wastewater discharge permit applications and user reports (Section 6 of this Division) must be signed by an authorized representative of the user and contain the following certification statement: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Section 8: Record keeping

Users subject to the reporting requirements of this Division shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this division and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, time of sampling, and the name of the person(s) taking the samples; the dates the analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the county, or where the user has been specifically notified of a longer retention period by the Director.

Section 9: Appeals

(a) Any user may appeal an altered or new permit condition or alleged violation of a current permit condition to the Department. Such appeal must be received within thirty (30) workdays. The Department shall schedule an appeal review meeting within thirty (30) days to discuss the appealed condition of this division or wastewater discharge permit and corrective or remedial action to be taken.

(b) If the user and the Department can agree to appropriate corrective remedial or preventive measures, such measures and a reasonable compliance schedule shall be incorporated as a supplemental condition of the user's wastewater discharge permit. If an agreement is not reached through the conciliation process, the Department shall refer the appeal to the Dekalb County Board of Commissioners and the Dekalb County Board of Commissioners shall review the appeal and adjudge the dispute. The Dekalb County Board of Commissioners shall then institute such actions as deemed advisable to ensure the user's compliance with the provisions of this Division or other laws or regulations.

Section 10: Public participation and access to records

(a) Dekalb County shall comply with the regulations for public participation as applicable under Federal, State or local law.

(b) Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, monitoring programs and from Dekalb County's inspection and sampling activities shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Director, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law, or that such information is otherwise protected from disclosure under applicable Federal or State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public. It shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving persons furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

Section 11: Federal limits supersede local limits

Upon the promulgation of a national categorical pretreatment standard for a particular industrial subcategory, the national standard, if more stringent than limitations imposed under this Article for sources in that subcategory, shall immediately supersede the limitations imposed under this Article. Dekalb County shall notify all affected significant industrial users of the applicable reporting requirements under 40 CFR 403.12.

Section 12: Significant noncompliance

The Director shall publish annually, in the largest daily newspaper published in the City, a list of users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

(1) Chronic violations of wastewater discharge limits, defined as those in which sixty-six (66) percent or more of wastewater measurements taken during a six-month period exceed the daily limit or average limit for the same pollutant parameter by any amount;

(2) Technical review criteria (TRC) violations, defined as those in which thirty-three (33) percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily

limit or the average limit multiplied by the applicable criteria (1.4 for BOD; TSS; fats, oils and grease; and 1.2 for all other pollutants except pH);

(3) Any other discharge violation that the Director believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Director's exercise of his emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in the wastewater discharge permit;

(6) Failure to provide, within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation(s) which the Director determines will adversely affect the operation or implementation of the local pretreatment program.

Section 13: Penalties and enforcement

(a) Upon determination that a violation of this Article has occurred, the Director shall serve upon that discharger a written notice of violation. Within fifteen (15) days of receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific actions, shall be submitted by the violator to the Department. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the Director to take any action, including emergency actions or other enforcement action, without first issuing a notice of violation.

(b) The Director may order a discharger which has violated, or continues to violate, any provisions of this Article to appear before the Director and show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served by registered or certified mail, or by personal service on the user or the authorized representative of the user. Such notice may be served on any authorized representative of the discharger. A show cause hearing shall not be a bar against, or a prerequisite for, taking any other action against the discharger.

(c) When the Director finds that a discharger has violated, or continues to violate, any provisions of this Division or that the discharger's past violations are likely to recur, the

Director may issue an order to the discharger directing it to cease and desist all such violations and directing the discharger to:

(1) Immediately comply with all requirements; and,

(2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation and to prevent recurrence of the violation.

(3) Each day of violation of a cease and desist order, after notice thereof, shall constitute a violation of this Division, and shall constitute a separate violation of this Division, subject to the maximum fine or imprisonment, or both, set forth in Chapter 1 of the City of Dunwoody Code of Ordinances.

(d) Violation of the provisions of this Division constitutes an infraction subject to a penalty not to exceed one thousand dollars ($1,000.00) per day per violation, imprisonment for a term not exceeding thirty (30) days for any single offense, in accordance with Chapter 1 of the City of Dunwoody Code of Ordinances. The City of Dunwoody or DeKalb County may institute appropriate action or proceedings at law or equity for the enforcement of this Division or to correct violations of this Division. Any court of competent jurisdiction may have the right to issue restraining orders, temporary or permanent injunctions and other appropriate forms of remedy or relief. Each day of noncompliance is considered a separate offense. Nothing herein contained shall prevent the City or Dekalb County from taking such other lawful action as is necessary to prevent or remedy any violation, including application for injunctive relief.

(e) When the Director finds that a discharger has violated, or continues to violate, any provision of this Division, the Director may petition the courts for the issuance of a temporary or permanent injunction, as appropriate, which rest rains or compels the requirements imposed by this Division on activities of the user. The Director may also seek such other action as appropriate for legal and/or equitable relief, including a requirement for the discharger to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or prerequisite for, taking other action against a discharger.

(f) The Director may recover reasonable attorneys' fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City or Dekalb County, including, but not limited to, containment, cleanup, injury, death and other.

Section 14: Permit revocation

The Director may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) Failure to notify the Director of significant changes to the wastewater prior to the changed discharge;

(2) Failure to provide prior notification to the Director of changed conditions pursuant to this Chapter;

(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application or any other required reporting;

(4) Falsifying self monitoring reports or other required reporting;

(5) Tampering with monitoring equipment;

(6) Refusing to allow the Director timely access to the facility premises and records;

(7) Failure to meet effluent limitations;

(8) Failure to pay fines;

(9) Failure to pay sewer charges;

(10) Failure to meet compliance schedules;

(11) Failure to complete a wastewater survey or the wastewater discharge permit application;

(12) Failure to provide advance notice of the transfer of business ownership of a permitted facility;

(13) Change of any condition that requires either temporary or permanent reduction or elimination of the permitted discharge; or

(14) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this Chapter.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

Section 15: Permit modification

The Director may modify any permit in whole or in part during its term for cause including, but not limited to, the following:

(1) Violating any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this Division;

(2) Engaging in any act that would constitute basis for revocation of the permit;

(3) For purpose of incorporating any new or revised Federal, State or local pretreatment standard or requirements;

(4) For purpose of addressing significant alterations or additions to the user's operation, processes or wastewater volume or character since the time of wastewater discharge permit issuance;

(5) Information indicating that the permitted discharge poses a threat to the POTW, personnel, or the receiving waters;

(6) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

(8) To correct clerical or other errors in the wastewater discharge permit; or

(9) Changing any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

Section 16: Affirmative defenses to discharge violations

(a) Upset.

(1) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of Section 16(a)(3), below, are met.

(3) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(A) An upset occurred and the user can identify the cause(s) of the upset;

(B) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(C) The user has submitted the following information to the director within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):

(i) A description of the indirect discharge and cause of noncompliance;

(ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(D) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(E) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(F) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(b) Prohibited discharge standards. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Division 5, Section 3(1) or the specific prohibitions in Division 5, Section 3(2)(c) through (g) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when Dekalb County was regularly in

compliance with its NPDES permits, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(c) Bypass.

(1) For the purposes of this section,

(A) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.

(B) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss caused by delays in production.

(2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (3) and (4) of this section.

(3) (A) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Director, at least ten (10) days before the date of the bypass, if possible.

(B) A user shall submit oral notice to the Director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(4) (A) Bypass is prohibited, and the Director may take an enforcement action against a user for a bypass, unless:

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should

have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(iii) The user submitted notices as required under paragraph (3) of this section.

(B) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in paragraph (c)(4)(A) of this section.

Division 5: Discharge Regulations

Section 1: Discharge of prohibited waters

Discharge to a public sanitary sewer of stormwater, surface runoff or groundwater is prohibited. These waters shall be discharged to sewers specifically designated as storm sewers, combined sewers, or to an outlet approved by the City or Dekalb County.

Section 2: Unauthorized tampering or use of sewers, appurtenances

No unauthorized person shall uncover, make any connections with or open, use, alter or disturb any public sanitary sewer or appurtenance without first obtaining a written permit from the Department.

Section 3: Prohibited substances, wastes or materials

(a) General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other Federal, state, or local pretreatment standards or requirements.

(b) Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:

(1) Gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquids, solids or gases, or any other pollutants which create a fire or explosive hazard in the POTW including, but not limited to, wastestreams with a closed-up flash point of less than one hundred forty (140) degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21.

(2) Wastewater having a pH lower than 5.0 or higher than 11.5 or otherwise causing corrosive structural damage to sewerage or harm to personnel.

(3) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems, or any water wastes containing toxic or poisonous solids, liquids or gases in a quantity sufficient to interfere with any sewerage or sewage treatment process, constitute a hazard to humans or animals or create a public nuisance, whether these wastes cause problems independently or via action with other substances.

(4) Solids or viscous liquids in quantities, types or sizes which will cause either flow obstruction in the sewer system or interference with the operation of the POTW (size may not be greater than one-half (1/2) inch in any dimension).

(5) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.

(6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through; and

(7) Wastes or pollutants which have been classified as hazardous waste or hazardous materials in accordance with 40 CFR Part 261.

Section 4: Limits set on certain substances, materials and wastes

(a) Discharge of any of the following water substances, wastes, or materials into a public sanitary sewer in excess of the stated limits and/or conditions is prohibited:

(1) Liquid or water vapor having a temperature greater than one hundred fifty (150) degrees F, or which will inhibit biological activity in the POTW resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed one hundred four (104) degrees C.

(2) Water or waste containing fats, wax, grease or oils of a petroleum or mineral base, in a concentration greater than one hundred (100) milligrams per liter (mg/l).

(3) Substances which become solids or very viscous liquids at temperatures greater than thirty-two (32) degrees Fahrenheit.

(4) Garbage that has been improperly shredded (any dimension greater than one-half (1/2) inch).

(5) Water or waste containing the contaminants listed at a concentration greater than the limits set. This restriction includes, but is not limited to, discharges by any user of the collection and treatment system such that specific pollutants discharged to the Dekalb County sanitary sewer system do not exceed concentrations specified below.

The concentration limits on discharges by any user, listed below, may be used as a guide in design and plant control, but may be altered by Dekalb County in the event of a discharge causing upset, interference or pass through at the POTW or having a deleterious effect upon any other aspect of public welfare, either alone or in combination with other discharges:

LOCAL DISCHARGE LIMITS FOR ALL CITY OF DUNWOODY INDUSTRIAL USERS – MAXIMUM DAILY CONCENTRATION

(As measured in discharges from manufacturing processes only, excluding domestic wastes or unpolluted discharges)

TABLE INSET:

Contaminant	**Industrial User Discharge Limit (mg/L)**	**Sample Type**
Arsenic	0.12	24-hr. composite
Cadmium	0.01	24-hr. composite
Chromium	2.3	24-hr. composite
Copper	2.6	24-hr. composite
Cyanide, Total	0.08	Grab
Lead	0.12	24-hr. composite
Mercury	0.002	24-hr. composite
Molybdenum	1.7	24-hr. composite
Nickel	1.8	24-hr. composite
Phenol	3.6	Grab
Selenium	0.5	24-hr. composite
Silver	1.7	24-hr. composite
Zinc	2.5	24-hr. composite

(6) Water or wastes containing taste- or odor-producing contaminants in such quantities that, after treatment of sewage, these contaminants impart their tastes or odors to receiving waters.

(7) Water or wastes colored by dye or other solutions to such a degree that the color is not removed by treatment.

(8) Wastes containing substances emitting radiation greater than one thousand (1,000) picocuries per liter (pCi/l) for gross beta.

(9) Any other contaminant which the Director deems harmful to the operation or efficiency of sewage treatment plants, the utilization or disposal of sludges, or to the health and welfare of the residents of the City.

(10) Waters or wastes containing any compound found to be toxic, in concentrations exceeding such acceptable limits as have been or shall be defined by the Environmental Protection Agency. This limitation includes compounds defined

by the Environmental Protection Agency as priority pollutants pursuant to 40 CFR 403.

(b) Ground paper products shall be prohibited from being discharged into the public sewer system.

(c) All industrial users shall be required to meet pretreatment standards as set forth in Title 40 Part 403 of the Code of Federal Regulations, entitled "General Pretreatment Regulations for Existing and New Sources of Pollution". The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405--471 are hereby incorporated.

(d) The City or Dekalb County may establish by ordinance, or the Director may establish in wastewater discharge permits, more stringent standards for requirements on discharges to the POTW.

Section 5: Discharges which affect effluent quality from sewage treatment plants

Discharges of materials or substances which would cause interference, upset and/or pass-through in the POTW, whether alone or in combination with other substances and discharges, are prohibited. Included without limitation in this category are:

(1) Slug concentrations of inert suspended solids (such as lime slurries).

(2) Slug concentrations of inert dissolved solids (such as sodium chloride).

(3) Slug concentrations of colored wastes (such as dyes and tanning solutions).

(4) Slug concentrations of materials high in BOD or COD.

(5) Slug concentrations of ammonia or organic nitrogen compounds.

(6) Slug concentrations of phosphorus compounds.

(7) Other wastes not amenable to treatment.

Section 6: Accidental discharge/slug control plans

(a) At least once every two (2) years, the Director shall evaluate whether each significant user needs an accidental discharge/slug control plan. The Director may require any user to develop, submit for approval and implement such a plan. Alternatively, the Director may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including non-routine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the Director or his designee of any accidental or slug discharge, as required by Section 12 of this Division;

(4) Procedures to prevent adverse impact from accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(b) Pollutants, substances or wastewater prohibited by this Division shall not be processed or stored in such a manner that they could be discharged to the POTW. Pollutants, raw materials, products, processed materials or waste materials shall not be stored in such a manner that they could be discharged to the storm drain or cause a contaminated discharge to the municipal separate storm sewer system.

Section 7: Separators and interceptors

Grease, oil and sand separators shall be provided when wastes containing more than one hundred (100) mg/l of fat, oil, grease or sand are discharged. Separators shall also be provided for any other substance in the wastes which becomes viscous or solidifies at a temperature above thirty-two (32) degrees Fahrenheit. All interceptors or separators shall be approved in writing by Dekalb County and shall be located for easy inspection. All expenses of installation and operation shall be borne by the owner. Interceptors and separators shall not be required for private living quarters.

Section 8: Industrial discharges and surcharges

(a) Industrial contributors to the public sanitary sewer system shall be required to pay a sewer rate surcharge based upon the concentration of total suspended solids (TSS), five-day BOD, ammonia and/or total phosphorus in their effluents. Industrial dischargers whose wastes contain greater than two hundred fifty (250) mg/l of either five-day BOD and/or total suspended solids, thirty (30) mg/l ammonia, or ten (10) mg/l total phosphorus shall pay the surcharge in an amount set by Dekalb County.

(b) If values for any constituent exceed two (2) times the minimum surcharge concentration (i.e., five hundred (500) mg/l TSS) then the Director may, if determined that these wastes adversely affect the POTW, require the industrial user to install pretreatment before discharging wastes to the public sanitary sewer system. This pretreatment must reduce the concentration of the wastes by treatment/removal of the excess constituent to the point where it no longer harms the POTW, and the values for all constituents are less than two (2) times the minimum surcharge concentration.

(c) Periodic determination of the values for constituents subject to surcharge shall be made on composite samples of industrial effluents by personnel of Dekalb County.

Section 9: Discharges requiring pre-treatment

The Department may require pretreatment of wastewater to an acceptable condition before discharge to the public sanitary sewer system when wastewaters contain the substances or possess the characteristics of prohibited or limited discharges. Pretreatment may also be required if these wastewaters cause upset, interference or pass through at the POTW or have a deleterious effect upon any other aspect of public welfare, either alone or in combination with other discharges. In addition to lowering the concentrations of substances to an acceptable level through pretreatment or altering the characteristics of a wastewater, the Department may require additional controls before discharge to the public sanitary sewer system. In particular, quantities or rates of discharge shall be altered so that the discharge becomes more compatible with the sewer system. Expenses incurred in the installation and operation of these controls shall be borne by the industrial user.

Section 10: Dilution

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Director may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

Section 11: Measurements, tests and analyses, and sample collection

(a) Any measurements, tests, analyses, sample types, sample containers and/or holding times to which reference is made in this Chapter shall be determined in accordance with procedures and specifications as set forth in Title 40 Part 136 of the Code of Federal Regulations, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

(b) Analyses shall be determined at the control manhole, or upon a suitable sample taken at the control manhole. If no control manhole is available on the building sewer, the control manhole shall be considered the nearest downstream manhole to which the building sewer is directly connected. When the Director deems it necessary, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole on the building sewer to facilitate observation and sampling of wastes. This manhole, when required, shall be accessible, safely located, and constructed at the owner's expense in accordance with Dekalb County specifications.

(c) Except as indicated in subsection (d) below, the user must collect wastewater samples using flow proportional composite sampling techniques. In the event flow proportional sampling is infeasible, the Director may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(d) Samples for oil and grease, temperature, Ph, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

Section 12: Accidental spills or drains

(a) In the case of accidental spills, loss to the drains of any deleterious material or substances, discharges of a non-routine nature, non-customary batch discharges or slug loads, the user shall immediately telephone and notify the Department of the incident. This notification shall include the time of occurrence, location of discharge, type of waste, concentration and volume if known and corrective actions taken by the user. The user shall take all possible actions to prevent a spill, and should a spill occur, shall take immediate steps to ensure no recurrence of the incident. Industrial users which store or otherwise handle toxic, hazardous or flammable materials must have an accidental discharge/slug control plan in place to prevent the discharge, accidental or otherwise, of said materials to the sewer system.

(b) Within five (5) days following such discharge, the user shall submit a detailed written report, unless waived by the Director, describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar occurrences in the future. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, natural resources or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this Division.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

Section 13: Discharge of trucked or hauled wastes

(a) Discharge to any public sanitary sewer, appurtenance, or treatment facility of pumped, trucked or hauled wastes from commercial or industrial sources is prohibited. This ban specifically includes the disposal of greases and other grease trap-related wastes from food establishments.

(b) Discharge of domestic septage is allowable only at a Dekalb County-authorized septic tank disposal site, located at the Snapfinger Creek Water Pollution Control Plant, in accordance with the following requirements:

(1) Septic tank pumping companies must register with the DeKalb County Health Department, Division of Environmental Health; have their trucks inspected by that agency; and be issued a permit to Operate.

(2) Discharge fees shall be payable by coupons, obtained at the DeKalb County Division of Revenue and License Administration, and presented to the operator at the disposal site. Fees shall be as established by Dekalb County.

(3) A manifest form must be completed on every septic tank pumped. Copies of the manifests for the septage to be discharged must be presented to the operator at the disposal site. The operator shall have the authority to deny approval for discharge to any load(s) not accompanied by manifests, due to discrepancies with the manifests, or other apparent problems with truck contents.

(4) Domestic septage shall be defined as the contents from septic tanks located at single-family residences, DeKalb County school facilities, or the contents of portable toilets.

(5) Repeat and/or major violations of these regulations may result in Dekalb County barring the hauling company from the treatment facility and denying access to disposal in Dekalb County's system, in addition to the other fines and penalties cited in this Division.

Section 14: Emergency Suspensions

The Director may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Director may also immediately suspend the user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension the Director may take such steps as deemed necessary, including immediate severance of the order, sewer connection, and/or termination of water supply, to prevent or minimize damage to the POTW, its receiving stream or endangerment to any individuals. The Director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Director that the period of endangerment has passed.

(2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement to the Director, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

Division 5.1: Fats, Oils and Greases

Section 1: Title

This Division shall be known as the Fats, Oils, and Greases Regulations of the City of Dunwoody, Georgia.

Section 2: Definitions

For the purposes of this Division, certain terms and words are hereby defined. Where words are not herein defined, but are defined in Chapter 1 of the City of Dunwoody Code of Ordinances, those words shall have the meaning as defined therein. Unless otherwise defined herein, words related to water quality shall be as defined in the latest edition of Standard Methods for Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association, and the Water Environment Federation. Unless otherwise defined herein, words related to construction shall be as defined in this Code and in the latest adopted applicable editions of the Georgia codes applicable to building construction adopted pursuant to State law. The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Architectural or historical restrictions means a building or structure in the City of Dunwoody that is one hundred (100) years or older and has special historical or esthetic interest or value.

Backflow means a reversal of normal flow in a system caused by a negative pressure (vacuum or partial vacuum) in the supply piping or other condition that reverses the normal direction of flow.

Baffle means a retention wall three-quarters (3/4) the length of the chamber nearer to the outlet.

Best management practices means a schedule of activities, a prohibition of practices, maintenance procedures, and other management practices to prevent or reduce the introduction of fats, oils, and greases into the sewer system. These practices may vary by site, but produce the same reductions in fats, oils, and greases in the sewer system.

Change in operations means any change in the ownership, food types, or operational procedures of a food service establishment.

Compliance inspector means a person authorized by DeKalb County to inspect any existing or proposed wastewater generation, conveyance, processing, and/or disposal facilities.

Director means the director or designee of the DeKalb County Department of Watershed Management, or, if delegated by an intergovernmental agreement, the Director of the City of Dunwoody Department of Public Works.

Extreme economic hardship means a cost to comply with the requirements of these regulations that exceeds fifty thousand dollars ($50,000.00).

Fats, oils, and greases (FOG) means any substance such as a vegetable or animal product that is used in, or is a byproduct of, the food preparation process, that turns or may turn viscous or solidifies or may solidify with a change in temperature or other conditions.

Fixtures means a pot sink, pre-rinse sink, vegetable sink, meat sink, mop sink, soup kettles, work stations, floor drains, automatic hood wash units, garbage disposals, trash compactors, dishwashers, and any other similarly functioning plumbing fixtures.

Flow means volume of wastewater moving in a certain direction.

Flow control device means a mechanism installed to control flow of hydraulic levels of FOG into an interceptor.

FOG means fats, oils, and greases.

FOG control program means to reduce and/or control the discharge of fats, oils, and grease into the sewer system by educating and regulating food service establishments located in the City of Dunwoody or establishments located outside the City of Dunwoody but which discharge FOG.

FOG control program manager means the individual designated by DeKalb County to administer the FOG control program.

FOG interceptor means a multicompartment device that is constructed in different sizes and is generally required to be located underground between a food service establishment and the connection to the sewer system. These devices primarily use gravity to separate FOG from the wastewater as it moves from one compartment to the next. These devices must be cleaned, maintained, and have the FOG removed and disposed of in a proper manner on regular intervals to be effective.

FOG manifest means a document that the state-permitted transporter must provide to the FOG generator as proof of services rendered.

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FOG wastewater discharge permit means a permit issued by DeKalb County authorizing the food service establishment or generator to discharge wastewater into DeKalb County's facilities or into the sewer system.

Food Service Establishment (FSE) means any person who prepares and/or packages food or beverage for sale or consumption, on or off site, with the exception of private residences so long as the private residence is not used to prepare or package food or beverage for sale. Food service establishments include, but are not limited to, food courts; food manufacturers; food packagers; restaurants; catering services; bars/taverns; cafeterias; soda fountains; institutions, both public and private; mobile food vehicles (coach); wing trailers; diners; grocery stores; bakeries; coffee shops; ice cream shops; lounges; hospitals; hotels; nursing homes; churches; schools; daycare center; and all other food service establishments not listed above, either fixed or mobile, as are or may hereafter be recognized by the Dekalb County Health Department and/or the State Department of Agriculture.

Fresh air system/fixtures means a system that provides free circulation of air, which will prevent contamination from back flow or back siphonage, e.g. compartment sinks, dishwashers, floor drains, meat sinks, vegetable sinks, work stations, and mop sinks.

Generator means any person including those outside the jurisdictional limits of the City of Dunwoody who contributes, causes, or permits the contribution or discharge of wastewater into sewers within the City's boundaries.

Georgia state permitted transporter means a transporter as that term is defined by O.C.G.A. § 12-15-20 and as may hereinafter be amended.

Grease trap means an inside mechanism no less than one hundred (100) pounds and no more than three hundred (300) pounds in size, with baffle and flow control installed before the master trap.

Hot flushing means a situation prohibited in the City of Dunwoody that occurs when the FOG interceptor is too close to a hot-water-using device so the water does not cool sufficiently in the interceptor to allow the FOG to coagulate and float to the top and FOG is instead carried out to the sewer system.

Limited food preparation establishment means an establishment that is engaged only in reheating or serving of ready-to-eat food products and, as a result, discharges wastewater containing less than one hundred (100) mg/L of FOG per operating business day. A limited food preparation establishment does not include any operation that changes the form, flavor, or consistency of food.

New construction means any structure, planned or under construction, where a sewer connection permit is required by law or regulation but has not been issued by Dekalb County.

Nonhazardous manifest means a receipt that is retained by the generator of wastes for disposing of FOG, liquids, or other wastes as required by DeKalb County.

Plumbing Drainage Institute rating means interceptors that are tested, rated, and certified in conformance with Standard Plumbing Drainage Institute-- G101 by the Plumbing and Drainage Institute.

Regulatory agencies means those agencies having regulatory jurisdiction over the operations of the City of Dunwoody including, but not limited to: the United States Environmental Protection Agency, region IV, Georgia and Washington, D.C. (EPA); the Georgia Department of Natural Resources (DNR); the Georgia Division of Public Health; the Georgia Environmental Protection Division (EPD); Dekalb County; or any regulatory agency or body as may be established by Federal, State, or local law.

Remodeling or *remodeled* means a physical change or operational change in a structure that requires an issuance of or revision to a business license or a building permit.

Septic tank means a hollow chambered tank without a baffle, T's, and flow control to restrict FOG from entering Dekalb County's sewer system.

Sewer system means as defined in Division 1, Section 1 of this Article and as may hereinafter be amended.

Shovel inspection means a FOG compliance inspector who uses a shovel to determine the condition of the FOG interceptor.

Sludge means any solid, semisolid or liquid decant, subnate or supernate from a manufacturing process, utility service, or pretreatment facility.

Sludge judge inspection means a test in which the FOG compliance inspector uses an instrument, usually a clear hollow plastic tube, to pull and measure a core sample from the FOG interceptor to determine its condition.

Standard Plumbing Drainage Institute--G101 means a comprehensive engineering and testing program developed to establish flow rates and FOG holding capacity for uniform rating of FOG interceptors.

Total solids means the sum of suspended and dissolved solids within a sample.

Twenty (20) percent rule means the requirement for FOG interceptors to be maintained such that the combined FOG solids accumulation does not exceed twenty (20) percent of the design hydraulic capacity of the FOG interceptor.

Visual inspection means an in-person observation by a FOG compliance inspector to determine if a shovel inspection and/or a sludge judge inspection is necessary to determine the condition of the FOG interceptor.

Waste means sewage and any and all other waste substances, liquid, solid, or gaseous, associated with human habitation or of human or animal nature intended for disposal.

Wastewater constituents and characteristics means the individual chemical, physical, and bacteriological parameters, including volume and flow rate, and such other parameters that serve to define, classify, or measure the quality and quantity of wastewater.

Section 3: Purpose, scope and policy

(a) These regulations are designed to facilitate the maximum beneficial public use of DeKalb County's sewer system while preventing blockages and overflows of sewer system resulting from discharges of FOG into the DeKalb County sewer system and to specify appropriate FOG discharge requirements for all facilities emitting FOG.

(b) By enactment of these regulations, the City intends to exercise its authority over sizing, location, maintenance, and material of grease traps and/or interceptors within the City of Dunwoody.

(c) The provisions of these regulations shall apply to the direct or indirect discharge of all wastewater or waste containing FOG discharged into the DeKalb County sewer system.

(d) These regulations establish quantity and quality standards on all wastewater and/or waste discharges containing FOG; which may alone or collectively cause or contribute to FOG accumulation in the sewer system causing or potentially causing or contributing to the occurrence of sanitary sewer overflows and blockages.

Section 4: Transporters of nonhazardous commercial waste

O.C.G.A. § 12-15-20 et seq. sets forth a permitting scheme for transporters of commercial waste and provides a regulatory method for the clean and sanitary removal of commercial waste. O.C.G.A. § 12-15-23 specifically authorizes local governments to enforce compliance with the provisions of the State law described in this section. O.C.G.A. § 12-15-20 et seq. as currently enacted and as may hereinafter be amended, is therefore adopted by reference as if set out fully in this section.

Section 5: Best management practices

(a) All persons disposing of FOG shall be required to properly dispose of FOG using all of the following best management practices:

(1) Dispose of FOG in covered collection containers;

(2) Place food scraps from dishes into trashcans and garbage bags and dispose of properly;

(3) Avoid disposing of food scraps in garbage disposers to help maintain interceptor volume;

(4) Allow FOG to cool first before it is skimmed, scraped, or wiped off of all preparation and servicing surfaces;

(5) Prewash dishes and pans with cold water before putting them in the dishwasher;

(6) Cover the kitchen sink drain with screening and empty debris into the garbage as needed;

(7) Cover the floor drain with a fine screen and empty into the garbage can as needed; and

(8) Recycle used fryer oil.

(b) All persons disposing of FOG shall not use any of the following practices when disposing of FOG:

(1) Pouring FOG down the drain;

(2) Putting food scraps down the drain; or

(3) Running hot water over dishes, pans, fryers, woks, and griddles to rinse FOG down the drain (also known as hot flush).

Section 6: Requirements for interceptor and specific plumbing connections

(a) All food service establishments shall only introduce pretreated wastewater acceptable to DeKalb County, under the requirements and standards established herein before discharging, directly or indirectly, into any DeKalb County sewer system.

(b) No more than one hundred (100) mg/L of FOG shall be discharged per operating business day. The FOG generator shall bear all of the expense of proving compliance with the one-hundred-mg/L threshold.

(c) Any food service establishment required to provide FOG pretreatment shall install, operate, and maintain an appropriately designed and adequately sized FOG interceptor that has been approved by Dekalb County.

(d) The testing procedures for waste constituents and characteristics shall be as provided in 40 CFR 136 (Code of Federal Regulations).

(e) FOG interceptors shall be connected to the food service establishment's lateral sewer line after all fixtures which may introduce FOG have been connected and shall have fresh air connected, as defined in these regulations. Fresh-air fixtures include, but are not limited to, sinks, dishwashers, garbage disposals, automatic hood wash units, floor drains in food preparation and storage areas, and any other fixtures which have a potential to introduce

FOG. Wastewater from sanitary sewer fixtures and other similar fixtures shall not be introduced into the FOG interceptor.

(f) FOG interceptors shall not be connected to septic tanks.

(g) All food service establishments that have dumpster pad/trash compactor drains on site and are connected to the sewer system shall have a separate interceptor (no less than one thousand (1,000) gallons in size) installed and functioning at all times. The sloping area to the outside drain and the drain shall be covered either by the dumpster/compactor or a canopy to prevent inflow and infiltration of rainwater.

(h) Any drains that lead to the sewer system including, but not limited to, trench drains, enclosed dock drains, carwash drains, elevator drains, and other similar types of drains shall have an oil-water debris interceptor of no less than one thousand (1,000) gallons and no more than three thousand (3,000) gallons in capacity.

Section 7: FOG interceptor physical specifications/requirements

(a) All interior FOG interceptors shall:

(1) Be a minimum of one hundred (100) pounds in capacity as defined by the Plumbing Drainage Institute;

(2) Be made of corrosion-resistant coated metal;

(3) Be properly sized based on the results of an inspection and FOG evaluation;

(4) Contain properly installed and functioning baffle walls and other flow control devices necessary to achieve the appropriate retention time;

(5) Have at least a thirty-minute interior retention time before gray water is discharged into the sewer system;

(6) Tie all of the fresh air fixtures to the FOG interceptor;

(7) Have fifteen-foot distance between the FOG interceptor and the last fresh air fixture and have a proper flow control device;

(8) Have a temperature of discharge entering the interior FOG interceptor that does not exceed one hundred forty (140) degrees Fahrenheit; and

(9) Be Plumbing Drainage Institute rated, be accessible for inspection, and be installed in accordance with the manufacturer's specifications by a licensed plumber and not a representative and/or an apprentice of the licensed plumber.

(b) All exterior FOG Interceptors shall:

(1) Be a minimum of one thousand (1,000) gallons in capacity;

(2) Be properly sized based on the results of an inspection and FOG evaluation;

(3) Be constructed of re-enforced materials suitable for load bearing and water tight to prevent inflow and infiltration;

(4) Be precast with a minimum of three thousand (3,000) psi concrete per applicable American Society for Testing and Materials standards with four (4) to seven (7) percent air entrapment;

(5) Have an invert elevation of the inlet between three (3) inches to six (6) inches above the invert elevation of the outlet;

(6) Contain a properly installed and functioning baffle wall and other flow control devices necessary to achieve an adequate time for FOG to properly separate but not to exceed twenty-four (24) hours;

(7) Contain inlet and outlet T's made of schedule 40 PVC piping and at a ninety-degree angle with a minimum diameter of the inlet and outlet piping to be six (6) inches;

(8) Include the outlet T six (6) inches from the manhole cover;

(9) Include T piping of the inlet and outlet that is within eighteen (18) inches of the bottom and at least five (5) inches above the static liquid level of the tank;

(10) Have the FOG interceptor set level on a consolidated, stable base so that no settling or tipping of the FOG interceptor can occur;

(11) Connect all of the fresh-air fixtures to the FOG interceptor;

(12) Have the outlet discharge line from the FOG interceptor directly connected to a sewer line tapped into the collection main;

(13) Have solid manhole covers to prevent inflow and infiltration;

(14) Have two (2) or more manholes for entry to each chamber of hydraulic liquid mass;

(15) Be accessible for inspections and have no permanent or temporary structure or container placed directly over the FOG interceptor or installed in areas subject to traffic; and

(16) Be installed by a licensed plumber.

(c) The contents of any fryer-oil containers shall not be mixed with any other FOG interceptor waste or any other no-toxic or toxic substances.

Section 8: Maintenance requirements for new and existing FSE's

(a) Depth of FOG. The depth of FOG (floating and settled) in the FOG interceptor shall not be equal to or greater than twenty (20) percent of the total operating depth of the interceptor.

(b) General requirements for FOG interceptors. In order to maintain FOG interceptors, all food service establishments shall remove the sludge, floating materials, solids, and wastewater, and shall scrape all excessive solids from the walls, floor, baffles, and all pipe work and shall pump interior and exterior FOG interceptors dry as set forth in these regulations and as required by the terms and conditions of the permit.

(1) FOG interceptors shall be kept free from any inflow/infiltration such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., as such inflow reduces the effectiveness of the FOG interceptor; thereby increasing the need for more frequent cleaning.

(2) To insure that the FOG interceptor can be maintained properly, the FOG interceptor needs to be free from any obstruction that would hinder the maintenance, function, and inspection of the interceptor.

(3) A Georgia State Permitted Transporter shall perform all maintenance of FOG interceptors. All Georgia State Permitted Transporters working in the City of Dunwoody shall have an active Georgia Waste Transporter's Permit and a DeKalb County Transporters Permit in the manner and form set forth by O.C.G.A. § 12-15-20 et seq. Transporters working in the City of Dunwoody are required to leave a copy of a nonhazardous waste manifest with the food service establishment. Maintenance schedules may vary based on individual circumstances to protect the sewer system.

(4) The FOG compliance inspector has the authority to change the FOG interceptors cleaning cycles for any FOG generator at any time.

(5) The discharge or introduction of any additives to the sewer system is unlawful and prohibited. The direct introduction of additives into the FOG interceptor is prohibited. Additives include but are not limited to biological agents such as enzymes, bacteria, and/or degreasing agents.

(6) The FOG generator shall be responsible for the proper removal and disposal of the FOG interceptor waste by a Georgia State Permitted Waste Transporter and maintenance of records of disposal as specified in this section. All waste removed

from each FOG interceptor must be disposed of at an appropriate disposal facility designed to receive such waste.

(7) No FOG interceptor pumpage shall be discharged to the sewer system as otherwise prohibited in these regulations.

(8) Every FOG interceptor shall be required to have a Georgia Nonhazardous Waste Manifest. The Georgia Nonhazardous Waste Manifest must be complete with all information required by these regulations and state law.

(9) Mechanical FOG interceptors are prohibited in the City of Dunwoody.

(c) Exterior FOG interceptors. Maintenance of exterior FOG interceptors shall be performed at least once every ninety (90) days. Skimming, decanting, and/or any reintroduction of water into exterior FOG interceptors shall not be allowed under any conditions.

(d) Interior FOG interceptors. Interior FOG interceptors maintenance shall be performed once every thirty (30) days, and all of the fresh air and/or safe-way plumbing fixtures shall be connected. In-house cleaning of interior FOG interceptors is prohibited. To insure proper FOG interceptor maintenance, interior FOG interceptors shall be free from any obstruction that would hinder the maintenance of the interceptor. Interior FOG interceptors shall be easily accessible with a minimum clearance of thirty-six (36) inches.

(e) Interior and exterior FOG interceptor records. All food service establishments shall maintain records of the date and time of all cleaning and maintenance. Every FOG interceptor manifest shall be placed in a logbook, folder, or three-ring notebook. This book shall be made available on demand by the FOG compliance inspector during inspection. All records of at least three (3) years shall be kept on site and available. These records shall include:

(1) A logbook of FOG interceptor and/or FOG control device cleaning and maintenance;

(2) A record of best management practices being implemented, including employee training;

(3) Copies of records and manifests of waste transporting interceptor contents;

(4) Records of any spills and/or cleaning of the lateral sewer line; and

(5) Records of sampling data and sludge height monitoring for FOG and solids accumulation in the FOG interceptors.

Section 9: Notification of spills by the food service establishment

(a) In the event that any food service establishment is unable to comply with any permit condition due to a breakdown of equipment, accidents, or human error or the food service establishment has reasonable opportunity to know that his/her/its discharge shall exceed the discharge provisions of the FOG wastewater discharge permit or these regulations, the food service establishments shall immediately notify the FOG control program manager or designee by telephone at the number specified in the permit. If the material discharged to the sewer has the potential to cause or result in sewer blockages or sanitary sewer overflows, the food service establishment shall immediately notify the FOG control program manager or designee by telephone at the number specified in the permit and the Director of the DeKalb County Health Department or designee orally or by telephone at the published numbers for such departments.

(b) All food service establishments shall provide written notification of this oral or telephonic notification to the FOG control program manager at the address specified in the permit no later than five (5) working days from the date of the incident. The written notification shall state the date of the incident, the reasons for the discharge or spill, what steps were taken to immediately correct the problem, and what steps are being taken to prevent the problem from recurring.

(c) Such notification shall not relieve a food service establishment of any expense, loss, damage, or other liability which may be incurred as a result of damage or loss to DeKalb County, the City of Dunwoody or any other damage or loss to person or property; nor will such notification relieve a food service establishment from payment of any fees or imposition of any other liability which may be authorized by these regulations or other applicable law.

Section 10: FOG wastewater discharge permit

(a) Food service establishments proposing to discharge or currently discharging wastewater that contains FOG into the DeKalb County sewer system shall obtain a FOG wastewater discharge permit annually or cease ongoing operation until such permit is obtained. In addition to any other penalties authorized by law, failure to obtain such a permit shall subject the food service establishment to the potential of the disconnection of water service, until such permit is obtained.

(b) FOG wastewater discharge permits shall be subject to all provisions of these regulations and all other regulations, charges for use, and fees established by DeKalb County. DeKalb County and the City of Dunwoody in accordance with these regulations and applicable law shall have joint authority to enforce the conditions of FOG wastewater discharge permits.

(c) The FOG wastewater discharge permit shall be issued upon:

(1) Receipt of a complete application,

(2) Compliance with these regulations,

(3) Compliance with the applicable provisions of this Code, and

(4) The proper installation and maintenance of a FOG interceptor that complies with the applicable provisions of this Code.

In the event that the food service establishment complies with the applicable provisions of these regulations, a permit will be issued or denied within thirty (30) days of compliance with this section. If the permit is not issued or denied within the time frame specified herein, the permit shall be deemed issued and approved.

Section 11: FOG wastewater discharge permit application

(a) All food service establishments are required to obtain a FOG wastewater discharge permit and shall complete and file with DeKalb County prior to commencing or continuing discharges, an application for a wastewater discharge permit in a form prescribed by DeKalb County along with any applicable fees. The applicant shall submit, in units and terms appropriate for evaluation, the following information:

(1) Name, address, telephone number, assessor's parcel number(s), description of the food service establishment, operation, cuisine, service activities, and, as applicable, clients using the applicant's services;

(2) Whichever is applicable, the name and address of any and all principals/owners/major shareholders of the food service establishment, articles of incorporation, most recent report of the secretary of state, and a copy of the owner's business license;

(3) Name and address of property owner or lessee and the property manager for the property where the food service establishment is located; and

(4) Any other information specified in the application form.

(b) Applicants may be required to submit site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, FOG control devices, FOG interceptors, or other pretreatment equipment and appurtenances by size, location, and elevation for evaluation.

(c) Other information related to the applicant's business operations and potential discharge may be requested to properly evaluate the permit application.

(d) After evaluation of the data furnished, DeKalb County may issue a FOG wastewater discharge permit, subject to the terms and conditions set forth in these regulations and as otherwise determined by the FOG control program manager to be appropriate to protect DeKalb County's sewer system.

(e) The FOG wastewater discharge permit and application fee shall be paid by the applicant in an amount adopted by Dekalb County. Payment of the application permit fee must be received by DeKalb County at the time of filing the application for the permit. A food service establishment shall also pay any delinquent invoices in full prior to any permit renewal.

(f) An application shall not be considered complete until all the information required by this section is provided to the FOG control program manager or designee. The FOG control program manager shall have fifteen (15) business days from receipt of such information to advise a food service establishment that an application is not complete.

Section 12: FOG wastewater discharge permit conditions

The issuance of a FOG wastewater discharge permit may contain any of the following conditions or limits:

(a) Limits on discharge of FOG (one hundred (100) mg/L), which may cause or contribute to sanitary sewer overflows and/or sewer blockages;

(b) Requirements for proper operation and maintenance of FOG interceptors and other FOG control devices;

(c) FOG interceptor maintenance frequency and schedule;

(d) Requirements for implementation of best management practices and installation of adequate FOG interceptor and/or FOG control device;

(e) Requirements for maintaining and reporting status of best management practices;

(f) Requirements for maintaining and submitting logs and records, including waste hauling records and waste manifests;

(g) Requirements to self-monitor the discharge to the sewer system and periodically assess and report on the condition of the sewer lateral;

(h) Requirements for the food service establishment to construct operate and maintain, at its own expense, a FOG control device(s) and sampling facilities;

(i) Additional requirements as otherwise determined to be reasonably appropriate by the FOG control program manager to protect DeKalb County's sewer system or as specified by other regulatory agencies; and

(j) Other terms and conditions which may be reasonably applicable to ensure compliance with these regulations.

Section 13: FOG wastewater discharge permit modification of terms and conditions

(a) The terms and conditions of an issued permit may be modified by the FOG control program manager if there is a change in:

(1) The generator's current or anticipated operating data;

(2) DeKalb County's current or anticipated operating data;

(3) The requirements of regulatory agencies which affect the City and/or DeKalb County; or

(4) A determination by the FOG control program manager and his or her designee that such modification is required to comply with the provisions of these regulations.

(b) The food service establishment may request a modification to the terms and conditions of an issued permit. The request shall be in writing stating the requested change and the reasons for the change. The FOG control program manager shall review the request, make a determination on the request, and respond in writing within thirty (30) days of receipt of the request.

(c) The food service establishment shall be informed of any change in the permit limits, conditions, or requirements at least forty-five (45) days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance, not to exceed forty-five (45) days.

Section 14: Permits for new and existing facilities, grandfathering, and effective date

(a) New facilities. Food service establishments which are newly proposed, constructed, or existing facilities which will be expanded or renovated, shall be required to install a properly sized FOG interceptor according to the requirements set forth in these regulations and such FOG interceptors shall be permitted and installed prior to the issuance of a certificate of occupancy for the food service establishment.

(b) Existing facilities. The City and DeKalb County requires all existing food service establishments to install, operate, and maintain a FOG interceptor that complies with the requirements set forth in these regulations. All food service establishments shall repair or replace any noncompliant plumbing or the existing FOG interceptor within ninety (90) days of written notification by DeKalb County or the City if any one or more of the following conditions exist or occur:

(1) The facility is found to produce any product that creates FOG as a byproduct;

(2) The facility does not have a FOG interceptor;

(3) The facility has an undersized, irreparable, improperly configured, or defective FOG interceptor;

(4) Remodeling of the food preparation or kitchen waste plumbing system is performed which requires a plumbing permit to be issued by DeKalb County;

(5) The existing facility is sold or undergoes a change of ownership or expansion;

(6) The existing facility does not have plumbing connection to a FOG interceptor in compliance with the requirements of DeKalb County and these regulations; or

(7) If a food service establishment changes its business name.

(c) Grandfathering. If an existing food service establishment is housed in a structure that because of its architectural or historical restrictions the owner will suffer extreme economic hardship in order to upgrade the existing FOG interceptor, then the establishment may keep the current FOG interceptor in place provided that all fresh-air fixtures must be tied into the current FOG interceptor, and the FOG interceptor must be at least fifteen (15) feet from the last fresh-air fixture. Additionally, the FOG interceptor must be cleaned every ten (10) days by a Georgia State Permitted Transporter. In the event that any remodeling of such a food service establishment is undertaken or if the food service establishment changes ownership, then a FOG interceptor that complies with all applicable requirements of this code shall be installed.

(d) Notification of planned changes. All food service establishments shall notify the FOG compliance manager at least ninety (90) days in writing in advance prior to any change of ownership, facility expansion/remodeling, or process modifications that may result in new or substantially increased FOG discharges or a change in the nature of the discharge. All food service establishments shall submit any information requested by DeKalb County or the City for evaluation of the effect of such expansion on the Food Service Establishment's FOG discharge to the sewer system.

(e) Effective date. These regulations shall become effective immediately upon adoption all new and existing Food Service Establishments and subject to the written policy promulgated by Dekalb County.

Section 15: FOG wastewater discharge permit duration and renewal

FOG wastewater discharge permits shall be issued annually. At least thirty (30) days prior to the expiration of the permit, the user shall apply for renewal of the permit in accordance with the provisions of Article 2 of this Chapter.

Section 16: Exemption from FOG wastewater discharge permit

A limited food preparation establishment is not considered a food service establishment and is exempt from obtaining a FOG wastewater discharge permit.

Section 17: Non-transferability of permits and fees

(a) FOG wastewater discharge permits issued under these regulations are for a specific food service establishment, for a specific operation, and create no vested rights.

(b) No permit holder shall assign, transfer, or sell any FOG wastewater discharge permit issued under these regulations nor use any such permit for or on any premises or for facilities or operations or discharges not expressly encompassed within the underlying permit.

(c) A permitting fee that covers the administrative costs for administering the FOG program shall be established by Dekalb County and assessed to each facility subject to these regulations.

Section 18: Payment of charges

All fees established by these regulations are due and payable upon receipt of notice thereof. Accounts shall become delinquent if not paid within thirty (30) days of the date of mailing, or if personally delivered, the date of delivery. Any invoice outstanding and unpaid after ninety (90) days shall be cause for immediate initiation of permit revocation proceedings or immediate suspension of the permit.

Section 19: Inspections and authority to enforce regulations

(a) Authority to inspect. The compliance inspectors shall inspect food service establishments on both an unscheduled and unannounced basis or on a scheduled basis. All food service establishments may be inspected up to four (4) times per year. Inspection of a FOG interceptor shall be performed at frequencies necessary to protect the capacity of the sewer system against the accumulation of FOG in an amount that would exceed the twenty (20) percent rule. Inspection shall include all fixtures, equipment, food processing, and storage areas, and shall include a review of the processes that produce wastewater discharged from a facility through the FOG interceptor. Any deficiencies shall be noted, including but not to be limited to:

(1) Failure to report changes in operations or wastewater constituents and characteristics;

(2) Failure to properly maintain the FOG interceptor;

(3) Failure to maintain logs, files, records, or access for inspection or monitoring activities;

(4) Failure to obtain or renew the FOG discharge permits in a timely manner; or

(5) Any other violations of these regulations or state law that requires correction by the food service establishment.

(b) Right of entry. Where it is necessary to make an inspection to enforce the provisions of these regulations or where the FOG control program manager or designee has reasonable cause to believe that there exists in a building or structure or upon a premises a condition which is contrary to or in violation of the applicable provisions of this Chapter, the FOG control program manager or designee is authorized to enter the building, structure or premises at reasonable times to inspect or perform any of the duties imposed by the applicable provisions of this Chapter. If such building, structure, or premises is occupied, the inspector shall present credentials to the occupant and shall request entry. If such building, structure, or premises is unoccupied, the inspector shall first make a reasonable effort to locate the owner or other person having charge or control of the building, structure, or premises and request entry. If entry is refused, the inspector shall have recourse to the remedies provided by law for entry. In the event of an emergency involving actual or imminent sanitary sewer overflow, the inspector may access adjoining businesses or properties that share a sewer system with a food service establishment in order to prevent or remediate an actual or imminent sewer overflow.

Section 20: Noncompliance fees, letters and schedules

(a) Re-inspection fee. Any food service establishment in noncompliance with the terms and conditions specified in its permit or with any provision of these regulations shall pay a noncompliance fee. The purpose of the noncompliance fee is to compensate DeKalb County and/or the City of Dunwoody for costs of additional inspections, follow-ups, sampling, monitoring, laboratory analysis, treatment, disposal, and administrative processing incurred as a result of the noncompliance, and shall be in addition to and not in lieu of any penalties as may be assessed pursuant to these regulations. Noncompliance fees shall be in the amount adopted by Dekalb County.

(b) Noncompliance letters. Immediately following every inspection and/or FOG evaluation, the food service establishment inspected shall receive a letter indicating the results of the inspection. A certified letter of noncompliance means the food service establishment is in violation of the applicable provisions of this Code. Letters of noncompliance shall include a description of the code being violated and the immediate course of action the food service establishment shall be required to take to come into compliance. Failure to comply with a letter of non-compliance is also a violation of these regulations.

(c) Compliance schedule. Upon determination that a food service establishment is noncompliant with the terms and conditions specified in its permit or any provision of these regulations or needs to construct and/or acquire and install a FOG interceptor, the FOG control program manager may also issue and require the food service establishment to abide by a compliance schedule. The issuance of a compliance schedule may contain terms and conditions including, but not limited to, requirements for installation of a FOG interceptor and facilities, submittal of drawings or reports, audit of waste hauling records,

best management and waste minimization practices, payment of fees, or other provisions to ensure compliance with these regulations.

(d) Fees. The FOG control program manager shall not issue a compliance schedule until such time as all amounts owed by the food service establishment due to DeKalb County or the City are paid in full. If compliance is not achieved in accordance with the terms and conditions of a compliance schedule, the FOG control program manager may issue an order suspending or revoking the FOG wastewater discharge permit.

Section 21: Permit suspension and revocation

(a) Permit suspension and revocation. The FOG control program manager may suspend or revoke any permit when it is determined that a food service establishment:

(1) Fails to comply with the terms and conditions of a noncompliance letter or compliance schedule order;

(2) Destroys, removes, conceals, or knowingly provides a false statement, representation, record, report, or other document to DeKalb County or the City;

(3) Refuses to provide records, reports, plans, or other documents required by DeKalb County to determine permit terms or conditions, discharge compliance, or compliance with these regulations;

(4) Falsifies, tampers with, destroys, or knowingly renders inaccurate any monitoring device or sample collection method;

(5) Does not make timely payment of all amounts owed for user charges, permit fees, or any other fees imposed pursuant to these regulations;

(6) Causes interference, a sewer blockage, or a sanitary sewer overflow in the sewer system, violates FOG interceptor maintenance requirements, violates any condition or limit of its FOG wastewater discharge permit, or violates any provision of these regulations; or

(7) Refuses to accept a notice by personal service or certified mail.

(b) Notification.

(1) When the FOG control program manager has reason to believe that grounds exist for permit suspension or revocation, he/she shall give written notice thereof by certified mail to the food service establishment setting forth a statement of the facts and grounds deemed to exist, together with the time and place where the charges shall be heard by the Director. The hearing date shall be not less than fifteen (15) calendar days or more than forty-five (45) calendar days after the mailing of such notice.

(2) At the suspension or revocation hearing, the food service establishment shall have an opportunity to respond to the allegations set forth in the notice by presenting written or oral evidence. The hearing shall be conducted in accordance with written procedures established by the Director. The Director shall conduct the hearing and shall render a decision in writing within thirty (30) calendar days after the conclusion of the hearing.

(3) The written decision and order of the Director shall be sent by certified mail to the food service establishment at the food service establishment's business address. Upon an order of suspension or revocation by the FOG control program manager becoming final, the food service establishment shall immediately cease and desist its discharge and shall have no right to discharge any wastewater containing FOG directly or indirectly into DeKalb County's sewer system for the duration of the suspension. All costs for physically terminating and reinstating service shall be paid by the food service establishment. Any owner or responsible management employee of the food service establishment shall be bound by the order of suspension or revocation. Upon an order of revocation by the FOG control program manager becoming final, the food service establishment shall permanently lose all rights to discharge any wastewater containing FOG directly or indirectly to DeKalb County's sewer system. All costs for physical termination shall be paid by the food service establishment.

(4) An order of permit suspension or revocation issued by the FOG control program manager shall be final in all respects on the sixteenth (16^{th}) day after it is mailed to the food service establishment.

(c) Damage to facilities or interruption of normal operations of the sewer system. Any person who discharges any waste which causes or contributes to any sewer blockage, sanitary sewer overflows, obstruction, interference, damage, or any other impairment to DeKalb County's sewer system and/or equipment, or to the operation of those facilities and/or equipment shall be liable for all costs required to clean and/or repair the facilities and/or equipment, together with expenses incurred to resume normal operations. A service charge of twenty-five (25) percent of DeKalb County's or the City's costs shall be added to the costs and charges to reimburse DeKalb County and/or the City for miscellaneous overhead, including administrative personnel and recordkeeping. The total amount shall be payable within forty five (45) days of invoicing. Any person who discharges a waste which causes or contributes to DeKalb County or the City violating its discharge requirements established by any Regulatory Agency incurring additional expenses or suffering losses or damage to the facilities and/or equipment shall be liable for any costs or expenses incurred by DeKalb County and/or the City, including regulatory fines, penalties, and assessments made by other agencies or a court.

(d) Termination of water service to the food service establishment. DeKalb County, by order of the FOG control program manager, may physically terminate water service to any property as follows:

(1) If so ordered in any order of suspension or revocation of a permit; or

(2) Upon the failure of a person not holding a valid FOG Wastewater discharge permit to immediately cease the discharge, whether direct or indirect, to DeKalb County's sewer system after the issuance of a final order or suspension or revocation.

(3) All costs for physical termination of the water service shall be paid by the owner or operator of the food service establishment as well as all costs for reinstating service.

(e) Emergency suspension order. DeKalb County may, by order of the FOG control program manager or designee, suspend water service when the FOG control program manager or designee determines that such suspension is necessary in order to stop an actual or impending discharge which presents or may present an imminent or substantial endangerment to the health and welfare of persons, or to the environment, or may cause sanitary sewer overflows, sewer blockages, interference to DeKalb County's sewer facilities, or may cause DeKalb County and/or the City to violate any State or Federal law or regulation. Any discharger notified of and subject to an emergency suspension order shall immediately cease and desist the discharge of all wastewater containing FOG to the sewer system.

(f) Emergency suspension hearing. As soon as reasonably practicable following the issuance of an emergency suspension order, but in no event more than five (5) business days following the issuance of such order, the Director shall hold a hearing to provide a food service establishment the opportunity to present information in opposition to the issuance of the emergency suspension order. Such a hearing shall not stay the effect of the emergency suspension order. The hearing shall be conducted in accordance with written procedures established by the Director. The Director shall issue a written decision and order within two (2) business days following the hearing, which decision shall be sent by certified mail to the food service establishment at that food service establishment's business address. This decision shall either lift the emergency suspension order or suspend or revoke the permit subject to the suspension and revocation appeal process set forth in these regulations.

Section 22: Criminal penalties

(a) Any person that does anything prohibited or fails to do anything required by these regulations, upon citation and conviction of the violation in the City of Dunwoody Municipal Court, shall be subject to the penalties in accordance with Chapter 1 of the Dunwoody Code of Ordinances. Where any offense or violation continues from day to day, each day's continuance thereof shall be deemed a separate offense.

(b) Upon a second and subsequent conviction within a twelve-month period, measured from the date of the first conviction, of any violation of these regulations, the Municipal Court

shall impose a fine of not less than five hundred dollars ($500.00) in addition to any other penalty or punishment imposed by the court.

(c) Upon a third and subsequent conviction within a twelve-month period measured from the date of the first conviction of any violation of these regulations, the Municipal Court shall impose a fine of one thousand dollars ($1,000.00) in addition to any other penalty or punishment imposed by the court.

(d) The penalties provided in this section are not cumulative and shall not prohibit DeKalb County or the City from pursuing any other civil or criminal remedies authorized by this Code, the Dekalb County Code of Ordinances, State, or Federal law.

Division 6: Rates and Charges

Section 1: Levied

A service charge is levied and assessed for the operation and maintenance of the sewer system. This charge is based on the amount of potable water consumed per month by each contributor to the sewer system. The rate at which this charge is levied shall be as established by Dekalb County. The charges imposed by this Article may be periodically revised at the discretion of Dekalb County and pursuant to the intergovernmental agreement between Dekalb County and the City. A readiness-to-serve charge is imposed for the operation of the sewer system based on the size of the customer's water meter. A surcharge for overstrength waste, i.e., wastes consisting of total suspended solids and/or five-day biochemical oxygen demand materials in concentrations exceeding 250 mg/l, ammonia in concentrations exceeding 30 mg/l, and total phosphorus exceeding 10 mg/l, is levied at a rate approved and adopted by Dekalb County.

Section 2: Billing

The Dekalb County Finance Department will prepare for each contributor to the sewerage system a monthly or bimonthly notice of the amount due. This notice shall be addressed and mailed to the address as designated by the owner or occupant of the property. Payment is due in full ten (10) days from date notice is mailed, and shall be in default if not paid on or before the twentieth day after the date of the notice. Failure to receive the notice in no way relieves the occupant of liability for the amount due.

Section 3: Collection

The Dekalb County Finance Department will be responsible for the collection of all sewer service charges, pursuant to the Intergovernmental Agreement between Dekalb County and the City. It will have deposited to the account of the water and sewer fund of Dekalb County all sums collected for water and sewer services as soon as received.

Section 4: Disconnection of service for failure to pay

If payment has not been received twenty (20) calendar days after the date of the notice of amount due for sewer services, a default notice shall be sent to the occupant of the property. If payment is not received within ten (10) days after the date of the default notice, then Dekalb County will initiate action to terminate water service until such time as all sums due for sewer service, including penalties, are paid in full.

Section 5: Right to tax for benefit of sewer system

Nothing in this Article shall be construed as limiting the right of the City or Dekalb County to exercise its right as authorized by law to create, operate and maintain a sewerage system through the imposition of ad valorem taxation.

Section 6: Discharges to sewer system by persons or governments residing outside Dekalb County

No persons or governments residing or operating outside the limits of Dekalb County shall discharge or cause to be discharged any material into the sanitary sewer system of Dekalb County without the prior approval of Dekalb County.

Division 7: Phosphorus Control

Section 1: Declaration of policy

O.C.G.A. section 12-5-27.1 provides that whenever a local government entity is required by the environmental protection division to reduce phosphorus in its wastewater being discharged into the waters of the State, such local government entity shall pass an ordinance mandating the retail sale of low phosphorus household laundry detergent as part of its phosphorus reduction process. It is hereby declared to be the public policy of the City to encourage the use of clean phosphate-free household laundry detergents and to prohibit the sale of household laundry detergents which contain more than five-tenths (0.5) percent phosphorus by weight. The City adopts Dekalb County’s findings that such use and sale will be a cost-effective way to reduce the amount of phosphorus in wastewater discharge so as to protect Georgia's rivers and lakes downstream; promote health, safety, and welfare; and prevent injury to human health, plant and animal life, and property. It is vital to the health, well-being, and welfare of present and future inhabitants of the City that these sources be protected against contamination and pollution.

Section 2: Definitions

The following definitions shall apply in the interpretations and enforcement of this Division:

Household laundry detergent. A laundering cleaning compound in liquid, bar, spray, tablet, flake, powder, or other form used for domestic clothes-cleaning purposes. The term "household laundry detergent" shall not mean:

(1) A dishwashing compound, household cleaner, metal cleaner, degreasing compound, commercial cleaner, industrial cleaner, or other substance that is intended to be used for nonlaundry cleaning purposes;

(2) A detergent used in dairy, beverage, or food processing cleaning equipment;

(3) A phosphorus acid product, including a sanitizer, brightener, acid cleaner, or metal conditioner;

(4) A detergent used in hospitals, veterinary hospitals or clinics, or health care facilities or in agricultural production;

(5) A detergent used by industry for metal cleaning or conditioning;

(6) A detergent manufactured, stored, or distributed for use or sale outside of the State;

(7) A detergent used in any laboratory, including a biological laboratory, research facility, chemical laboratory, and engineering laboratory; or

(8) A detergent used in a commercial laundry that provides laundry services for hospitals, health care facilities, or veterinary hospitals.

Person. The term "person" shall mean any person, firm, partnership or corporation.

Phosphorus. The term "phosphorus" shall mean elemental phosphorus.

Section 3: Sales prohibited

It shall be unlawful for any person to sell at the retail level a household laundry detergent which contains greater than five-tenths (0.5) percent phosphorus by weight and is intended to be used for domestic clothes-cleaning purposes.

Section 4: Penalties for violation

Any person who violates any provision of this Division shall be subject to a fine not to exceed the maximum fine allowed under this Code. Each sales transaction shall constitute a separate offense.

Section 5: Civil Action

In addition to the penalty provided in section 4 above, Dekalb County and/or the City may maintain an action or proceeding in any court of competent jurisdiction to compel compliance with or restrain any violation of this Division.

Section 6: Individual right to damages

Nothing in this Division shall be construed to abridge, limit or otherwise impair the right of any person to damages or other relief on account of injuries to persons or property arising out of a violation of this Division and to maintain any action or other appropriate proceeding thereof.

STATE OF GEORGIA
COUNTY OF DEKALB

ORDINANCE NO. 2008-XX-XX

AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 16, OFFENSES AND VIOLATIONS, PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF DUNWOODY, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 16 (OFFENSES AND VIOLATIONS) AS ATTACHED HERETO AND INCOPORATED HEREIN

WHEREAS: The Ordinance relating to Chapter 16, Offenses and Violations, is hereby adopted and approved, and is attached hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 16 of the Code of Ordinances of the City of Dunwoody, Georgia; and

WHEREAS: This Ordinance shall become effective upon its adoption.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF DUNWOODY HEREBY ORDAINS that Chapter 16, Offenses and Violations, is hereby adopted and approved as part of the Code of Ordinances for the City of Dunwoody, Georgia. Any ordinance in conflict with this ordinance is hereby repealed.

SO ORDAINED AND EFFECTIVE this the ___ day of _____, 2008.

Approved:

_____

Ken Wright, Mayor

Attest:

_____

Joan Jones, Acting City Clerk
(Seal)

Approved as to Form and Content:

_____

Brian Anderson, City Attorney

STATE OF GEORGIA
COUNTY OF DEKALB

RESOLUTION 2008-12-28

A RESOLUTION ADOPTING AND APPROVING THE SCHEDULE OF FEES FOR BUSINESS OCCUPATION TAXES AND LICENSING IN THE CITY OF DUNWOODY, GEORGIA (ATTACHMENT "A") AND AUTHORIZING THE MAYOR AND CITY MANAGER OR THEIR DESIGNEES TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY FOR THE IMPLEMENTATION THEREOF

WHEREAS, the Charter of the City of Dunwoody authorizes the City to provide for the general health, safety and welfare of the citizens of the City; and

WHEREAS, the Charter of the City of Dunwoody further authorizes the City to charge and collect business occupation taxes and charge and collect license regulation fees for certain businesses operating in the City of Dunwoody; and

WHEREAS, the Mayor and City Council believe that the fee schedule attached hereto and incorporated herein as Attachment "A" is the appropriate fee schedule for the City's business occupation taxes and license fees pursuant to the authority of the Charter.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council for the City of Dunwoody, while in session on December 18, 2008, as follows:

SECTION 1. That the schedule of fees for Business Occupation Taxes and licenses as identified on Attachment "A," attached hereto and incorporated herein, is hereby approved and adopted; and

SECTION 2. That the staff is hereby authorized and directed to implement the Schedule of Fees herein; and

SECTION 3. That Attachment "A" is hereby incorporated and made a part of this resolution as if fully set forth herein.

SO RESOLVED AND EFFECTIVE, this the 18th day of December, 2008.

Approved:

_____
Ken Wright, Mayor

Attest:

_____
Joan C. Jones, Acting City Clerk
Seal

STATE OF GEORGIA
COUNTY OF DEKALB

ATTACHMENT "A"

Business Categories

All Business and/or business activities will be classified into one of the following categories:

1. Commercial Business	Generally includes all businesses located within the city (i.e. shops, restaurants, offices, hotels, etc.) and some located out of city conducting business with the city. Also includes Commercial and Residential rental/lease property.
2. Building Contractors	Engineers, General and Specialty
3. Contract Employees	Those persons not specifically considered employees under State and/or Federal regulations.
4. Home Occupations	Includes all home based businesses and home offices.
5. Delivery Vehicles	All commercial delivery vehicles require a business license.
6. Miscellaneous	Includes all business activity not categorized above.

1. Commercial Business - Generally includes all businesses located within the City (i.e. shops, restaurants, offices, hotels, etc.) and some located out of City conducting business with the City. Also includes Commercial and Residential rental/lease property.
2. Building Contractors Engineers, General and Specialty
3. Contract Employees Those persons not specifically considered employees under State and/or Federal regulations.
4. Home Occupations Includes all home based businesses and home offices.
5. Delivery Vehicles All commercial delivery vehicles require a business license.
6. Miscellaneous Includes all business activity not categorized above.

Business & Occupational Tax Rates

Business License taxes consist of four parts (1) a $50.00 non-refundable administrative fee, (2) an per worker employee fee, (3) a $50.00 minimum flat tax, and (4) a gross receipt tax based on an estimated gross receipts figure.
Listed below are general business license fee only. These fees will not necessarily apply to all business types. Additionally, there may also be other permit, inspection, or background fees depending on your business activity. Contact the Finance Department at (678) 382-6700.

Business & Occupational Tax Rates				
Tax Class	**Administrative Fee**	**Per Employee Fee**	**Gross Receipts Tax - Minimum**	**Rate Per Dollar Gross Receipts**
Class1	$75.00	$4.00	$50.00	0.000180
Class2	$75.00	$6.00	$50.00	0.000300
Class3	$75.00	$8.00	$50.00	0.000420
Class4	$75.00	$10.00	$50.00	0.000540
Class5	$75.00	$12.00	$50.00	0.000660
Class6	$75.00	$14.00	$50.00	0.000780

STATE OF GEORGIA
COUNTY OF DEKALB

ORDINANCE 2008-XX-XX

AN ORDINANCE AMENDING CHAPTER 15 OF THE CITY OF DUNWOODY CODE OF ORDINANCES BY CHANGING THE REQUIREMENT FOR DOCUMENTATION OF GROSS RECEIPT INCOME

WHEREAS, the City of Dunwoody has heretofore adopted an ordinance for Business Occupation Taxes, Licenses and Regulation, as set forth in Chapter 15 of the Code of the City of Dunwoody (the "Code"); and

WHEREAS, the provisions of the Business Occupation Taxes, Licenses and Regulation ordinance currently require the for businesses to show documentation of their gross receipts by submitting their Federal Income Tax Return; and

WHEREAS, the Mayor and City Council have determined that it may be appropriate to amend the ordinance and require businesses to show documentation of their gross receipts by submitting their Georgia State Income Tax Return instead.

THEREFORE, Mayor and City Council of the City of Dunwoody hereby ordain:

Section 1: The Business Occupation Taxes, Licenses and Regulation ordinance, Chapter 15 of the City of Dunwoody Code of Ordinances, is hereby amended by replacing Article 1, *Section 4(h)* to read as follows:

Section 4: Estimation of gross receipts; filing of returns

(h) For purposes of this section, prima facie evidence of gross receipts generated during any period shall be a copy of the business' Georgia State Income Tax Return or an affidavit from the business' accounting firm.

Section 2: This Amendment shall become effective immediately upon its adoption by the City Council, and incorporated into the Code of the City of Dunwoody, Georgia. This Amendment hereby repeals any and all conflicting ordinances and amendments.

SO ORDAINED, this _____ day of _____, 20___.

Approved:

_____
Ken Wright, Mayor

ATTEST:

_____
Joan C. Jones, Acting City Clerk

Approved as to Form and Content:

_____
Brian Anderson, City Attorney

(Seal)

DEKALB COUNTY
STATE OF GEORGIA **ORDINANCE 2008-XX-XX**

AN ORDINANCE TO APPROVE AND AUTHORIZE THE MAYOR AND CITY COUNCIL ZONING HEARING POLICIES AND PROCEDURES FOR THE CITY OF DUNWOODY

WHEREAS, the City of Dunwoody Mayor and City Council Zoning Hearing Policies and Procedures are attached hereto and incorporated herein and shall govern the procedures for conducting public hearings on zoning matters; and

WHEREAS, the first reading of this Ordinance was held on December 8, 2008 and the second reading and Public Hearing pursuant to O.C.G.A. § 36-66-5 were held on December 18, 2008; and

WHEREAS, this Ordinance shall become effective upon adoption.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF DUNWOODY, GEORGIA HEREBY ORDAINS that the Mayor and City Council Zoning Hearing Rules and Procedures, as attached hereto and incorporated herein, are hereby adopted and approved.

SO ORDAINED AND EFFECTIVE, this the ___ day of _____, 2008.

Approved:

_____
Ken Wright, Mayor

Attest:

_____
Joan C. Jones, Acting City Clerk
Seal

Approved as to Form and Content:

_____
Brian Anderson, City Attorney

MAYOR AND CITY COUNCIL
ZONING HEARING POLICY AND PROCEDURES SCRIPT

The Mayor and City council have previously adopted procedures for holding public hearings. Additionally, you will find a copy of the standards of review available at the sign-in table. The City Clerk will call cases on the agenda for public hearing. The Community Development Department will provide a summary of the application and present any recommendations or result of an investigation. The Staff shall make a presentation of the case, after which Mayor and Council may ask questions of the Staff or other city representative providing the report or recommendations.

After presentation by staff, the Mayor will call for a show of hands of those persons who wish to appear in support of the application. At this time, the applicant shall be allowed to present the application before council. The applicant shall receive a time period of ten (10) minutes to present the case. The applicant may choose to use the entire allotment or reserve time from the ten (10) minutes for rebuttal. Any member of the Council, upon recognition by the Mayor, may ask questions of the applicant or agent of the application. The period of questions from council shall not be deducted from the applicant's ten (10) minute period.

At the conclusion of the applicant's presentation, the Mayor shall call for a show of hand of those persons who wish to appear in opposition to the application. If a large number of people wish to speak, it may be advisable to designate a spokesperson to make the presentation. Opposition shall be granted a time period of (10) minutes per application at the public hearing to present data, evidence and opinions. The city shall not be obligated to provide the full ten (10) minute period to the opponents if they elect not to use that much time. Any member of the Council, upon recognition by the Mayor, may ask questions of any person giving public comment. The period of questions from council shall not be deducted from the ten (10) minute period.

At the conclusion of the public comment from opposition, the applicant shall be permitted to utilize any time reserved form the initial ten (10) minutes for rebuttal.

After completion of this procedure, the Mayor will indicate that the public hearing is closed. Upon closing of the public hearing, there shall be no more addressing of the Mayor or Council by either the applicant or opposition.

STATE OF GEORGIA

DEKALB COUNTY

RESOLUTION NO. 2008-12-29

A RESOLUTON ADOPTING AND APPROVING RULES AND PROCEDURES FOR CITY COUNCIL MEETINGS AND PUBLIC HEARINGS FOR THE CITY OF DUNWOODY.

WHEREAS: Well-organized meetings allow a City Council to reach decisions in a fair and consistent manner; and

WHEREAS: Efficiency is served when the process of planning and conducting public meetings is clearly stated and understood by public officials and citizens; and

WHEREAS: Public participation and access to the governmental decision-making process is a key element of an open and transparent organization.

NOW, THEREFORE, BE IT RESOLVED that all meetings of the Dunwoody City Council shall be conducted in accordance with the provisions of this meeting organization ordinance as outlined in the attached Rules and Procedures.

SECTION 1. That the Rules and Procedures for City Council Meetings and Public Hearings are adopted and attached hereto as if fully set forth herein; and

SECTION 2. That this Resolution shall become effective upon its adoption.

SO RESOLVED this the 18th day of December, 2008.

Approved:

_____

Ken Wright, Mayor

Attest:

_____

Acting City Clerk

(Seal)

RULES AND PROCEDURES FOR CITY COUNCIL MEETINGS AND PUBLIC HEARINGS

Section 1. Open Meetings. All meetings of the Mayor and City Council shall be held in accordance with the provisions of Title 50, Chapter 14 of the Official Code of Georgia Annotated. The public shall be afforded access to meetings other than Executive Sessions, in compliance with Georgia law. Only Executive Sessions held in accordance with Georgia law may be closed to the public.

Section 2. Executive Sessions. Executive sessions of the Council may be held for the purpose of discussing topics exempted from public access requirements by Title 50, Chapter 14 of the Official Code of Georgia Annotated. Meetings will only be closed to the public for the purposes allowed within State law.

(a) Non-Exempt Topics. If a Council Member attempts to discuss a non-exempt topic during an Executive Session, the Mayor shall immediately rule that Council Member out of order and such discussion shall cease. If the Council Member persists in discussing the non-exempt topic, the Mayor shall adjourn the meeting immediately.

(b) Procedure For Entering Into Executive Sessions. No Executive Session shall be held except pursuant to a majority affirmative vote of the City Council Members present with the vote taken in a public meeting. The minutes of the public meeting shall reflect the names of the Council Members present, those voting for the Executive Session, and the specific reasons for the Executive Session. All votes taken on items discussed in Executive Session shall be taken in an open meeting.

(c) Executive Session Minutes.

(1) Executive Sessions Discussing Real Estate Acquisition. Minutes of an Executive Session in which the acquisition of real estate is discussed shall be taken in the same manner as minutes of an open meeting (Section 21) and shall be available for public inspection except that any portion of the minutes identifying the real estate shall be redacted until such time as the action for acquisition of the real estate is taken, or decision is reached that the proposed acquisition is to be terminated, abandoned or until court actions are to be initiated through the use of condemnation proceedings.

(2) Other Executive Sessions. Minutes of Executive Sessions devoted to any permissible topic other than land acquisition shall be maintained by the clerk in accordance with State of Georgia law.

(d) Mayor or Presiding Officer Affidavit. The Mayor or other presiding officer shall execute an affidavit stating, under oath, that the Executive Session was devoted to topics exempt from the public access requirements. The affidavit shall include the specific exemption to the open meetings law. The City Attorney shall review and approve the form of the affidavit to be utilized, as well as the completed affidavit to be executed for each Executive Session. The affidavit shall be notarized and filed with the minutes of the open meeting.
[Cross Reference: O.C.G.A. §§ 50-14-2, 5-14-3 and 50-14-4]

Section 3. Visual and Sound Recordings. Visual, sound, and visual and sound recordings shall be permitted for all public hearings, as long as such recordings are in accordance with State law.
[Cross-reference: O.C.G.A. § 50-14-1(c)]

Section 4. Quorum. A quorum must be present for conducting meetings of the City Council. A quorum is four (4) members of the City Council. Any Council Member may raise a point of order directed to the Mayor or presiding officer if he or she believes that a quorum is not present. If, during the course of a meeting, a Council Member or Council Members leave and a quorum no longer exists, the meeting may not continue. If a quorum is not attained within thirty (30) minutes, the meeting may be rescheduled by the Mayor or presiding officer with the approval of the Council Members present.

Section 5. Mayor. As provided in Article III, Section 3.01 of the City Charter, the presiding officer of the City Council shall be the Mayor. As presiding officer, he or she is responsible for the orderly conduct of the meeting. In order to fulfill this duty, the Mayor shall enforce the rules of procedure that are adopted by the City Council. The Mayor shall be impartial and conduct the meetings in a fair manner. The Mayor may name a Sergeant-at-Arms to assist in maintaining the orderly conduct of the Council Meetings. As provided in Article II, Section 2.10, the Mayor is treated as one of the Council Members for quorum and voting purposes, and the Mayor may vote on all matters before the City Council.

Section 6. Mayor Pro-Tempore. The Council shall select a Mayor Pro-Tempore from the Council Members at the first meeting following each general election by a majority vote. The Mayor Pro-Tempore shall fulfill the duties of the Mayor if the Mayor is not in attendance. The Mayor Pro-Tempore shall serve a term of two years and until a successor is elected and qualified.

Section 7. Presiding Officer. If the Mayor and the Mayor pro-tem are absent or otherwise unable to serve as presiding officer at a meeting and a quorum of Council Members is present, the remaining Council Members shall select a Council Member to serve as presiding officer of the meeting until either the Mayor or Mayor pro-tem is present at the meeting.

Section 8. Parliamentarian. The City Attorney shall serve as the parliamentarian for City Council meetings.

Section 9. Amendments to the Rules. Any amendments to the rules of order shall be submitted by a Council Member in writing to the city manager three business days before a regular meeting of the City Council. The proposed amendment shall be included in the agenda for that meeting and distributed to all Council Members. All amendments require a two-thirds vote of the Council to be adopted.

Section 10. Suspending the Rules of Order. Rules of Order may be suspended in the case of an emergency. A motion to suspend the rules requires a second, is debatable, and requires a two-thirds vote of the Council. Rules governing quorums, voting methods and requirements (Article II, Section 2.10), the notification to Council Members of meetings (Article II, Section 2.09) and rules necessary for compliance with state law may not be suspended; provided, however, that, in the event that a state of emergency is declared by the Governor or other authorized state official, the City Council may waive time-consuming procedures and formalities imposed by state law.
[Cross-reference: O.C.G.A. § 38-3-54]

Section 11. Regular Meetings. Regular meetings of the City Council shall be held at a time determined by majority vote of the City Council, but shall include at least one regular meeting per month, as provided in Article II, Section 2.09 (c). All regular meetings shall be held in the City Council meeting room, provided however, that other sites are allowed prior to the opening of City Hall or as provided by other sections of this document. A notice containing the foregoing information shall be posted and maintained in a conspicuous place available to the general public at the regular meeting place of the City Council. Prior to the establishment of a regular meeting place, the public notice shall be posted at the location at which the meeting will be held.
[Cross-reference: O.C.G. A. § 50-14-1(d)]

Section 12. Meetings Other Than Regular Meetings. The City Council may meet at times and locations other than those regularly scheduled meetings.

(a) Special Meetings and Rescheduled Regular Meetings. A regular meeting may be canceled, rescheduled, recessed or moved to a new location within the City by the Mayor or by a majority of the Council in office for any reason. As provided in Article II, Section 2.09 of the City Charter, special meetings of the City Council may be held on call of the Mayor and one (1) councilmember or three (3) council members. Notice of such special meetings shall be served on all other members personally, by registered mail or by electronic means at least 24 hours in advance of the meeting. Such notice shall not be required, if the Mayor and Council Members are present when the Special Meeting is called. Such notice of any Special Meeting may be waived by a Council Member in writing before or after such a meeting. Attendance at a meeting shall also constitute a waiver of notice on any business transacted in such Council Member's presence. Only the business stated in the call may be transacted at the Special Meeting. Notice to the public shall be given in accordance with State law.

(b) Meetings With Less Than 24 Hours Notice. When emergency circumstances occur, the City Council may hold a meeting as allowed by State law. When such meetings are to be held, the clerk shall provide notice to the legal organ of the city and to each member

of the city governing authority as soon as possible. The notice shall include the subjects expected to be considered at the meeting. In addition, the minutes shall reflect the reason for the emergency meeting and the nature of the notice given to the media and public.
[Cross-reference: O.C.G.A. § 50-14-1-(d)]

(c) Meetings During a State of Emergency. When it is imprudent, inexpedient or impossible to hold City Council meetings at the regular meeting place due to emergency or disaster resulting from manmade or natural causes, as declared by the Governor or other authorized state official, the City Council may meet anywhere within or outside of the city. Such a meeting may be called by the Mayor and one councilmember or three (3) Council Members. At the meeting, the Council Members shall establish and designate emergency temporary meeting locations where public business may be transacted during the emergency. Any action taken in such meetings shall have the same effect as if performed at the regular meeting site.
[Cross reference: O.C.G.A. §§ 50-14-1(d), 38-3-54, 38-3-55]

Section 13. Order of Business. All regular City Council meetings shall substantially follow an established order of business. The order shall be as follows:

1. Call to Order
2. Roll Call
3. Invocation
4. Pledge of Allegiance
5. Minutes
6. Public Comment
7. Approval of Meeting Agenda
8. Consent Agenda
9. Organizational and Procedural Items
10. Reports and Presentations
11. Unfinished Business
12. New Business
13. Other Business
14. Public Comment
15. Adjournment

Section 14. Agenda. The City Manager shall prepare an agenda of subjects to be acted on for each meeting. Work session topics and Council agenda items shall be submitted consistent with the process established by the City Manager. An agenda approval meeting shall be held by the City Manager and the Mayor to finalize the agenda. The agenda shall be made available to the City Council at least one (1) day before every City Council meeting.

(a) Requests For Agenda Items. Members of the public may request that a particular subject be placed on the agenda for a meeting. To be considered, this request shall be submitted in writing to the City Manager.

(b) Changing The Agenda. The order of the agenda may be changed during a meeting by a majority vote of the City Council. A new item, other than a zoning decision, may be added to the agenda by a majority vote of the City Council only if it becomes necessary to address the item during the meeting. An existing item may be removed from the agenda by the majority vote of the City Council.

(c) Agenda Must Be Made Public. The agenda of all matters to come before the City Council shall be made available to the public upon request and shall be posted at the meeting site as far in advance as reasonably possible, but not less than 24 hours prior to the start of the meeting. Notice of the agenda for emergency meetings will be handled in accordance with State law.
[Cross-reference: O.C.G.A. §§ 50-14-1(e)(1) and 36-66-4]

Section 15. Consent Agenda. A consent agenda may be prepared by the City Manager for the City Council to unanimously adopt motions on routine items. Any items of business that are expected to receive unanimous approval without debate may be placed on a consent agenda. At the appropriate time of the meeting, the Mayor shall read all of the items on the consent agenda. If a Council Member objects to an item being on the consent agenda, the Council Member shall direct the move of that particular item to the regular agenda. Following the reading of the consent agenda, the Mayor may ask for unanimous approval of the items on the consent agenda. If there are no objections, all the items on the consent agenda shall be approved by a majority vote of the City Council.

Section 16. Decorum. All Council Members shall conduct themselves in a professional and respectful manner. All remarks shall be directed to the Mayor and not to individual Council Members, staff, or citizens in attendance. Personal remarks are inappropriate and may be ruled out of order. A Council Member may not speak at a meeting until he or she has been recognized by the Mayor. All comments made by a Council Member shall address the motion that is being discussed. The Mayor shall enforce these rules of decorum. If a Council Member believes that a rule has been broken, he or she may raise a point of order. A second is not required. The Mayor may rule on the question or may allow the City Council to debate the issue and decide by majority vote.

Section 17. Voting. Under normal circumstances, passage of a motion shall require the vote of at least four (4) Council Members, and must receive the affirmative vote of a majority of those voting at which a quorum is present. Voting on the adoption of ordinances shall be by voice vote and the vote shall be recorded in the record, but any member of the City Council shall have the right to request a roll-call vote and such vote shall be recorded in the journal.

Except as otherwise provided in the City Charter, the affirmative vote of a majority of the Council Members present shall be required for the adoption of any ordinance, resolution or motion.

Section 18. Abstentions. No Council Member shall abstain from voting except in the case of a conflict of interest or if absent when a motion being voted upon was made. If a conflict of

interest does exist, the Council Member shall provide a specific explanation of the conflict, and the explanation shall be recorded in the journal.

Section 19. Public Participation. Public participation in meetings of the City Council shall be permitted in accordance with the provisions of this section.

(a) Public Comments. The floor shall be open for public comments at two points during the meeting. The first public comments section will be provided immediately following the approval of the meeting agenda. This public comments period will last a maximum of thirty minutes, and speakers' comments will be limited to three (3) minutes each.

In addition, the final agenda item of the meeting shall be reserved for comments from the public. Speakers' comments during this period will be limited to three (3) minutes each. All members of the public wishing to address the City Council shall submit their name and the topic of their comments to the city clerk prior to the start of any meeting held by the City Council; provided, however, that if the applicants of rezoning actions or individuals who wish to oppose a rezoning action have contributed more than $250 to the campaign of a Council Member, the individual shall file a campaign disclosure form as required by O.C.G.A. § 36-67A-3 at least five (5) calendar days prior to the first hearing by the City Council. Individuals will be held to established time limits. These limits may be waived by a majority vote of the City Council.
[Cross-reference: O.C.G.A. § 36-67A-3]

(b) Public Hearings. The City Council may schedule public hearings for the purpose of soliciting public comment on any subject of interest to the City Council. Hearings may be held immediately prior to, during or following a meeting of the City Council or at such other places and times as the City Council may determine. Hearings require at least ten (10) minutes per side. These limits may be waived by a majority vote of the City Council. No official action shall be taken during any such public hearing. Hearings on zoning decisions shall be governed in accordance with the zoning policies and procedures.
[Cross-reference: O.C.G.A. §§ 36-66-4 and 36-66-5]

(c) Decorum. Members of the public shall not make inappropriate or offensive comments at a City Council meeting and are expected to comply with the rules of decorum that are established for Council Members. Individuals violating any rules of the City Council may be ruled out of order by the Mayor or on a point of order made by a Council Member. A majority vote of the City Council shall rule on the point of order. An individual violating the rules of decorum may be removed from the meeting at the direction of the Mayor.

Section 20. Meeting Summary. A summary of the subjects acted upon in a meeting and the names of the Council Members present at a meeting shall be prepared by the City Clerk and made available to the public for inspection within two business days of the adjournment of the meeting. This summary will be noted as unofficial prior to adoption by the Council of the minutes for the meeting. *[Cross-reference: O.C.G.A. § 50-14-1(e)(2)]*

Section 21. Minutes. The clerk of the City Council shall promptly record the minutes for each City Council meeting. The minutes shall specify the names of Council Members present at the meeting, a description of each motion or other proposal made at the meeting, the name of the Council Member who proposed each motion, the name of the Council Member who seconded each motion, and a record of all votes. In the case of a roll call vote, the name of each Council Member voting for or against a proposal shall be recorded. It shall be presumed that a Council Member has voted in the affirmative unless the minutes show otherwise. More detailed information may be included in the minutes at the request of the City Council.

The City Council shall approve the minutes before they may be considered as an official record of the City Council. The minutes shall be open for public inspection once approved as official by the City Council but in no case later than immediately following the next regular meeting of the City Council. A copy of the minutes from the previous meeting shall be distributed to the City Council in the agenda package for the following meeting. The minutes of the previous meeting shall be corrected, if necessary, and approved by the City Council at the beginning of each meeting. A majority vote is required for approval. Conflicts regarding the content of the minutes shall be decided by a majority vote. Upon being approved, the minutes shall be signed by the Mayor and attested to by the clerk of the City Council.
[Cross-reference: O.C.G.A. § 50-14-1(e)(2)]

Section 22. Procedure and Deadline. The Mayor and City Manager are authorized to establish detailed procedures and deadlines as necessary to ensure the effective organization of Council proceedings and orderly handling of business to come before the Council, in accordance with the Rules and Procedures adopted by the Mayor and Council.

Section 23. Roberts Rules of Order. This document shall serve as the rules and procedures of the Mayor and City Council. In the absence of applicable rules and procedures which may from time to time be encountered during the public meetings, Roberts Rules of Order shall be followed.

STATE OF GEORGIA
COUNTY OF DEKALB **RESOLUTION 2008-12-30**

A RESOLUTION TO APPROVE AND AUTHORIZE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF DUNWOODY AND DEKALB COUNTY FOR POLICE SERVICES

WHEREAS, the Mayor and City Council are the governing authority of the City of Dunwoody; and

WHEREAS, the Mayor and City Council are charged with the protection of the health, safety and welfare of the citizens of Dunwoody; and

WHEREAS, the City of Dunwoody is committed to maintaining high level services to its constituents; and

WHEREAS, it is the desire of Mayor and Council to approve the Intergovernmental Agreement (IGA), as attached hereto, with Dekalb County for the provision of Police Services, which IGA has been reviewed.

NOW THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Dunwoody and it is resolved by the authority of said City Council, that by passage of this Resolution the City of Dunwoody Mayor and City Council authorize an Intergovernmental Agreement (IGA) for the provision of Police Services currently operated by the County. The Mayor and Council direct the City Manager to send a certified copy of this Resolution to the Chairman of the Dekalb County Board of Commissioners and the Dekalb County Chief Executive Officer.

SO RESOLVED AND EFFECTIVE, this 18th day of December, 2008.

Approved:

_____
Ken Wright, Mayor

Attest:

_____
Joan C. Jones, Acting City Clerk

Seal

December 8, 2008

INTERGOVERNMENTAL AGREEMENT FOR THE PROVISION OF POLICE SERVICES Between DEKALB COUNTY, GEORGIA and THE CITY OF DUNWOODY, GEORGIA

THIS INTERGOVERNMENTAL AGREEMENT is entered into by and between DeKalb County, Georgia ("County") and the City of Dunwoody, Georgia ("City").

WHEREAS, DeKalb County, Georgia is a constitutionally created political subdivision of the State of Georgia; and

WHEREAS, the City is a municipality created by the 2008 Georgia General Assembly pursuant to Senate Bill 82 (hereinafter referred to as "SB 82"); and

WHEREAS, SB 82 provides that the City begins operations December 1, 2008 and Section 6.03(c) requires the County to "...provide within the territorial limits of the City all government services and functions which DeKalb County provided in 2008"; and

WHEREAS, the residents of Dunwoody have paid the same taxes as paid by residents of unincorporated DeKalb County for 2008 and the payment of those county taxes entitles the City and its residents to be provided with the 2008 county governmental services and functions until December 31, 2008 without any further compensation from the City or its residents to the County; and

WHEREAS, this intergovernmental agreement therefore only becomes effective on the date that the City will begin paying for services as set forth in this Agreement; and

WHEREAS, the County and City desire to enter into an Intergovernmental Agreement to provide police services within the boundaries of Dunwoody for a period of six months beginning January 1, 2009; and

WHEREAS, the County and the City wish to establish the cost of police services to be provided by the County to the City pursuant to this Agreement; and

WHEREAS, the County and the City desire to maintain a mutually beneficial, efficient and cooperative relationship that will promote the interests of the citizens of both jurisdictions.

NOW THEREFORE, in consideration of the following mutual obligations, the County and City agree as follows:

ARTICLE 1
PURPOSE AND INTENT

The purpose of this Agreement is to sustain public safety and protect life and property within the City through enforcement of local, state and federal laws through the use of County

police services for a period of six months, commencing January 1, 2009 at 0000 hours and concluding at 2400 hours on June 30, 2009.

ARTICLE 2
DEFINITIONS

For the purposes of this Agreement, the following terms shall be defined as:

2.1 ***Chief of Police*** means the DeKalb County police chief or designee.

2.2 ***City Police Chief*** means a Chief of Police appointed by the City of Dunwoody who is not a part of the DeKalb County Police Department chain of command.

2.3 ***Police Services*** means those diverse activities directed toward the attainment of the objectives of enforcing the law, preventing and deterring crime, arresting criminal offenders, maintaining public order, and providing service to the community. Such activities include, but are not limited to: (1) conducting criminal investigations of incidents of crime in order to arrest responsible persons for prosecution; (2) directing and enforcing laws, (3) responding to emergency and non-emergency calls for service, (4) conducting field interviews, (5) arresting criminal offenders, (6) directing and controlling traffic, and (7) issuing citations, appearing in court. These activities constitute the comprehensive police services provided each day of the year, on a 24-hour per day basis within the jurisdictional boundaries of the City.

ARTICLE 3
TERM OF AGREEMENT

The term of this Agreement is for six months, commencing January 1, 2009 at 0000 hours and concluding at 2400 hours on March 31, 2009. This Agreement shall automatically renew without further action by the City or the County on the first of each succeeding month for three (3) additional one (1) month terms unless previously terminated in accordance with the termination provisions of this Agreement. At the conclusion of this term, the City will be solely responsible for providing all police services within its boundaries, unless extended by mutual Agreement approved by both governing bodies. The parties agree that, as of that date, the County's obligation (pursuant to O.C.G.A. 36-31-8 and Section 6.03 of SB 82) to provide police services shall terminate, and that this provision constitutes the agreement for the assumption of these police services by the City as contemplated by O.C.G.A. 36-31-8 and Section 6.03 of SB 82.

ARTICLE 4
COMPENSATION AND CONSIDERATION

For the police services to be rendered pursuant to this Agreement, the City shall pay to the County a monthly amount of $ four hundred and thirty thousand dollars ($430,000.00) which shall be remitted to the County on or before the fifteenth calendar day of each month of the term of this Agreement. This amount is due in full each month and represents the costs of all police services provided by the County to the City.

ARTICLE 5
CHIEF OF POLICE

The Chief of Police will direct and manage the daily police operations in the City and supervise the delivery of police services contracted for in this Agreement.

ARTICLE 6
SERVICES

6.1 During the term of this agreement, the County shall provide the same police services to the City that are provided to unincorporated DeKalb County in 2009. Such police services shall equal or exceed the police services provided by the County in 2008 within the area that comprises the territorial limits of the City. The County shall provide police services on a continual 24-hour per day basis. The County and the City intend to enter into mutual aid agreements, which shall govern the parties in case of emergencies requiring assistance from neighboring law enforcement departments.

6.2 Response times in the City shall remain consistent with those response times in unincorporated DeKalb County. County-wide response reports will be provided by the Chief of Police if requested by the City Manager.

6.3 The parties acknowledge that, in the event that the City of Dunwoody appoints a City Police Chief, such official is not in the chain of command of any DeKalb County Police Department Employee and does not have the authority to direct the activities of any employee of the DeKalb County Police Department. The City Police Chief will contact the DeKalb County Chief of Police to resolve any concerns regarding the scope of work contemplated under this Agreement.

ARTICLE 7
EQUIPMENT

The County agrees to provide DeKalb County police personnel assigned to work within the City with all necessary equipment and motor vehicles in connection with this Agreement in order to perform the agreed upon police services, in accordance with DeKalb County Police policies and procedures. The County agrees to maintain said equipment and vehicles and to provide replacements as necessary during the term of the Agreement. All DeKalb County Police Officers assigned hereunder shall wear the uniform and insignia as issued and ordered by the DeKalb County Police Department.

ARTICLE 8
AUTHORITY TO ENFORCE THE LAW IN DUNWOODY

8.1 Sworn police officers assigned to the City, shall take an oath administered by an official authorized by the City of Dunwoody to administer oaths, as prescribed by O.C.G.A. §§ 45-3-1 and 45-3-10.1 prior to undertaking law enforcement duties pursuant to this Agreement to enforce the ordinances of the City of Dunwoody.

8.2 Every sworn police officer of the County assigned to the City shall still be deemed to be a sworn officer of the County while performing the services, duties and responsibilities hereunder and is vested with the police powers of the County that are necessary to provide the police services within the scope of this Agreement.

8.3 Sworn police officers shall be and hereby are vested with the additional power to enforce the applicable ordinances of the City or the County, to make arrests or issue citations incident to the enforcement of the applicable County and City ordinances, and to perform other tasks as are reasonable and necessary in the exercise of their powers. This vesting of additional powers to enforce the applicable ordinances of the City and the County is made for the sole and limited purpose of giving official and lawful status to the performance of law enforcement services provided by sworn officers within the City of Dunwoody.

8.4 Sworn police officers shall enforce applicable City and County ordinances and violations of City traffic ordinances and shall appear in the Municipal Court of the City of Dunwoody as necessary to prosecute cases made therein. The City agrees to compensate off duty officers for their appearance in the Municipal Court pursuant to state law. The City further agrees to provide, at its own expense, citation books containing the printed Municipal Court information to the uniform patrol officers working within the City.

ARTICLE 9
EMPLOYMENT STATUS

9.1 All sworn officers, as well as any other County personnel assigned under this Agreement are and will continue to be employees of the County for all purposes, including but not limited to: duties and responsibilities, employee benefits, grievance, payroll, pension, promotion, annual or sick leave, standards of performance, training, workers compensation and disciplinary functions.

9.2 All sworn officers as well as any other sworn personnel assigned under this Agreement are and will continue to be part of the DeKalb County police department command structure. Police department personnel are under the supervision of the Chief of Police.

ARTICLE 10
RECORDKEEPING AND REPORTING

10.1 The County Police Department Records Section is the central repository for all departmental records and makes available public records as defined by the Georgia Open Records Act, O.C.G.A. § 50-18-70, *et seq.* During the term of this Agreement, the County will

continue to maintain Initial Incident Reports, Supplemental Reports and other reports relating to police department activity in the City.

10.2 During the term of this Agreement, the County will continue to compile, maintain and submit all law enforcement data for the City, including UCR statistics, to state and federal authorities in the form and manner required of police agencies in Georgia. The City shall be responsible for creation of any necessary User Agreements with the Georgia Crime Information Center ("GCIC") and the establishment of a unique *ORI* in order for the County to comply with this paragraph. In addition, the City shall be responsible for any costs incurred with the County's software vendor if software modifications are necessary in order to comply with this paragraph. Otherwise, the DeKalb County Police Department will continue to report the required crime statistics to the State and Federal governments as a part of unincorporated DeKalb County for the duration of this Agreement.

10.3 Except as limited by any provision of state or federal law, the City may request, review and access data and County records at a mutually agreed upon time to ensure compliance with this Agreement.

ARTICLE 11
CITY-COUNTY RELATIONS

11.1 The DeKalb County Chief of Police will notify the City Manager or the City Chief of Police (if applicable) in the event of a significant criminal occurrence or emergency situation within the City. The DeKalb County Chief of Police and City Manager shall designate what they consider "significant" by a memorandum. In the event a Chief of Police is appointed by the City of Dunwoody, that Chief may participate in the discussion related to the definition of such events.

11.2 The County shall be the sole provider of services that require sworn law enforcement personnel within the City during the term of this Agreement.

ARTICLE 12
TRANSITION

12.1 The County and City agree that thirty (30) days prior to the end of this Agreement, the City Manager and the Executive Assistant will meet and confer to effect a smooth transition.

ARTICLE 13
TERMINATION AND REMEDIES

13.1 The City may terminate this Agreement with or without cause by giving thirty (30) days prior written notice to the County. If the City intends to terminate this Agreement for cause prior to the expiration of the term of this Agreement, the City must notify the County in writing, specify the basis for the termination and advise the County that the issue(s) must be cured to the City's reasonable satisfaction within a 30-day period.

13.2 The County may only terminate this agreement and withdraw police services if the City does not make timely payments for police services as required by and set forth in Article 4. In order for the County to terminate this agreement prior to its expiration , the County shall give the City thirty (30) days prior written notice of such failure to pay and the potential of termination and withdrawal of service. In the event the City makes the required payment for police services required by and set forth in Article 4 prior to the effective date of termination in the thirty three(33) day prior written notice, then the County shall not be entitled to terminate this agreement or withdraw service for the City's failure to pay on that occasion.

13.3 The parties reserve all available remedies afforded by law to enforce any term of condition of this Agreement.

ARTICLE 14
NOTICES

All required notices shall be given by first class mail, except that any notice of termination shall be mailed via U.S. Mail, return receipt requested. The parties agree to give each other non binding duplicate facsimile notice. Notices shall be addressed to the parties at the following addresses:

If to the County:

Richard Stogner, Executive Assistant
1300 Commerce Drive 6th Floor
Decatur, Georgia 30030
404-371-2883, Office number
404-371-2116, Facsimile number

With a copy to:

William J. Linkous, III County Attorney
1300 Commerce Drive, 5th Floor
Decatur, Georgia 30030
404-371-3011 Office number
404-371-3024 Facsimile number

If to the City:

Warren Hutmacher, City Manager
City of Dunwoody
400 Northridge Road
Suite 1250
Dunwoody, Georgia 30350
678-382-6708, Office number
678-382-6701, Facsimile number

With a copy to:

Brian Anderson, City Attorney
City of Dunwoody
400 Northridge Road
Suite 1250
Dunwoody, Georgia 30350

678-382-6708, Office number
678-382-6701, Facsimile number

ARTICLE 15
EXTENSION OF AGREEMENT

This Agreement may be extended at any time during the term by mutual consent of both parties so long as such extension is approved by official action of the City Council and approved by official action of the County governing authority.

ARTICLE 16
NON-ASSIGNABILITY

Neither party shall assign any of the obligations or benefits of this Agreement.

ARTICLE 17
ENTIRE AGREEMENT

The parties acknowledge, one to the other, that the terms of this Agreement constitute the entire understanding and Agreement of the parties regarding the subject matter of the Agreement. This Agreement constitutes the entire understanding and agreement between the Parties concerning the subject matter of this Agreement, and supersedes all prior oral or written agreements or understandings. No representation oral or written not incorporated in this Agreement shall be binding upon the City or the County. All parties must sign any subsequent changes in the Agreement.

ARTICLE 18
SEVERABILITY, VENUE AND ENFORCEABILITY

If a court of competent jurisdiction renders any provision of this Agreement (or portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of the provision will be severed and the remainder of this Agreement will continue in full force and effect as if the invalid provision or portion of the provision were not part of this Agreement. No action taken pursuant to this Agreement should be deemed to constitute a waiver of compliance with any representation, warranty, covenant or agreement contained in this Agreement and will not operate or be construed as a waiver of any subsequent breach, whether of a similar or dissimilar nature. This Agreement is governed by the laws of the state of Georgia without regard to conflicts of law principles thereof. Should any party institute suit concerning this Agreement, venue shall be in the Superior Court of DeKalb County, Georgia. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that the agents of all parties have participated in the preparation hereof.

ARTICLE 19
BINDING EFFECT

This Agreement shall inure to the benefit of, and be binding upon, the respective parties' successors.

ARTICLE 20
INDEMNITY

20.1 It is the intent of the parties to be covered under the auspices of any applicable immunity granted by law. Only to the extent permitted by law, shall the City defend, indemnify and hold harmless the County and its officers, employees, or agents from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, or agents may incur as a result of any claim, demand, suit, or cause of action or proceeding of any kind or nature arising out of, relating to, or resulting from the negligent performance of this Agreement by the City, its employees, officers and agents. The County shall promptly notify the City of each claim, cooperate with the City in the defense and resolution of each claim and not settle or otherwise dispose of the claim without the City's participation.

20.2 It is the intent of the parties to be covered under the auspices of any applicable immunity granted by law. Only to the extent permitted by law, shall the County defend, indemnify and hold harmless the City and its officers, employees, or agents from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the City or its officers, employees, or agents may incur as a result of any claim, demand, suit, or cause of action or proceeding of any kind or nature arising out of, relating to, or resulting from the negligent performance of this Agreement by the County, its employees, officers, and agents. The City shall promptly notify the County of each claim, cooperate with the County in the defense and resolution of each claim and not settle or otherwise dispose of the claim without the County participation.

20.3 The indemnification provisions of this Agreement shall survive termination of this Agreement for any claims that may be filed after the termination date of the Agreement provided the claims are based upon actions that occurred during the term of this Agreement.

ARTICLE 21
COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the City and County have executed this Agreement through their duly authorized officers on the day and year first above written.

SIGNATURES APPEAR ON THE FOLLOWING PAGES

DEKALB COUNTY, GEORGIA

By: _____(SEAL)
Vernon Jones
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

_____
Michael Bell
Ex Officio Clerk of the
Board of Commissioners of
DeKalb County, Georgia

APPROVED AS TO FORM:

_____
William J. Linkous, III
County Attorney

APPROVED AS TO SUBSTANCE:

_____
Richard Stogner
Executive Assistant

SIGNATURES APPEAR ON THE FOLLOWING PAGE

CITY OF DUNWOODY, GEORGIA

Ken Wright Mayor	Municipal Clerk (SEAL)
Approved as to Form:	Approved as to Substance:
Brian Anderson City Attorney	Warren Hutmacher City Manager

STATE OF GEORGIA
COUNTY OF DEKALB

RESOLUTION 2008-12-31

A RESOLUTION CREATING A SUSTAINABILITY COMMISSION TO PROMOTE SUSTAINABILITY INITIATIVES IN THE CITY OF DUNWOODY, GEORGIA AND TO DIRECT THE CITY MANAGER TO PURSUE CERTIFICATION BY THE ATLANTA REGIONAL COMMISSION (ARC) THROUGH ITS GREEN COMMUNITIES PROGRAM

WHEREAS, the City Council of Dunwoody, GA recognizes environmental stewardship as one of its long-term obligations to the citizens and businesses in Dunwoody; and

WHEREAS, a community that values the environment and takes steps to protect our natural resources creates a more desirable place to live, work and play; and

WHEREAS, becoming a certified ARC Green Community is a way to foster civic pride, create a positive image of a place to live or conduct business, set an example for businesses and organizations seeking to reduce their environmental impact and lead to greater quality of life; and

WHEREAS, the legislation passed by the Georgia General Assembly regarding the incorporation of the City of Dunwoody, otherwise known as Senate Bill 82, section 1.03(8), authorizes the city to "protect and preserve the natural resources, environment, and vital areas of the city, the region, and the state through the enactment of ordinances that preserve and improve air quality, restore and maintain water resources, the control of erosion and sedimentation… and provide other necessary or beneficial actions for the protection of the environment."

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Dunwoody that a permanent advisory board on sustainability be established. This advisory board shall be known as the Dunwoody Sustainability Commission and its charter is as follows:

"Assist the City of Dunwoody to set an example by conserving energy, investing in renewable energy, conserving water, conserving fuel, reducing waste and protecting and restoring the community's natural resources. Promote measures that encourage Dunwoody to work towards reducing the environmental footprint of the government through its policies, practices, buildings and fleets. Promote measures that encourage our community to reduce its environmental impact by providing assistance in public education and outreach on sustainability."

Selection and membership of this board shall conform to SB-82, Section 2.14, and to Chapter 2, Article 4, of the code of the City of Dunwoody. The number of members of the Dunwoody Sustainability Commission is set at twelve (12). Residency within the City of Dunwoody is not a requirement for appointment to the Dunwoody Sustainability Commission.

Furthermore, the Mayor and the City Council direct the City Manager to develop a Dunwoody Sustainably plan by the end of the first quarter of 2009 and pursue certification by -ARC as a Certified Green Community. Goals are set as follows: Document the achievement of 155 points by the end of 2009 with a goal of submitting a certification application for Level 2 (225 point minimum) no later than the end of 2010, and attaining Level 2 certification no later than the first quarter of 2011.

STATE OF GEORGIA
COUNTY OF DEKALB

SO RESOLVED AND EFFECTIVE, this 18th day of December, 2008.

Approved:

_____
Ken Wright, Mayor

Attest:

_____
Joan C. Jones, Acting City Clerk

Seal

ARC Green Communities Certification Checklist
Version 1 - October 22, 2008

GREEN BUILDING

Possible Points	Earned Points	Government Measures
10		1. Require new large buildings constructed and owned by the local jurisdiction to be LEED certified.
10		2. A local government building is LEED certified.
5		3. Require new buildings constructed and owned by the local jurisdiction will be certified ENERGY STAR or EarthCraft Light Commercial.
5		4. Require local government building renovations to be Energy Star certified or follow LEED guidelines.

30	**0**	**Total Government Measures Points**

Possible Points	Earned Points	Community Measures
5		5. Offer incentives for green building certifications (LEED, EarthCraft, Energy Star) such as expediting planning development review process, offering reductions/waivers of development fees or other methods of encouraging green building.
5		6. Offer incentives for affordable and workforce housing entities to certify affordable housing as EarthCraft House, EarthCraft Multifamily, Energy Star or LEED for Homes.

10	**0**	**Total Community Measures Points**

40	**0**	**Total Green Building Points**

ENERGY EFFICIENCY

Possible Points	Earned Points	Government Measures
10		7. Conduct energy audits of local government facilities and implement recommendations *-or-* Engage in performance contracting for energy in government buildings.
5		8. Become a local government Energy Star Partner.
5		9. Adopt a policy to purchase at least Energy Star rated equipment and appliances.
5		10. Install LED lamps in traffic lights.
5		11. Have a “lights out / power down” policy, “lights out and electronics off when not in use” policy and / or use building/office occupancy and day lighting sensors.
5		12. Have a demonstration cool roof project.

35	**0**	**Total Government Measures Points**

Possible Points	Earned Points	Community Measures
5		13. Establish a program to enforce Georgia’s energy codes.
5		14. Have a light bulb exchange / incentive program for residents replace incandescent light bulbs for a more efficient compact florescent light (CFL) bulb.
5		15. Have ordinances or incentives to operate outdoor lighting more efficiently.

15	**0**	**Total Community Measures Points**

50	**0**	**Total Energy Efficiency Points**

GREEN POWER

Possible Points	Earned Points	Government Measures
10		16. Have a demonstration renewable energy project (such as solar or methane capture) on government property.
10		17. Become an EPA Green Power Partner.

20	**0**	**Total Government Measures Points**

ARC Green Communities Certification Checklist
Version 1 - October 22, 2008

Possible Points	Earned Points	Community Measures
5		18. Remove regulatory barriers that prohibit / discourage onsite renewable energy technologies, such as solar panels.

5	**0**	**Total Community Measures Points**
25	**0**	**Total Green Power Points**

WATER USE REDUCTION AND EFFICIENCY

Possible Points	Earned Points	Government Measures
10		19. Conduct water audits (indoor and outdoor) of existing local government facilities and implement recommendations *-or-* Engage in performance contracting for water use in government buildings.
5		20. Require WaterSense certified high efficiency toilets (1.28gpf or less), urinals (0.5 gpf or less) and faucets (1.5gpm or less) in all new government buildings.
5		21. Use captured rainwater or reuse water to irrigate landscapes at government facilities.
5		22. Become a DCA Water First Community.

25	**0**	**Total Government Measures Points**

Possible Points	Earned Points	Community Measures
5		23. Comply with Metro Water District Water Supply and Water Conservation Management Plan.
5		24. Comply with Metro Water District Wastewater Management Plan.
5		25. Comply with Metro Water District Stormwater Management Plan.
5		26. Provide incentives to developers and home builders to make new homes Water Sense certified.

20	**0**	**Total Community Measures Points**
45	**0**	**Total Water Points**

TREES AND GREENSPACE

Possible Points	Earned Points	Government Measures
10		27. Meet at least one of the following benchmarks for greenspace (1) have 20 acres per 1,000 residents, (2) percent parkland of total land is 8%, (3) all residents live within 1/2 mile walking distance to a park.
10		28. Adopt a government no net loss of trees policy for government property.
5		29. Develop and adopt a Greenspace plan that provides for connectivity of protected greenspace within and among communities.
5		30. Have a demonstration green roof project.
5		31. Adopt organic and drought tolerant landscape practices at local government facilities.

35	**0**	**Total Government Measures Points**

Possible Points	Earned Points	Community Measures
5		32. Become a Tree City USA (requires Tree Board or dept to develop a comprehensive tree management program, tree care ordinance, a community forestry program with an annual budget of at least $2 per capita, arbor day observance and proclamation).
5		33. Amend landscape and development standards to include shade coverage requirements.
5		34. Support and designate space for site(s) for community gardens and / or farmers markets.

15	**0**	**Total Community Measures Points**
50	**0**	**Total Trees and Greenspace Points**

ARC Green Communities Certification Checklist
Version 1 - October 22, 2008

TRANSPORTATION AND AIR QUALITY

Possible Points	Earned Points	Government Measures
10		35. Adopt a Commute Option program for employees that supports alternatives to driving alone or driving at peak times (carpool, vanpool, public transit, bike and pedestrain commuters, compressed workweeks, telecommuting and/or flexible work hours.
10		36. Adopt a green fleet policy that includes purchasing the most fuel efficient and least polluting vehicle that will meet the needs for use of the vehicle (appropriate size and type) will be purchased and gives preference to the purchase of alternative fuel and / or hybrid fleet vehicles for fleet vehicle replacement.
5		37. Adopt a no-idling policy for local government vehicles.
5		38. Retrofit buses, construction equipment or other applicable government vehicles for pollution control.
5		39. Provide alternative fueling station(s) or purchase alternative fuel(s) for government fleets.

35	**0**	**Total Government Measures Points**

Possible Points	Earned Points	Community Measures
10		40. Adopt complete streets policies and / or design standards.
5		41. Work to improve traffic signal synchronization and provide traveler information systems through the Smart Corridors System.
5		42. Implement a "safe routes to school" program to promote walking and bicycling to school.
5		43. Require end of trip bicycle facilities at all community facilities.
5		44. Adopt bike and pedestrian friendly policies.
5		45. Amend development regulations to encourage shared parking, joint parking and / or reduce parking requirements (could adopt a max parking requirement).

35	**0**	**Total Community Measures Points**

70	**0**	**Total Transportation and Air Quality Points**

RECYCLING AND WASTE REDUCTION

Possible Points	Earned Points	Government Measures
10		46. Implement environmentally preferable purchasing program that accounts for life cycle costs and gives preference to products that are recycled, recyclable and otherwise more environmentally friendly than traditional products.
5		47. Implement a recycling program for traditional recycling materials at local government facilities (including recycling paper, glass, metal containers, plastics).
5		48. Implement a recycling program for non - traditional recycling materials at local government facilities (may include recycling copier toner, ink cartridges, batteries, cell phones, compact florescent lights and electronics).
5		49. Purchase recycled copy, computer and fax paper with at least 30% recycled content.

25	**0**	**Total Government Measures Points**

Possible Points	Earned Points	Community Measures
5		50. Offer curbside recycling to all residents through local operations or solid waste contracts.
5		51. Have recycling drop off location(s) or regularly scheduled events for electronics, batteries, cell phones and compact florescent light bulbs.
5		52. Implement organics and yard debris collection for composting and other beneficial uses.

15	**0**	**Total Community Measures Points**

40	**0**	**Total Recycling and Waste Reduction Points**

ARC Green Communities Certification Checklist
Version 1 - October 22, 2008

LAND USE

Possible Points	Earned Points	Government Measures
10		53. A local government has located one or more of its facility / facilities at a brownfield site(s).
5		54. A local government has located one or more of its facility / facilities at a greyfield site(s).

15	**0**	**Total Government Measures Points**

Possible Points	Earned Points	Community Measures
10		55. Analyze potential areas and develop incentive(s) and / or other revitalization strategies for reuse of buildings, greyfield redevelopment and / or brownfield redevelopment. Make this information available to developers and promote.
5		56. Offer incentives / bonuses that support smart growth (such as incentives for development and redevelopment in existing downtown areas, transit oriented development, traditional neighborhood development, mixed use development and / or in-fill development).

15	**0**	**Total Community Measures Points**
30	**0**	**Total Land Use Points**

EDUCATION

Possible Points	Earned Points	Government Measures
5		57. Educate staff on the green community measures being implemented and offered within the jurisdiction.

5	**0**	**Total Government Measures Points**

Possible Points	Earned Points	Community Measures
5		58. Educate the public, schools, professional associations, business, and industry about implemented green communities program measures made available in their jurisdiction.

5	**0**	**Total Community Measures Points**
10	**0**	**Total Education Points**

INNOVATION

Possible Points	Earned Points	Innovation Measures
5		59. Innovation points can apply to a government or community measure that is not included in any of the above categories. Each innovation measure can be worth 5 points and the maximum points to be allowed in the Innovation category is 15.
5		60. Innovation points can apply to a government or community measure that is not included in any of the above categories. An Innovation measure can be worth 5 points and the maximum points to be allowed in the Innovation category is 15.
5		61. Innovation points can apply to a government or community measure that is not included in any of the above categories. An Innovation measure can be worth 5 and the maximum points to be allowed in the Innovation category is 15.

15	**0**	**Total Innovation Points**

ARC Green Communities Certification Checklist
Version 1 - October 22, 2008

TOTALS

Possible Points	Points Earned	Major Categories
40	0	Green Building
50	0	Energy Efficiency
25	0	Green Power
45	0	Water Use Reduction and Efficiency
50	0	Trees and Green Space
70	0	Transportation and Air Quality
40	0	Recycling and Waste Reduction
30	0	Land Use
10	0	Education
15	0	Innovation
375	**0**	**Total Earned Points**

Level 1	**175 - 224 Points**
Level 2	**225 - 274 Points**
Level 3	**275 - 375 Points**

STATE OF GEORGIA
COUNTY OF DEKALB

ORDINANCE NO. 2008-12-46

AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 27, CITY OF DUNWOODY ZONING ORDINANCE, PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF DUNWOODY, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 27 (CITY OF DUNWOODY ZONING ORDINANCE) AS ATTACHED HERETO AND INCOPORATED HEREIN

WHEREAS: The Ordinance relating to Chapter 27, City of Dunwoody Zoning Ordinance, is hereby adopted and approved, and is attached hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 27 of the Code of Ordinances of the City of Dunwoody, Georgia; and

WHEREAS, A second read and an advertised Public Hearing has been held on December 18, 2008 pursuant to the Zoning Procedures Act, O.C.G.A. § 36-66-1 et. seq., prior to the adoption of this Ordinance; and

WHEREAS: This Ordinance shall become effective upon its adoption.

.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF DUNWOODY HEREBY ORDAINS that Chapter 27, City of Dunwoody Zoning Ordinance, is hereby adopted and approved as part of the Code of Ordinances for the City of Dunwoody, Georgia. Any ordinance in conflict with this ordinance is hereby repealed.

SO ORDAINED AND EFFECTIVE this the 18th day of December, 2008.

Approved:

_____

Ken Wright, Mayor

Attest:

_____

Joan Jones, Acting City Clerk
(Seal)

Approved as to Form and Content:

_____

Brian Anderson, City Attorney

CHAPTER 27

CITY OF DUNWOODY

ZONING ORDINANCE

Table of Contents

Page

Article I. General Regulations 1

Division 1. General Provisions 1

Sec. 1-1. Short Title. 1
Sec. 1-2. General Purposes. 1
Sec. 1-3. Minimun Requirements. 2
Sec. 1-4. Authority. 2
Sec. 1-5. General Applicability. 2
Sec. 1-6. General Prohibition. 3
Sec. 1-7. Applicability to All Property. 3
Sec. 1-8. Components of Zoning Ordinance. 3
Sec. 1-9. Zoning Maps. 3
Sec. 1-10. Interpretation of Zoning Maps. 3
Sec. 1-11. Rules Applicable to Parcels Split into Two or More Zoning Districts. ..4
Sec. 1-12. Applicability to Prior Permits. 5
Sec. 1-13. Relation to and Conflict with Other Provisions. 5
Sec. 1-14. Relation to Private Agreements. 5
Sec. 1-15. Street and Building Numbering Systems. 5
Sec. 1-16. Severability. 5
Sec. 1-17. Definitions. 6
Sec. 1-18. Rules for Interpretation of Language. 35
Sec. 1-19. Public Uses. 36
Sec. 1-20. Compliance with Other Laws Required. 36
Sec. 1-21. Private Restrictive Covenants. 36
Sec. 1-22. Relationship to Comprehensive Plan. 36
Sec. 1-23. Comprehensive Plan Distinguished from Zoning. 37
Sec. 1-24. Land Use Districts. 37
Sec. 1-25. Interpretation of Land Use District Boundaries. 37
Sec. 1-26. Relationship between Land Use Categories and Zoning Districts. 37
Sec. 1-27. Permitted Land Use. 38
Sec. 1-28. Status of Lots Zoned TND (Traditional Neighborhood Development) and Lots Previously Zoned R-CH (Single Family Cluster Residential) and R-CD (Residential Community Development). 38
Sec. 1-29. Status of Lots Zoned PSD (Planned Shopping) District under Previous Zoning Ordinance. 39
Sec. 1-30. Status of Lots Zoned O-I (Office-Institution) and Used as High-Rise Apartments Developments. 39

Article II. District Regulations. 40

Sec. 2A-1. Scope of Provisions: R-200 (Single Family Residential) District. 40
Sec. 2A-2. Statement of Purpose and Intent. 40
Sec. 2A-3. Principal Uses and Structures. 40

Sec. 2A-4. Accessory Uses, Buildings and Structures. 41
Sec. 2A-5. Special Permits....41
Sec. 2A-6. Lot Width; Lot Area; Setbacks. 42
Sec. 2A-7. Height of Buildings and Structures. 43
Sec. 2A-8. Floor Area of Dwelling. 43
Sec. 2A-9. Lot Coverage. 43
Sec. 2A-10. Off-Street Parking Requirement. 43
Sec. 2A-11. Landscaping Requirement. 44
Sec. 2A-12. Noise Limitations. 44

Division 2B. R-150 (Single-Family Residential) District 44

Sec. 2B-1. Scope of Provisions. 44
Sec. 2B-2. Statement of Purpose and Intent. 44
Sec. 2B-3. Principal Uses and Structures. 45
Sec. 2B-4. Accessory Uses, Buildings and Structures. 45
Sec. 2B-5. Special Permits. 46
Sec. 2B-6. Lot Width; Lot Area; Setbacks. 46
Sec. 2B-7. Height of Buildings and Structures. 47
Sec. 2B-8. Floor Area of Dwelling. 47
Sec. 2B-9. Lot Coverage. 47
Sec. 2B-10. Off-Street Parking Requirement. 47
Sec. 2B-11. Landscaping Requirement. 48
Sec. 2B-12. Noise Limitations. 48

Division 2C. R-100 (Single-Family Residential) District 48

Sec. 2C-1. Scope of Provisions. 48
Sec. 2C-2. Statement of Purpose and Intent. 48
Sec. 2C-3. Principal Uses and Structures. 49
Sec. 2C-4. Accessory Uses, Buildings and Structures. 49
Sec. 2C-5. Special Permits. 49
Sec. 2C-6. Lot Width; Lot Area; Setbacks. 50
Sec. 2C-7. Height of Buildings and Structures. 51
Sec. 2C-8. Floor Area of Dwelling. 51
Sec. 2C-9. Lot Coverage. 51
Sec. 2C-10. Off-Street Parking Requirement. 51
Sec. 2C-11. Landscaping Requirement. 52
Sec. 2C-12. Noise Limitations. 52

Division 2D. R-85 (Single-Family Residential) District 52

Sec. 2D-1. Scope of Provisions 52
Sec. 2D-2. Statement of Purpose and Intent. 52
Sec. 2D-3. Principal Uses and Structures. 53
Sec. 2D-4. Accessory Uses, Buildings and Structures. 53
Sec. 2D-5. Special Permits 53
Sec. 2D-6. Lot Width; Lot Area; Setbacks. 54
Sec. 2D-7. Height of Buildings and Structures. 55
Sec. 2D-8. Floor Area of Dwelling. 55

Sec. 2D-9. Lot Coverage. 55
Sec. 2D-10. Off-Street Parking Requirement. 55
Sec. 2D-11. Landscaping Requirement. 56
Sec. 2D-12. Noise Limitations. 56

Division 2E. R-75 (Single-Family Residential) District 56

Sec. 2E-1. Scope of Provisions. 56
Sec. 2E-2. Statement of Purpose and Intent. 56
Sec. 2E-3. Principal Uses and Structures. 57
Sec. 2E-4. Accessory Uses, Buildings and Structures. 57
Sec. 2E-5. Special Permits. 57
Sec. 2E-6. Lot Width; Lot Area; Setbacks. 58
Sec. 2E-7. Height of Buildings and Structures. 59
Sec. 2E-8. Floor Area of Dwelling. 59
Sec. 2E-9. Lot Coverage. 59
Sec. 2E-10. Off-Street Parking Requirement. 59
Sec. 2E-11. Landscaping Requirement. 60
Sec. 2E-12. Noise Limitations. 60

Division 2F. R-60 (Single-Family Residential) District 60

Sec. 2F-1. Scope of Provisions. 60
Sec. 2F-2. Statement of Purpose and Intent. 60
Sec. 2F-3. Principal Uses and Structures. 60
Sec. 2F-4. Accessory Uses, Buildings and Structures. 61
Sec. 2F-5. Special Permits. 61
Sec. 2F-6. Lot Width; Lot Area; Setbacks. 62
Sec. 2F-7. Height of Buildings and Structures. 62
Sec. 2F-8. Floor Area of Dwelling. 63
Sec. 2F-9. Lot Coverage. 63
Sec. 2F-10. Off-Street Parking Requirement. 63
Sec. 2F-11. Landscaping Requirement. 64
Sec. 2F-12. Noise Limitations. 64

Division 2G. R-A8 (Single-Family Residential) District 64

Sec. 2G-1. Scope of Provisions. 64
Sec. 2G-2. Statement of Purpose and Intent. 64
Sec. 2G-3. Principal Uses and Structures. 64
Sec. 2G-4. Accessory Uses, Buildings and Structures. 65
Sec. 2G-5. Special Permits. 65
Sec. 2G-6. Lot Width; Lot Area; Setbacks. 66
Sec. 2G-7. Transitional Buffer Zone Requirement. 67
Sec. 2G-8. Height of Buildings and Structures. 67
Sec. 2G-9. Floor Area of Dwelling. 67
Sec. 2G-10. Lot Coverage. 67
Sec. 2G-11. Off-Street Parking Requirement. 67
Sec. 2G-12. Landscaping Requirement. 68
Sec. 2G-13. Public Streets Required. 68

Sec. 2G-14. Noise Limitations. 69
Division 2H. R-CH (Single-Family Cluster Residential) District 69
Sec. 2H-1. Purpose and Scope. 69
Sec. 2H-2. Permitted Uses. 69
Sec. 2H-3. Development Standards. 70
Division 2I. R-CD (Residential Community Development) District....71
Sec. 2I-1. Purpose and Scope. 71
Sec. 2I-2. Permitted Uses. 71
Sec. 2I-3. Development Standards. 73
Division 2J. R-DT (Two- and Three-Family Residential) District....78
Sec. 2J-1. Scope of Provisions. 78
Sec. 2 J2. Statement of Purpose and Intent. 78
Sec. 2J-3. Principal Uses and Structures. 79
Sec. 2J-4. Accessory Uses, Buildings and Structures. 79
Sec. 2J-5. Special Permits. 79
Sec. 2J-6. Lot Width; Lot Area; Setbacks. 80
Sec. 2J-7. Height of Buildings and Structures. 80
Sec. 2J-8. Floor Area of Dwelling. 80
Sec. 2J-9. Lot Coverage. 80
Sec. 2J-10. Off-street parking requirement. 80
Sec. 2J-11. Landscaping Requirement. 81
Sec. 2J-12. Noise Limitations. 81
Division 2K. RM-150 (Multifamily Residential) District 81
Sec. 2K-1. Scope of Provisions. 81
Sec. 2K-2. Statement of Purpose and Intent. 81
Sec. 2K-3. Principal Uses and Structures. 82
Sec. 2K-4. Accessory Uses, Buildings and Structures. 82
Sec. 2K-5. Special Permits. 83
Sec. 2K-6. Lot Width; Lot Area; Setbacks. 84
Sec. 2K-7. Spacing Between Buildings. 84
Sec. 2K-8. Transitional Buffer Zone Requirement. 84
Sec. 2K-9. Height of Buildings and Structures. 85
Sec. 2K-10. Floor Area of Dwelling. 85
Sec. 2K-11. Lot Coverage. 85
Sec. 2K-12. Off-Street Parking Requirement. 85
Sec. 2K-3. Landscaping Requirement. 86
Sec. 2K-14. Outdoor Play and Recreation Areas Required. 86
Sec. 2K-15. Parking Lot Landscaping Requirements. 87
Sec. 2K-16. Noise Limitations. 87
Division 2L. RM-100 (Multifamily Residential) District....87
Sec. 2L-1. Scope of Provisions. 87
Sec. 2L-2. Statement of Purpose and Intent. 87

Sec. 2L-3. Principal Uses and Structures. 87
Sec. 2L-4. Accessory Uses, Buildings and Structures. 88
Sec. 2L-5. Special Permits. 88
Sec. 2L-6. Lot Width; Lot Area; Setbacks. 89
Sec. 2L-7. Spacing between Buildings. 90
Sec. 2L-8. Transitional Buffer Zone Requirement. 90
Sec. 2L-9. Height of Buildings and Structures. 90
Sec. 2L-10. Floor Area of Dwelling. 90
Sec. 2L-11. Lot Coverage. 91
Sec. 2L-12. Off-Street Parking Requirement. 91
Sec. 2L-13. Landscaping Requirement. 92
Sec. 2L-14. Outdoor Play and Recreation Areas Required. 92
Sec. 2L-15. Parking Lot Landscaping Requirements. 92
Sec. 2L-16. Noise Limitations. 92

Division 2M. RM-85 (Multifamily Residential) District 92

Sec. 2M-1. Scope of Provisions. 92
Sec. 2M-2. Statement of Purpose and Intent. 92
Sec. 2M-3. Principal Uses and Structures. 93
Sec. 2M-4. Accessory Uses, Buildings and Structures. 93
Sec. 2M-5. Special Permits. 94
Sec. 2M-6. Lot Width; Lot Area; Setbacks. 95
Sec. 2M-7. Spacing Between Buildings. 95
Sec. 2M-8. Transitional Buffer Zone Requirement. 95
Sec. 2M-9. Height of Buildings and Structures. 96
Sec. 2M-10. Floor Area of Dwelling. 96
Sec. 2M-11. Lot Coverage. 96
Sec. 2M-12. Off-Street Parking Requirement. 96
Sec. 2M-13. Landscaping Requirement. 97
Sec. 2M-14. Outdoor Play and Recreation Areas Required. 98
Sec. 2M-15. Parking Lot Landscaping Requirements. 98
Sec. 2M-16. Noise Limitations. 98

Division 2N. RM-75 (Multifamily Residential) District 98

Sec. 2N-1. Scope of Provisions. 98
Sec. 2N-2. Statement of Purpose and Intent. 98
Sec. 2N-3. Principal Uses and Structures. 98
Sec. 2N-4. Accessory Uses, Buildings and Structures. 99
Sec. 2N-5. Special Permits. 100
Sec. 2N-6. Lot Width; Lot Area; Setbacks. 100
Sec. 2N-7. Spacing between Buildings. 101
Sec. 2N-8. Transitional Buffer Zone Requirement. 101
Sec. 2N-9. Height of Buildings and Structures. 101
Sec. 2N-10. Floor Area of Dwelling. 101
Sec. 2N-11. Lot Coverage. 102
Sec. 2N-12. Off-Street Parking Requirement. 102
Sec. 2N-13. Landscaping Requirement. 103

Sec. 2N-14. Outdoor Play and Recreation Areas Required. 103
Sec. 2N-15. Parking Lot Landscaping Requirements. 103
Sec. 2N-16. Noise Limitations. 103

Division 2O. [Intentionally Deleted.] 104

Division 2P. RM-HD (Multifamily Residential) District 104

Sec. 2P-1. Scope of Provisions. 104
Sec. 2P-2. Statement of Purpose and Intent. 104
Sec. 2P-3. Principal Uses and Structures. 104
Sec. 2P-4. Accessory Uses, Buildings and Structures. 105
Sec. 2P-5. Special Permits. 105
Sec. 2P-6. Lot Width; Lot Area; Setbacks. 106
Sec. 2P-7. Spacing between Buildings. 107
Sec. 2P-8. Transitional Buffer Zone Requirement. 107
Sec. 2P-9. Height of Buildings and Structures. 107
Sec. 2P-10. Floor Area of Dwelling. 107
Sec. 2P-11. Lot Coverage. 107
Sec. 2P-12. Off-Street Parking Requirement. 108
Sec. 2P-13. Landscaping Requirement. 109
Sec. 2P-14. Outdoor Play and Recreation Areas Required. 109
Sec. 2P-15. Parking Lot Landscaping Requirements. 109
Sec. 2P-16. Noise Limitations. 109

Division 2Q. MHP (Mobile Home Park) DISTRICT 109

Sec. 2Q-1. Scope of Provisions. 109
Sec. 21-2. Statement of Purpose and Intent. 109
Sec. 2Q-3. Principal Uses and Structures. 109
Sec. 2Q-4. Accessory Uses and Structures. 110
Sec. 2Q-5. Special Permits. 110
Sec. 2Q-6. Mobile Home Parks: Lot Width; Lot Area; Setbacks. 110
Sec. 2Q-7. Mobile Home Lots: Lot Width; Lot Area; Setbacks. 111
Sec. 2Q-8. Transitional Buffer Zone Requirement. 111
Sec. 2Q-9. Mobile Home Park Design Requirements. 112

Division 2R. TND (Traditional Neighborhood Development) District 113

Sec. 2R-1. Repealer. 113
Sec. 2R-2. Design and Development Standards. 113
Sec. 2R-3. Principal Uses and Principal Structures. 115
Sec. 2R-4. Accessory Uses and Accessory Structures. 115
Sec. 2R-5. Special Permits. 116
Sec. 2R-6. Lot Width, Minimum Size, and Yard Requirements. 117
Sec. 2R-7. Maximum Height of Buildings. 117
Sec. 2R-8. Maximum Lot Coverage. 117
Sec. 2R-9. Off-Street Parking Requirements. 117
Sec. 2R-10. Minimum Dwelling Unit Size Requirements. 119
Sec. 2R-11. Phasing of Projects. 119

Sec. 2R-12. Final Approval of Plans. 119
Sec. 2R-13. Relation of TND Regulations to Subdivision or Other Regulations.119
Sec. 2R-14. Recording of Final Plat by Director of Planning. 119
Sec. 2R-15. Noise Limitations. 119

Division 2S. NNC (Neighborhood Conservation) District 120

Sec. 2S-1. Scope of Provisions. 120
Sec. 2S-2. Statement of Purpose and Intent. 120
Sec. 2S-3. Procedures. 120
Sec. 2S-4. Additional Standards and Factors to be Considered. 121
Sec. 2S-5. Principal Uses and Principal Structures. 122
Sec. 2S-6. Accessory Uses, Accessory Structures, and Other Authorized Uses.122
Sec. 2S-7. Special Permits. 123
Sec. 2S-8. Lot Width, Minimum Size, and Yard Requirements. 123
Sec. 2S-9. Maximum Height of Buildings. 125
Sec. 2S-10. Maximum Lot Coverage. 125
Sec. 2S-11. Off-Street Parking Requirements. 125
Sec. 2S-12. Minimum Dwelling Unit Size Requirements. 126
Sec. 2S-13. Final Approval of Plans. 127
Sec. 2S-14. Relation of NCD Regulations to Subdivision or Other Regulations.127
Sec. 2S-15. Concurrent Variances and Special Exceptions Authorized. 127
Sec. 2S-16. Recording of Final Plat by Director of Planning. 127

Division 2T. O-I (Office-Institution) District 127

Sec. 2T-1. Scope of Provisions. 127
Sec. 2T-2. Statement of Purpose and Intent. 127
Sec. 2T-3. Principal Uses and Structures. 128
Sec. 2T-4. Accessory Uses and Structures. 129
Sec. 2T-5. Special Permits. 129
Sec. 2T-6. Lot Width; Lot Area; Setbacks. 130
Sec. 2T-7. Transitional Buffer Zone Requirement. 131
Sec. 2T-8. Height of Buildings and Structures. 131
Sec. 2T-9. Floor Area of Dwelling. 131
Sec. 2T-10. Lot Coverage. 131
Sec. 2T-10. Lot Coverage. 132
Sec. 2T-12. Landscaping Requirement for Parking Lots. 133
Sec. 2T-13. Noise limitations. 133

Division 2U. O-I-T (Office-Institution-Transitional) District 133

Sec. 2U-1. Scope of Provisions. 133
Sec. 2U-2. Statement of Purpose and Intent. 133
Sec. 2U-3. Principal Uses and Structures. 133
Sec. 2U-4. Accessory Uses and Structures. 135
Sec. 2U-5. Special Permits. 135
Sec. 2U-6. Lot Width; Lot Area; Setbacks. 135
Sec. 2U-7. Transitional Buffer Zone Requirement. 136
Sec. 2U-8. Height of Buildings and Structures. 136

Sec. 2U-9. Floor Area of Dwelling. 136
Sec. 2U-10. Lot Coverage. 136
Sec. 2U-11. Off-Street Parking Requirement. 136
Sec. 2U-12. Landscaping Requirement for Parking Lots. 137
Sec. 2U-13. Noise Limitations. 137

Division 2v. O-D (Office-Distribution) District 137

Sec. 2V-1. Scope of Provisions. 137
Sec. 2V-2. Statement of Purpose and Intent. 137
Sec. 2V-3. Principal Uses and Structures. 138
Sec. 2V-4. Accessory Uses and Structures. 140
Sec. 2V-5. Special Permits. 140
Sec. 2V-6. Lot Width; Lot Area; Setbacks. 140
Sec. 2V-7. Transitional Buffer Zone Requirement. 141
Sec. 2V-8. Height of Buildings and Structures. 141
Sec. 2V-9. Off-Street Parking Requirement. 141
Sec. 2V-10. Lot Coverage. 142
Sec. 2V-11. Landscaping Requirement for Parking Lots. 142

Division 2W. OC (Office-Commercial-Residential) District 142

Sec. 2W-1. Scope of Provisions. 142
Sec. 2W-2. Statement of Purpose and Intent. 142
Sec. 2W-3. Principal Uses and Structures. 143
Sec. 2W-4. Accessory Uses and Structures. 145
Sec. 2W-5. Special Permits. 145
Sec. 2W-6. Lot Width; Lot Area; Setbacks. 146
Sec. 2W-7. Transitional Buffer Zone Requirement. 146
Sec. 2W-8. Height of Buildings and Structures. 147
Sec. 2W-9. Floor Area of Dwelling. 147
Sec. 2W-10. Lot coverage. 147
Sec. 2W-11. Off-Street Parking Requirement. 147
Sec. 2W-12. Landscaping Requirement for Parking Lots. 148

Division 2X. NS (Neighborhood Shopping) District 148

Sec. 2X-1. Scope of Provisions. 148
Sec. 2X-2. Statement of Purpose and Intent. 148
Sec. 2X-3. Principal Uses and Structures. 149
Sec. 2X-4. Accessory Uses and Structures. 150
Sec. 2X-5. Special Permits. 151
Sec. 2X-6. Lot Width; Lot Area; Setbacks. 151
Sec. 2X-7. Transitional Buffer Zone Requirement. 151
Sec. 2X-8. Height of Buildings and Structures; Limitation on Size of Shopping Centers and Individual Buildings within NS District. 152
Sec. 2X-9. Off-Street Parking Requirement. 152
Sec. 2X-10. Lot Coverage. 153
Sec. 2X-11. Landscaping Requirement for Parking Lots. 153

Division 2Y. C-1 (Local Commercial) District 153

Sec. 2Y-1. Scope of provisions. 153
Sec. 2Y-2. Statement of Purpose and Intent. 153
Sec. 2Y-3. Principal Uses and Structures. 153
Sec. 2Y-4. Accessory Uses and Structures. 157
Sec. 2Y-5. Special Permits. 157
Sec. 2Y-6. Lot Width; Lot Area; Setbacks. 158
Sec. 2Y-7. Transitional Buffer Zone Requirement. 158
Sec. 2Y-8. Height of Buildings and Structures. 158
Sec. 2Y-9. Off-Street Parking Requirement. 159
Sec. 2Y-10. Lot Coverage. 160
Sec. 2Y-11. Landscaping Requirement for Parking Lots. 160

Division 2Z. C-2 (General Commercial) District 160

Sec. 2Z-1. Scope of Provisions. 160
Sec. 2Z-2. Statement of Purpose and Intent. 160
Sec. 2Z-3. Principal Uses and Structures. 160
Sec. 2Z-4. Accessory Uses and Structures. 164
Sec. 2Z-5. Special Permits. 165
Sec. 2Z-6. Lot Width; Lot Area; Setbacks. 165
Sec. 2Z-7. Transitional Buffer Zone Requirement. 165
Sec. 2Z-8. Height of Buildings and Structures. 166
Sec. 2Z-9. Off-Street Parking Requirement. 166
Sec. 2Z-10. Lot Coverage. 167
Sec. 2Z-11. Landscaping requirement for parking lots. 167

Division 2AA. M (Industrial) District. 168

Sec. 2AA-1. Scope of Provisions. 168
Sec. 2AA-2. Statement of Purpose and Intent. 168
Sec. 2AA-3. Principal Uses and Structures. 168
Sec. 2AA-4. Accessory Uses and Structures. 172
Sec. 2AA-5. Special Permits. 172
Sec. 2AA-6. Lot Width; Lot Area; Setbacks. 173
Sec. 2AA-7. Transitional Buffer Zone Requirement. 173
Sec. 2AA-8. Lot Coverage. 173
Sec. 2AA-9. Height of Buildings and Structures. 173
Sec. 2AA-10. Off-Street Parking Requirement. 174
Sec. 2AA-11. Noise Limitations. 175
Sec. 2AA-12. Landscaping Requirement for Parking Lots. 175

Division 2BB. M-2 (Industrial) District. 175

Sec. 2 BB-1. Scope of Provisions. 175
Sec. 2BB-2. Statement of Purpose and Intent. 176
Sec. 2BB-3. Principal Uses and Structures. 176
Sec. 2BB-4. Accessory Uses and Structures. 178
Sec. 2BB-5. Special Permits. 178

Sec. 2BB-6. Lot Width; Lot Area; Setbacks. 179
Sec. 2BB-7. Transitional Buffer Zone Requirement. 180
Sec. 2BB-8. Lot Coverage. 180
Sec. 2BB-9. Height of Buildings and Structures. 180
Sec. 2BB-10. Off-Street Parking Requirement. 180
Sec. 2BB-11. Noise Limitations. 181
Sec. 2BB-12. Landscaping Requirement for Parking Lots. 181
Sec. 2BB-13. Signs. 182

Division 2CC. Pc (Pedestrian Community) District 182

Sec. 2CC-1. Scope of Provisions. 182
Sec. 2CC-2. Statement of Purpose and Intent. 182
Sec. 2CC-3. General Standards and Procedures. 183
Sec. 2CC-4. Accessory Uses, Buildings, and Structures. 186
Sec. 2CC-5. Special Permits. 186
Sec. 2CC-6. Lot Area and Yard Requirements. 186
Sec. 2CC-7. Transitional Buffer Zone Requirements. 189
Sec. 2CC-8. Design Requirements 189
Sec. 2CC-9. Streets. 190
Sec. 2CC-10. Maintenance of Common Land. 190
Sec. 2CC-11. Off-Street Parking. 191
Sec. 2C-12. Signs. 192
Sec. 2CC-13. Relation of PC District Regulations to Subdivision or Other Regulations. 192
Sec. 2CC-14. Development Standards for PC-1 District. 193
Sec. 2CC-15. Development Standards for PC-2 District. 196
Sec. 2CC-16. Development Standards for PC-3 District. 200

Article III. Overlay District Regulations 205

Division 3A. Overlay Districts 205

Sec. 3A-1. Overlay Districts Generally. 205

Division 3B. Environmentally Sensitive Land Overlay Regulations 205

Sec. 3B-1. Environmentally Sensitive Lands; Purpose and Intent. 205
Sec. 3B-2. Creation of Overlay Zoning Districts for Environmentally Sensitive Lands. 206
Sec. 3B-3. Scope of Protection. 206

Division 3C. Dunwoody Village Overlay District 207

Sec. 3C-1. Applicability of Regulations. 207
Sec. 3C-2. Statement of Purpose and Intent. 207
Sec. 3C-3. District Boundaries. 207
Sec. 3C-4. Principal Uses and Principal Structures. 207
Sec. 3C-5. Accessory Uses and Accessory Structure. 207
Sec. 3C-6. Architectural Regulations. 208
Sec. 3C-7. Sidewalk and Pedestrian Crosswalks. 211

Sec. 3C-8. Landscaping. 211
Sec. 3C-9. Lighting. 212
Sec. 3C-10. Parking. 212
Sec. 3C-11. Public Areas, Curb Cuts, and Service Areas. 213
Sec. 3C-12. Street Furniture. 213
Sec. 3C-13. Signs Regulations. 214
Sec. 3C-14. Design Guidelines 215
Sec. 3C-15. Plans Required; Certificates of Compliance. 215

Article IV. Supplemental Regulations 216

Sec. 4-1. Accessory Buildings, Structures, and Uses. 216
Sec.4-2. Adult Entertainment Establishments. 217
Sec. 4-3. Agriculture and Forestry. ....**Error! Bookmark not defined.**
Sec. 4-4. Air Pollution. 224
Sec. 4-5. Animal Care Facilities. 224
Sec. 4-6. Amateur Radio Service Antenna Structure. 224
Sec. 4-7. Automobile, Wash Service. 225
Sec. 4-8. Automotive Sales and Service; Boat and Trailer Sales and Service. 225
Sec. 4-9. Buildings on Single-Family and Duplex Lots. 226
Sec. 4-10. Check Cashing Establishments. 226
Sec. 4-11. Child Day Care Facility. 227
Sec. 4-12. Child Day Care Center. 228
Sec. 4-13. Kindergarten. 228
Sec. 4-14. Adult Day Care Facility. 228
Sec. 4-15. Adult Day Care Center. 229
Sec. 4-16. Commercial Recreation and Entertainment. 229
Sec. 4-17. Construction Contractors, Outdoor Storage. 232
Sec. 4-18. Height Requirements. 232
Sec. 4-19. Home Occupations and Private Educational Uses. 232
Sec. 4-20. Home Stay Bed and Breakfast Residence. 233
Sec. 4-21. Landscaping Requirements for Parking Lots. 234
Sec. 4-22. Lighting. 235
Sec. 4-23. Loading Space and Loading Berth Requirements, Off-Street. 236
Sec. 4-24. Lots. 236
Sec. 4-25. Lots, Corner. 237
Sec. 4-26. Lots Served by Septic Tanks, Minimum Area. 237
Sec. 4-27. Lots with Well and Septic Tank. 237
Sec. 4-28. Mines, Mining, Quarries, Gravel Pits, Borrow Pits, and Sand Pits. 237
Sec. 4-29. Moving Buildings, Requirements for. 238
Sec. 4-30. Noise Limitations. 238
Sec. 4-31. Open Space. 247
Sec. 4-32. Outdoor Storage of Materials, Supplies, Equipment or Vehicles. 247
Sec. 4-33. Parking Garage, Commercial. 247
Sec. 4-34. Parking Regulations, Off-Street Parking Spaces. 248
Sec. 4-35. Pawn Shops. 249
Sec. 4-36. Places of Worship, Convents; Monasteries; Temporary Religious Meetings; General Requirements. 249

Sec. 4-37. Private Elementary, Middle and High School. 250
Sec. 4-38. Utility Structure Necessary for the Transmission or Distribution of Service.....251
Sec. 4-39. Relatives' Residence in Single-Family Residential Districts.....251
Sec. 4-40. Regional Impact, Developments of; Area Plan Review. 251
Sec. 4-41. Satellite Television Antennae. 252
Sec. 4-42. Service Areas for Nonresidential Uses. 253
Sec. 4-43. Signs and Outdoor Advertising.....253
Sec. 4-44. Site Plan Preparation.....253
Sec. 4-45. Storage Yards, Exterior.....253
Sec. 4-46. [Reserved.]253
Sec. 4-47. Telecommunications Towers and Antennas. 253
Sec. 4-48. Temporary Buildings, Use and Construction of. 258
Sec. 4-49. Temporary Outdoor Sales of Merchandise.....258
Sec. 4-50. Temporary Outdoor Sales, Seasonal.....259
Sec. 4-51. Traffic and Street Improvements, Curb Cuts, and Visibility Requirements. 259
Sec. 4-52. Trailers, Parking of. 260
Sec. 4-53. Transitional Buffer Zone. 260
Sec. 4-54. Walls and Fences. 261
Sec. 4-55. Yard Requirements. 262
Sec. 4-56. Interim Development Controls. 263
Sec. 4-57. Cross-District Use of Land and Structures Prohibited.....264
Sec. 4-58. Shelters for Homeless Persons and Transitional Housing Facilities. .264
Sec. 4-59. [Reserved.]264
Sec. 4-60. Condominiums.....264
Sec. 4-61. Conservation Subdivision regulations--Purpose and Intent.....265
Sec. 4-61.1. Same--Eligible Property. 267
Sec. 4-61.2. Same--Applications. 267
Sec. 4-61.3. Same--Approval Process.....267
Sec. 4-61.4. Same--Lot Width; Lot Area; Setbacks.....267
Sec. 4-61.5. Same--Minimum Exterior Requirements.....268
Sec. 4-61.6. Same--Development Standards and Permitted Uses. 268
Sec.4-61.7. Same--Calculation and Design of Greenspace. 269
Sec. 4-61.8. Same--Ownership, Control, and Maintenance of Required Greenspace.....272
Sec. 4-62. Special Events Facility.....273
Sec. 4-63. Solid Waste Facility Regulations.....273
.....Sec. 4-64. Elevation of Residential Thresholds……..2

Article V. Administration 275

Division 5A. Official Zoning Map, Text, and Comprehensive Plan Land Use Map Amendments 275

Sec. 5A-1. Initiation of Amendments. 275
Sec. 5A-2. Planning Commission Established; Membership; Terms. 275

Sec. 5A-3. Planning Commission to Hold Public Hearing and Make Recommendation on All Proposed Amendments. 275
Sec. 5A-4. Planning Commission and City Council to Adopt Rules of Procedure.275
Sec. 5A-5. Secretary of Planning Commission; Staff Support. 275
Sec. 5A-6. Filing of Applications; Amendments of Filed Applications. 276
Sec. 5A-7. Types of Applications. 277
Sec. 5A-8. Amendments to Official Zoning Map; Application Forms.....277
Sec. 5A-9. Amendments to Comprehensive Plan Land Use Maps; Application Forms; Criteria. 278
Sec. 5A-10. Application Fees. 279
Sec. 5A-11. Initiation of Ordinance for Amendment. 279
Sec. 5A-12. Standards and Factors Governing Review of Proposed Amendments to Official Zoning Map. 279
Sec. 5A-13. Conditions. 280
Sec. 5A-14. Staff Analysis, Findings of Fact, and Recommendation on Applications to Amend the Official Zoning Map and Text; Time Limit Regarding Amendments. 280
Sec. 5A-15. Staff Analysis, Findings of Fact, and Recommendation on Applications to Amend the Comprehensive Plan Land Use Maps. 281
Sec. 5A-16. Notice of Applications Filed. 281
Sec. 5A-17. Community Council Review of Proposed Amendments.**Error! Bookmark not defin**
Sec. 5A-18. Notice of Public Hearings. 281
Sec. 5A-19. Consistency with Comprehensive Plan Land Use Maps; Public Hearing for Official Zoning Map Amendment Applications and Comprehensive Plan Land Use Maps. 282
Sec. 5A-20. Action by the Planning Commission. 282
Sec. 5A-21. Action by the City Council. 283
Sec. 5A-22. Withdrawal of Application by Applicant; Filing of Ordinances by City Council. 283
Sec. 5A-23. Clerk of Commission to Provide Signed Copy of Ordinance to Director of Planning for Modification of Zoning Maps. 283
Sec. 5A-24. Successive Applications.....284
Sec. 5A-25. Modifications and Changes to Conditional Zoning Amendments...284

Division 5B. Special Land Use Permits.....285

Sec. 5B-1. Special Land Use Permits Generally.....285
Sec. 5B-2. Initiation of Applications; Public Hearing before Planning Commission. 285
Sec. 5B-3. Application Forms; Filing of Applications; Plans Required. 285
Sec. 5B-4. Application Fees.....286
Sec. 5B-5. Staff Analysis, Findings of Fact, and Recommendation on Each Application. 286
Sec. 5B-6. Initiation of Ordinance for Application for Special Land Use Permit.287
Sec. 5B-7. Notice of Applications Filed. 287
Sec. 5B-8. Community Council Review of Proposed Applications.**Error! Bookmark not define**
Sec. 5B-9. Notice of Public Hearings. 287
Sec. 5B-10. Action by the Planning Commission.....287

Sec. 5B-11. Withdrawal of Application by Applicant; Filing of Ordinances by City Council. 287
Sec. 5B-12. Action by the City Council. 288
Sec. 5B-13. Special Land Use Permit; Criteria to be Applied. 288
Sec. 5B-14. Additional Criteria for Specified Uses. 289
Sec. 5B-15. City Clerk to Provide Signed Copy of Ordinance to Director of Planning to be Noted on Official Zoning Maps. 291
Sec. 5B-16. Successive Applications. 291
Sec. 5B-17. Transfer of Special Land Use Permits. 292
Sec. 5B-18. Compliance upon Denial. 292

Division 5C. Special Administrative Permits 292

Sec. 5C-1. Special Administrative Permits Generally. 292
Sec. 5C-2. Standards for Special Administrative Permits. 292
Sec. 5C-3. Time Limitations. 292

Division 5D. Variances, Special Exceptions, And Appeals 293

Sec. 5D-1. Zoning Board of Appeals Established. 293
Sec. 5D-2. Removal of Member from Zoning Board of Appeals.**Error! Bookmark not defined.**
Sec. 5D-3. Meetings of the Board. 293
Sec. 5D-4. Rules of Procedure. 293
Sec. 5D-5. Hearings Open to Public. ....**Error! Bookmark not defined.**
Sec. 5D-6. Quorum, Voting, and Actions by Board.**Error! Bookmark not defined.**
Sec. 5D-7. Annual Organizational Meeting. ....**Error! Bookmark not defined.**
Sec. 5D-8. Secretary. 293
Sec. 5D-9. Application Forms; Filing of Applications; Application Fees. 293
Sec. 5D-10. Staff Analysis, Findings of Fact, and Recommendation on Each Application for Variance and Special Exception. 293
Sec. 5D-11. Testimony. 294
Sec. 5D-12. Power and Duty of the Board to Hear Appeals of Decisions of Administrative Officials 294
Sec. 5D-13. Power and Duty of the Board to Hear Applications for Special Exceptions to Reduce or Waive Off-Street Parking or Loading Space Requirements. 295
Sec. 5D-14. Power and Duty of the Board to Hear Applications for Variances; Limitations of Authority of Board. 295
Sec. 5D-15. Criteria to be Used by the Board in Deciding Applications for Variances and Special Exceptions. 296
Sec. 5D-16. Notice of Public Hearings. 298
Sec. 5D-17. Decision by Board. 298
Sec. 5D-18. Compliance with Standards upon Denial. 298
Sec. 5D-19. Successive Applications. 298
Sec. 5D-20. Appeals of Decisions of the Zoning Board of Appeals. 299
Sec. 5D-21. Administrative Variances and Special Exceptions. 299

Division 5E. Nonconforming Uses 301

Sec. 5E.1. Statement of Intent and Purpose. 301

Sec. 5E-2. Nonconforming Use of Land. 301
Sec. 5E-3. Nonconforming Lot of Record. 301
Sec 5E-4. Nonconforming Use of Land and Buildings in Combination and Nonconforming Use of Land and Structures in Combination. 301
Sec. 5E-5. Nonconforming Characteristics of Buildings and Structures. 302
Sec. 5E-6. Nonconforming Uses Requiring Special Administrative Permit, Special Exception or Special Land Use Permit. 302
Sec. 5E-7. Reconstruction of Buildings or Structures which are Defined as Nonconforming Use of Land and Building or Nonconforming Use of Land and Structure. 302
Sec. 5E-8. Strengthening and Restoring to Safe Condition of Buildings and Structures. 302
Sec. 5E-9. Buildings and Structures where Construction has Begun. 302
Sec. 5E-10. Prior Variances, Special Exceptions, and Special Permits Authorized.303

Article VI. Enforcement And Penalties 303

Division 6A. Administration And Enforcement 303

Sec. 6A-1. Administration and Enforcement. 303
Sec. 6A-2. Development Permits. 303
Sec. 6A-3. Building Permits and Certificates of Occupancy Required. 303
Sec. 6A-4. Applications for Permits and Certificates of Occupancy. 303
Sec. 6A-5. Development and Building Permits; Plans Required. 303
Sec. 6A-6. Issuance of Development Permits. 304
Sec. 6A-7. Duration of Validity of Development Permits. 304
Sec. 6A-8. Building Inspection. 305
Sec. 6A-9. Records. 305
Sec. 6A-10. Inspection; Right of Entry. 305
Sec. 6A-11. Inspection; Warrants. 305
Sec. 6A-12. Remedies. 306
Sec. 6A-13. Notice in Writing; Order to Stop Work; Revocation of Permits. 306
Sec. 6A-14. Fees. 307
Sec. 6A-15. Certificates of Occupancy. 307

Division 6B. Violation And Penalties 307

Sec. 6B-1. Violations of this Chapter. 307
Sec. 6B-2. Penalties. 308
Sec. 6B-3. Repeal of Conflicting Ordinances; Validity of Prior Approvals and Actions. 308
Sec. 6B-4. Additional Legal Remedies. 308

ARTICLE I. GENERAL REGULATIONS

DIVISION 1. GENERAL PROVISIONS

Sec. 1-1. Short Title.

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

Sec. 1-2. General Purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 1-3. Minimum Requirements.

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

Sec. 1-4. Authority.

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

Sec. 1-5. General Applicability.

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

Sec. 1-6. General Prohibition.

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

Sec. 1-7. Applicability to All Property.

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

Sec. 1-8. Components of Zoning Ordinance.

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

Sec. 1-9. Zoning Maps.

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

Sec. 1-10. Interpretation of Zoning Maps.

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 1-12. Applicability to Prior Permits.

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

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

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

Sec. 1-14. Relation to Private Agreements.

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

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

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

Sec. 1-16. Severability.

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

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

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

Sec. 1-17. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ANSI means the American National Standards Institute.

Antenna means *telecommunications antenna*.

Apartment. See *dwelling, multifamily*.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Building, accessory. See *accessory building*.

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

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

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

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

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

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

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

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

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

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

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

Chapel means a *place of worship*.

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

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

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

Church. See *place of worship*.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Convalescent home means a nursing care facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Floodplain means one hundred-year floodplain.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

INCE means Institute of Noise Control Engineering.

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

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

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

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

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

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

Infill lot means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Miniwarehouse. See *self-storage warehouse*.

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

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

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

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

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

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

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

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

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

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

Mosque means a *place of worship*.

Motel means a *hotel*.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Private club. See *club, private.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Rooming house means boardinghouse.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Specified anatomical areas shall include any of the following:

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

Specified sexual activities shall include any of the following:

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

State means the State of Georgia.

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

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

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

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

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

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

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

Structure, accessory. See *accessory structure.*

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

Synagogue means a *place of worship.*

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

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

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

Temple means a *place of worship.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Unless otherwise specified, all distances shall be measured horizontally and at right angles or radially to the line in relation to which the distance is specified.

(d) The word "lot" includes the word "plot"; the word used shall be deemed also to include designed, intended, or arranged to be used; the term erected shall be deemed also to include constructed, reconstructed, altered, placed, relocation or removed.

(e) The terms "land use" and "use of land" shall be deemed also to include "building use" and "use of building."

Sec. 1-19. Public Uses.

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

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

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

Sec. 1-21. Private Restrictive Covenants.

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

Sec. 1-22. Relationship to Comprehensive Plan.

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

(a) Suburban.

(b) Traditional neighborhood.

(c) Neighborhood center.

(d) Town center.

(e) Regional center.

(f) Industrial.

(g) Light industrial.

(h) Institutional.

(i) Office park.

(j) Conservation and open space.

(k) Commercial redevelopment corridor.

(l) Scenic corridor.

(m) Highway corridor.

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

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

Sec. 1-24. Land Use Districts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(k) Scenic corridor: Allows all zoning districts.

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

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

Sec. 1-27. Permitted Land Use.

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II. DISTRICT REGULATIONS

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

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

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

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

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

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

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

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

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

(a) Single-family detached dwelling.

(b) Personal care home, family.

(c) Personal care home, registered.

(d) Agriculture and forestry uses as follows:

(1) Agricultural produce stand.

(2) Commercial greenhouse or plant nursery.

(3) Dairy.

(4) Field crops, production of.

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

(6) Livestock.

(7) Noncommercial kennel.

(8) Riding stable.

(9) Temporary or portable sawmill.

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

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

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

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

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

Sec. 2A-5. Special Permits.

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

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

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

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

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

(c) Special land use permit from City Council:

(1) Adult day care facility.

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

(3) Cemetery, columbarium, or mausoleum.

(4) Child day care facility.

(5) Convent or monastery.

(6) Home occupation involving any customer contact.

(7) Home stay bed and breakfast residence.

(8) Neighborhood recreation club.

(9) Place of worship.

(10) Private elementary, middle and high school.

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

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

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

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

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

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

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

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

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

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

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

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

The minimum floor area shall be as follows:

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

Sec. 2A-9. Lot Coverage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2A-11. Landscaping Requirement.

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

Sec. 2A-12. Noise Limitations.

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

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

Sec. 2B-1. Scope of Provisions.

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

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

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

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

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

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

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

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

(a) Single-family detached dwelling.

(b) Personal care home, family.

(c) Personal care home, registered.

(d) Agriculture as follows:

(1) Livestock.

(2) Riding stable.

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

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

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

(1) Garages for parking of automobiles.

(2) Storage buildings.

(3) Swimming pools.

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

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

Sec. 2B-5. Special Permits.

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

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

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

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

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

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

(1) Adult day care facility.

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

(3) Cemetery, columbarium, or mausoleum.

(4) Child day care facility.

(5) Convent or monastery.

(6) Home occupation involving any customer contact.

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

(9) Place of worship.

(10) Private elementary, middle and high school.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2B-9. Lot Coverage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2B-11. Landscaping Requirement.

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

Sec. 2B-12. Noise Limitations.

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

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

Sec. 2C-1. Scope of Provisions.

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

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

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

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

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

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

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

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

(a) Detached single-family dwelling.

(b) Personal care home, family.

(c) Personal care home, registered.

(d) Stable.

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

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

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

(1) Garages for parking of automobiles.

(2) Storage buildings.

(3) Swimming pools.

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

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

Sec. 2C-5. Special Permits.

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

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

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

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

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

(c) Special land use permit from City Council:

(1) Adult day care facility.

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

(3) Cemetery, columbarium, or mausoleum.

(4) Child day care facility.

(5) Convent or monastery.

(6) Home occupation involving any customer contact.

(7) Home stay bed and breakfast residence.

(8) Neighborhood recreation club.

(9) Place of worship.

(10) Private elementary, middle and high school.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2C-9. Lot Coverage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2C-11. Landscaping Requirement.

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

Sec. 2C-12. Noise Limitations.

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

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

Sec. 2D-1. Scope of Provisions.

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

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

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

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

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

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

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

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

(a) Detached single-family dwelling.

(b) Personal care home, family.

(c) Personal care home, registered.

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

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

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

(1) Garages for parking of automobile.

(2) Storage buildings.

(3) Swimming pools.

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

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

Sec. 2D-5. Special Permits.

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

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

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

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

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

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

(1) Adult day care facility.

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

(3) Cemetery, columbarium, or mausoleum.

(4) Child day care facility.

(5) Convent or monastery.

(6) Home occupation involving any customer contact.

(7) Home stay bed and breakfast residence.

(8) Neighborhood recreation club.

(9) Place of worship.

(10) Private elementary, middle and high school.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2D-9. Lot Coverage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2D-11. Landscaping Requirement.

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

Sec. 2D-12. Noise Limitations.

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

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

Sec. 2E-1. Scope of Provisions.

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

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

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

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

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

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

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

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

(a) Detached single-family dwelling.

(b) Personal care home, family.

(c) Personal care home, registered.

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

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

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

(1) Garages for parking of automobiles.

(2) Storage buildings.

(3) Swimming pools.

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

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

Sec. 2E-5. Special Permits.

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

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

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

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

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

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

(1) Adult day care facility.

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

(3) Cemetery, columbarium, or mausoleum.

(4) Child day care facility.

(5) Convent or monastery.

(6) Home occupation involving any customer contact.

(7) Home stay bed and breakfast residence.

(8) Neighborhood recreation club.

(9) Place of worship.

(10) Private elementary, middle and high school.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2E-9. Lot Coverage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2E-11. Landscaping Requirement.

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

Sec. 2E-12. Noise Limitations.

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

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

Sec. 2F-1. Scope of Provisions.

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

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

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

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

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

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

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

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

(a) Detached single-family dwelling.

(b) Personal care home, family.

(c) Personal care home, registered.

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

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

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

(1) Garages for parking of automobiles.

(2) Storage buildings.

(3) Swimming pools.

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

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

Sec. 2F-5. Special Permits.

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

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

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

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

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

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

(1) Adult day care facility.

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

(3) Cemetery, columbarium, or mausoleum.

(4) Child day care facility.

(5) Convent or monastery.

(6) Home occupation involving any customer contact.

(7) Home stay bed and breakfast residence.

(8) Neighborhood recreation club.

(9) Place of worship.

(10) Private elementary, middle and high school.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2F-9. Lot Coverage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2F-11. Landscaping Requirement.

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

Sec. 2F-12. Noise Limitations.

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

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

Sec. 2G-1. Scope of Provisions.

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

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

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

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

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

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

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

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

(a) Attached single-family dwelling.

(b) Detached single-family dwelling.

(c) Personal care home, family.

(d) Personal care home, registered.

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

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

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

(1) Garages for parking of automobiles.

(2) Storage buildings.

(3) Swimming pools.

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

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

Sec. 2G-5. Special Permits.

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

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

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

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

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

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

(1) Adult day care facility.

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

(3) Cemetery, columbarium, or mausoleum.

(4) Child day care facility.

(5) Convent or monastery.

(6) Home occupation involving any customer contact.

(7) Home stay bed and breakfast residence.

(8) Neighborhood recreation club.

(9) Place of worship.

(10) Private elementary, middle and high school.

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

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

(a) *Lot width:*

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

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

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

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

(d) *Minimum setback requirements:*

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2G-10. Lot Coverage.

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

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

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

(a) *Attached single-family dwelling:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2G-12. Landscaping Requirement.

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

Sec. 2G-13. Public Streets Required.

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

Sec. 2G-14. Noise Limitations.

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

DIVISION 2H. R-CH (SINGLE-FAMILY CLUSTER RESIDENTIAL) DISTRICT

Sec. 2H-1. Purpose and Scope.

Except as provided in **Section 1-28** of this Code, the R-CH regulations of this division remain repealed. No application or amendment to the official zoning maps shall be filed with the planning director, initiated by official action of the planning commission, or considered by the City Council if such amendment or application seeks to have any lot(s) in the City zoned R-CH. The R-CH regulations set forth in this division are codified solely for the purpose of complying with the requirements of **Section 1-28** of this Code.

Sec. 2H-2. Permitted Uses.

Permitted uses are as follows:

(a) *Accessory uses and structures:*

(1) Accessory uses and structures incidental to any permitted use.

(2) Customary home occupation.

(3) Signs and outdoor advertising in accordance with the provisions of this Chapter and the City's Sign Ordinance.

(b) *Agriculture and forestry:*

(1) Temporary and portable sawmills.

(c) *Community facilities*:

(1) Electric transformer station, gas regulator station and telephone exchange.

(2) Golf courses and clubhouses, private.

(3) Neighborhood recreation centers or swimming pools.

(4) Noncommercial club or lodge (except fraternal club or lodge).

(5) Public uses.

(6) Public utility facilities.

(7) Sewage treatment plants.

(d) *Dwellings:*

(1) Cluster housing subdivision.

(2) Dwelling, single-family.

(3) Dwelling, single-family attached.

(4) Mobile home, as an accessory structure to be used for security purposes.

(5) Single-family attached subdivision.

(e) *Education:*

(1) Private or parochial elementary and high schools.

(2) Public schools.

(f) *Religious facilities:*

(1) Churches and other places of worship and accessory facilities.

(2) Convent or monastery.

(g) *Services, personal:*

(1) Personal care home, family.

(2) Personal care home, registered.

(h) *Transportation and storage*:

(1) Automobile parking.

Sec. 2H-3. Development Standards.

(a) *Minimum lot area.* There is no minimum lot area.

(b) *Minimum lot width.* There is no minimum lot width at the building setback line.

(c) *Minimum yard adjacent to public street.* The following are minimum requirements for yards that are adjacent to a public street:

(1) The setback from major thoroughfares shall be twenty (20) feet.

(2) The setback from minor thoroughfares shall be twenty (20) feet.

(3) The setback from collector streets shall be five (5) feet.

(4) The setback from other streets shall be five (5) feet.

(d) *Minimum rear yard.* There is no minimum rear yard, except that where a rear yard adjoins a project boundary, the minimum rear yard shall be forty (40) feet.

(e) *Maximum height of structures.* The maximum height of any structure shall be thirty-five (35) feet.

(f) *Minimum side yard.* There is no minimum side yard required.

(g) *Buffer.* No buffer is required.

(h) *Open space.* The required open space is twenty (20) percent.

(i) *Minimum floor area.* The minimum floor area provided shall be one thousand four hundred (1,400) square feet.

(j) *Density.* The maximum density shall be three (3) units per acre.

DIVISION 2I. R-CD (RESIDENTIAL COMMUNITY DEVELOPMENT) DISTRICT

Sec. 2I-1. Purpose and Scope.

Except as provided in **Section 1-28** of this Code, the R-CD regulations of this division remain repealed. No application or amendment to the official zoning maps shall be filed with the planning director, initiated by official action of the planning commission, or considered by the City Council if such amendment or application seeks to have any lot(s) in the City zoned R-CD. The R-CD regulations set forth in this division are codified solely for the purpose of complying with the requirements of **Section 1-28** of this Code.

Sec. 2I-2. Permitted Uses.

Permitted uses are as follows:

(a) *Accessory uses and structures:*

(1) Accessory uses and structures incidental to any permitted use.

(2) Customary home occupation.

(3) Signs and outdoor advertising in accordance with the provisions of this Chapter and the City's Sign Ordinance.

(b) *Agriculture and forestry:*

(1) Livestock and poultry.

(2) Riding stable.

(3) Temporary or portable sawmill.

(4) Pigeons.

(c) *Animal care facilities:*

(1) Pigeons.

(d) *Community facilities:*

(1) Electric transformer station, gas regulator station and telephone exchange.

(2) Golf courses and clubhouses, private.

(3) Neighborhood recreation centers or swimming pools.

(4) Noncommercial club or lodge (except fraternal club or lodge).

(5) Parks, private.

(6) Public uses.

(7) Public utility facilities.

(8) Sewage treatment plants.

(e) *Dwellings:*

(1) Cluster housing subdivision.

(2) Community development subdivision.

(3) Dwelling, multi-family units and apartment developments.

(4) Dwelling, single-family.

(5) Dwelling, single-family attached.

(6) Dwelling, two-family.

(7) Mobile home, as an accessory structure to be used for security purposes.

(8) Single-family attached subdivision.

(f) *Education:*

(1) Day nurseries and kindergartens.

(2) Private or parochial elementary and high schools.

(3) Public schools.

(g) *Religious facilities*:

(1) Churches and other places of worship and accessory facilities.

(2) Convent or monastery.

(h) *Retail trade:*

(1) Planned shopping developments, as part of a community development subdivision.

(2) Retail trade, person services and offices, as part of a community development subdivision.

(i) *Services, personal:*

(1) Personal care home, family.

(2) Personal care home, registered.

(j) *Transportation and storage:*

(1) Automobile parking.

Sec. 2I-3. Development Standards.

(a) *Minimum lot area.* The minimum lot area shall be fifty (50) acres for residential development and one hundred (100) acres for development with NS or OI uses.

(b) *Density of development and types of residential use.* The maximum number of dwelling units permitted in a community development subdivision shall not exceed four and one-half (4 1/2) dwelling units per net residential acre (total developable acreage minus that to be used for NS and OI uses as provided in this section). Not more than forty (40) percent of the dwelling units shall be multifamily. Not less than sixty (60) percent of the dwelling units shall be single-family. One-half (1/2) of the single-family dwelling units may be attached, but not less than one-half (1/2) of the single-family lots or within a cluster housing subdivision.

(c) *Minimum development requirements.* The minimum lot area, width, and yard requirements permitted within a community development subdivision for single-family lots, multifamily dwellings and business lots shall be as follows:

TABLE INSET:

Lot and yard			Single-family Lots	Multifamily Dwellings Lots	Business Lots (feet)
Minimum lot area			6,000 sq. ft.	None	None
Minimum lot width			60 ft.	75 (minimum project frontage on public street)	75
Minimum yard adjacent to public street:					
	(1)	Major thoroughfare	30 ft.	30	50
	(2)	Minor thoroughfare	25 ft.	25	40
	(3)	Collector street	10 ft.	10	40
	(4)	Other street	10 ft.	10	40
Minimum side yard			0 to 7.6 ft.; 30 ft. from project boundary with a minimum of 15 feet between units unless two units are	10	20

	attached by a common wall; however, the attachment of a wall of one unit and the wall of an enclosed courtyard shall not be considered attached housing		
Minimum rear yard	30 ft. (40 ft. on exterior lots) The development standards for single-family attached units shall be as provided in this Chapter	30	40

(d) *Minimum floor area.* The minimum floor area shall be as follows:

(1) For a single-family dwelling, one thousand two hundred (1,200) square feet.

(2) For a single-family attached dwelling, one thousand (1,000) square feet.

(3) For a two-family dwelling containing:

(A) One (1) bedroom, six hundred (600) square feet.

(B) Two (2) bedroom, seven hundred fifty (750) square feet.

(C) Three (3) or more bedrooms, one thousand fifty (1,050) square feet

(4) For an apartment containing:

(A) One (1) bedroom, six hundred fifty (650) square feet.

(B) Two (2) bedrooms, eight hundred (800) square feet.

(C) Three (3) or more bedrooms, one thousand (1,000) square feet.

Notwithstanding the above minimum floor area requirements, a maximum of twenty (20) percent of the total units constructed in any single development of more than one (1) building may be one (1) bedroom units having floor areas of less than six hundred fifty (650) square feet but not less than a minimum floor area of five hundred twenty (520) square feet.

(e) *Maximum height of structures.* The maximum height of any structure shall be thirty-five (35) feet.

(f) *Buffer*. A buffer of at least twenty (20) feet is required when the lot adjoins a developed single-family detached subdivision.

(g) *Open space requirement.* Not less than twenty (20) percent of the subdivision shall be set aside for open space purposes. A homeowner's association created by the developer, by recorded covenants, declarations and restrictions running with the land, shall preserve and maintain for the use and benefit of the owners and occupants of lots and dwellings within the subdivision the lands set aside for open space, parks and recreational use. The book and page in which such covenants and declarations are recorded shall be shown on the final plat of the subdivision. Required yards, streets, drives, parking areas and other similar uses shall not be created toward the minimum open space requirements. Not more than fifty (50) percent of the land reserved for open space purposes shall be within a flood plain. The requirement that open space be deeded to and maintained by a homeowner's association may be waived by the City for that portion of an R-CD district in which detached single-family housing is constructed. This waiver and survey to which there is entered a covenant by the developer at the minimum open space requirement shall be applied to individual lots within the subdivision. Dedication of open space to the City may also satisfy the open space requirement.

(h) *Neighborhood shopping and office-institution uses.* The developer of a community development subdivision of not less than one hundred (100) acres may set aside not more than five (5) percent of the total area for neighborhood shopping and office-institution uses permitted herein. However, retail liquor stores shall not be permitted unless these uses are housed within a planned shopping center constructed within a minimum of ten thousand (10,000) square feet in a continuous facade. Not more than fifty (50) percent of the five (5) percent may be reserved and developed for NS uses. When one hundred (100) or more dwelling units have been constructed within the subdivision, then NS uses may be established under the following conditions:

(1) Not more than two hundred forty (240) square feet of floor space for retail sales and services shall be permitted for each ten (10) dwelling units in the subdivision. There shall be not less than four (4) square feet of business lot area for each one (1) square foot of permitted retail floor area. Land may be reserved for the maximum permitted retail development but the permitted square feet of retail area may be built only as the required ratio of dwelling units has been constructed.

(2) Retail sales and services shall be constructed entirely within a wholly and permanently enclosed building or buildings, which shall be of an architectural design compatible with the residential structures within the subdivision.

(3) Outdoor storage or displays of any kind shall be prohibited.

(4) Signs shall be limited to an identification sign for each point of entry to a store. The signs shall not exceed four (4) square feet in area, shall not be directly lighted and shall be attached flat against the face of the building.

(5) Off-street parking and loading spaces shall be provided as required by this Chapter.

(6) This use shall only be placed on lots specifically designated for these purposes on the plat of the subdivision, and shall be located at least one hundred (100) feet from any residential structure. Accessory parking and loading areas shall be located at least fifty (50) feet from any residential structure.

(7) When shopping facilities within a planned unit development subdivision contain not less than forty thousand (40,000) square feet of floor area, then the development standards established by this Chapter for planned shopping developments shall apply.

(8) The sides, rear or front of a lot developed for retail sales and services shall neither abut nor be across the street from property lying outside the subdivision, and shall be located at least three hundred (300) feet from any exterior subdivision property line.

(9) Office-institution development uses shall:

(A) Meet all IO district development standards and requirements.

(B) Be limited to three hundred (300) square feet of floor space for each ten (10) dwelling units, and not less than four (4) square feet of lot area for each one (1) square foot of floor area.

(C) Be constructed only as the required ratio of dwelling units has been constructed.

(D) Meet all applicable requirements of this subsection except paragraphs (1) and (7).

(10) Office-institution uses permitted by this subsection shall include:

(A) Cultural facilities, including art galleries, museums, legitimate theatres, libraries and other uses similar in character to those listed.

(B) Offices of health service practitioners, physicians, surgeons, dentists and dental surgeons, osteopathic physicians, chiropractors and others licensed practitioners similar to those listed.

(C) Health service clinics, including a pharmacy as an accessory use.

(D) General office uses, including sales representatives, legal service, engineering and architectural, accounting, auditing, book-keeping, finance, real estate, insurance and others similar to those listed.

(i) *Development plan.* The development plan for the subdivision shall be processed in conformance with the requirements of the City subdivision regulations. The use to be made of each lot shall be marked on the plat. The plat shall also state the maximum number of dwelling units authorized for the subdivision. When approved, the final plat shall be recorded in the same manner as other subdivision plats along with the necessary covenants and restrictions applicable to the development. In addition, a faithful reproduction of the plat shall be predominantly displayed within the subdivision until such time as the subdivision is fully developed.

(j) *Private deed covenants.* The subdivision shall be covered by private deed covenants running with the land which assure its continuance in accordance with approved plans and development.

DIVISION 2J. R-DT (TWO- AND THREE-FAMILY RESIDENTIAL) DISTRICT

Sec. 2J-1. Scope of Provisions.

The provisions contained within this section are the regulations of the R-DT (Two- and Three-family Residential) District.

Sec. 2 J2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the R-DT (Two- and Three-family Residential) District is as follows:

(a) To provide for the protection of neighborhoods within the county where lots are developed with two-family and three-family residences;

(b) To provide for infill development in areas which are zoned R-DT in a manner compatible with existing development;

(c) To assure that the uses and structures authorized in the R-DT (Two- and Three-family Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 2J-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the R-DT (Two- and Three-family Residential) District:

(a) Single-family dwelling.

(b) Two-family dwelling.

(c) Three-family dwelling.

(d) Personal care home, family.

(e) Personal care home, registered.

Sec. 2J-4. Accessory Uses, Buildings and Structures.

Accessory uses, buildings and structures shall be located within the rear yard. Accessory buildings and structures shall not exceed twenty (20) feet in height or the height of the principal structure, whichever is less, and shall comply with the requirements of **Section 4-1**. The following accessory uses of land and buildings and structures shall be authorized in the R-DT (Two- and Three-family Residential) District:

(a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:

(1) Garages for parking of automobiles.

(2) Storage buildings.

(3) Swimming pools.

(4) Tennis courts and other play and recreation areas.

(b) Signs in accordance with the provisions of this Chapter and the City's Sign Ordinance.

Sec. 2J-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service.

(c) *Special land use permit from City Council:*

(1) Adult day care facility.

(2) Cemetery, columbarium, or mausoleum.

(3) Child day care facility.

(4) Convent or monastery.

(5) Home occupation involving any customer contact.

(6) Neighborhood recreation club.

(7) Place of worship.

(8) Private elementary, middle and high school.

Sec. 2J-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the R-DT (Two- and Three-family Residential) District:

(a) *Lot width:* All lots shall have at least eighty-five (85) feet of frontage as measured along the public street frontage.

(b) *Minimum lot area:*

(1) *Single-family dwelling:* Ten thousand (10,000) square feet.

(2) *Two-family dwelling:* Fifteen thousand (15,000) square feet.

(3) *Three-family dwelling:* Twenty thousand (20,000) square feet.

(c) *Minimum yard adjacent to public street:*

(1) *From major thoroughfares:* Fifty (50) feet.

(2) *From minor thoroughfares:* Forty (40) feet.

(3) *From collector streets:* Thirty-five (35) feet.

(4) *From other streets:* Thirty-five (35) feet.

(d) *Interior side yard setbacks:* Eight and one-half (8 1/2) feet.

(e) *Rear yard:* Forty (40) feet.

Sec. 2J-7. Height of Buildings and Structures.

No building or structure shall exceed a height of thirty-five (35) feet.

Sec. 2J-8. Floor Area of Dwelling.

The floor area of each dwelling shall be no less than one thousand (1,000) square feet.

Sec. 2J-9. Lot Coverage.

The lot coverage of each lot shall not exceed thirty-five (35) percent.

Sec. 2J-10. Off-street parking requirement.

Off-street parking requirements for uses and structures authorized and permitted in the R-DT (Two- and Three-family Residential) District are as follows:

(a) *Single-family dwelling:* Four (4) spaces.

(b) *Two-family dwelling:* Four (4) spaces per dwelling unit.

(c) *Three-family dwelling:* Four (4) spaces per dwelling unit.

(d) *Personal care home, family:* Four (4) spaces.

(e) *Personal care home, registered:* Four (4) spaces.

(f) *Adult day care facility:* Four (4) spaces.

(g) *Child day care facility:* Four (4) spaces.

(h) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(i) *Neighborhood recreation club:* One (1) space for each five (5) club members but in no case less than ten (10) spaces.

(j) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(k) *Private elementary, middle and high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(l) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

Sec. 2J-11. Landscaping Requirement.

Each lot shall provide and shall maintain trees and plant material as is required in the City's Tree Protection Ordinance.

Sec. 2J-12. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-340** of this Chapter.

DIVISION 2K. RM-150 (MULTIFAMILY RESIDENTIAL) DISTRICT

Sec. 2K-1. Scope of Provisions.

The provisions contained within this section are the regulations of the RM-150 (Multifamily Residential) District.

Sec. 2K-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the RM-150 (Multifamily Residential) District is as follows:

(a) To provide for the development of multifamily neighborhoods within the county at a density of six (6) units per acre where so designated on the comprehensive plan;

(b) To provide for infill development in multifamily neighborhoods having a density of six (6) dwelling units per acre in a manner compatible with existing development;

(c) To assure that the uses and structures authorized in the RM-150 (Multifamily Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 2K-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the RM-150 (Multifamily Residential) District:

(a) *Dwellings:*

(1) Attached single-family dwelling.

(2) Detached single-family dwelling.

(3) Multifamily dwellings.

(4) Multifamily dwellings, supportive living.

(b) *Lodging:*

(1) Fraternity house or sorority house.

(2) Rooming house.

(c) *Personal services:*

(1) Personal care home, family.

(2) Personal care home, group.

(3) Personal care home, registered.

(d) *Medical and health services:*

(1) Nursing or convalescent home.

(e) *Education:*

(1) Adult day care center or adult day care facility.

(2) Child day care center or child day care facility.

(3) Kindergarten.

Sec. 2K-4. Accessory Uses, Buildings and Structures.

Accessory uses, buildings and structures shall be located within the buildable area of the lot. Accessory buildings and structures shall not exceed twenty (20) feet in height and shall

comply with the requirements of **Section 4-1**. The following accessory uses of land and buildings and structures shall be authorized in the RM-150 (Multifamily Residential) District:

(a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:

(1) Club house including meeting room or recreation room.

(2) Garages for parking of automobiles.

(3) Laundry facilities for residents.

(4) Leasing office.

(5) Mail room for residents.

(6) Storage buildings.

(7) Swimming pools.

(8) Tennis courts and other play and recreation areas.

(b) Signs in accordance with the provisions of this Chapter and the City's Sign Ordinance.

Sec. 2K-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service.

(c) *Special land use permit from City Council:*

(1) Cemetery, columbarium, or mausoleum.

(2) Convent or monastery.

(3) Home occupation involving any customer contact.

(4) Place of worship.

(5) Private elementary, middle or high school.

(6) Shelter for homeless persons for no more than six (6) persons.

(7) Telecommunications tower or antenna.

(8) Transitional housing facility for no more than six (6) persons.

Sec. 2K-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the RM-150 (Multifamily Residential) District:

(a) *Lot width and area:*

(1) All lots developed with multifamily dwellings shall have at least one hundred fifty (150) feet of frontage as measured along the public street frontage and a lot area of not less than two (2) acres and may be developed at a density not exceeding six (6) dwelling units per acre.

(2) All lots developed with detached single-family dwellings shall have a lot area of not less than six thousand (6,000) square feet and shall have at least sixty (60) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least sixty (60) feet of frontage as measured at the point of the required front yard setback line.

(b) *Minimum setback requirements:*

(1) *Multifamily dwelling*s:

a. *Front yard:* Forty-five (45) feet.

b. *Side yard:* Twenty (20) feet, except that where an RM-150 lot adjoins any R lot along a side lot line, the required yard shall be fifty (50) feet.

c. *Rear yard:* Forty (40) feet, except that where an RM-150 lot adjoins any R lot along a rear lot line, the required yard shall be fifty (50) feet.

(2) *Single-family detached dwellings:*

a. *Front yard:* Thirty (30) feet.

b. *Interior side yard:* Seven and one-half (7 1/2) feet.

c. *Side yard along side street side:* Fifteen (15) feet.

d. *Rear yard:* Thirty (30) feet.

Sec. 2K-7. Spacing Between Buildings.

Spacing between multiple buildings within an RM-150 district is subject to the requirements of **Section 27-788**.

Sec. 2K-8. Transitional Buffer Zone Requirement.

Where a lot in the RM-150 (Multi-family Residential) District is used for attached single-family dwellings and adjoins the boundary of any property which is zoned R (Single-family Residential) District, except single-family attached developments, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or

any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining single-family residential.

Sec. 2K-9. Height of Buildings and Structures.

No building or structure shall exceed four (4) stories in height, provided however, that no building exceeding three (3) stories in height shall be authorized except after approval by the department of fire and rescue services for assurance of adequacy of fire protection facilities and service for such four-story building.

Sec. 2K-10. Floor Area of Dwelling.

The minimum floor area of each dwelling shall be as follows:

(a) *Multifamily dwellings:*

(1) One (1) bedroom: Six hundred fifty (650) square feet, provided however, that twenty (20) percent of the total units in a multifamily dwelling development of more than one (1) building may have a floor area of not less than five hundred twenty (520) square feet.

(2) Two (2) bedrooms: Eight hundred (800) square feet.

(3) Three (3) or more bedrooms: One thousand (1,000) square feet.

(b) *Multifamily dwellings, supportive living:* Three hundred (300) square feet.

(c) *Single-family dwelling, attached or detached:* One thousand (1,000) square feet.

Sec. 2K-11. Lot Coverage.

The maximum lot coverage by buildings shall not exceed thirty-five (35) percent.

Sec. 2K-12. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the RM-150 (Multifamily Residential) District are as follows:

(a) *Adult day care center:* One (1) space for each two hundred (200) square feet of floor area.

(b) *Adult day care facility:* Four (4) spaces.

(c) *Detached single-family dwelling:* Four (4) spaces per dwelling unit.

(d) *Child day care center:* One (1) space for each two hundred (200) square feet of floor area.

(e) *Child day care facility:* Four (4) spaces.

(f) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(g) *Elementary, middle or high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(h) *Fraternity house or sorority house:* One (1) space per bed.

(i) *Kindergarten:* One (1) space per two hundred (200) square feet of floor area.

(j) *Multifamily dwellings:* Two (2) spaces per dwelling unit.

(k) *Multifamily dwellings, supportive living:* Five-tenths (0.50) space per dwelling unit.

(l) *Nursing or convalescent home:* Five-tenths (0.50) space per bed.

(m) *Personal care home, family:* Four (4) spaces.

(n) *Personal care home, group:* Four (4) spaces.

(o) *Personal care home, registered:* Four (4) spaces.

(p) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(q) *Rooming house or boardinghouse:* One (1) space per bedroom.

(r) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(s) *Attached single-family dwelling:*

(1) *Less than one thousand six hundred (1,600) square feet of floor area:* Two (2) spaces.

(2) *One thousand six hundred (1,600) through one thousand nine hundred ninety-nine (1,999) square feet of floor area:* Three (3) spaces.

(3) *Two thousand (2,000) square feet or greater:* Four (4) spaces.

Sec. 2K-3. Landscaping Requirement.

Each lot shall provide and shall maintain trees and plant material as is required in the City's the City's Tree Protection Ordinance.

Sec. 2K-14. Outdoor Play and Recreation Areas Required.

Each lot developed and used for multifamily housing shall provide and shall maintain outdoor play and recreation areas equal to five (5) percent of the total area of the lot. In no case

shall the contiguous area of any such outdoor play and recreation area be less than four thousand (4,000) square feet.

Sec. 2K-15. Parking Lot Landscaping Requirements.

Parking lots shall be landscaped and maintained in accordance with the standards and requirements of **Section 4-21**.

Sec. 2K-16. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2L. RM-100 (MULTIFAMILY RESIDENTIAL) DISTRICT

Sec. 2L-1. Scope of Provisions.

The provisions contained within this section are the regulations of the RM-100 (Multifamily Residential) District.

Sec. 2L-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the RM-100 (Multifamily Residential) District is as follows:

(a) To provide for the development of multifamily neighborhoods within the county at a density of twelve (12) units per acre where so designated on the comprehensive plan;

(b) To provide for infill development in multifamily neighborhoods having a density of twelve (12) dwelling units per acre in a manner compatible with existing development;

(c) To assure that the uses and structures authorized in the RM-100 (Multifamily Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 2L-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the RM-100 (Multifamily Residential) District:

(a) *Dwellings:*

(1) Attached single-family dwelling.

(2) Detached single-family dwelling.

(3) Multifamily dwellings.

(4) Multifamily dwellings, supportive living.

(b) *Lodging:*

(1) Fraternity house or sorority house.

(2) Rooming house or boardinghouse.

(c) *Personal services:*

(1) Personal care home, family.

(2) Personal care home, group.

(3) Personal care home, registered.

(4) Personal care home, congregate.

(d) *Medical and health services:*

(1) Nursing or convalescent home.

(e) *Education*

(1) Adult day care center or adult day care facility.

(2) Child day care center or child day care facility.

(3) Kindergarten.

Sec. 2L-4. Accessory Uses, Buildings and Structures.

Accessory uses, buildings and structures shall be located within the buildable area of the lot. Accessory buildings and structures shall not exceed twenty (20) feet in height and shall comply with the requirements of **Section 4-1**. The following accessory uses of land and buildings and structures shall be authorized in the RM-100 (Multifamily Residential) District:

(a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:

(1) Club house including meeting room or recreation room.

(2) Garages for parking of automobiles.

(3) Laundry facilities for residents.

(4) Leasing office.

(5) Mail room for residents.

(6) Storage buildings.

(7) Swimming pools.

(8) Tennis courts and other play and recreation areas.

(b) Signs in accordance with the provisions of this Chapter and the City's Sign Ordinance.

Sec. 2L-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service.

(c) *Special land use permit from City Council:*

(1) Cemetery, columbarium, or mausoleum.

(2) Convent or monastery.

(3) Home occupation involving any customer contact.

(4) Place of worship.

(5) Private elementary, middle or high school.

(6) Shelter for homeless persons.

(7) Telecommunications tower or antenna.

(8) Transitional housing facility.

Sec. 2L-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the RM-100 (Multifamily Residential) District:

(a) *Lot width and area:*

(1) All lots developed with multifamily dwellings shall have at least one hundred (100) feet of frontage as measured along the public street frontage and a lot area of not less than two (2) acres and may be developed at a density not exceeding twelve (12) dwelling units per acre.

(2) All lots developed with detached single-family dwellings shall have a lot area of not less than six thousand (6,000) square feet and shall have at least sixty (60) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least sixty (60) feet of frontage as measured at the point of the required front yard setback line.

(b) *Minimum setback requirements:*

(1) *Multifamily dwellings:*

a. *Front yard:* Thirty-five (35) feet.

b. *Side yard:* Twenty (20) feet, except that where an RM-100 lot adjoins any R lot along a side lot line, the required yard shall be fifty (50) feet.

c. *Rear yard:* Forty (40) feet, except that where an RM-100 lot adjoins any R lot along a rear lot line, the required yard shall be sixty (60) feet.

(2) *Single-family detached dwellings:*

a. *Front yard:* Thirty (30) feet.

b. *Interior side yard:* Seven and one-half (7 1/2) feet.

c. *Side yard along side street side:* Fifteen (15) feet.

d. *Rear yard:* Thirty (30) feet.

Sec. 2L-7. Spacing between Buildings.

Spacing between multiple buildings within an RM-100 district is subject to the requirements of **Section 4-55**.

Sec. 2L-8. Transitional Buffer Zone Requirement.

Where a lot in the RM-100 (Multi-family Residential) District is used for attached single-family dwellings and adjoins the boundary of any property which is zoned R (Single-family Residential) District, except single-family attached developments, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining single-family residential.

Sec. 2L-9. Height of Buildings and Structures.

No building or structure shall exceed four (4) stories in height, provided however, that no building exceeding three stories in height shall be authorized except after approval by the department of fire and rescue services for assurance of adequacy of fire protection facilities and service for such four-story building.

Sec. 2L-10. Floor Area of Dwelling.

The minimum floor area of each dwelling shall be as follows:

(a) *Multifamily dwellings:*

(1) *One (1) bedroom:* Six hundred fifty (650) square feet, provided however, that twenty (20) percent of the total units in a multifamily dwelling development of more than one building may have a floor area of not less than five hundred twenty (520) square feet.

(2) *Two (2) bedrooms:* Eight hundred (800) square feet.

(3) *Three (3) or more bedrooms:* One thousand (1,000) square feet.

(b) *Multifamily dwellings, supportive living:* Three hundred (300) square feet.

(c) *Single-family dwelling, attached or detached:* One thousand (1,000) square feet.

Sec. 2L-11. Lot Coverage.

The maximum lot coverage by buildings shall not exceed thirty-five (35) percent.

Sec. 2L-12. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the RM-100 (Multifamily Residential) District are as follows:

(a) *Adult day care center:* One (1) space for each two hundred (200) square feet of floor area.

(b) *Adult day care facility:* Four (4) spaces.

(c) *Detached single-family dwelling:* Four (4) spaces per dwelling unit.

(d) *Child day care center:* One (1) space for each two hundred (200) square feet of floor area.

(e) *Child day care facility:* Four (4) spaces.

(f) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(g) *Elementary, middle or high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(h) *Fraternity house or sorority house:* One (1) space per bed.

(i) *Kindergarten:* One (1) space per two hundred (200) square feet of floor area.

(j) *Multifamily dwellings:* Two (2) spaces per dwelling unit.

(k) *Multifamily dwellings, supportive living:* Five-tenths (0.50) space per dwelling unit.

(l) *Nursing or convalescent home:* Five-tenths (0.50) space per bed.

(m) *Personal care home, congregate:* One (1) space for each four (4) clients.

(n) *Personal care home, family:* Four (4) spaces.

(o) *Personal care home, group:* Four (4) spaces.

(p) *Personal care home, registered:* Four (4) spaces.

(q) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one

(1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(r) *Rooming house or boardinghouse:* One (1) space per bedroom

(s) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(t) *Attached single-family dwelling:*

(1) *Less than one thousand six hundred (1,600) square feet of floor area:* Two (2) spaces.

(2) *One thousand six hundred (1,600) through one thousand nine hundred ninety-nine (1,999) square feet of floor area:* Three (3) spaces.

(3) *Two thousand (2,000) square feet or greater:* Four (4) spaces.

Sec. 2L-13. Landscaping Requirement.

Each lot shall provide and shall maintain trees and plant material as is required in the City's Tree Protection Ordinance.

Sec. 2L-14. Outdoor Play and Recreation Areas Required.

Each lot developed and used for multifamily housing shall provide and shall maintain outdoor play and recreation areas equal to five (5) percent of the total area of the lot. In no case shall the contiguous area of any such outdoor play and recreation area be less than four thousand (4,000) square feet.

Sec. 2L-15. Parking Lot Landscaping Requirements.

Parking lots shall be landscaped and maintained in accordance with the standards and requirements of **Section 4-21**.

Sec. 2L-16. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2M. RM-85 (MULTIFAMILY RESIDENTIAL) DISTRICT

Sec. 2M-1. Scope of Provisions.

The provisions contained within this section are the regulations of the RM-85 (Multifamily Residential) District.

Sec. 2M-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the RM-85 (Multifamily Residential) District is as follows:

(a) To provide for the development of multifamily neighborhoods within the county at a density of fourteen (14) units per acre where so designated on the comprehensive plan;

(b) To provide for infill development in multifamily neighborhoods having a density of fourteen (14) dwelling units per acre in a manner compatible with existing development;

(c) To assure that the uses and structures authorized in the RM-85 (Multifamily Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 2M-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the RM-85 (Multifamily Residential) District:

(a) *Dwellings:*

(1) Attached single-family dwelling.

(2) Detached single-family dwelling.

(3) Multifamily dwellings.

(4) Multifamily dwellings, supportive living.

(b) *Lodging:*

(1) Fraternity house or sorority house.

(2) Rooming house or boardinghouse.

(c) *Personal services:*

(1) Personal care home, family.

(2) Personal care home, group.

(3) Personal care home, registered.

(4) Personal care home, congregate.

(d) *Medical and health services:*

(1) Nursing or convalescent home.

(e) *Education:*

(1) Adult day care center or adult day care facility.

(2) Child day care center or child day care facility.

(3) Kindergarten.

Sec. 2M-4. Accessory Uses, Buildings and Structures.

Accessory uses, buildings and structures shall be located within the buildable area of the lot. Accessory buildings and structures shall not exceed twenty (20) feet in height and shall

comply with the requirements of **Section 4-1**. The following accessory uses of land and buildings and structures shall be authorized in the RM-85 (Multifamily Residential) District:

(a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:

(1) Club house including meeting room or recreation room.

(2) Garages for parking of automobiles.

(3) Laundry facilities for residents.

(4) Leasing office.

(5) Mail room for residents.

(6) Storage buildings.

(7) Swimming pools.

(8) Tennis courts and other play and recreation areas.

(b) Signs in accordance with the provisions of this Chapter and the City's Sign Ordinance.

Sec. 2M-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service (**Section 4-35**).

(c) *Special land use permit from City Council:*

(1) Cemetery, columbarium, or mausoleum.

(2) Convent or monastery.

(3) Home occupation involving any customer contact.

(4) Place of worship.

(5) Private elementary, middle or high school.

(6) Shelter for homeless persons.

(7) Telecommunications tower or antenna. (**Section 4-47**).

(8) Transitional housing facility.

Sec. 2M-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the RM-85 (Multifamily Residential) District:

(a) *Lot width and area:*

(1) All lots developed with multifamily dwellings shall have at least one hundred (100) feet of frontage as measured along the public street frontage and a lot area of not less than two (2) acres and may be developed at a density not exceeding fourteen (14) dwelling units per acre.

(2) All lots developed with detached single-family dwellings shall have a lot area of not less than six thousand (6,000) square feet and shall have at least sixty (60) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least sixty (60) feet of frontage as measured at the point of the required front yard setback line.

(b) *Minimum setback requirements:*

(1) *Multifamily dwellings:*

a. *Front yard:* Thirty-five (35) feet.

b. *Side yard:* Twenty (20) feet, except that where an RM-85 lot adjoins any R lot along a side lot line, the required yard shall be fifty (50) feet.

c. *Rear yard:* Forty (40) feet, except that where an RM-85 lot adjoins any R lot along a rear lot line, the required yard shall be fifty (50) feet.

(2) *Single-family detached dwellings:*

a. *Front yard:* Twenty (20) feet.

b. *Interior side yard:* Seven and one-half (7 1/2) feet.

c. *Side yard along side street side:* Fifteen (15) feet.

d. *Rear yard:* Thirty (30) feet.

Sec. 2M-7. Spacing Between Buildings.

Spacing between multiple buildings within an RM-85 district is subject to the requirements of **Section 4-55**.

Sec. 2M-8. Transitional Buffer Zone Requirement.

Where a lot in the RM-85 (Multi-family Residential) District is used for attached single-family dwellings and adjoins the boundary of any property which is zoned R (Single-family Residential) District, except single-family attached developments, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural

state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining single-family residential.

Sec. 2M-9. Height of Buildings and Structures.

No building or structure shall exceed four (4) stories in height, provided however, that no building exceeding three (3) stories in height shall be authorized except after approval by the department of fire and rescue services for assurance of adequacy of fire protection facilities and service for such four-story building.

Sec. 2M-10. Floor Area of Dwelling.

The minimum floor area of each dwelling shall be as follows:

(a) *Multifamily dwellings:*

(1) *One (1) bedroom:* Six hundred fifty (650) square feet, provided however, that twenty (20) percent of the total units in a multifamily dwelling development of more than one (1) building may have a floor area of not less than five hundred twenty (520) square feet.

(2) *Two (2) bedrooms:* Eight hundred (800) square feet.

(3) *Three (3) or more bedrooms:* One thousand (1,000) square feet.

(b) *Multifamily dwellings, supportive living:* Three hundred (300) square feet.

(c) *Single-family dwelling, attached or detached:* One thousand (1,000) square feet.

Sec. 2M-11. Lot Coverage.

The maximum lot coverage by buildings shall not exceed thirty-five (35) percent.

Sec. 2M-12. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the RM-85 (Multifamily Residential) District are as follows:

(a) *Adult day care center:* One (1) space for each two hundred (200) square feet of floor area.

(b) *Adult day care facility:* Four (4) spaces.

(c) *Detached single-family dwelling:* Four (4) spaces per dwelling unit.

(d) *Child day care center:* One (1) space for each two hundred (200) square feet of floor area.

(e) *Child day care facility:* Four (4) spaces.

(f) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(g) *Elementary, middle or high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(h) *Fraternity house or sorority house:* One (1) space per bed.

(i) *Kindergarten:* One (1) space per two hundred (200) square feet of floor area.

(j) *Multifamily dwellings:* One and seventy-five hundredths (1.75) spaces per dwelling unit.

(k) *Multifamily dwellings, supportive living:* Five-tenths (0.50) space per dwelling unit.

(l) *Nursing or convalescent home:* Five-tenths (0.50) space per bed.

(m) *Personal care home, congregate:* One (1) space for each four (4) clients.

(n) *Personal care home, family:* Four (4) spaces.

(o) *Personal care home, group:* Four (4) spaces.

(p) *Personal care home, registered:* Four (4) spaces.

(q) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(r) *Rooming house or boardinghouse:* One (1) space per bedroom.

(s) *Other uses:* One (1) space for each three hundred (300) square feet of floor area within the principal structure.

(t) *Attached single-family dwelling:*

(1) *Less than one thousand six hundred (1,600) square feet of floor area:* Two (2) spaces.

(2) *One thousand six hundred (1,600) through one thousand nine hundred ninety-nine (1,999) square feet of floor area:* Three (3) spaces.

(3) *Two thousand (2,000) square feet or greater:* Four (4) spaces.

Sec. 2M-13. Landscaping Requirement.

Each lot shall provide and shall maintain trees and plant material as is required in the City's Tree Protection Ordinance.

Sec. 2M-14. Outdoor Play and Recreation Areas Required.

Each lot developed and used for multifamily housing shall provide and shall maintain outdoor play and recreation areas equal to five (5) percent of the total area of the lot. In no case shall the contiguous area of any such outdoor play and recreation area be less than four thousand (4,000) square feet.

Sec. 2M-15. Parking Lot Landscaping Requirements.

Parking lots shall be landscaped and maintained in accordance with the standards and requirements of **Section 4-21**.

Sec. 2M-16. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2N. RM-75 (MULTIFAMILY RESIDENTIAL) DISTRICT

Sec. 2N-1. Scope of Provisions.

The provisions contained within this section are the regulations of the RM-75 (Multifamily Residential) District.

Sec. 2N-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the RM-75 (Multifamily Residential) District is as follows:

(a) To provide for the development of multifamily neighborhoods within the county at a density of eighteen (18) units per acre where so designated on the comprehensive plan;

(b) To provide for infill development in multifamily neighborhoods having a density of eighteen (18) dwelling units per acre in a manner compatible with existing development;

(c) To assure that the uses and structures authorized in the RM-75 (Multifamily Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 2N-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the RM-75 (Multifamily Residential) District:

(a) *Dwellings:*

(1) Attached single-family dwelling.

(2) Detached single-family dwelling.

(3) Multifamily dwellings.

(4) Multifamily dwellings, supportive living.

(b) *Lodging:*

(1) Fraternity house or sorority house.

(2) Rooming house or boardinghouse.

(c) *Personal services:*

(1) Personal care home, family.

(2) Personal care home, group.

(3) Personal care home, registered.

(4) Personal care home, congregate.

(d) *Medical and health services:*

(1) Nursing or convalescent home.

(e) *Education:*

(1) Adult day care center or adult day care facility.

(2) Child day care center or child day care facility.

(3) Kindergarten.

Sec. 2N-4. Accessory Uses, Buildings and Structures.

Accessory uses, buildings and structures shall be located within the buildable area of the lot. Accessory buildings and structures shall not exceed twenty (20) feet in height and shall comply with the requirements of **Section 4-1**. The following accessory uses of land and buildings and structures shall be authorized in the RM-75 (Multifamily Residential) District:

(a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:

(1) Club house including meeting room or recreation room.

(2) Garages for parking of automobiles.

(3) Laundry facilities for residents.

(4) Leasing office.

(5) Mail room for residents.

(6) Storage buildings.

(7) Swimming pools.

(8) Tennis courts and other play and recreation areas.

(b) Signs in accordance with the provisions of this Chapter and the City's Sign Ordinance.

Sec. 2N-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(c) *Special land use permit from City Council:*

(1) Cemetery, columbarium, or mausoleum.

(2) Convent or monastery.

(3) Home occupation involving any customer contact.

(4) Place of worship.

(5) Private elementary, middle or high school.

(6) Shelter for homeless persons.

(7) Telecommunications tower or antenna (**Section 4-47**).

(8) Transitional housing facility.

Sec. 2N-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the RM-75 (Multifamily Residential) District:

(a) *Lot width and area:*

(1) All lots developed with multifamily dwellings shall have at least one hundred (100) feet of frontage as measured along the public street frontage and a lot area of not less than two (2) acres and may be developed at a density not exceeding eighteen (18) dwelling units per acre.

(2) All lots developed with detached single-family dwellings shall have a lot area of not less than six thousand (6,000) square feet and shall have at least sixty (60) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least 60 feet of frontage as measured at the point of the required front yard setback line.

(b) *Minimum setback requirements:*

(1) *Multifamily dwellings:*

a. *Front yard:* Thirty-five (35) feet.

b. *Side yard:* Twenty (20) feet, except that where an RM-75 lot adjoins any R lot along a side lot line, the required yard shall be fifty (50) feet.

c. *Rear yard:* Forty (40) feet, except that where an RM-75 lot adjoins any R lot along a rear lot line, the required yard shall be fifty (50) feet.

(2) *Single-family detached dwellings:*

a. *Front yard:* Thirty (30) feet.

b. *Interior side yard:* Seven and one-half (7 1/2) feet.

c. *Side yard along side street side:* Fifteen (15) feet.

d. *Rear yard:* Thirty (30) feet.

Sec. 2N-7. Spacing between Buildings.

Spacing between multiple buildings within an RM-75 district is subject to the requirements of **Section 4-55**.

Sec. 2N-8. Transitional Buffer Zone Requirement.

Where a lot in the RM-75 (Multi-family Residential) District is used for attached single-family dwellings and adjoins the boundary of any property which is zoned R (Single-family Residential) District, except single-family attached developments, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining single-family residential.

Sec. 2N-9. Height of Buildings and Structures.

No building or structure shall exceed four (4) stories in height, provided however, that no building exceeding three (3) stories in height shall be authorized except after approval by the department of fire and rescue services for assurance of adequacy of fire protection facilities and service for such four-story building.

Sec. 2N-10. Floor Area of Dwelling.

The minimum floor area of each dwelling shall be as follows:

(a) *Multifamily dwellings:*

(1) *One (1) bedroom:* Six hundred fifty (650) square feet, provided however, that twenty (20) percent of the total units in a multifamily dwelling development of more than one building may have a floor area of not less than five hundred twenty (520) square feet.

(2) *Two (2) bedrooms:* Eight hundred (800) square feet.

(3) *Three (3) or more bedrooms:* One thousand (1,000) square feet.

(b) *Multifamily dwellings, supportive living:* Three hundred (300) square feet.

(c) *Single-family dwelling, attached or detached:* One thousand (1,000) square feet.

Sec. 2N-11. Lot Coverage.

The maximum lot coverage by buildings shall not exceed thirty-five (35) percent.

Sec. 2N-12. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the RM-75 (Multifamily Residential) District are as follows:

(a) *Adult day care center:* One (1) space for each two hundred (200) square feet of floor area.

(b) *Adult day care facility:* Four (4) spaces.

(c) *Detached single-family dwelling:* Four (4) spaces per dwelling unit.

(d) *Child day care center:* One (1) space for each two hundred (200) square feet of floor area.

(e) *Child day care facility:* Four (4) spaces.

(f) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(g) *Elementary, middle or high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(h) *Fraternity house or sorority house:* One (1) space per bed.

(i) *Kindergarten:* One (1) space per two hundred (200) square feet of floor area.

(j) *Multifamily dwelling:* One and seventy-five one-hundredths (1.75) spaces per dwelling unit.

(k) *Multifamily dwelling, supportive living:* Five-tenths (0.50) space per dwelling unit.

(l) *Nursing or convalescent home:* Five-tenths (0.50) space per bed.

(m) *Personal care home, congregate:* One (1) space for each four (4) clients.

(n) *Personal care home, family:* Four (4) spaces.

(o) *Personal care home, group:* Four (4) spaces.

(p) *Personal care home, registered:* Four (4) spaces.

(q) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(r) *Rooming house or boardinghouse:* One (1) space per bedroom.

(s) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(t) *Attached single-family dwelling:*

(1) *Less than one thousand six hundred (1,600) square feet of floor area:* Two (2) spaces.

(2) *One thousand six hundred (1,600) through one thousand nine hundred ninety-nine (1,999) square feet of floor area:* Three (3) spaces.

(3) *Two thousand (2,000) square feet or greater:* Four (4) spaces.

Sec. 2N-13. Landscaping Requirement.

Each lot shall provide and shall maintain trees and plant material as is required in the City's Tree Protection Ordinance.

Sec. 2N-14. Outdoor Play and Recreation Areas Required.

Each lot developed and used for multifamily housing shall provide and shall maintain outdoor play and recreation areas equal to five (5) percent of the total area of the lot. In no case shall the contiguous area of any such outdoor play and recreation area be less than four thousand (4,000) square feet.

Sec. 2N-15. Parking Lot Landscaping Requirements.

Parking lots shall be landscaped and maintained in accordance with the standards and requirements of **Section 4-21**.

Sec. 2N-16. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2O. [Intentionally Deleted.]

DIVISION 2P. RM-HD (MULTIFAMILY RESIDENTIAL) DISTRICT

Sec. 2P-1. Scope of Provisions.

The provisions contained within this section are the regulations of the RM-HD (Multifamily Residential) District.

Sec. 2P-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the RM-HD (Multifamily Residential) District is as follows:

(a) To provide for the development of multifamily neighborhoods within the county at a density of thirty (30) units per acre where so designated on the comprehensive plan;

(b) To provide for infill development in multifamily neighborhoods having a density of thirty (30) dwelling units per acre in a manner compatible with existing development;

(c) To assure that the uses and structures authorized in the RM-HD (Multifamily Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 2P-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the RM-HD (Multifamily Residential) District:

(a) *Dwellings:*

(1) Attached single-family dwelling.

(2) Detached single-family dwelling.

(3) Multifamily dwellings.

(4) Multifamily dwellings, supportive living.

(b) *Lodging:*

(1) Fraternity house or sorority house.

(2) Rooming house or boardinghouse.

(c) *Personal services:*

(1) Personal care home, family.

(2) Personal care home, group.

(3) Personal care home, registered.

(4) Personal care home, congregate.

(d) *Medical and health services:*

(1) Nursing or convalescent home.

(e) *Education:*

(1) Adult day care center or adult day care facility.

(2) Child day care center or child day care facility.

(3) Kindergarten.

Sec. 2P-4. Accessory Uses, Buildings and Structures.

Accessory uses, buildings and structures shall be located within the buildable area of the lot. Accessory buildings and structures shall not exceed twenty (20) feet in height and shall comply with the requirements of **Section 4-1**. The following accessory uses of land and buildings and structures shall be authorized in the RM-HD (Multifamily Residential) District:

(a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:

(1) Club house including meeting room or recreation room.

(2) Garages for parking of automobiles.

(3) Laundry facilities for residents.

(4) Leasing office.

(5) Mail room for residents.

(6) Storage buildings.

(7) Swimming pools.

(8) Tennis courts and other play and recreation areas.

(b) Signs in accordance with the provisions of this Chapter and the City's Sign Ordinance.

Sec. 2P-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(c) *Special land use permit from City Council:*

(1) Cemetery, columbarium, or mausoleum.

(2) Convent or monastery.

(3) Home occupation involving any customer contact.

(4) Place of worship.

(5) Private elementary, middle or high school.

(6) Shelter for homeless persons.

(7) Telecommunications tower or antenna (**Section 4-47**).

(8) Transitional housing facility.

Sec. 2P-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the RM-HD (Multifamily Residential) District:

(a) *Lot width and area:*

(1) All lots developed with multifamily dwellings shall have at least one hundred (100) feet of frontage as measured along the public street frontage and a lot area of not less than two (2) acres and may be developed at a density not exceeding thirty (30) dwelling units per acre.

(2) All lots developed with detached single-family dwellings shall have a lot area of not less than six thousand (6,000) square feet and shall have at least sixty (60) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least sixty (60) feet of frontage as measured at the point of the required front yard setback line.

(b) *Minimum setback requirements:*

(1) *Multifamily dwellings:*

a. *Front yard:* Fifty (50) feet.

b. *Side yard:* Twenty (20) feet, except that where an RM-HD lot adjoins any R lot along a side lot line, the required yard shall be 50 feet.

c. *Rear yard:* Forty (40) feet, except that where an RM-HD lot adjoins any R lot along a rear lot line, the required yard shall be fifty (50) feet.

(2) *Single-family detached dwellings:*

a. *Front yard:* Thirty (30) feet.

b. *Interior side yard:* Seven and one-half (7 1/2) feet.

c. *Side yard along side street side:* Fifteen (15) feet.

d. *Rear yard:* Thirty (30) feet.

Sec. 2P-7. Spacing between Buildings.

Spacing between multiple buildings within an RM-HD district is subject to the requirements of **Section 4-55**.

Sec. 2P-8. Transitional Buffer Zone Requirement.

Where a lot in the RM-HD (Multi-family Residential) District is used for attached single-family dwellings and adjoins the boundary of any property which is zoned R (Single-family Residential) District, except single-family attached developments, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining single-family residential.

Sec. 2P-9. Height of Buildings and Structures.

No building or structure shall exceed five (5) stories in height, provided however, that no building exceeding three (3) stories in height shall be authorized except after approval by the department of fire and rescue services for assurance of adequacy of fire protection facilities and service for such building.

Sec. 2P-10. Floor Area of Dwelling.

The minimum floor area of each dwelling shall be as follows:

(a) *Multifamily dwellings:*

(1) *One (1) bedroom:* Six hundred fifty (650) square feet, provided however, that twenty (20) percent of the total units in a multifamily dwelling development of more than one (1) building may have a floor area of not less than five hundred twenty (520) square feet.

(2) *Two (2) bedroom:* Eight hundred (800) square feet.

(3) *Three (3) or more bedrooms:* One thousand (1,000) square feet.

(b) *Multifamily dwelling, supportive living:* Three hundred (300) square feet.

(c) *Single-family dwelling, attached or detached:* One thousand (1,000) square feet.

Sec. 2P-11. Lot Coverage.

The maximum lot coverage by buildings shall not exceed sixty-five (65) percent.

Sec. 2P-12. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the RM-HD (Multifamily Residential) District are as follows:

(a) *Adult day care center:* One (1) space for each two hundred (200) square feet of floor area.

(b) *Adult day care facility:* Four (4) spaces.

(c) *Detached single-family dwelling:* Four (4) spaces per dwelling unit.

(d) *Child day care center:* One (1) space for each two hundred (200) square feet of floor area.

(e) *Child day care facility:* Four (4) spaces.

(f) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(g) *Elementary, middle or high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(h) *Fraternity house or sorority house:* One (1) space per bed.

(i) *Kindergarten:* One (1) space per three hundred (300) square feet of floor area.

(j) *Multifamily dwelling:* One and five-tenths (1.50) spaces per dwelling unit.

(k) *Multifamily dwelling, supportive living:* Five-tenths (0.50) space per dwelling unit.

(l) *Nursing or convalescent home:* Five-tenths (0.50) spaces per bed.

(m) *Personal care home, congregate:* One (1) space for each four (4) clients.

(n) *Personal care home, family:* Four (4) spaces.

(o) *Personal care home, group:* Four (4) spaces.

(p) *Personal care home, registered:* Four (4) spaces.

(q) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(r) *Rooming house or boardinghouse:* One (1) space per bedroom.

(s) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(t) *Attached single-family dwelling:*

(1) *Less than one thousand six hundred (1,600) square feet of floor area:* Two (2) spaces.

(2) *One thousand six hundred (1,600) through one thousand nine hundred ninety-nine (1,999) square feet of floor area:* Three (3) spaces.

(3) *Two thousand (2,000) square feet or greater:* Four (4) spaces.

Sec. 2P-13. Landscaping Requirement.

Each lot shall provide and shall maintain trees and plant material as is required in the City's Tree Protection Ordinance.

Sec. 2P-14. Outdoor Play and Recreation Areas Required.

Each lot developed and used for multifamily housing shall provide and shall maintain outdoor play and recreation areas equal to five (5) percent of the total area of the lot. In no case shall the contiguous area of any such outdoor play and recreation area be less than four thousand (4,000) square feet.

Sec. 2P-15. Parking Lot Landscaping Requirements.

Parking lots shall be landscaped and maintained in accordance with the standards and requirements of **Section 4-21**.

Sec. 2P-16. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2Q. MHP (MOBILE HOME PARK) DISTRICT

Sec. 2Q-1. Scope of Provisions.

The provisions contained within this section are the regulations of the MHP (Mobile Home Park) District.

Sec. 21-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the MHP (Mobile Home Park) District is as follows:

(a) To provide locations within the county for the location of mobile home parks consistent with the comprehensive plan.

(b) To provide for the development of accessory uses which are necessary in order to provide appropriate recreational and educational opportunities to residents.

Sec. 2Q-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the MHP (Mobile Home Park) District:

(a) Child day care center and kindergarten.

(b) Community facilities as follows:

(1) Golf course and clubhouse, private.

(2) Neighborhood recreation center or swimming pool.

(c) Dwellings, as follows:

(1) Mobile homes and mobile home parks.

(d) Educational uses, as follows:

(1) Private elementary, middle or high school.

(e) Services, personal, as follows:

(1) Personal care home, family.

(2) Personal care home, registered.

Sec. 2Q-4. Accessory Uses and Structures.

The following accessory uses of land and structures shall be authorized in the MHP (Mobile Home Park) District:

(a) Decks, porches, storage buildings and similar accessory structures.

(b) Parking lots for residents.

Sec. 2Q-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service.

(c) *Special land use permit from City Council:* None.

Sec. 2Q-6. Mobile Home Parks: Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all mobile home parks:

(a) *[Frontage:]* All mobile home parks shall be located on a lot having a frontage of not less than four hundred (400) feet as measured along the public street frontage.

(b) *Lot width:* All mobile home parks shall be located on a lot having a lot area of not less than twenty (20) acres.

(c) *Minimum yard adjacent to public street:*

(1) *From major thoroughfares:* Two hundred fifty (250) feet.

(2) *From minor thoroughfares:* One hundred fifty (150) feet.

(3) *From collector streets:* One hundred (100) feet.

(4) *From all other streets:* One hundred (100) feet.

(d) *Minimum side yard:* Fifty (50) feet unless the site abuts an R or RM district in which case the minimum side yard setback shall be one hundred (100) feet.

(e) *Minimum rear yard:* Forty (40) feet unless the site abuts an R or RM district in which case the minimum rear yard setback shall be one hundred (100) feet.

(f) *Maximum height of buildings:* No building shall exceed thirty-five (35) feet in height.

Sec. 2Q-7. Mobile Home Lots: Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all individual lots within a mobile home park:

(a) *Lot area for single-family dwelling:* Four thousand (4,000) square feet.

(b) *Lot width:* Fifty (50) feet.

(c) *Minimum yard adjacent to public street:*

(1) *From major thoroughfares:* Two hundred fifty (250) feet.

(2) *From minor thoroughfares:* One hundred fifty (150) feet.

(3) *From collector streets:* One hundred (100) feet.

(4) *From other streets:* One hundred (100) feet.

(d) *Minimum yard adjacent to interior driveways:* Ten (10) feet.

(e) *Interior side yard:* Seven and one-half (7 1/2) feet.

(f) *Minimum rear yard:* Seven and one-half (7 1/2) feet.

(g) *Maximum height of buildings:* No building shall exceed thirty-five (35) feet in height.

Sec. 2Q-8. Transitional Buffer Zone Requirement.

Where a lot in the MHP (Mobile Home Park) District is used for attached single-family dwellings and adjoins the boundary of any property which is zoned R (Single-family Residential) District, except single-family attached developments, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added

to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining single-family residential.

Sec. 2Q-9. Mobile Home Park Design Requirements.

The following design requirements shall apply to all mobile home parks:

(a) *Density.* The maximum density shall not exceed eight (8) mobile home units per acre. Only fifty (50) percent of any portion of the land within a mobile home park that is located within a floodplain may be included for the purpose of density determination.

(b) *Street access requirements.* A mobile home park shall abut upon a major thoroughfare, a minor thoroughfare, or a local access road paralleling a freeway or railroad right-of-way. It shall have a minimum of four hundred (400) feet frontage in order to provide adequate and safe ingress and egress from the abutting road to the mobile home park. It shall have ingress and ingress only from the above roads. The minimum distance between curb cuts shall be thirty (30) feet. The entrance or exit road to the development shall have a minimum right-of-way width of sixty (60) feet with a minimum pavement width of twenty-eight (28) feet. The entrance or exit road shall have a turning radius of at least thirty (30) feet and the road shall extend for at least one hundred (100) feet into the mobile home park with no parking and with no ingress to or egress from any individual mobile home lot.

(c) *Mobile home lots.* Each mobile home shall be located on a mobile home lot. Each lot shall conform to the following requirements:

(1) *Street frontage:* Each mobile home lot shall front on an interior driveway having a pavement width of not less than twenty (20) feet, or more, dependent upon the function and classification of the interior driveway as set forth in the "Mobile Home Court Development Guide," FHA G4200.7, published January, 1970, which is adopted by reference and made a part of this Chapter.

(2) *Mobile home lot width and depth:* Each lot shall be not less than fifty (50) feet wide and eighty (80) feet deep.

(3) *Mobile home stand:* A mobile home stand shall be located on each lot for the placement of the mobile home and it appurtenant structures and for the tie-down of the mobile home. The stand shall provide for the retention of the mobile home on the lot in a stable condition and in a satisfactory relationship to its surroundings. Acceptable provisions for hurricane anchorage for each mobile home shall be provided.

(4) *Yard requirements:* Each mobile home lot shall have side and rear yards with a minimum width or depth of seven and one-half (7 1/2) feet and front yards with a minimum depth of ten (10) feet, but in no case shall the distance between mobile home stands on opposite sides of

the street be less than forty (40) feet. No structural addition to a mobile home shall be built within a required yard.

(d) *Recreation area.* One (1) acre of land shall be set aside and developed within the mobile home park for open space and recreation purposes for each fifty (50) lots. The minimum size of a single open space and recreation area shall be ten thousand (10,000) square feet. Not more than fifty (50) percent of the land reserved for open space and recreation purposes shall be located within a floodplain.

(e) *Automobile parking spaces.* At least two (2) automobile parking spaces shall be provided for each mobile home lot. At least one (1) such space shall be provided on each mobile home lot. The second required space may be provided on the mobile home lot, in on-street parking lanes or bays, or in an off-street parking lot conveniently located to the mobile home it serves.

(f) *Boundary setbacks.* All mobile homes within a mobile home park shall be set back not less than fifty (50) feet from the boundary line of the mobile home park, except that where the boundary of the mobile home park adjoins a residential district, as that term is defined in Division 015, said setback shall be not less than one hundred (100) feet.

(g) *Design standards.* All mobile home parks shall conform to the standards and requirements of "Mobile Home Court Development Guide," U.S. Department of Housing and Urban Development, FHA G4200.7, published January, 1970, which by this reference is made a part of this Chapter. All mobile home parks shall also conform to all of the requirements of the City's subdivision regulations, **Article III**.

(h) *Site construction and development.* No site construction or development shall be undertaken and no development or building permits shall be issued until a preliminary subdivision plat shall have been approved for the mobile home park pursuant to the requirements of the City's subdivision regulations.

DIVISION 2R. TND (TRADITIONAL NEIGHBORHOOD DEVELOPMENT) DISTRICT

Sec. 2R-1. Repealer.

Except as provided in **Section 1-28** of this Code, the TND regulations of this division are repealed. No application or amendment to the official zoning maps shall be filed with the planning director, initiated by official action of the planning commission, or considered by the City Council if such amendment or application seeks to have any lot(s) in the County zoned TND. The TND regulations set forth in **Division 2R** remain codified solely for the purpose of complying with the requirements of **Section 1-28** of this Code.

Sec. 2R-2. Design and Development Standards.

The following design and development standards shall apply to each Traditional Neighborhood Development District hereafter established by the City Council:

(a) *Density.* The density of the proposed development shall be as approved by the City Council and shall be consistent with the comprehensive plan and with the surrounding area. The density of each Traditional Neighborhood Development District shall be established by the City Council at the time of approval of any such application.

(b) *Public streets required.* All streets within Traditional Neighborhood Development Districts shall be public streets and the design and construction of said streets shall comply in all respects with the requirements of the City's subdivision Coe and any other applicable provision of the Code.

(c) *Sidewalk requirements.* Five-foot sidewalks with a four-foot street tree planting zone between the sidewalk and the back of curb shall be provided on each street contained within any Traditional Neighborhood Development District.

(d) *Maintenance and protection of land held in common.* Each applicant shall present as a part of the application for the TND zoning designation a legal mechanism under which all land to be held in common and used for open space purposes shall be protected in perpetuity. Such legal mechanism may include deed restrictions, homeowner associations, common areas held in common ownership or control, or any other legal mechanism, provided that said legal mechanism shall be approved by the Department of Law as assuring each of the following mandatory requirements:

(1) That all land held in common shall remain undivided and shall not be subdivided or developed in perpetuity;

(2) That all subsequent property owners in perpetuity within said Traditional Neighborhood Development District be placed on notice of this development restriction through the deed records of City of Dunwoody Superior Court;

(3) That all land held in common will be properly maintained and insured with no liability or maintenance responsibilities accruing to the county;

(4) That a legal mechanism exists for notice of deficiencies in maintenance of the land held in common, correction of these deficiencies, and assessment and liens against the properties for the cost of the correction of these deficiencies by a third party or the county;

(5) That the legal mechanism be created and implemented prior to the sale of any individual properties within the Traditional Neighborhood Development District; and

(6) That all requirements of the legal mechanism chosen by the applicant and approved by the Department of Law shall be specified on the final plan and recorded with the Clerk of Superior Court of City of Dunwoody.

(e) When an applicant for a Traditional Neighborhood Development District chooses to utilize a homeowners association in order to comply with the

requirements of **subsection (d)** above, the applicant, in addition to meeting all of said requirements, shall provide for all of the following:

(1) Mandatory and automatic membership in the homeowners association as a requirement of dwelling unit ownership;

(2) All owners shall have equal access and right of use to all common and shared facilities;

(3) A fair and uniform method of assessment for dues, maintenance and related costs;

(4) Where appropriate, party wall maintenance and restoration in the event of damage or destruction;

(5) Perpetual and continued maintenance of land held in common and liability through the use of liens or other means in the case of default; and

(6) That all required covenants, declarations and restrictions shall be filed with the Clerk of the Superior Court of City of Dunwoody.

Sec. 2R-3. Principal Uses and Principal Structures.

The following are the principal uses of land and structures which are authorized in the TND (Traditional Neighborhood Development) District:

(a) Dwelling, single-family attached.

(b) Dwelling, single-family detached.

(c) Dwelling, three-family.

(d) Dwelling, two-family.

(e) Dwellings, multifamily.

(f) Personal care home, family.

(g) Personal care home, registered.

(h) Open space(s) and public space(s).

Sec. 2R-4. Accessory Uses and Accessory Structures.

The following are the accessory uses of land and structures which are authorized in the TND (Traditional Neighborhood Development) District:

(a) Accessory commercial uses, subject to the following requirements:

(1) Such use shall be limited to uses which are permissible within the NS district;

(2) All accessory commercial uses shall be located within the interior of any TND District and shall not be visible from any public street outside the boundaries of such TND District or from any dwelling located outside the boundaries of such TND District;

(3) Accessory commercial use shall not exceed twenty-five (25) percent of the gross residential floor space of the total development, and in no case shall total commercial use exceed one hundred thousand (100,000) square feet, and no individual building shall exceed fifty thousand (50,000) square feet in total floor area;

(4) Within multifamily TND development, accessory commercial use may be located in freestanding buildings or in the ground floor level of multifamily dwellings;

(5) All accessory commercial space shall be concentrated within a designated area within any TND district; and

(6) Accessory commercial space shall be constructed concurrently with or after the construction of the dwelling units to which it is accessory, and no certificate of occupancy for such accessory commercial space shall be issued until certificates of occupancy have been issued for at least fifty (50) percent of the dwelling units to be constructed within said development.

(b) Accessory uses and structures incidental to any authorized use;

(c) Recreation facilities including swimming pools, tennis courts, outdoor play areas, bikeways, walking trails, picnic pavilions, clubhouses, and similar recreation facilities designed for and used principally by the residents of the TND (Traditional Neighborhood Development) District;

(d) Signs for accessory commercial use in accordance with the provisions of the NS (Neighborhood Shopping) District in the City's Sign Ordinance.

Sec. 2R-5. Special Permits.

The following uses are allowed by special permits of the type indicated below:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception from zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(c) *Special land use permit from City Council:*

(1) Adult day care facility.

(2) Child day care facility.

(3) Home occupation involving any customer contact.

(4) Home stay bed and breakfast residence.

(5) Kindergarten.

(6) Neighborhood recreation club.

(7) Personal care home, group.

(8) Personal care home, congregate.

(9) Place of worship.

(10) Private elementary, middle and high school.

Sec. 2R-6. Lot Width, Minimum Size, and Yard Requirements.

(a) *Lot width:* Each lot for which application is made for TND District zoning shall have a minimum width of one hundred (100) feet on a public street.

(b) *Minimum lot area:* See above.

(c) *Minimum yard requirements for individual single-family detached dwelling units within a TND District:*

(1) *Front yard:* None, except that where dwellings have front entry garages, the front of the garage shall be set back at least twenty-two (22) feet from the front property line.

(2) *Interior side yards:* Seven and one-half (7 1/2) feet on each side.

(3) *Side yard along side street on corner lot:* Fifteen (15) feet.

(4) *Rear yard:* Twenty (20) feet.

(d) *Minimum spacing between buildings for TND Districts containing attached single-family residences and multifamily dwellings:* See Spacing between buildings, **Section 4-55**.

Sec. 2R-7. Maximum Height of Buildings.

Thirty-five (35) feet, except where accessory commercial use is provided in the ground floor level of buildings containing multifamily housing units above, then the height of any such building shall not exceed forty-five (45) feet.

Sec. 2R-8. Maximum Lot Coverage.

Lot coverage for each TND district established pursuant to this division shall not exceed sixty (60) percent for the development as a whole.

Sec. 2R-9. Off-Street Parking Requirements.

Off-street parking requirements for uses and structures authorized and permitted in the TND (Traditional Neighborhood Development) District are as follows:

(a) [*Accessory commercial uses.]* Accessory commercial uses shall provide parking as follows:

(1) Retail uses: Not more than one (1) space for each two hundred fifty (250) square feet of floor space devoted to such use;

(2) All other permissible accessory commercial uses: Same as required in the NS district;

(3) No parking space for any accessory commercial use shall be permitted to be located in front of such accessory commercial use.

(b) *Adult day care facility:* Four (4) spaces.

(c) *Child day care facility:* Four (4) spaces.

(d) *Dwellings:*

(1) *Single-family detached:* Four (4) spaces per dwelling unit.

(2) *Two-family, three-family, and single-family attached:*

a. *Less than one thousand six hundred (1,600) square feet of floor area:* Two (2) spaces.

b. *One thousand six hundred (1,600) through one thousand nine hundred ninety-nine (1,999) square feet of floor area:* Three (3) spaces.

c. *Two thousand (2,000) square feet or greater:* Four (4) spaces.

(3) *Multifamily:* One and seventy-five hundredths (1.75) spaces per unit.

(e) *Elementary, middle or high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(f) *Kindergarten:* One (1) space per two hundred (200) square feet of floor area.

(g) *Neighborhood recreation club:* One (1) space for each five (5) club members.

(h) *Personal care home, congregate:* One (1) space for each four (4) persons in the home.

(i) *Personal care home, family:* Four (4) spaces.

(j) Personal care home, group: Four (4) spaces.

(k) *Personal care home, registered:* Two (2) spaces.

(l) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(m) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

Sec. 2R-10. Minimum Dwelling Unit Size Requirements.

The minimum size of each dwelling unit shall be as follows:

(a) *Single-family dwelling:* One thousand six hundred (1,600) square feet.

(b) *Multifamily dwellings, as follows:*

(1) *One (1) bedroom:* Six hundred fifty (650) square feet, provided however, that twenty (20) percent of the total units in a multifamily dwelling development of more than one (1) building may have a floor area of not less than five hundred twenty (520) square feet.

(2) *Two (2) bedroom:* Eight hundred (800) square feet.

(3) *Three (3) or more bedrooms:* One thousand (1,000) square feet.

(c) *Two- and three-family dwellings:* One thousand two hundred (1,200) square feet.

Sec. 2R-11. Phasing of Projects.

TND development may be phased. Where an applicant desires to phase such development, the schedule for development shall be submitted and is subject to approval as a condition of zoning. In all cases where a project is permitted to be phased, each phase of the project shall contain the required parking spaces, open space, recreation space, landscaping and utilities required for that phase.

Sec. 2R-12. Final Approval of Plans.

Prior to issuance of any development or building permit for any TND development, the final site plan shall be submitted to and approved by the director of planning. Said final plan shall be consistent with that plan approved by DeKalb County. The director is authorized to approve minor changes in any such plan subject to the limitations in **Section 5A-25** of this Chapter. The applicant shall submit the final plan to the director of planning in a form which complies with the requirements of the City's subdivision regulations as to required form for recording of final plats.

Sec. 2R-13. Relation of TND Regulations to Subdivision or Other Regulations.

The TND regulations which are contained within this division shall apply to the application for and regulation of all TND districts. Where there are conflicts between these TND regulations and land subdivision requirements contained in the subdivision within the Code, these TND regulations shall apply.

Sec. 2R-14. Recording of Final Plat by Director of Planning.

The director of planning shall, after final approval of any development plan for TND, record said final plat with the Clerk of Superior Court of City of Dunwoody.

Sec. 2R-15. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2S. NCD (NEIGHBORHOOD CONSERVATION) DISTRICT

Sec. 2S-1. Scope of Provisions.

The provisions contained within this section are the regulations of the NCD (Neighborhood Conservation) District. This division establishes the procedures and the criteria that the City Council shall utilize in making a decision on any application to amend the official zoning maps so as to change any parcel of land to the NCD (Neighborhood Conservation) District zoning classification.

Sec. 2S-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the NCD (Neighborhood Conservation) District is to establish a zoning district classification by which the county may permit a variety in type, design, and arrangement of residential structures and enable the coordination of project characteristics with features of a particular site in a manner consistent with the public health, safety, and general welfare. Appropriate areas for the location of a NCD (Neighborhood Conservation) District include existing neighborhoods where the characteristics of traditional neighborhood development communities can be preserved. The NCD (Neighborhood Conservation) District is established so as to permit reasonable residential development of vacant properties in the defined neighborhood while at the same time protecting and preserving important features of the natural and built environment and to permit innovative design of new housing. The NCD (Neighborhood Conservation) District is further intended to accomplish public objectives as follows:

(a) To establish a zoning district classification wherein certain established neighborhoods can be preserved within City of Dunwoody;

(b) To prevent these neighborhoods and subdivisions from becoming nonconforming under the terms of this division. Any such established neighborhoods will be allowed to continue to exist and develop further under the general regulations governing their design and development in accordance with any plats or plans previously approved;

(c) To assure that infill development authorized pursuant to these district regulations is compatible with the density and the character of surrounding uses; and

(d) To assure that basic services are available to serve the recreational, educational and social needs of the neighborhood.

Sec. 2S-3. Procedures.

The following requirements shall apply to each application for change of the official zoning maps to the NCD (Neighborhood Conservation) District classification:

(a) Procedures (same as **Article V**, **Section 5A**). Each application for NCD district classification shall be filed with the department of planning and shall be reviewed and public hearings conducted with public notice provided and decisions made as is required for all applications to amend the official zoning map pursuant to **Article V**, **Section 5A** of this Chapter and with the additional

standards and factors contained in **Section 25-4** below. The proposal may consist of any use(s) authorized in **Section 25-5** and **Section 25-6** below.

(b) Plans required. In addition to all of the information and materials required as part of any application to amend the official zoning maps in **Article V**, **Division 1**, each applicant for NCD shall submit a site plan which shall contain the following information:

(1) Size of each lot proposed.

(2) Housing types.

(3) Open space areas to be held in joint ownership, common ownership, or control in perpetuity.

(4) Location and amount of commercial space.

(5) Location of existing places of worship.

(c) Density. The density of the proposed development shall be as approved by the City Council at the time of approval of any such application and shall be consistent with the comprehensive plan provided the density does not exceed eight (8) dwelling units per acre.

Sec. 2S-4. Additional Standards and Factors to be Considered.

The county may approve or may approve with modifications or conditions an application for NCD (Neighborhood Conservation) District designation if, in addition to meeting all of the criteria contained in **Article V**, **Section 5A**, the applicant meets each of the following standards:

(a) That the NCD (Neighborhood Conservation) District accomplishes, through preservation of existing housing and compatible infill development and redevelopment, a neighborhood that has a greater net benefit to the county than would result from redevelopment under the land subdivision regulations. Net benefit to the county may be demonstrated by one (1) or more of the following factors:

(1) Preservation of existing housing and permitting construction of infill housing compatible with existing housing in size, appearance and value that results in a community of compact scale and design which encourages pedestrian circulation;

(2) Preservation of a design in which authorized commercial use (if any) is so located as to be accessible to residents of the community.

(3) Preservation of existing places of worship within the neighborhood.

(b) That the NCD (Neighborhood Conservation) District results in no greater burden on present and projected public services and utilities than would result from subdivision development and that the NCD (Neighborhood Conservation) District will be served by adequate facilities including public streets, public fire protection, and public and private utilities.

(c) That all public streets serving the development, both existing and proposed, are suitable in design and adequate to carry the anticipated traffic within the proposed project and in the vicinity of the proposed project.

(d) That the NCD (Neighborhood Conservation) District shall be limited to existing neighborhoods with at least fifty (50) percent of the houses constructed prior to and including 1950 according to City of Dunwoody tax records.

(e) That a minimum of fifty (50) percent of the lots of record in the proposed NCD (Neighborhood Conservation) District have fifty (50) feet or less of frontage as measured along the public street frontage according to City of Dunwoody tax records.

(f) That the neighborhood which is proposed to become a NCD (Neighborhood Conservation) District is a neighborhood with historical significance.

(g) That the neighborhood which is proposed to become a NCD (Neighborhood Conservation) District shall have a minimum lot area of not less than ten (10) acres.

Sec. 2S-5. Principal Uses and Principal Structures.

The following are the principal uses of land and structures which are authorized in the NCD (Neighborhood Conservation) District:

(a) Dwelling, single-family attached.

(b) Dwelling, single-family detached.

(c) Dwelling, three-family.

(d) Dwelling, two-family.

(e) Dwellings, multifamily.

(f) Personal care home, family.

(g) Personal care home, registered.

(h) Open space(s) and public space(s).

Sec. 2S-6. Accessory Uses, Accessory Structures, and Other Authorized Uses.

The following are the accessory uses of land and structures which are authorized in the NCD (Neighborhood Conservation) District:

(a) Accessory uses and structures incidental to any authorized use;

(b) Recreation facilities including swimming pools, tennis courts, outdoor play areas, bikeways, walking trails, picnic pavilions, clubhouses, and similar recreation facilities designed for and used principally by the residents of the NCD (Neighborhood Conservation) District;

(c) Commercial uses, subject to the following requirements:

(1) Such use shall be limited to uses which are permissible within the NS district (see Division 25) and shall be located only on a major or minor thoroughfare;

(2) Commercial use shall not exceed two hundred forty (240) square feet of floor area for each ten (10) dwelling units in the NCD (Neighborhood Conservation) District, and no individual building shall exceed ten thousand (10,000) square feet in total floor area;

(3) Within multifamily development, commercial use may be located in freestanding buildings or in the ground floor level of multifamily dwellings;

(d) Signs for commercial use in accordance with the provisions of the NS (Neighborhood Shopping) District in the City's Sign Ordinance.

Sec. 2S-7. Special Permits.

The following uses are allowed by special permits of the type indicated below:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) *Special exception from zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(c) *Special land use permit from City Council:*

(1) Adult day care facility.

(2) Child day care facility.

(3) Home occupation involving any customer contact.

(4) Home stay bed and breakfast residence.

(5) Kindergarten.

(6) Neighborhood recreation club.

(7) Personal care home, congregate.

(8) Personal care home, group.

(9) Places of worship.

(10) Private elementary, middle and high school.

Sec. 2S-8. Lot Width, Minimum Size, and Yard Requirements.

(a) *Lot width:*

(1) *Single-family dwelling:* Fifty (50) feet of frontage as measured along the public street frontage;

(2) *Two-family dwelling:* Eighty-five (85) feet of frontage as measured along the public street frontage;

(3) *Three-family dwelling:* One hundred (100) feet of frontage as measured along the public street frontage;

(4) *Multifamily dwellings:* One hundred (100) feet of frontage as measured along the public street frontage.

(b) *Minimum lot area:*

(1) *Single-family dwelling:* Five thousand (5,000) square feet;

(2) *Two-family dwelling:* Eight thousand (8,000) square feet;

(3) *Three-family dwelling:* Ten thousand (10,000) square feet;

(4) *Multifamily dwellings:* Two (2) acres.

(c) *Minimum yard requirements for single-family, two-family and three-family dwelling units within a NCD District:*

(1) *Front yard:* Front yards shall be consistent with the front yards of buildings on adjoining properties, but not less than twenty (20) feet.

(2) *Interior side yard setbacks:* Interior side yards of buildings shall be consistent with the interior side yard setbacks of buildings on adjoining properties, but not less than five (5) feet.

(3) *Side yard along side street on corner lot:* Fifteen (15) feet.

(4) *Rear yard setbacks:* Rear yards of buildings shall be consistent with the rear yards of buildings on adjoining properties, but not less than twenty (20) feet.

(d) *Minimum yard requirements for multifamily dwellings:*

(1) *Front yard:* Fifty (50) feet.

(2) *Side yard:* Twenty (20) feet, except that where a NCD lot adjoins any lot zoned or used for a single-family residence along a side lot line, the required yard shall be fifty (50) feet.

(3) *Rear yard:* Forty (40) feet, except that where a NCD lot adjoins any lot zoned or used for a single-family residence along a rear lot line, the required yard shall be fifty (50) feet.

(e) *Minimum yard requirements for any lots or structures used for commercial use in any NCD (Neighborhood Conservation) District:*

(1) *Lot width:* All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage;

(2) *Minimum lot area:* Twenty thousand (20,000) square feet;

(3) *Minimum setback requirements:*

a. *Front yard:* Fifty (50) feet;

b. *Side yard along side street on corner lot:* Fifty (50) feet;

c. *Interior side yard setback:* Twenty (20) feet;

d. *Rear yard:* Thirty (30) feet.

(f) *Development standards for nonconforming lots:* A nonconforming lot may be used for a single-family detached dwelling notwithstanding the failure of the lot to meet minimum lot area or minimum lot width requirements specified in the NCD District provided that all other requirements of this division, including minimum yards, shall be met. Such lots shall be exempt from the minimum lot area and minimum lot width requirements and a building permit may be issued without the need for a variance from the zoning board of appeals subject to the following provisions:

(1) The lot was a legally created lot of record on the effective date of this division and the lot was not created in violation of this division;

(2) The lot was not part of a series of two (2) or more vacant lots in a single ownership, sharing continuous street frontage, and which are sufficient when taken together to meet the minimum lot area and minimum lot width requirements of this division.

Sec. 2S-9. Maximum Height of Buildings.

Thirty-five (35) feet, except where commercial use is provided in the ground floor level of buildings containing multifamily housing units above, then the height of such building shall not exceed forty-five (45) feet.

Sec. 2S-10. Maximum Lot Coverage.

The lot coverage of each lot shall not exceed thirty-five (35) percent.

Sec. 2S-11. Off-Street Parking Requirements.

Off-street parking requirements for uses and structures authorized and permitted in the NCD (Neighborhood Conservation) District are as follows:

(a) [*Commercial uses.*] Commercial uses shall provide parking as follows:

(1) Retail uses: Not more than one (1) space for each two hundred fifty (250) square feet of floor space devoted to such use;

(2) All other permissible commercial uses: Same as required in the NS district;

(3) No parking space for any commercial use shall be permitted to be located in front of such commercial use.

(b) *Adult day care facility:* Four (4) spaces.

(c) *Child day care facility:* Four (4) spaces.

(d) *Dwellings:*

(1) *Single-family, two-family, and three-family dwellings:* Two (2) spaces for each unit.

(2) *Multifamily dwellings:* One and seventy-five hundredths (1.75) spaces for each unit.

(e) *Elementary, middle or high school:*

(1) *Elementary and middle school:* Two (2) spaces for each classroom.

(2) *High school:* Five (5) spaces for each classroom.

(f) *Kindergarten:* One (1) space per two hundred (200) square feet of floor area.

(g) *Neighborhood recreation club:* One (1) space for each five (5) club members.

(h) *Personal care home, congregate:* One (1) space for each four (4) persons in the home.

(i) *Personal care home, family:* Four (4) spaces.

(j) *Personal care home, group:* Four (4) spaces.

(k) *Personal care home, registered:* Two (2) spaces.

(l) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(m) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

Sec. 2S-12. Minimum Dwelling Unit Size Requirements.

The minimum size of each dwelling unit shall be as follows:

(a) *Single-family dwelling:* One thousand (1,000) square feet.

(b) *Multifamily dwellings,* as follows:

(1) *One bedroom:* Six hundred fifty (650) square feet, provided however, that twenty (20) percent of the total units in a multifamily dwelling development of more than one (1) building may have a floor area of not less than five hundred twenty (520) square feet.

(2) *Two bedroom:* Eight hundred (800) square feet.

(3) *Three or more bedrooms:* One thousand (1,000) square feet.

(c) *Two- and three-family dwellings:* One thousand (1,000) square feet.

Sec. 2S-13. Final Approval of Plans.

Prior to issuance of any development or building permit within a NCD District, the application shall be submitted to and approved by the director of planning. A final site plan shall be submitted and shall be consistent with that plan approved by the City Council. The director is authorized to approve minor changes in any such plan subject to the limitations in **Section 5A-25** of this Chapter. The applicant shall submit the final plan to the director of planning in a form which complies with the requirements of the City's subdivision regulations as to required form for recording of final plats.

Sec. 2S-14. Relation of NCD Regulations to Subdivision or Other Regulations.

The NCD regulations which are contained within this division shall apply to the application for and regulation of all NCD districts. Where there are conflicts between these NCD regulations and land subdivision requirements or other regulations within the Code, these NCD regulations shall apply.

Sec. 2S-15. Concurrent Variances and Special Exceptions Authorized.

In enacting an ordinance designating a parcel of land as NCD the City Council may enact a plan which provides for variances and special exceptions from rules applying generally in this Chapter, or for variances and special exceptions from the requirements generally applicable in this district. Any such variance or special exception shall be subject to the criteria contained in **Section 5D-13**, **Section 5D-14**, or **Section 5D-15** as is applicable. After approval of any such NCD development plan by the City Council, no action is required by the zoning board of appeals. After approval of the final plan and recording of the approved plan of the development by the director of planning, the director of public works shall issue development and building permits in accordance with the approved plan.

Sec. 2S-16. Recording of Final Plat by Director of Planning.

The director of planning shall, after final approval of any development plan for NCD, record said final plat with the Clerk of Superior Court of City of Dunwoody.

DIVISION 2T. O-I (OFFICE-INSTITUTION) DISTRICT

Sec. 2T-1. Scope of Provisions.

The provisions contained within this section are the regulations of the O-I (Office-Institution) District.

Sec. 2T-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the O-I (Office-Institution) District is as follows:

(a) To provide convenient areas within the county for the location of office and institutional uses which are necessary for the residents and business and professional practitioners within the county;

(b) To provide locations for the development of cultural, recreational, educational and health service facilities for the county.

Sec. 2T-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the O-I (Office-Institution) District:

(a) Child day care center and kindergarten.

(b) Commercial recreation and entertainment establishments as follows:

(1) Adult entertainment establishments. (See also **Section 4-2**).

(c) Community facilities as follows:

(1) Cemetery, columbarium, or mausoleum.

(2) Cultural facilities.

(3) Golf course and clubhouse, private.

(4) Neighborhood recreation center or swimming pool.

(5) Noncommercial club or lodge.

(6) Private park.

(d) Convent and monastery.

(e) Educational uses as follows:

(1) Colleges and universities.

(2) Vocational school.

(3) Private elementary, middle and high school.

(4) Research and training facility associated with a college or university.

(5) Specialized non-degree school.

(f) Lodging uses as follows:

(1) Fraternity house, sorority house, and residence hall.

(2) Hotel.

(3) Motel.

(g) Offices, including construction contractors, health service practitioners, legal services, accounting, auditing and book-keeping services, engineering and architecture, finance, insurance, real estate and financial institutions, radio and television broadcasting stations, telephone business offices, and similar business and professional offices.

(h) Place of worship.

(i) Services, personal, as follows:

(1) Funeral home and mortuary.

(2) Personal care home, congregate.

(3) Personal care home, group.

(4) Photographic studio.

(j) Services, health and medical, as follows:

(1) Health services clinic.

(2) Home health care service.

(3) Hospice.

(4) Hospital including general medical, surgical, psychiatric and specialty.

(5) Kidney dialysis center.

(6) Medical and dental laboratory and clinic.

(7) Nursing care facility.

(k) Tennis center, club and facilities.

Sec. 2T-4. Accessory Uses and Structures.

The following accessory uses of land and structures shall be authorized in the O-I (Office-Institution) District:

(a) Ambulance service, where accessory to a hospital.

(b) Parking lot and parking garage.

(c) Restaurant, where accessory to a hotel or motel.

(d) Retail liquor store where accessory to a hotel, motel or high-rise office building.

(e) Retail use where accessory to a high-rise apartment building or high-rise office building, provided that all such uses shall be located on the ground floor of such high-rise building and shall be entered from the interior lobby of said building, and said accessory retail uses shall be designed and scaled to meet the needs of the tenants of the building and their guests.

(f) Signs are allowed in accordance with the provisions of the City's Sign Ordinance and this Chapter.

Sec. 2T-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(2) Telecommunications tower or antenna, subject to requirements of **Section 4-47**.

(3) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(c) *Special land use permit from City Council:*

(1) Building exceeding five (5) stories in height.

(2) Heliport.

(3) Shelter for homeless persons.

(4) Stations and terminal for bus and rail passenger service.

(5) Transitional housing facility.

(6) High-rise apartment development but if the property line for the high-rise apartment development abuts any parcel of land that is zoned for any single family detached residential district classification, then the maximum height of any structure in the high-rise apartment development described in this subsection shall not exceed thirty-five (35) feet.

(7) High-rise apartment development but if the property line for the high-rise apartment development abuts any parcel of land that is zoned for any single family attached residential district classification, then the maximum height of any structure in the high-rise apartment development described in this subsection shall not exceed forty (40) feet.

(8) High-rise apartment development.

Sec. 2T-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the O-I (Office-Institution) District:

(a) *Lot width:* All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage.

(b) *Minimum lot area:* Twenty thousand (20,000) square feet.

(c) *Minimum setback requirements:*

(1) *From public street:* Fifty (50) feet.

a. *Front yard:* Fifty (50) feet.

b. *Side yard:* Twenty (20) feet.

c. Side yard along side street on corner lot: Fifty (50) feet.

(2) *Interior side yard setback:* Twenty (20) feet.

(3) *Rear yard:* Thirty (30) feet.

Sec. 2T-7. Transitional Buffer Zone Requirement.

Where a lot in the O-I (Office-Institution) District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining residential use.

Sec. 2T-8. Height of Buildings and Structures.

The maximum height of any building or structure shall not exceed five (5) stories and seventy (70) feet. Buildings exceeding five (5) stories and seventy (70) feet in height shall be permitted only upon approval of a special land use permit by the City Council. Buildings in excess of three (3) stories must be approved by the department of fire and rescue services to assure adequacy of fire protection facilities and services.

Sec. 2T-9. Floor Area of Dwelling.

The floor area of each dwelling for high-rise apartments shall be as follows:

(a) *One-bedroom unit:* Six hundred fifty (650) square feet.

(b) *Two-bedroom unit:* Eight hundred (800) square feet.

(c) *Three- or more bedroom unit:* One thousand (1,000) square feet.

Notwithstanding the above minimum floor area requirements, a maximum of twenty (20) percent of the total units constructed in any single development of more than one (1) building may be one-bedroom units having floor areas of less than six hundred fifty (650) square feet, but not less than a minimum floor area of five hundred twenty (520) square feet.

Sec. 2T-10. Lot Coverage.

The lot coverage of each lot shall not exceed eighty (80) percent.

Sec. 2T-11. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the O-I (Office-Institution) District are as follows:

(a) *Adult entertainment establishments:* One (1) parking space for each seventy-five (75) square feet of floor area in the building. (See **Section 4-2**, Adult entertainment establishments).

(b) *Ambulance service, where accessory to a hospital:* One (1) parking space for each vehicle plus one (1) additional space for each two (2) administrative or service employees.

(c) *Cultural facilities, funeral home, and other places of assembly:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for seating.

(d) *Child day care center and kindergarten:* One (1) space for each two hundred (200) square feet of floor area.

(e) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(f) *Dwelling, multifamily:* Two (2) spaces for each dwelling unit, except that multifamily dwellings in the RM-HD district shall provide one and five-tenths (1.5) spaces for each dwelling unit.

(g) *Fraternity and sorority house:* One (1) space for each bed.

(h) *Hospital, nursing care facility, and similar institutional use:* One (1) space for each two (2) beds.

(i) *Hotel and motel:* One and twenty-five hundredths (1.25) spaces for each unit.

(j) *Noncommercial club or lodge:* One (1) space for each one hundred (100) square feet of floor area.

(k) *Office and clinic:* One (1) space for each two hundred fifty (250) square feet of floor area.

(l) *Place of worship:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for public worship.

(m) *Public swimming pool, golf course, neighborhood recreation center, or similar use:* Twenty (20) spaces except that an eighteen-hole golf course shall have forty (40) spaces.

(n) *Private swimming pool, golf course, neighborhood recreation center, or similar use:* One (1) space for each five (5) members but no less than twenty (20) spaces except that golf courses shall provide a minimum of twenty (20) spaces for each nine (9) holes.

(o) *Restaurant where accessory to hotel or motel:* One (1) space for each seventy-five (75) square feet of floor area, but not less than ten (10) spaces.

(p) *Retail use accessory to high-rise apartment building or high-rise office building, and personal service uses:* Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.

(q) *School, private elementary and middle:* Two (2) spaces for each classroom.

(r) *School, private high:* Five (5) spaces for each classroom.

(s) *Schools and colleges, including vocational schools:* Ten (10) spaces for each classroom.

Sec. 2T-12. Landscaping Requirement for Parking Lots.

See **Section 4-21.**

Sec. 2T-13. Noise limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2U. O-I-T (OFFICE-INSTITUTION-TRANSITIONAL) DISTRICT

Sec. 2U-1. Scope of Provisions.

The provisions contained within this section are the regulations of the O-I-T (Office-Institution-Transitional) District.

Sec. 2U-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the O-I-T (Office-Institution-Transitional) District is as follows:

A. To provide convenient areas within the county for the location of office and institutional uses which are necessary for the residents and business and professional practitioners within the county, and to limit said buildings to two stories in height where adjacent to single family residential districts;

B. To provide locations for the development of cultural, recreational, educational, and health service facilities for the county.

Sec. 2U-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the O-I-T (Office-Institution-Transitional) District:

A. Child day care center and kindergarten.

B. Community facilities as follows:

1. Columbarium.

2. Cultural facilities.

3. Golf course and clubhouse, private.

4. Neighborhood recreation center or swimming pool.

5. Noncommercial club or lodge.

6. Private park.

7. Special events facility.

C. Convent and monastery.

D. Dwellings as follows:

1. Single family attached dwellings.

E. Educational uses as follows:

1. Colleges and universities.

2. Private elementary, middle and high school.

3. Research and training facility associated with a college or university.

4. Specialized non-degree school.

5. Vocational school.

F. Offices, including construction contractors, health service practitioners, legal services, accounting, auditing and bookkeeping services, engineering and architecture, finance, insurance, real estate and financial institutions, radio and television broadcasting stations, telephone business offices, and similar business and professional offices.

G. Place of worship.

H. Services, personal, as follows:

1. Personal care home, group.

2. Photographic studio.

I. Services, health and medical, as follows:

1. Health service clinic.

2. Home health care service.

3. Hospice.

4. Kidney dialysis center.

5. Medical and dental laboratory and clinic.

6. Nursing care facility.

J. Tennis center, club and facilities.

Sec. 2U-4. Accessory Uses and Structures.

The following accessory uses of land and structures shall be authorized in the O-I-T (Office-Institutional-Transitional) District:

A. Parking lot and parking garage.

B. Signs are allowed in accordance with the provisions of **Chapter 21** and this Chapter.

Sec. 2U-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

A. *Special administrative permit from director of public works:*

1. Home occupation involving no customer contact and no employee other than a person residing on the premises.

2. Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such 14-day time period within any calendar year.

B. *Special exception permit from the zoning board of appeals:*

1. Utility structure necessary for the transmission or distribution of service.

C. *Special land use permit from City Council:*

1. Shelter for homeless persons.

2. Transitional housing facility.

3. Personal care home, congregate.

Sec. 2U-6. Lot Width; Lot Area; Setbacks.

The following requirement shall apply to all lots and structures in the O-I-T (Office-Institutional-Transitional) District:

A. *Lot width:* All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage.

B. *Minimum lot area:* Twenty thousand (20,000) square feet, except that single family attached dwellings shall have an average lot area of four thousand (4,000) square feet per dwelling unit.

C. *Minimum setback requirements:*

1. From public street:

a. Front yard: Forty (40) feet.

b. Side yard along side street on corner lot: Fifty (50) feet.

2. Interior side yard: Twenty (20) feet.

3. Rear yard: Thirty (30) feet.

Sec. 2U-7. Transitional Buffer Zone Requirement.

Where a lot in the O-I-T (Office-Institution-Transitional) District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining residential use.

Sec. 2U-8. Height of Buildings and Structures.

The maximum height of any building or structure shall not exceed two (2) stories and thirty-five (35) feet.

Sec. 2U-9. Floor Area of Dwelling.

The minimum floor area of each single family dwelling shall be no less than one thousand (1,000) square feet.

Sec. 2U-10. Lot Coverage.

The lot coverage of each lot shall not exceed eighty (80) percent.

Sec. 2U-11. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the O-I-T (Office-Institutional-Transitional) District are as follows:

A. Cultural facilities, and other places where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for seating.

B. Child day care center and kindergarten: One (1) space for each two hundred (200) square feet of floor area.

C. Convent or monastery: Two (2) spaces for each two hundred (200) square feet of floor area within the principal structure.

D. Noncommercial club or lodge: One (1) space for each one hundred (100) square feet of floor area.

E. Office and clinic: One (1) space for each two hundred fifty (250) square feet of floor area.

F. Place of worship: One (1) space for each three (3) seats in the main auditorium, or where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for public worship.

G. Public swimming pool, golf course, neighborhood recreation center, or similar use: Twenty (20) spaces except that an 18-hole golf course shall have forty (40) spaces.

H. Private swimming pool, golf course, neighborhood recreation center, or similar use: One (1) space for each five (5) members, but not less than twenty (20) spaces except that golf courses shall provide a minimum of twenty (20) spaces for each nine (9) holes.

I. School, private elementary and middle: Two (2) spaces for each classroom.

J. School, private high: Five (5) spaces for each classroom.

K. Schools and colleges, including vocational schools: Ten (10) spaces for each classroom.

Sec. 2U-12. Landscaping Requirement for Parking Lots.

See **Section 4-21**.

Sec. 2U-13. Noise Limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

DIVISION 2V. O-D (OFFICE-DISTRIBUTION) DISTRICT

Sec. 2V-1. Scope of Provisions.

The provisions contained within this section are the regulations of the O-D (Office-Distribution) District.

Sec. 2V-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the O-D (Office-Distribution) District is as follows:

(a) To provide convenient areas within the county for the development of office and distribution establishments which are necessary for the residents and business practitioners within the county; and

(b) To assure that all such uses are provided in locations consistent with this Chapter and the Comprehensive Plan.

Sec. 2V-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the O-D (Office-Distribution) District:

(a) Commercial recreation and entertainment uses as follows:

(1) Golf driving range or batting cage facility.

(2) Recreation grounds and facilities.

(3) Tennis center, club and facilities.

(b) Community facilities as follows:

(1) Cemetery, columbarium, or mausoleum.

(2) Cultural facilities.

(3) Golf course and clubhouse, private.

(4) Neighborhood recreation center or swimming pool.

(5) Noncommercial club or lodge.

(6) Private park.

(7) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(c) Educational uses as follows:

(1) Adult day care center or adult day care facility.

(2) Child day care center or child day care facility.

(3) Colleges and universities.

(4) Vocational school.

(5) Kindergarten.

(6) Private elementary, middle and high school.

(7) Research and training facility associated with a college or university.

(8) Specialized non-degree school.

(d) Lodging uses as follows:

(1) Hotel.

(2) Motel.

(e) Offices, including legal services, accounting, auditing and bookkeeping services, engineering and architecture, finance, insurance, real estate and financial institutions, radio and television broadcasting stations, wholesale sales offices, wholesale trade and distribution offices, and similar service, business and professional offices.

(f) Place of worship.

(g) Retail sales as follows, but not including adult entertainment establishment and not including adult service facility:

(1) Apparel and accessories store.

(2) Book, greeting card, and stationery store.

(3) Camera and photographic supply store.

(4) Computer and computer software store.

(5) Convenience store.

(6) Farm and garden supply store.

(7) Florist.

(8) Food stores including bakeries.

(9) Furniture, home furnishings and equipment store.

(10) General merchandise store.

(11) Gift, novelty, and souvenir store.

(12) Hardware store.

(13) Hobby, toy and game store.

(14) Jewelry store.

(15) Liquor store, including retail liquor store as accessory use to hotels, motels, and high-rise office buildings.

(16) Music and musical equipment store.

(17) News dealer and newsstand.

(18) Office supplies and equipment store.

(19) Pharmacy and drugstore.

(20) Quick copy printing store.

(21) Radio, television and consumer electronics store.

(22) Specialty store.

(23) Sporting goods and bicycle sale.

(24) Variety store.

(25) Video tape sales and rental store.

(h) Services, personal, as follows:

(1) Personal care home, congregate.

(2) Personal care home, family.

(3) Personal care home, group.

(4) Personal care home, registered.

(i) Services, health and medical, as follows:

(1) Health service clinics including pharmacy.

(j) Transportation and storage as follows:

(1) Automobile parking.

(2) Miniwarehouse.

(3) Warehousing and storage.

Sec. 2V-4. Accessory Uses and Structures.

The following accessory uses of land and structures shall be authorized in the O-D (Office-Distribution) District:

(a) Parking lots and parking garages.

(b) Restaurant, where accessory to a hotel or motel.

(c) Retail liquor store where accessory to a hotel, motel or high-rise office building.

(d) Signs in accordance with the provisions of the City's Sign Ordinance and this Chapter.

Sec. 2V-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Telecommunications tower and antenna, subject to requirements of **Section 47-47**.

(2) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.

(b) *Special exception permit from the zoning board of appeals:* None.

(c) *Special land use permit from City Council:*

(1) Building exceeding two (2) stories in height.

(2) Heliports.

Sec. 2V-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the O-D (Office-Distribution) District:

(a) *Lot width:* All lots shall have at least one hundred fifty (150) feet of frontage as measured along the public street frontage.

(b) *Minimum lot area:* One (1) acre.

(c) *Minimum setback requirements:*

(1) *From public street:*

a. *Front yard:* Seventy-five (75) feet.

(2) *Interior side yard:* Twenty (20) feet.

(3) *Rear yard:* Thirty (30) feet.

Sec. 2V-7. Transitional Buffer Zone Requirement.

Where a lot in the O-D (Office-Distribution) District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining residential use.

Sec. 2V-8. Height of Buildings and Structures.

The maximum height of any building or structure shall not exceed two (2) stories and thirty-five (35) feet. Buildings exceeding two (2) stories in height shall be permitted only upon approval of a special land use permit by the City Council. Buildings in excess of three (3) stories must be approved by the department of fire and rescue services to assure adequacy of fire protection facilities and services.

Sec. 2V-9. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the O-D (Office-Distribution) District are as follows:

(a) *Cultural facilities, and other places of assembly:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for seating.

(b) *Hotel and motel:* One and twenty-five hundredths (1.25) spaces for each unit.

(c) *Offices and clinics:* One (1) space for each two hundred fifty (250) square feet of floor area.

(d) *Place of worship:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-

five (25) square feet of floor space in the largest assembly room utilized for public worship.

(e) *Public swimming pool, golf course, neighborhood recreation center, or similar use:* Twenty (20) spaces except that an eighteen-hole golf course shall have forty (40) spaces.

(f) *Private swimming pool, golf course, neighborhood recreation center, or similar use:* One (1) space for each five (5) members but no less than twenty (20) spaces except that golf courses shall provide a minimum of twenty (20) spaces for each nine (9) holes.

(g) *Restaurant where accessory to hotel or motel:* One (1) space for each seventy-five (75) square feet of floor area, but not less than ten (10) spaces.

(h) *Retail uses accessory to hotel, motel, or high-rise office building, and personal service uses:* Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.

(i) *Retail uses, personal service uses, and other commercial and general business uses, but not including food stores:* Four (4) spaces for each one thousand (1,000) square feet of floor area.

(j) *School, private elementary and middle:* Two (2) spaces for each classroom.

(k) *School, private high:* Five (5) spaces for each classroom.

(l) *Schools and colleges, including vocational schools:* Ten (10) spaces for each classroom.

Sec. 2V-10. Lot Coverage.

The lot coverage of each lot shall not exceed eighty (80) percent.

Sec. 2V-11. Landscaping Requirement for Parking Lots.

See **Section 4-21**, Landscaping requirements for parking lots.

DIVISION 2W. OCR (OFFICE-COMMERCIAL-RESIDENTIAL) DISTRICT

Sec. 2W-1. Scope of Provisions.

The provisions contained within this section are the regulations of the OCR (Office-Commercial-Residential) District.

Sec. 2W-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the OCR (Office-Commercial-Residential) District is as follows:

(a) To provide for economic development within the county through redevelopment of parcels of land which have been used in the past for commercial and light industrial uses but which have become obsolete and now offer an

opportunity for establishing new mixed use developments of medium intensity which consist of a combination of office, commercial, and residential uses;

(b) To promote redevelopment and new development in an environment which is pedestrian-oriented and which provides job opportunities and shopping facilities within the same complex in which multifamily housing is located and thereby reduces dependence on the automobile; and

(c) To encourage the conversion of vacant commercial and industrial buildings into residential dwelling units.

Sec. 2W-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the OCR (Office-Commercial-Residential) District:

(a) Animal hospital, veterinary clinic, pet supply store, animal grooming shop, and boarding and breeding kennel.

(b) Art gallery and art supply store.

(c) Bank, credit union and other similar financial institution.

(d) Child day care center and kindergarten.

(e) Commercial recreation and entertainment establishments as follows:

(1) Adult entertainment establishments. (See also **Section 4-2**).

(f) Convent and monastery.

(g) Educational uses as follows:

(1) Private elementary, middle and high school.

(2) Specialized non-degree school.

(h) Lodging uses, as follows:

(1) Hotels, when located within a mixed-use development encompassing a minimum of ten (10) acres of land area.

(i) Movie theater, bowling alley, and other recreational facilities where such activities are wholly enclosed within a building.

(j) Office uses as follows:

(1) Accounting office.

(2) Engineering and architectural office.

(3) Building and construction contractor.

(4) Financial services office.

(5) Insurance office.

(6) Legal office.

(7) Medical office.

(8) Real estate office.

(9) Wholesale sales office.

(k) Place of worship.

(l) Restaurant.

(m) Retail sales as follows, but not including adult service facility:

(1) Apparel and accessories store.

(2) Book, greeting card, and stationery store.

(3) Camera and photographic supply store.

(4) Computer and computer software store.

(5) Convenience store.

(6) Farm and garden supply store.

(7) Florist.

(8) Food stores including bakeries.

(9) Furniture, home furnishings and equipment store.

(10) General merchandise store.

(11) Gift, novelty, and souvenir store.

(12) Hardware store.

(13) Hobby, toy and game store.

(14) Jewelry store.

(15) Liquor store, including retail liquor store as accessory use to hotels, motels, and high-rise office buildings.

(16) Music and musical equipment store.

(17) News dealers and newsstand.

(18) Office supplies and equipment store.

(19) Pharmacies and drugstore.

(20) Quick copy printing store.

(21) Radio, television and consumer electronics store.

(22) Specialty store.

(23) Sporting goods and bicycle sale.

(24) Variety store.

(25) Video tape sales and rental store.

(n) Services, medical and health, as follows:

(1) Health service clinic.

(2) Medical and dental laboratory.

(3) Offices of health service practitioners.

(4) Pharmacy.

(o) Services, personal, as follows:

(1) Barbershop, beauty shop, and similar personal service establishment.

(2) Coin-operated laundry and dry-cleaning store.

(3) Laundry and dry-cleaning establishment and pickup station.

(4) Linen and diaper service, garment pressing, alteration and repair.

(5) Photographic studio.

(p) Services, repair, as follows:

(1) Home appliance repair and service.

(2) Jewelry repair service.

(3) Radio, television and similar home appliance repair service.

(4) Shoe repair store.

(q) Shopping center.

(r) Tennis center, club and facilities.

Sec. 2W-4. Accessory Uses and Structures.

The following accessory uses of land and structures shall be authorized in the OCR (Office-Commercial-Residential) District:

(a) Parking lots and parking garages.

(b) Signs are allowed in accordance with the provisions of the City's Sign Ordinance and this Chapter.

(c) Neighborhood recreation centers or swimming pools.

(d) Dwellings as follows:

(1) Single-family, two-family, or three-family dwellings.

(2) Multifamily dwellings.

Sec. 2W-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(2) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(2) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.

(c) *Special land use permit from City Council:*

(1) Building exceeding two (2) stories in height.

Sec. 2W-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the OCR (Office-Commercial-Residential) District:

(a) *Lot width and area:* All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage.

(b) *Minimum lot area:* Two (2) acres.

(c) *Minimum setback requirements:*

(1) *From public street:*

a. *Front yard:* Fifty (50) feet.

b. *Side yard:* Twenty (20) feet.

(2) *Rear yard:* Forty (40) feet.

(d) *Development controls:* Multifamily dwellings may be developed at a density not exceeding thirty (30) dwelling units per acre.

Sec. 2W-7. Transitional Buffer Zone Requirement.

Where a lot in the OCR (Office-Commercial-Residential)District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition,

a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining residential use.

Sec. 2W-8. Height of Buildings and Structures.

The maximum height of any building or structure shall not exceed two (2) stories and thirty-five (35) feet. Buildings exceeding two (2) stories in height shall be permitted only upon approval of a special land use permit by the City Council. Buildings in excess of three (3) stories must be approved by the department of fire and rescue services to assure adequacy of fire protection facilities and services. A minimum of two (2) stories is required for any residential component of the development. Individual buildings within the OCR District may be mixed use with commercial use on the ground floor and multifamily dwellings on upper floors.

Sec. 2W-9. Floor Area of Dwelling.

The minimum floor area of each dwelling unit shall be as follows:

(a) *One-bedroom:* Six hundred fifty (650) square feet.

(b) *Two-bedroom:* Eight hundred (800) square feet.

(c) *Three- or more bedroom:* One thousand (1,000) square feet.

Sec. 2W-10. Lot coverage.

The lot coverage of each lot shall not exceed eighty (80) percent.

Sec. 2W-11. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the OCR (Office-Commercial-Residential) District are as follows:

(a) *Adult entertainment establishments:* One (1) parking space for each seventy-five (75) square feet of floor area in the building. (See **Section 4-2**, Adult entertainment establishments).

(b) *Child day care center and kindergarten:* One (1) space for each two hundred (200) square feet of floor area.

(c) *Convent or monastery:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

(d) *Dwellings, multifamily:* One and seventy-five one hundredths (1.75) spaces for each dwelling unit.

(e) *Food stores:* One (1) space for each one hundred (100) square feet of floor space.

(f) *Offices and clinics:* One (1) space for each two hundred fifty (250) square feet of floor area.

(g) *Place of worship:* One (1) space for each three (3) seats in the largest assembly room utilized for public worship, or, where fixed seats are not utilized,

one (1) space for each twenty-five (25) square feet of floor area in the largest assembly room used for public worship.

(h) *Private swimming pool, neighborhood recreation center, or similar use:* One (1) space for each five (5) members but no less than twenty (20) spaces except that golf courses shall provide a minimum of twenty (20) spaces for each nine (9) holes.

(i) *Recreational facilities:*

(1) *Without fixed seating:* One (1) space for each two hundred (200) square feet of floor area.

(2) *With fixed seating:* One (1) seat for each three (3) seats.

(j) *Restaurant:* One (1) space for each seventy-five (75) square feet of floor area, but not less than ten (10) spaces.

(k) *Retail uses, personal service uses, and other commercial and general business uses, but not including food stores:* Four (4) spaces for each one thousand (1,000) square feet of floor area.

(l) *Schools, commercial vocational:* Ten (10) spaces for each classroom.

(m) *Shopping center:* Four (4) spaces for each one thousand (1,000) square feet of floor area.

(n) *Theaters and other places of assembly:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for seating.

Sec. 2W-12. Landscaping Requirement for Parking Lots.

See Landscaping requirements for parking lots, **Section 4-21**.

DIVISION 2X. NS (NEIGHBORHOOD SHOPPING) DISTRICT

Sec. 2X-1. Scope of Provisions.

The provisions contained within this section are the regulations of the NS (Neighborhood Shopping) District.

Sec. 2X-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the NS (Neighborhood Shopping) District is as follows:

(a) To provide convenient neighborhood retail shopping and service areas within the county for all residents;

(b) To provide for the development of new neighborhood shopping districts where so designated on the comprehensive plan;

(c) To assure that the size and scale of neighborhood shopping centers and individual uses within said centers are compatible with the scale of adjoining neighborhoods.

(d) To assure that the uses authorized within the Neighborhood Shopping District are those uses which are designed to serve the convenience shopping and service needs of the immediate neighborhood area.

Sec. 2X-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the NS (Neighborhood Shopping) District:

(a) Animal hospital, veterinary clinic, pet supply store, and animal grooming shop.

(b) Art galleries and art supply store.

(c) Bank, credit union and other similar financial institution.

(d) Child day care center.

(e) Office uses as follows:

(1) Accounting office.

(2) Engineering and architectural office.

(3) Financial services office.

(4) Insurance office.

(5) Legal office.

(6) Medical office.

(7) Real estate office.

(f) Recreational facilities where such activities are wholly enclosed within a building.

(g) Restaurant, but not including drive-through restaurants.

(h) Place of worship.

(i) Retail sales as follows, but not including adult entertainment establishment and not including adult service facility:

(1) Apparel and accessories store.

(2) Book, greeting card, and stationery store.

(3) Camera and photographic supply store.

(4) Convenience store.

(5) Florist.

(6) Food stores including bakeries.

(7) Gift, novelty, and souvenir store.

(8) Hardware store.

(9) Hobby, toy and game store.

(10) Jewelry store.

(11) Music and musical equipment store.

(12) News dealers and newsstand.

(13) Office supplies and equipment store.

(14) Pharmacy.

(15) Quick copy printing store.

(16) Shopping center.

(17) Sporting goods and bicycle sale.

(18) Variety store.

(19) Video tape sales and rental store.

(j) Services, personal, as follows:

(1) Barbershop, beauty shop, and similar personal service establishments.

(2) Coin-operated laundry and dry-cleaning store.

(3) Laundry and dry-cleaning establishment and pickup station.

(4) Personal care home, congregate.

(5) Personal care home, family.

(6) Personal care home, group.

(7) Personal care home, registered.

(8) Photographic studios.

(k) Services, repair, as follows:

(1) Jewelry repair store.

(2) Shoe repair store.

Sec. 2X-4. Accessory Uses and Structures.

The following accessory uses of land and structures shall be authorized in the NS (Neighborhood Shopping) District:

(a) Accessory uses and structures incidental to any authorized use.

(b) Signs and outdoor advertising in accordance with the provisions of the City's Sign Ordinance and this Chapter.

Sec. 2X-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Art shows, carnival rides and special events of community interest.

(2) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.

(b) *Special exception permit from the zoning board of appeals:*

(1) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(c) *Special land use permit from City Council:*

(1) Telecommunications tower or antenna, subject to requirements of **Section 4-47**.

(2) Temporary outdoor sales, seasonal.

Sec. 2X-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the NS (Neighborhood Shopping) District:

(a) *Lot width:* All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage.

(b) *Minimum lot area:* Twenty thousand (20,000) square feet.

(c) *Minimum setback requirements:*

(1) *From public street:*

a. *Front yard:* Fifty (50) feet.

b. Side yard along side street on corner lot: Fifty (50) feet.

(2) *Interior side yard setback:* Twenty (20) feet.

(3) *Rear yard:* Thirty (30) feet.

Sec. 2X-7. Transitional Buffer Zone Requirement.

Where a lot in the NS (Neighborhood Shopping) District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not

be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining residential use.

Sec. 2X-8. Height of Buildings and Structures; Limitation on Size of Shopping Centers and Individual Buildings within NS District.

No building or structure shall exceed two (2) stories and twenty-five (25) feet in height. No shopping center within the NS district shall exceed one hundred thousand (100,000) square feet in total floor area, and no individual building within the NS district shall exceed fifty thousand (50,000) square feet in total floor area.

Sec. 2X-9. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the NS (Neighborhood Shopping) District are as follows:

(a) *Child day care center:* One (1) space for each two hundred (200) square feet of floor area.

(b) *Food store:* One (1) space for each one hundred (100) square feet of floor space.

(c) *Office:* One (1) space for each two hundred fifty (250) square feet of floor area.

(d) *Place of worship:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for public worship.

(e) *Public swimming pool, golf course, neighborhood recreation center, or similar use:* Twenty (20) spaces except that an eighteen-hole golf course shall have forty (40) spaces.

(f) *Recreational facilities:*

(1) *Without fixed seating:* One (1) space for each two hundred (200) square feet of floor area.

(2) *With fixed seating:* One (1) space for each three (3) seats.

(g) *Restaurant:* One (1) space for each seventy-five (75) square feet of floor area but not less than ten (10) spaces.

(h) *Retail uses, personal service uses, and other commercial and general business uses, but not including food stores:* Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.

(i) *Shopping center:* Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.

(j) *Temporary outdoor social, religious, entertainment or recreation activity:* One (1) space for each one hundred (100) square feet of space used for such activity.

Sec. 2X-10. Lot Coverage.

The lot coverage of each lot shall not exceed eighty (80) percent.

Sec. 2X-11. Landscaping Requirement for Parking Lots.

Trees, plant material, and ground cover shall be provided and maintained as is required in **Section 4-21** of this Chapter.

DIVISION 2Y. C-1 (LOCAL COMMERCIAL) DISTRICT

Sec. 2Y-1. Scope of provisions.

The provisions contained within this section are the regulations of the C-1 (Local Commercial) District.

Sec. 2Y-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the C-1 (Local Commercial) District is as follows:

(a) To provide convenient local retail shopping and service areas within the county for all residents;

(b) To provide for the development of new local commercial districts where so designated on the comprehensive plan;

(c) To assure that the uses authorized within the C-1 (Local Commercial) District are those uses which are designed to serve the convenience shopping and service needs of groups of neighborhoods.

Sec. 2Y-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the C-1 (Local Commercial) District:

(a) Animal hospital, veterinary clinic, pet supply store, animal grooming shop, and boarding and breeding kennel.

(b) Art gallery and art supply store.

(c) Automobile, boat, and trailer sales and service as follows:

(1) Automobile and truck sales.

(2) Automobile service station.

(3) Automobile, truck, and trailer lease and rentals.

(4) Automobile, truck, and trailer lease and rentals as accessory to an automobile service station.

(5) Automobile wash service.

(6) Boat sales.

(7) Minor automobile repair and maintenance.

(8) Retail automobile parts and tire stores.

(9) Trailer salesroom and sales lot.

(d) Bank, credit union and other similar financial institution.

(e) Business service establishment.

(f) Child day care center and kindergarten.

(g) Communications uses as follows:

(1) Radio and television broadcasting station.

(2) Telephone business office.

(h) Community facilities as follows:

(1) Cultural facilities.

(2) Noncommercial club or lodge.

(3) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(i) Dwellings:

(1) Shelter for homeless persons.

(2) Transitional housing facility.

(j) Education uses as follows:

(1) Vocational schools.

(2) Private elementary, middle or high school.

(3) Specialized non-degree schools.

(k) Lodging uses, as follows:

(1) Bed and breakfast inn.

(2) Hotel.

(3) Motel.

(l) Movie theater, bowling alley, and other recreational facilities where such activities are wholly enclosed within a building.

(m) Office uses as follows:

(1) Accounting office.

(2) Engineering and architectural office.

(3) Building and construction contractor.

(4) Financial services office.

(5) Insurance office.

(6) Legal office.

(7) Medical office.

(8) Real estate office.

(9) Wholesale sales office.

(n) Parking, as follows:

(1) Commercial parking lot.

(2) Commercial parking garage.

(o) Place of worship.

(p) Restaurants, as follows:

(1) Drive-through restaurant.

(2) Restaurant.

(3) Restaurant accessory to a hotel or motel.

(q) Retail sales as follows, but not including adult entertainment establishment and not including adult service facility:

(1) Apparel and accessories store.

(2) Book, greeting card, and stationery store.

(3) Camera and photographic supply store.

(4) Computer and computer software store.

(5) Convenience store.

(6) Farm and garden supply store.

(7) Florist.

(8) Food stores including bakeries.

(9) Furniture, home furnishings and equipment store.

(10) General merchandise store.

(11) Gift, novelty, and souvenir store.

(12) Hardware store.

(13) Hobby, toy and game store.

(14) Jewelry store.

(15) Liquor store, including retail liquor store as accessory use to hotels, motels, and high-rise office buildings.

(16) Music and musical equipment store.

(17) News dealers and newsstand.

(18) Office supplies and equipment store.

(19) Pharmacies and drugstore.

(20) Quick copy printing store.

(21) Radio, television and consumer electronics store.

(22) Specialty store.

(23) Sporting goods and bicycle sale.

(24) Variety store.

(25) Video tape sales and rental store.

(r) Retail sales, building supplies and farm equipment, as follows:

(1) Electrical supply store.

(2) Farm equipment.

(3) Lumber, hardware and other building materials establishments.

(4) Paint, glass and wallpaper store.

(5) Plumbing, heating and air-conditioning equipment establishments.

(s) Services, medical and health, as follows:

(1) Health service clinic.

(2) Medical and dental laboratories.

(3) Offices of health service practitioners.

(4) Pharmacy.

(5) Private ambulance and emergency medical services.

(t) Services, personal, as follows:

(1) Barbershop, beauty shop, and similar personal service establishments.

(2) Coin-operated laundry and dry-cleaning store.

(3) Funeral home.

(4) Laundry and dry-cleaning establishment and pickup station.

(5) Linen and diaper service, garment pressing, alteration and repair.

(6) Personal care home, congregate.

(7) Personal care home, family.

(8) Personal care home, group.

(9) Personal care home, registered.

(10) Photographic studios.

(u) Services, repair, as follows:

(1) Home appliance repair and service.

(2) Jewelry repair service.

(3) Radio, television and similar home appliance repair service.

(4) Furniture upholstery and repair shop within shopping center.

(5) Shoe repair store.

(v) Shopping center.

(w) Taxi stand and taxi dispatching office.

(x) Tennis center, club and facilities.

Sec. 2Y-4. Accessory Uses and Structures.

The following accessory uses of land and structures shall be authorized in the C-1 (Local Commercial) District.

(a) Accessory uses and structures incidental to any authorized use.

(b) Commercial uses authorized within this district on first floor of multifamily dwelling buildings.

(c) Signs and outdoor advertising in accordance with the provisions of the City's Sign Ordinance and this Chapter.

Sec. 2Y-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Telecommunications tower or antenna, subject to requirements of **Section 4-47**.

(2) Temporary outdoor sales of merchandise.

(3) Art shows, carnival rides and special events of community interest.

(4) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.

(b) *Special exception permit from the zoning board of appeals:* None.

(c) *Special land use permit from City Council:*

(1) Buildings in excess of two (2) stories in height.

(2) Bus and rail stations and terminals for passenger service or freight service.

(3) Heliport.

(4) Temporary outdoor sales, seasonal.

Sec. 2Y-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the C-1 (Local Commercial) District:

(a) *Lot width:* All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage.

(b) *Minimum lot area:* Twenty thousand (20,000) square feet.

(c) *Minimum setback requirements:*

(1) *From public street:*

a. *Front yard:* Seventy-five (75) feet.

b. *Side yard:* Fifty (50) feet.

(2) *Interior side yard:* Twenty (20) feet, five (5) feet which shall be planned and landscaped.

(3) *Rear yard:* Thirty (30) feet.

Sec. 2Y-7. Transitional Buffer Zone Requirement.

Where a lot in the C-1 (Local Commercial) District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining residential use.

Sec. 2Y-8. Height of Buildings and Structures.

The maximum height of any building or structure shall not exceed two (2) stories and thirty-five (35) feet. Buildings exceeding two (2) stories in height shall be permitted only upon approval of a special land use permit by the City Council. Buildings in excess of three (3) stories

must be approved by the department of fire and rescue services to assure adequacy of fire protection facilities and services.

Sec. 2Y-9. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the C-1 (Local Commercial) District are as follows:

(a) *Ambulance service:* One (1) parking space for each vehicle plus one (1) additional space for each two (2) administrative or service employees.

(b) *Automobile, minor repair and maintenance establishments:* One (1) space for each one hundred fifty (150) square feet of floor space.

(c) *Automobile service station:* Three (3) spaces for each service bay, with minimum of ten (10) spaces required.

(d) *Child day care center and kindergarten:* One (1) space for each two hundred (200) square feet of floor area.

(e) *Food store:* One (1) space for each one hundred (100) square feet of floor space.

(f) *Hotel, motel, and bed and breakfast inn:* One and twenty-five one hundredths (1.25) spaces for each unit.

(g) *Lodge, fraternal or social organization:* One (1) space for each one hundred (100) square feet of floor area.

(h) *Office and clinic:* One (1) space for each two hundred fifty (250) square feet of floor area.

(i) *Place of worship:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for public worship.

(j) *Recreational facilities:*

(1) *Without fixed seating:* One (1) space for each two hundred (200) square feet of floor area;

(2) *With fixed seating:* One (1) space for each three (3) seats.

(k) *Restaurant:* One (1) space for each seventy-five (75) square feet of floor area.

(l) *Restaurant, drive-through, without seating area for patrons:* One (1) space for each one hundred (100) square feet of floor area, but not less than ten (10) spaces.

(m) *Retail uses, personal service uses, and other commercial and general business uses, but not including food stores:* Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.

(n) *School, private elementary and middle:* Two (2) spaces for each classroom.

(o) *School, private high:* Five (5) spaces for each classroom.

(p) *School, commercial vocational:* Ten (10) spaces for each classroom.

(q) *Shopping center:* Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.

(r) *Theater, funeral home, and other places of assembly:* One space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for seating.

(s) *Temporary outdoor social, religious, entertainment or recreation activity or flea market:* One (1) space for each one hundred (100) square feet of space used for such activity.

Sec. 2Y-10. Lot Coverage.

The lot coverage of each lot shall not exceed eighty (80) percent.

Sec. 2Y-11. Landscaping Requirement for Parking Lots.

See **Section 4-20**, Landscaping requirements for parking lots.

DIVISION 2*Z*. C-2 (GENERAL COMMERCIAL) DISTRICT

Sec. 2Z-1. Scope of Provisions.

The provisions contained within this section are the regulations of the C-2 (General Commercial) District.

Sec. 2Z-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the C-2 (General Commercial) District is as follows:

(a) To provide convenient general business and commercial service areas within the county for all residents;

(b) To provide for the development of new general commercial districts where so designated on the comprehensive plan;

(c) To assure that the uses authorized within the C-2 (General Commercial) District are those uses which are designed to serve the general business and commercial service needs of the county.

Sec. 2Z-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the C-2 (General Commercial) District:

(a) Animal hospital, veterinary clinic, pet supply store, animal grooming shop, and boarding and breeding kennel.

(b) Art gallery and art supply store.

(c) Automobile, boat, and trailer sales and service as follows:

(1) Automobile and truck sales.

(2) Automobile repair and paint shop.

(3) Automobile service station.

(4) Automobile, truck, and trailer lease and rentals.

(5) Automobile, truck, and trailer lease and rentals as accessory to an automobile service station.

(6) Automobile upholstery shop.

(7) Automobile wash service.

(8) Boat sales.

(9) Minor automobile repair and maintenance.

(10) Retail automobile parts and tire store.

(11) Storage yard for damaged automobiles or confiscated automobiles.

(12) Tire retreading and recapping.

(13) Trailer salesroom and sales lot.

(d) Bank, credit union and other similar financial institution.

(e) Check cashing establishment.

(f) Commercial recreation and entertainment:

(1) Adult entertainment establishments. (See also **Section 4-2**).

(2) Adult service facility.

(3) Bowling alley.

(4) Drive-in theater.

(5) Go-cart concession.

(6) Golf course.

(7) Golf driving range or batting cage facility.

(8) Miniature golf course.

(9) Movie theater.

(10) Recreation grounds and facilities.

(11) Recreational facilities carried on wholly within a permanently enclosed building.

(12) Tennis center, club and facilities.

(g) Communications uses, as follows:

(1) Radio and television broadcasting station.

(2) Telephone business office.

(h) Community facilities, as follows:

(1) Cultural facilities.

(2) Noncommercial club or lodge.

(3) Fraternal club or lodge.

(4) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(i) Construction contractors, as follows:

(1) General building contractor.

(2) Heavy construction contractor.

(3) Special trade contractor.

(j) Dwellings, as follows:

(1) Shelter for homeless persons.

(2) Transitional housing facility.

(k) Education uses as follows:

(1) Vocational school.

(2) Private elementary, middle or high school.

(3) Specialized non-degree schools.

(l) Lodging, as follows:

(1) Hotel.

(2) Motel.

(m) Manufacturing uses, as follows:

(1) Light malt beverage manufacturer.

(2) Light manufacturing establishment.

(n) Office uses as follows:

(1) Accounting office.

(2) Engineering and architectural office.

(3) Financial services office.

(4) Insurance office.

(5) Legal office.

(6) Medical office.

(7) Real estate office.

(o) Pawn shop.

(p) Place of worship.

(q) Printing establishments, as follows:

(1) Bookbinding and related work.

(2) Photoengraving, typesetting, electrotyping and stereotyping.

(3) Publishing and printing establishment.

(r) Restaurant, drive-through restaurant facilities, and restaurant accessory to a motel.

(s) Retail sales as follows:

(1) Apparel and accessories store.

(2) Book, greeting card, and stationery store.

(3) Camera and photographic supply store.

(4) Commercial greenhouse or plant nursery.

(5) Convenience store.

(6) Farm and garden supply store.

(7) Florist.

(8) Food stores including bakeries.

(9) Fuel dealers, manufacturers and wholesalers.

(10) Furniture, home furnishings and equipment store.

(11) General merchandise store.

(12) Gift, novelty, and souvenir store.

(13) Hardware store.

(14) Hobby, toy and game store.

(15) Jewelry store.

(16) Music and musical equipment store.

(17) News dealer and newsstand.

(18) Office supplies and equipment store.

(19) Pharmacy and drug store.

(20) Quick copy printing store.

(21) Retail liquor store, both independent stores and stores accessory to hotels, motels and high-rise office buildings.

(22) Shopping center.

(23) Specialty store.

(24) Sporting goods and bicycle sales.

(25) Variety store.

(26) Video tape sales and rental store.

(t) Services, personal, as follows:

(1) Barbershop, beauty shop, and similar personal service establishments.

(2) Business service establishment.

(3) Coin-operated laundry and dry-cleaning store and pickup station.

(4) Dry-cleaning plant.

(5) Funeral home.

(6) Linen and diaper service, garment pressing, alteration and repair.

(7) Outdoor advertising service.

(8) Personal care home, congregate.

(9) Personal care home, family.

(10) Personal care home, group.

(11) Personal care home, registered.

(12) Photographic studios.

(u) Services, repair, as follows:

(1) Heavy repair service and trade shop.

(2) Home appliance repair and related service.

(3) Jewelry repair store.

(4) Radio, television and home electronics repairs.

(5) Reupholstery, furniture and major appliance repair.

(6) Shoe repair store.

Sec. 2Z-4. Accessory Uses and Structures.

The following accessory uses of land and structures shall be authorized in the C-2 (General Commercial) District:

(a) Accessory uses and structures incidental to any authorized use.

(b) Signs and outdoor advertising in accordance with the provisions of the City's Sign Ordinance and this Chapter.

Sec. 2Z-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Telecommunications tower or antenna, subject to requirements of **Section 4-47**.

(2) Temporary outdoor sales of merchandise.

(3) Art shows, carnival rides and special events of community interest.

(4) Rodeos, horse shows, carnivals, athletic events and community fairs.

(5) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.

(b) *Special exception permit from the zoning board of appeals:* None.

(c) *Special land use permit from City Council:*

(1) Buildings in excess of two (2) stories in height.

(2) Temporary outdoor sales, seasonal.

Sec. 2Z-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the C-2 (General Commercial) District:

(a) *Lot width:* All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage.

(b) *Minimum lot area:* Thirty thousand (30,000) square feet.

(c) *Minimum setback requirements:*

(1) *From public street:*

a. *Front yard setback:* Seventy-five (75) feet.

(2) *Interior side yard:* Twenty (20) feet, five (5) feet of which shall be planted and landscaped.

(3) *Rear yard:* Thirty (30) feet.

Sec. 2Z-7. Transitional Buffer Zone Requirement.

Where a lot in the C-2 (General Commercial) District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than fifty (50) feet in width shall be provided

and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining residential use.

Sec. 2Z-8. Height of Buildings and Structures.

The maximum height of any building or structure shall not exceed two (2) stories and thirty-five (35) feet. Buildings exceeding two (2) stories in height shall be permitted only upon approval of a special land use permit by the City Council. Buildings in excess of three (3) stories must be approved by the department of fire and rescue services to assure adequacy of fire protection facilities and services.

Sec. 2Z-9. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the C-2 (General Commercial) District are as follows:

(a) *Adult entertainment establishments and adult service facilities:* One (1) parking space for each seventy-five (75) square feet of floor area in the building.

(b) *Automobile repair garage:* One (1) space for each one hundred fifty (150) square feet of floor space.

(c) *Automobile service station:* Three (3) spaces for each service bay, with minimum of ten (10) spaces required.

(d) *Bowling alley:* Five (5) spaces for each alley.

(e) *Food store:* One (1) space for each one hundred (100) square feet of floor space.

(f) *Hotel and motel:* One and twenty-five one-hundredths (1.25) spaces for each unit.

(g) *Lodge, fraternal or social organization:* One (1) space for each one hundred (100) square feet of floor area.

(h) *Office and clinic:* One (1) space for each two hundred fifty (250) square feet of floor area.

(i) *Place of worship:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for public worship.

(j) *Public swimming pool, golf course, neighborhood recreation center, or similar use:* Twenty (20) spaces except that an eighteen-hole golf course shall have forty (40) spaces.

(k) *Private swimming pool, golf course, neighborhood recreation center, or similar use:* One (1) space for each five (5) members but no less than twenty (20) spaces except that golf courses shall provide a minimum of twenty (20) spaces for each nine (9) holes.

(l) *Recreational facilities:*

(1) *Without fixed seating:* One (1) space for each two hundred (200) square feet of floor area.

(2) *With fixed seating:* One (1) space for each three (3) seats.

(m) *Restaurant:* One (1) space for each seventy-five (75) square feet of floor area, but not less than ten (10) spaces.

(n) *Restaurant, drive-through, without seating area for patrons:* One (1) space for each one hundred (100) square feet of floor area, but not less than ten (10) spaces.

(o) *Retail uses, personal service uses, and other commercial and general business uses, but not including food stores:* Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.

(p) *School, private elementary and middle:* Two (2) spaces for each classroom.

(q) *School, private high:* Five (5) spaces for each classroom.

(r) *Schools and colleges, including trade and vocational schools:* Ten (10) spaces for each classroom.

(s) *Shopping center:* Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.

(t) *Theater, auditorium, funeral home, gymnasium, stadium and other places of assembly:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for seating.

(u) *Temporary outdoor social, religious, entertainment or recreation activity or flea market:* One (1) space for each one hundred (100) square feet of space used for such activity.

Sec. 2Z-10. Lot Coverage.

The lot coverage of each lot shall not exceed eighty (80) percent.

Sec. 2Z-11. Landscaping requirement for parking lots.

See **Section 4-21**, Landscaping requirements for parking lots.

DIVISION 2AA. M (INDUSTRIAL) DISTRICT.

Sec. 2AA-1. Scope of Provisions.

The provisions contained within this section are the regulations of the M (Industrial) District.

Sec. 2AA-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the M (Industrial) District is as follows:

(a) To provide areas for the establishment of businesses engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment and the sale and distribution of such goods, merchandise or equipment in locations so designated in the comprehensive plan;

(b) To assure that all establishments located within the M (Industrial) District operate in compliance with the noise standards contained in this Chapter and that any negative noise impact resulting from the use of land within the M (Industrial) District is contained within the boundaries of said district and does not create noise problems for adjoining residential, office or commercial districts;

(c) To assure that M (Industrial) districts are so located that transportation access to major thoroughfares and freeways is available.

Sec. 2AA-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the M (Industrial) District:

(a) Agriculture and forestry uses as follows:

(1) Agricultural produce stand.

(2) Commercial greenhouse or plant nursery.

(3) Dairy.

(4) Field crops, production of.

(5) Fruits, tree nuts, and vegetables, production of.

(6) Livestock.

(7) Temporary or portable sawmills.

(b) Animal care facilities as follows:

(1) Animal hospital and veterinary clinic.

(2) Boarding and breeding kennel.

(3) Dog grooming shop.

(c) Automotive and boat and trailer sales and service uses as follows:

(1) Automobile and truck sales establishment.

(2) Automobile parking lots or parking garages, commercial.

(3) Automobile repair and paint shop.

(4) Automobile service station.

(5) Automobile, truck, and trailer lease and rental establishment.

(6) Automobile, truck, and trailer lease and rental establishment, as an accessory use to an automobile service station.

(7) Automobile upholstery shop.

(8) Automobile wash service.

(9) Boat sales establishment.

(10) Minor automobile repair and maintenance shop.

(11) Retail automobile parts and tire store.

(12) Tire retreading and recapping establishment.

(13) Trailer salesrooms and sales lot.

(d) Building materials and farm equipment establishments as follows:

(1) Electrical supply store.

(2) Farm equipment establishment.

(3) Lumber, hardware, and other building materials establishment.

(4) Paint, glass, and wallpaper store.

(5) Plumbing and heating equipment dealer.

(e) Check cashing establishment.

(f) Child day care center.

(g) Commercial recreation and entertainment establishments as follows:

(1) Adult entertainment establishments. (See also **Section 4-2**).

(2) Adult service facilities.

(3) Recreational facilities and entertainment activities carried on wholly within permanently enclosed buildings.

(h) Communications facilities as follows:

(1) Radio and television broadcasting station.

(2) Telephone business office.

(i) Community facilities as follows:

(1) Golf course and clubhouse, private.

(2) Neighborhood recreation center or swimming pool.

(3) Noncommercial club or lodge.

(4) Fraternal club or lodge.

(5) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(j) Construction contractors as follows:

(1) General building contractor.

(2) Heavy construction contractor.

(3) Special trade contractor.

(k) Education:

(1) College and university industry-associated research and training facilities.

(2) Vocational school.

(3) Private elementary, middle, or high school.

(l) Lodging uses as follows:

(1) Hotel.

(2) Motel.

(m) Manufacturing, as follows:

(1) Light malt beverage manufacturer.

(2) Light manufacturing establishment.

(n) Places of worship.

(o) Printing establishments, as follows:

(1) Bookbinding and related establishments.

(2) Photoengraving, typesetting, electrotyping and stereotyping.

(3) Publishing and printing establishment.

(p) Restaurant, drive through.

(q) Restaurant where accessory to a motel.

(r) Retail trade establishments, as follows:

(1) Accessory retail sales and services.

(2) Fuel and ice dealers, manufacturers and wholesalers.

(3) Incidental retail sales of goods produced and processed on the premises.

(4) Retail liquor store, as accessory use to hotel, motel, and high-rise office building.

(s) Services, personal, as follows:

(1) Barbershop and beauty shop.

(2) Business service establishment.

(3) Dry cleaning plant.

(4) Funeral home.

(5) Laundry and dry cleaning pickup station.

(6) Linen and diaper service, garment pressing, alteration and repair.

(7) Miscellaneous personal services.

(8) Outdoor advertising services.

(9) Power laundries.

(10) Research and testing facilities and laboratories.

(t) Services, repair, as follows:

(1) Heavy repair services and trade shop.

(2) Home appliance repair and related service.

(3) Jewelry repair.

(4) Light repair service.

(5) Radio and television repair.

(6) Reupholstery, furniture and major appliance repair.

(u) Services, medical and health, as follows:

(1) Private ambulances and medical services.

(2) Clinic and pharmacy.

(3) Medical and dental laboratory.

(4) Offices of health service practitioners.

(5) Nursing care facilities.

(v) Services, other, as follows:

(1) Engineering and architectural office.

(2) Finance, real estate, insurance office and financial institution.

(w) Transportation and storage uses as follows:

(1) Automobile parking.

(2) Heliport.

(3) Self-storage warehouse.

(4) Storage yard.

(5) Taxi stand and dispatching agency.

(6) Transportation equipment and vehicle storage and maintenance.

(7) Warehousing and storage.

(x) Wholesale trade as follows:

(1) Wholesale sales office.

(2) Wholesale trade and distribution establishment.

Sec. 2AA-4. Accessory Uses and Structures.

The following accessory uses of land and structures shall be authorized in the M (Industrial) District:

(a) Accessory uses and structures incidental to any authorized use, including a single dwelling unit or mobile home to be used to house a security person on the premises.

(b) Signs and outdoor advertising in accordance with the provisions of the City's Sign Ordinance and this Chapter.

Sec. 2AA-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) *Special administrative permit from director of public works:*

(1) Telecommunications tower or antenna, subject to requirements of **Section 4-47**.

(2) Temporary outdoor sales of merchandise.

(3) Art shows, carnival rides and special events of community interest.

(4) Rodeos, horse shows, carnivals, athletic events and community fairs.

(5) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.

(b) *Special exception permit from the zoning board of appeals:* None.

(c) *Special land use permit from City Council:*

(1) Bus or rail freight or passenger terminal.

(2) Crematory.

(3) Mines and mining operations, quarries, asphalt plants, gravel pits, and sand pits.

(4) Railroad car classification yards and team truck yards.

(5) Temporary outdoor sales, seasonal.

(6) Truck stop.

(7) Truck terminal.

Sec. 2AA-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the M (Industrial) District:

(a) *Lot width:* All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage.

(b) *Minimum lot area:* Thirty thousand (30,000) square feet.

(c) *Minimum setback requirements:*

(1) *From public street:*

a. *Front yard:* Seventy-five (75) feet.

b. *Side yard:* Twenty (20) feet, except where transitional buffer zone is required.

(2) *Rear yard:* Thirty (30) feet, except where transitional buffer zone is required.

Sec. 2AA-7. Transitional Buffer Zone Requirement.

Where a lot in the M (Industrial) District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than seventy-five (75) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining residential use.

Sec. 2AA-8. Lot Coverage.

The lot coverage of each lot shall not exceed eighty (80) percent.

Sec. 2AA-9. Height of Buildings and Structures.

No building or structure shall exceed five (5) stories in height. Buildings exceeding five (5) stories in height shall be permitted only upon approval of a special land use permit by the City Council.

Sec. 2AA-10. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the M (Industrial) District are as follows:

(a) *Adult entertainment establishments and adult service facilities:* One (1) parking space for each seventy-five (75) square feet of floor area in the building. (See **Section 4-2**, Adult entertainment establishments).

(b) *Ambulance services, delivery services and other similar services:* One (1) parking space for each vehicle plus one (1) additional space for each two (2) administrative or service employees.

(c) *Automobile repair garages:* One (1) space for each one hundred fifty (150) square feet of floor space.

(d) *Automobile service stations:* Three (3) spaces for each service bay, with minimum of ten (10) spaces required.

(e) *Bowling alleys:* Five (5) spaces for each alley.

(f) *Child day care centers:* One (1) space for each two hundred (200) square feet of floor area.

(g) *Funeral homes and other places of assembly:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for seating.

(h) *Hotels and motels:* One hundred and twenty-five hundredths (1.25) spaces for each unit.

(i) *Industrial, manufacturing, and commercial establishments not involving retail sales:* One (1) space for each two thousand (2,000) square feet of floor area.

(j) *Lodges, fraternal or social organizations:* One (1) space for each one hundred (100) square feet of floor area.

(k) *Nursing care facilities, and similar institutional uses:* One (1) space for each two (2) beds.

(l) *Offices and clinics:* One (1) space for each two hundred fifty (250) square feet of floor area.

(m) *Place of worship:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for public worship.

(n) *Public swimming pools, golf courses, neighborhood recreation centers, or similar uses:* Twenty (20) spaces except that an eighteen-hole golf course shall have forty (40) spaces.

(o) *Private swimming pools, golf courses, neighborhood recreation centers, or similar uses:* One (1) space for each five (5) members but no less than twenty

(20) spaces except that golf courses shall provide a minimum of twenty (20) spaces for each nine (9) holes.

(p) *Recreational facilities:*

(1) *Fixed seating:* One (1) space for each two hundred (200) square feet of floor area.

(2) *With fixed seating:* One (1) space for each three (3) seats.

(q) *Restaurants:* One (1) space for each seventy-five (75) square feet of floor area, but not less than ten (10) spaces.

(r) *Restaurants, drive-through, without seating area for patrons:* One (1) space for each one hundred (100) square feet of floor area, but not less than ten (10) spaces.

(s) *Retail uses, personal service uses, and other commercial and general business uses:* Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.

(t) *Schools, private elementary and middle:* Two (2) spaces for each classroom.

(u) *Schools, private high:* Five (5) spaces for each classroom.

(v) *Schools and colleges, including trade and vocational schools:* Ten (10) spaces for each classroom.

(w) *Temporary outdoor social, religious, entertainment or recreation activity or flea market:* One (1) space for each one hundred (100) square feet of space used for such activity.

(x) *Wholesale or jobbing establishments and similar uses:* One (1) space for each two hundred (200) square feet of floor area devoted to sales or display plus one (1) space for each two thousand (2,000) square feet of gross storage area.

Sec. 2AA-11. Noise Limitations.

All uses authorized and permitted within the M (Industrial) District shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

Sec. 2AA-12. Landscaping Requirement for Parking Lots.

See **Section 4-21** Landscaping requirements for parking lots.

DIVISION 2BB. M-2 (INDUSTRIAL) DISTRICT

Sec. 2 BB-1. Scope of Provisions.

The provisions contained within this section are the regulations of the M-2 (Industrial) District.

Sec. 2BB-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the M-2 (Industrial) District is as follows:

(a) To provide areas for manufacturing, warehousing and distribution facilities at locations so designated in the comprehensive plan;

(b) To assure that all businesses located within the M-2 (Industrial) District operate in compliance with the noise standards contained in this Chapter and that any negative noise impact resulting from the use of land within the M-2 (Industrial) District is contained within the boundaries of said district and does not create noise problems for adjoining residential, office or commercial districts;

(c) To assure that industrial districts are so located that transportation access to major thoroughfares and freeways is available.

Sec. 2BB-3. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the M-2 (Industrial) District:

(a) Agriculture and forestry uses as follows:

(1) Dairy.

(2) Livestock sales pavilion or farmer's market.

(3) Temporary or portable sawmill.

(b) Animal care facilities as follows:

(1) Animal hospital and veterinary clinic.

(2) Boarding and breeding kennel.

(c) Automotive and boat and trailer sales and service uses as follows:

(1) Automotive repair and paint shop.

(2) Automobile, truck, and trailer lease and rental establishment.

(d) Commercial recreation and entertainment as follows:

(1) Coliseum or stadium.

(2) Drive-in theater.

(3) Fairground and amusement park.

(4) Golf or baseball driving range.

(5) Miniature golf course.

(6) Recreation grounds and facilities.

(7) Adult Entertainment Establishments (See also **Section 4-2**)

(e) Community facilities as follows:

(1) Utility structure necessary for the transmission or distribution of service (**Section 4-38**).

(f) Construction contractors, as follows:

(1) General building contractor.

(2) Heavy construction contractor.

(3) Special trade contractor.

(g) Education uses as follows:

(1) Vocational school.

(h) Heavy manufacturing establishments as follows:

(1) Alcohol or alcoholic beverage manufacture.

(2) Automobile and truck manufacture.

(3) Brick, clay, tile or concrete products manufacture.

(4) Cement, lime, gypsum or plaster of Paris manufacture.

(5) Chemical manufacture, inorganic and organic.

(6) Distillation of bones and glue manufacture.

(7) Dye works.

(8) Fabricated metal manufacture.

(9) Fat rendering and fertilizer manufacture.

(10) Ice manufacturing plant.

(11) Industrial establishments engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment, or the wholesaling or distribution of said goods, merchandise or equipment.

(12) Leather manufacture and processing.

(13) Paper and paper pulp manufacture.

(14) Rubber and plastics manufacture.

(15) Sugar refineries.

(16) Transportation equipment manufacture.

(i) Light manufacturing establishment.

(j) Retail sales as follows, but not including adult entertainment establishment and not including adult service facility:

(1) Incidental retail sales of goods produced and processed on the premises.

(k) Services, other, as follows:

(1) Engineering and architectural office.

(l) Services, personal, as follows:

(1) Funeral home.

(m) Transportation and storage uses as follows:

(1) Automobile parking.

(2) General aviation airport.

(3) Heliport.

(4) Self-storage warehouse.

(5) Storage yard.

(6) Transportation equipment and vehicle storage and maintenance.

(7) Warehousing and storage.

(n) Wholesale trade as follows:

(1) Petroleum bulk station.

(2) Wholesale trade and distribution establishment.

Sec. 2BB-4. Accessory Uses and Structures.

The following accessory uses of land and structures shall be authorized in the M-2 (Industrial) District:

(a) Accessory uses and structures incidental to any authorized use.

(b) Signs and outdoor advertising in accordance with the provisions of the City's Sign Ordinance and this Chapter.

Sec. 2BB-5. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

(a) Special administrative permit from director of public works:

(1) Telecommunications tower or antenna, subject to requirements of **Section -47**.

(2) Art shows, carnival rides and special events of community interest.

(3) Rodeos, horse shows, carnivals, athletic events and community fairs.

(4) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one such fourteen-day time period within any calendar year.

(b) Special exception permit from the zoning board of appeals: None.

(c) Special land use permit from City Council:

(1) Automobile wrecking yard or junk yard.

(2) Biomedical waste disposal facility, disposal facility, landfill, materials recovery center, solid waste disposal facility, solid waste landfill, private industry solid waste disposal facility, recovered materials processing facility, solid waste handling facility, solid waste thermal treatment technology facility, and disposal facility for hazardous and/or toxic materials including radioactive materials.

(3) Crematory.

(4) Explosive manufacture or storage.

(5) Industrial or business service activities which utilize, manufacture, or process radioactive materials which emit or could emit radioactive levels of one thousand (1,000) curies or more and are licensed by the radiological health division of the Georgia Department of Human Resources.

(6) Intermodal freight terminal, bus or rail freight or passenger terminal, or truck terminal.

(7) Manufacturing operations not housed within a building.

(8) Mines and mining operations, quarries, asphalt plants, gravel pits, and sand pits.

(9) Petroleum refining.

(10) Railroad car classification yards and team truck yard.

(11) Railroad classification and repair yard.

(12) Smelting of metal ores or drop forge industry.

(13) Storage yard for damaged or confiscated automobiles.

(14) Temporary outdoor sales, seasonal.

(15) Truck stop.

(16) Utility generation facilities.

Sec. 2BB-6. Lot Width; Lot Area; Setbacks.

The following requirements shall apply to all lots and structures in the M-2 (Industrial) District:

(a) *Lot width:* All lots shall have at least one hundred fifty (150) feet of frontage as measured along the public street frontage.

(b) *Minimum lot area:* Two (2) acres for all heavy industrial uses and two (2) acres for all uses permitted by special land use permit; one (1) acre minimum lot size for all other uses.

(c) Minimum setback requirements:

(1) From public street:

a. *Front yard:* Seventy-five (75) feet.

b. *Side yard:* Twenty (20) feet, except where transitional buffer zone is required.

(2) *Rear yard:* Thirty (30) feet, except where transitional buffer area is required.

Sec. 2BB-7. Transitional Buffer Zone Requirement.

Where a lot in the M-2 (Industrial) District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than one hundred (100) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining residential use.

Sec. 2BB-8. Lot Coverage.

The lot coverage of each lot shall not exceed eighty (80) percent.

Sec. 2BB-9. Height of Buildings and Structures.

No building or structure shall exceed five (5) stories in height. Buildings exceeding five (5) stories in height shall be permitted only upon approval of a special land use permit by the City Council.

Sec. 2BB-10. Off-Street Parking Requirement.

Off-street parking requirements for uses and structures authorized and permitted in the M-2 (Industrial) District are as follows:

(a) *Ambulance service, delivery service and other similar services:* One (1) parking space for each vehicle plus one (1) additional space for each two (2) administrative or service employees.

(b) *Funeral home, and other places of assembly:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for seating.

(c) *Automobile repair garage:* One (1) space for each one hundred fifty (150) square feet of floor space.

(d) *Heavy and light industrial, manufacturing, and commercial establishments not involving retail sales:* One (1) space for each two thousand (2,000) square feet of floor area.

(e) *Offices:* One (1) space for each two hundred fifty (250) square feet of floor area.

(f) *Place of worship:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for public worship.

(g) *Public swimming pool, golf course, neighborhood recreation center, or similar use:* Twenty (20) spaces except that an eighteen-hole golf course shall have forty (40) spaces.

(h) *Private swimming pool, golf course, neighborhood recreation center, or similar use:* One (1) space for each five (5) members but no less than twenty (20) spaces except that golf courses shall provide a minimum of twenty (20) spaces for each nine (9) holes.

(i) *Recreational facilities* :

(1) *Without fixed seating:* One (1) space for each two hundred (200) square feet of floor area;

(2) *With fixed seating:* One (1) space for each three (3) seats.

(j) *Retail uses-incidental, personal service uses, and other commercial and general business uses:* Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.

(k) *Temporary outdoor social, religious, entertainment or recreation activity or flea market:* One (1) space for each one hundred (100) square feet of space used for such activity.

(l) *Vocational school:* Ten (10) spaces for each classroom.

(m) *Wholesale or jobbing establishments and similar uses:* One (1) space for each two hundred (200) square feet of floor area devoted to sales or display plus one (1) space for each two thousand (2,000) square feet of gross storage area.

(n) *Sexually Oriented Businesses*: One (1) parking space for each seventy-five (75) square feet of floor area in the building.

Sec. 2BB-11. Noise Limitations.

All uses authorized and permitted within the M-2 (Industrial) District shall operate in compliance with the noise limitation requirements contained in **Section 4-30** of this Chapter.

Sec. 2BB-12. Landscaping Requirement for Parking Lots.

See **Section 4-21**, Landscaping requirements for parking lots.

Sec. 2BB-13. Signs.

Signs are allowed in accordance with the provisions of the City's Sign Ordinance and this Chapter.

DIVISION 2CC. PC (PEDESTRIAN COMMUNITY) DISTRICT

Sec. 2CC-1. Scope of Provisions.

The provisions within this division regulate the Pedestrian Community (PC) District. This division establishes the procedures and criteria to use when amending the official zoning maps to accommodate PC District zoning classifications.

Sec. 2CC-2. Statement of Purpose and Intent.

The purpose and intent of PC District regulations are to encourage the development of comprehensively planned, pedestrian-oriented, and human-scaled places. The PC District is to permit the flexible and compatible arrangement of residential, commercial, office, institutional, and civic uses, while preserving the significant and valuable features of the natural and artificial environment. The development of a PC District should achieve the following public objectives:

(a) To maintain harmony of scale, intensity, and design with surrounding development;

(b) To provide for a variety of housing types and styles within a residential component;

(c) To facilitate easy and pedestrian-friendly access to compatible and neighboring commercial, civic, recreational, and institutional uses;

(d) To design and arrange structures, buildings, streets and open spaces to create an inviting, walkable, human-scale environment;

(e) To incorporate the significant and valuable environmental, historic, and archeological features of the zoning district into design of the pedestrian-community;

(f) To provide the efficient and effective use of land within the pedestrian-community;

(g) To strengthen the diversity and sense of residential harmony within the pedestrian-community;

(h) To provide for connectivity of streets and communities and reduce the dependence on automobile uses by increasing the ease of movement and opportunities for alternative modes of travel; and

(i) To encourage a proportional relationship of surrounding buildings with respect to the general spacing of structures, building mass and scale, and street frontage by using techniques to achieve compatibility, such as:

(1) Use of building silhouette: pitch and scale of rooflines;

(2) Use of additional facade detail: proportion of facade elements, doorways, projections and insets; window scale and pattern; creation of strong shadow lines as decorative elements;

(3) Use of unified setbacks from property lines;

(4) Use of landscaping to unify buildings and define space; and

(5) Use of compatible building materials.

Sec. 2CC-3. General Standards and Procedures.

(a) *Three subdistricts.* The PC District shall consist of three (3) subdistricts known as PC-1, PC-2 and PC-3. The rezoning to and development of PC-1, PC-2 and PC-3 subdistricts shall be governed by the procedures set forth in **Sections 2CC-14, 2CC-15 and 2CC-16**, respectively.

(b) *Unified ownership and control.* Applicants for rezoning to the PC District shall include the written identification of the owner(s) of the property subject to the rezoning and shall include the legal entity or individual(s) who will exercise control of the land development process. More than one (1) developer may participate in the development of a parcel within a PC District, subject to all the terms and conditions of approved development plans for the entire PC District.

(c) *Phasing.* All stages of a proposed multiple-phasing of a PC District land development and construction must be identified in the initial PC District rezoning application. Each stage and phase of the PC District land development and must meet the requirements of this Chapter and division so that the County governing authority has all of the information and detailed plans required by this section to approve all phases of the development at the time the initial zoning ordinance amendment is sought by the applicant. Major changes, as defined in **Section 5A-25**, to the phases of a land development and construction shall require an application for an amendment to the zoning ordinance, review by the Community Council and planning commission, and the approval by the City Council at a public hearing.

(d) *Plan application requirements.* In addition to requirements of an application to amend the official zoning maps (**Article V**, **Division 5A**, of this Chapter), each application for rezoning to the PC District shall meet the applicable provisions of the City's subdivision regulations and of this Chapter. In addition, each application for the PC District shall include the following:

(1) Ten (10) copies of a site plan drawn to a designated scale of not less than one inch equals one hundred feet (1" = 100'), certified by a professional engineer or land surveyor licensed by the State of Georgia, presented on a sheet having a maximum size of 24" × 36", and one (1) 8 1/2" × 11" reduction of the plan. If presented on more than one (1) sheet, match lines shall clearly indicate where the several sheets join. Such plan shall contain the following information:

(A) Boundaries of the entire property proposed to be included in the PC District development, with bearings and distances of the perimeter property lines;

(B) Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics;

(C) Location, size and dimensions in length and width of all landscape areas, transitional buffers, and open space;

(D) Existing topography with a maximum contour interval of five (5) feet and a statement indicating whether it is an air survey or field run;

(E) Delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or City of Dunwoody;

(F) The delineation of any jurisdictional wetlands as defined by Section 404 of the Federal Clean Water Act;

(G) Approximate delineation of any significant historic or archeological feature, grave, object or structure marking a place of burial if known, and a statement indicating how the proposed development will impact it;

(H) A delineation of all existing structures and whether they will be retained or demolished;

(I) Location of all proposed uses, lots, buildings, building types and building entrances;

(J) Height and setback of all buildings and structures;

(K) Areas and development density for each type of proposed use;

(L) Location, size, and number of all on-street and off-street parking spaces, including a shared parking analysis, if shared parking is proposed;

(M) Identification of site access points and layout, width of right-of-way and paved sections of all internal streets;

(N) Conceptual plans for drainage with approximate location and estimated size of all proposed stormwater management facilities and a statement as to the type of facility proposed;

(O) Development density and lot sizes for each type of use;

(P) Areas to be held in joint ownership, common ownership or control;

(Q) Identification of site access points and layout, width of right-of-way and paved sections of all internal streets;

(R) Location of proposed sidewalks and bicycle facilities trails, recreation areas, parks, and other public or community uses, facilities, or structures on the site;

(S) A conceptual layout of building designs including elevations showing architectural details of proposed buildings, exterior materials, all of which shall demonstrate that the proposed design is in compliance with all of the requirements of the PC District regulations;

(T) Conceptual layout of utilities and location of all existing or proposed utility easements having a width of ten (10) feet or more;

(U) Standard details of signs, sidewalks, streetlights, driveways, medians, curbs and gutters, landscaped areas, fencing, grating, street furniture, bicycle lanes, streets, alleys, and other details demonstrating compliance with the PC District regulations; and

(V) Seal and signature of professional preparing the plan.

(2) A written statement explaining how the proposed PC District development will meet the standards of this division, including the objectives of **Section 4-61.2**. If not previously included on the plan required by **Section 4-61.3**, the written statement shall also include the type of PC subdistrict requested, the number of acres in each land use, the number of dwelling units by type, the gross residential density, the commercial density, the common open space acreage, the anticipated number, type and size of recreational facilities and other public amenities, and the legal mechanism for protecting and maintaining common open space.

(3) For parcels zoned PC-1 and PC-3, a multi-modal access plan, prepared at a scale not greater than 1"=100', to demonstrate a unified plan of continuous access to and between all structures in the proposed development and adjacent properties. The multi-modal access plan shall cover the entire proposed development along with public rights of way of adjoining streets and any other property lying between the subject property and the nearest public streets on all sides. Connections to available transportation modes, such as driveways, sidewalks, and bike paths shall be shown along adjacent streets and those entering adjoining properties. Safe and convenient pedestrian pathways shall be provided from sidewalks along streets to each structure entrance, including pedestrian access routes across parking lots and between adjacent buildings within the same development. Where an existing or planned public transportation station or stop is within one thousand two hundred fifty (1,250) feet from the nearest boundary of the subject property, the access plan shall show how pedestrians may safely travel from such station or stop to the subject property. Where an existing or planned bike

path is located within one thousand five hundred (1,500) feet from the nearest boundary of the subject property, the access plan shall show how safe, continuous and convenient bicycle access shall be provided to the subject property.

Sec. 2CC-4. Accessory Uses, Buildings, and Structures.

Accessory uses and structures incidental to any authorized use, as defined in **Section 4-1** of this Code, are authorized.

Sec. 2CC-5. Special Permits.

If not specifically allowed as a permitted use in the applicable PC subdistrict, the following uses may be authorized by special permits of the type indicated:

(a) Special administrative permit from director of development:

(1) Home occupation involving no customer contact and no employee other than a person residing on the premises.

(b) Special exception from zoning board of appeals:

(1) Utility structure necessary for transmission or distribution of service in compliance with the requirements of **Section 4-380**.

(c) Special land use permit from the City Council, subject to the applicable criteria of **Section 5B**:

(1) Adult day care facility.

(2) Child day care facility.

(3) Home stay bed and breakfast residence.

(4) Kindergarten.

(5) Personal care home, group.

(6) Personal care home, congregate.

(7) Place of worship.

(8) Private elementary, middle or high school.

(9) Telecommunications towers.

Sec. 2CC-6. Lot Area and Yard Requirements.

(a) Minimum lot area, width, and coverage for authorized structures in the PC District shall be as follows:

(1) Single-family detached dwelling:

(A) *Minimum lot area:* Four thousand five hundred (4,500) square feet.

(B) *Minimum lot width:* Fifty (50) feet.

(C) *Maximum lot coverage:* Fifty-five (55) percent of the individual lot.

(2) Single-family attached dwelling:

(A) *Minimum lot area:* Three thousand two hundred fifty (3,250) square feet.

(B) *Minimum lot width:* Twenty-five (25) feet.

(C) *Maximum lot coverage:* Eighty (80) percent of the individual lot.

(3) Two-family dwelling:

(A) *Minimum lot area:* Five thousand five hundred (5,500) square feet.

(B) *Minimum lot width:* Sixty (60) feet.

(C) *Maximum lot coverage:* Fifty-five (55) percent of the individual lot.

(4) Multi-family dwelling:

(A) *Minimum lot area:* Twenty-one thousand seven hundred eighty (21,780) square feet.

(B) *Minimum lot width:* One hundred (100) feet.

(C) *Maximum lot coverage:* Sixty-five (65) percent of the individual lot.

(5) Commercial/office/civic building:

(A) *Minimum lot area:* Three thousand five hundred (3,500) square feet.

(B) *Minimum lot width:* Twenty-five (25) feet.

(C) *Maximum lot coverage:* Eighty (80) percent of the individual lot.

(b) Yard requirements:

(1) Single-family detached dwelling on a new street:

(A) *Front yard:* shall be no less than ten (10) feet and no more than twenty-five (25) feet. Where dwellings have front entry garages, the front of the garage shall be set back at least twelve (12) feet from the front yard line.

(B) *Minimum interior side yard:* Seven and one-half (7.5) feet on each side.

(C) *Minimum side yard along side street on corner lot:* Fifteen (15) feet.

(D) *Minimum rear yard:* Twenty (20) feet.

(2) Single-family attached dwelling on a new street:

(A) *Front yard:* shall be no less than ten (10) feet and no more than twenty (20) feet.

(B) *Minimum side yard:* Fifteen (15) feet on each side.

(C) *Minimum rear yard:* Fifteen (15) feet.

(3) Two-family dwelling on a new street:

(A) *Front yard:* shall be no less than ten (10) feet and no more than twenty-five (25) feet. Where dwellings have front entry garages, the front of the garage shall be set back at least twenty-two (22) feet from the front property line.

(B) *Minimum interior side yards:* Seven and one-half (7.5) feet on each side.

(C) *Minimum side yard along side street on corner lot:* Fifteen (15) feet.

(D) *Minimum rear yard:* Twenty (20) feet.

(4) Multi-family dwelling on a new street:

(A) *Front yard:* shall be no less than ten (10) feet and no more than twenty (20) feet.

(B) *Minimum side yard:* Fifteen (15) feet on each side.

(C) *Minimum rear yard:* Fifteen (15) feet.

(5) Non-residential buildings on a new street:

(A) *Front yard:* shall be a minimum of zero (0) feet and a maximum of fifteen (15) feet.

(6) *Residential dwellings on existing streets:* New residential structures on existing streets shall match the front yard setbacks of existing structures on adjoining properties, as described in this subsection. When a lot is located on a block where sixty (60) percent or more of the lots on the same block have residential structures, and where there are existing buildings fronting on the same street and within the same zoning district within seventy-five (75) feet of the side lot lines of such new residential structure, the front yard setbacks of the new residential structure shall be the average of front yard setbacks of existing residential structures on the lots within seventy-five (75) feet of the side lot lines of the lot for the new residential structure. If the lot is unable to meet said averaging due to a lack of the required adjacent residential development then the yard requirements of 27-649.6(b) as applicable to new streets shall apply.

(7) *Non-residential buildings on existing streets:* New non-residential structures on existing streets shall match the front yard setbacks of existing structures on adjoining properties as described in

this subsection. When a lot is located within a block where sixty (60) percent or more of the lots within said block have non-residential development, and where there are existing structures fronting on the same street and within the same zoning district within seventy-five (75) feet of the side lot lines of such new non-residential structures, the front yard setbacks generally shall be the average of front yard setbacks of non-residential structures on lots within one hundred (100) feet of the side lot lines of the lot. If the lot is unable to meet said averaging, then the yard requirements of 27-649.6(b), as applicable to new streets, shall apply.

Sec. 2CC-7. Transitional Buffer Zone Requirements.

Where a lot on the external boundary of a PC District is used for non residential purposes and adjoins the boundary of any property outside the district that is zoned for any R-zoning classification, RM-zoning classification, MHP-zoning classification, or TND-zoning classification, a transitional buffer zone of not less than fifty (50) feet in width shall be provided and maintained in a natural state or so as to maintain an effective visual screen. Said transitional buffer zone shall not be paved or otherwise covered with non-pervious surfaces and shall not be used for parking, loading, storage or any other use, except that portions of the transitional buffer zone may be utilized for installation of utilities when necessitated by the development, and when the applicant shows that the utilities cannot be located outside of the transitional buffer zone. Water detention ponds shall not be located within the transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone.

Sec. 2CC-8. Design Requirements.

(a) The front facades of all principal residential and non-residential structures shall be oriented to a public street and sidewalk.

(b) The front facades of non-residential structures shall not be oriented toward a parking lot.

(c) Non-residential structures shall use doorways, windows, and other openings in the facade of the building to break up the mass of each building.

(d) Non-residential structures shall provide fenestration for a minimum of seventy-five (75) percent of the length of the building frontage along the sidewalk, beginning at a point not more than three (3) feet above the public sidewalk and for a height not less than ten (10) feet above the sidewalk.

(e) Non-residential structures shall not exceed a maximum continuous length of ten (10) feet of facade without fenestration.

(f) New residential structures and new non-residential structures shall maintain the architectural character which are in their immediate surroundings.

Sec. 2CC-9. Streets.

(a) All streets within the PC District shall be public streets. Private streets will not be allowed. Streets shall comply with the requirements of public streets found in the City's subdivision regulations and other applicable sections of this Code.

(b) Streets shall be designed to create an interconnected system of grid-patterned roads, modified only to accommodate topographical conditions.

(c) All sides of a residential street in the PC District shall contain nine-foot wide sidewalks, consisting of a four-foot wide street tree planting zone measured from the back of the curb and a five-foot wide pedestrian zone. In the mixed use component of the PC-3 subdistrict, sidewalks shall be a minimum of thirteen (13) feet, consisting of a four-foot wide street tree planting zone measured from the back of the curb and a nine-foot wide pedestrian zone.

Sec. 2CC-10. Maintenance of Common Land.

(a) In an application for the PC District zoning designation, each applicant shall provide the proposed legal mechanism in which all land held in common and used for open space, common open space or greenspace purposes shall be protected in perpetuity. The legal mechanisms may include deed restrictions, homeowner associations, common areas held in common ownership or control, or any other legal creation, and shall be reviewed and approved by the county attorney as meeting each of the following mandatory requirements:

(1) That all land held in common shall remain undivided and undeveloped, in perpetuity;

(2) That all subsequent property owners of property within the parcel and development are placed on notice of this development restriction through the deed records of City of Dunwoody Superior Court;

(3) That all land held in common will be properly maintained and insured with no liability or maintenance responsibilities accruing to the county;

(4) That a legal mechanism exists for notice of deficiencies in maintenance of the land held in common, correction of these deficiencies, and assessment and liens against the properties for the costs of the correction of these deficiencies by a third party or the county;

(5) That the legal mechanism be created and implemented prior to the sale of any individual properties within the PC District parcel; and

(6) That all requirements of the legal mechanism chosen by the applicant and approved by the county attorney be specified on the final plat and recorded with the clerk of the superior court of City of Dunwoody.

(b) When an applicant for a PC District zoning designation chooses to utilize a homeowners association in order to comply with the requirements of **subsection**

(a) of this section, the applicant, in addition to meeting all of said requirements, shall provide for all of the following:

(1) Mandatory and automatic membership in the homeowners association as a requirement of dwelling unit and real property ownership;

(2) All residential owners shall have equal access and right of use to all common and shared facilities;

(3) A fair and uniform method of assessment for dues, maintenance and related costs;

(4) Where appropriate, party wall maintenance and restoration in the event of damage or destruction;

(5) Perpetual and continued maintenance of land held in common and liability through the use of liens or other means in the case of default; and

(6) That all required covenants, declarations and restrictions be filed with the clerk of the superior court of City of Dunwoody.

Sec. 2CC-11. Off-Street Parking.

(a) Off-street parking requirements for uses and structures are authorized and permitted, as follows:

(1) *Adult day care facility:* Four (4) spaces.

(2) *Child day care facility:* Four (4) spaces.

(3) *Dwellings:*

(A) *Single-family detached:* Two (2) spaces.

(B) *Single-family attached:* Two (2) spaces.

(C) *Multi-family:* One (1) space for every dwelling unit and one-half (0.5) parking space for each bedroom.

(4) Elementary, middle or high school:

(A) *Elementary, middle school:* Two (2) spaces for each classroom.

(B) *High school:* Five (5) spaces for each classroom.

(5) *Kindergarten:* One (1) space per two hundred (200) square feet of floor area.

(6) *Neighborhood recreation club:* One (1) space for each five (5) members, but no less than twenty (20) spaces.

(7) *Personal care home, congregate:* One (1) space for every four (4) authorized residents.

(8) *Personal care home, family:* Four (4) spaces.

(9) *Personal care home, group:* Four (4) spaces.

(10) *Personal care home, registered:* Four (4) spaces.

(11) *Place of worship:* One (1) space for each five (5) seats in the largest assembly room used for public worship or where fixed seats are not used, one (1) space for each fifty (50) square feet of floor space in the largest assembly room used for public worship.

(12) *Other uses:* One (1) parking space for every three hundred (300) square feet of gross building area.

(b) Shared-parking is encouraged and may result in permitted reductions of off-street parking requirements. Parking facilities within the parcel may be shared if multiple uses cooperatively establish and operate parking facilities and if these uses generate parking demands primarily when the remaining uses are not in operation, so that the above stated off-street parking requirements for each use are met or exceeded during said use's operational hours. Applicants may make application to the director of planning for authorization for shared-parking. Applicants shall include proof of a written formal shared-parking agreement between all applicants.

(c) All parking lots for commercial, office, civic, institutional, or public uses shall be located at the rear or side of the building. If located at the side, the lot shall be screened through the use of solid street walls or landscaping to reduce visual impact. Street walls shall be a minimum of five (5) feet in height and a maximum of six (6) feet in height and shall provide a minimum of eighty (80) percent opacity. Street walls shall not consist of chain link fencing with plastic inserts. Acceptable materials for street walls will include, but not be limited to, wood slats, brick or pierced brick garden walls.

Sec. 2C-12. Signs.

All PC Districts shall comply with the requirements of the City's Sign Ordinance of this Code. Additionally, ground signs shall be monument style signs with a base and framework made of brick or stone.

Sec. 2CC-13. Relation of PC District Regulations to Subdivision or Other Regulations.

The PC District regulations shall apply to all PC Districts. To the extent the subdivision or other regulations impose additional requirements beyond those contained in this division, such additional requirements also shall apply. Where there are conflicts between the PC District regulations and land subdivision requirements contained in the City's subdivision regulations or other regulations within this Code, the PC District regulations shall control. If the City Council approves an application to rezone property to a PC District zoning classification and such approval complies with all the applicable requirements of the PC District regulations, then the approved plan shall be considered and treated as a preliminary plat, as defined by the City's subdivision regulations of this Code.

Sec. 2CC-14. Development Standards for PC-1 District.

The PC-1 District should form a smooth transition between existing residential areas and higher density residential and commercial uses. In addition to the standards set forth above, the following standards and criteria shall apply to PC-1 Districts.

(a) PC-1 Districts shall meet each of the following criteria:

(1) The parcel shall be located within areas zoned and developed as low to medium density single-family residential neighborhoods;

(2) The parcel shall contain one (1) or more of the following environmentally sensitive site features that warrant protection through the use of a clustering design within an overall lower density setting: wetlands; scenic views; forested areas; surface water; historic or archeological features; unique topography; and

(3) Development of the parcel would support a long-term strategy of protecting the character of existing neighborhoods and providing for compatible growth consistent with the comprehensive land use plan.

(b) The following principal uses and structures shall be authorized in the PC-1 District:

(1) Residential uses as follows:

(A) Dwelling, single-family detached.

(B) Personal care home, family.

(C) Personal care home, registered.

(D) Dwelling, single-family attached.

(E) Dwelling, two-family.

(2) Commercial and office uses authorized in **Section 2-X** (Neighborhood Shopping District).

(3) Open space(s) and common open space(s).

(4) Community meeting and recreation facilities, including but not limited to, swimming pools, tennis courts, outdoor play areas, bikeways, walking trails, picnic pavilions, and clubhouses.

(5) Accessory dwelling units. Accessory dwelling units shall meet all of the following standards:

(A) The accessory dwelling unit shall be on the same lot as the principal dwelling unit to which it is accessory.

(B) The accessory dwelling unit may be attached to, or detached from, the principal dwelling unit.

(C) The accessory dwelling unit shall be subject to the setbacks and height requirements of the underlying zoning district for the principal dwelling unit, provided that a

detached accessory dwelling unit shall not be closer than ten feet to a side or rear lot line.

(D) A detached accessory dwelling unit shall be located to the rear of the principal dwelling unit.

(E) The accessory dwelling unit shall conform to all applicable standards for building, plumbing, electrical, mechanical, fire, health, and other applicable codes for residential units.

(F) Each lot shall contain no more than one (1) accessory dwelling unit.

(G) The property owner, who shall include titleholders and contract purchasers, must occupy either the principal dwelling unit or the accessory dwelling unit as their residence.

(H) The accessory dwelling unit shall be a minimum size of three hundred (300) square feet and a maximum size of six hundred (600) square feet.

(I) The accessory dwelling unit shall be designed so that the appearance of the building remains similar to that of a single-family residence.

(J) The maximum height of the accessory dwelling unit shall be twenty (20) feet or the height of the primary structure, whichever is less.

(c) Within the PC-1 District, the number of residential dwelling units and the amount of non-residential development (excluding open spaces and common open spaces) shall be determined as follows:

(1) Residential density on any parcel designated PC-1 District, with single-family dwelling units, shall not exceed five (5) dwelling units per acre, excluding accessory dwelling units.

(2) Residential density on any parcel designated PC-1 District with single-family attached and two-family dwelling units shall not exceed eight (8) dwelling units per acre.

(3) Single-family attached and two-family dwelling units shall not exceed twenty (20) percent of total housing units within the entire parcel.

(4) Non-residential uses shall not exceed twenty (20) percent of the total acreage of entire parcel.

(5) Non-residential construction shall not commence unless certificates of occupancy have been issued for thirty (30) percent of the planned residential development.

(d) Building height shall not exceed thirty-five (35) feet, however any building combining ground-level retail with office above shall not exceed forty-five (45) feet in building height.

(e) The minimum size of each dwelling unit shall be as follows:

(1) *Single-family detached or attached:* One thousand two hundred (1,200) square feet excluding authorized accessory units.

(2) *Two- and three-family dwellings:* One thousand two hundred (1,200) square feet per dwelling unit.

(f) Individual non-residential uses shall not exceed fifteen thousand (15,000) square feet of the building footprint.

(g) Open space and common open space shall comply with all of the following requirements:

(1) A minimum of twenty (20) percent of the PC-1 District parcel shall be open space.

(2) A minimum common open space shall be a contiguous one (1) acre and this one (1) acre of common open space shall count towards the twenty (20) percent requirement set forth above.

(3) A minimum of eighty (80) percent of the required open space shall be in the form of common open space and shall include, but shall not be limited to, one (1) or more of the following forms:

(A) Designated historic and archeological sites.

(B) Environmental corridors.

(C) Protected natural areas and conservation buffers.

(D) Parks and squares.

(E) Streams, ponds and other water bodies.

(F) Active recreation facilities.

(G) Passive recreation pathways (other than sidewalks) and linear parks.

(H) Plazas or pedestrian promenades.

(4) No more than twenty (20) percent of common open space shall consist of impervious surface areas.

(5) Seventy-five (75) percent of all housing units on the parcel shall be within one thousand three hundred twenty (1,320) linear feet of common open space measured in a straight line from the closest edge of the housing unit to the closest edge of the common open space.

Sec. 2CC-15. Development Standards for PC-2 District.

The PC-2 District should reinforce or extend existing commercial centers and mixed-use neighborhoods and promote the redesign and revitalization of underused commercial areas. In addition to the general standards set forth above, the following standards and criteria shall apply to all PC-2 Districts.

(a) PC-2 Districts shall meet each of the following criteria:

(1) Adjacent to or set within an existing commercial or employment node within the County.

(2) Extend or reinforce an existing, surrounding mix of higher density housing, commercial or office uses.

(3) Support the revitalization of underused commercial areas, including stand-alone shopping centers or a combination of strip development and single-use buildings containing offices, multi-family housing, and service and retail uses.

(4) Have sufficient transportation access (an ability to connect easily to the existing road network and transit system) and infrastructure capacity to support a dense mix of residential and non-residential activity.

(5) Support a desired long-term growth strategy to concentrate multiple activities within areas of the county designated by the comprehensive plan for denser residential or commercial uses or mixed use or other areas as deemed appropriate by the county.

(b) The following principal uses and structures shall be authorized in the PC-2 District:

(1) All uses authorized in the NS (Neighborhood Shopping) District.

(2) All uses authorized in C-1 (Local Commercial) District except those uses identified in **Sections 24-3(a), 24-3(c)(1), (3), (4), (5), (6), (8), (9), 24-3(j), 24-3(l), v(o), and 24-3(r)**, as amended.

(3) All uses authorized in the OI (Office-Institution) District except those uses identified in **Sections 2T-3(b)(1), (3), (6), 2T-3(c), 2T-3(e), 2T-3(f)(3), 2T-3(l), 2T-3(i)(1), 2T-3(j)(4) and 2T-3(a)**, as amended.

(4) All uses authorized in C-2 (General Commercial) District except those uses identified in **Sections 2Z-3(a), 2Z-3(c)(1), (2), (4), (5), (6), (7), (8), (10), (11), (12), 2Z-3(f)(1), (2), (5), 2Z-3(i), 27-598(m), 2Z-3(o), 2Z-3(s)(9), and 2Z-3(u)(1)**.

(5) Residential uses, as follows:

(A) Dwelling, single-family detached.

(B) Personal care home, family.

(C) Personal care home, registered.

(D) Dwelling, single-family attached.

(E) Dwelling, two-family.

(F) Dwellings, multi-family.

(G) Accessory dwelling units.

(H) Live-work units.

(6) Accessory dwelling units shall meet all of the following standards:

(A) The accessory dwelling unit shall be on the same lot as the principal dwelling unit to which it is accessory.

(B) The accessory dwelling unit may be attached to, or detached from, the principal dwelling unit.

(C) The accessory dwelling unit shall be subject to the setbacks and height requirements of the underlying zoning district for the principal dwelling unit, provided that a detached accessory dwelling unit shall not be closer than ten (10) feet to a side or rear lot line.

(D) A detached accessory dwelling unit shall be located to the rear of the principal dwelling unit.

(E) The accessory dwelling unit shall conform to all applicable standards for building, plumbing, electrical, mechanical, fire, health, and other applicable codes for residential units.

(F) Each lot shall contain no more than one (1) accessory dwelling unit.

(G) The property owner, who shall include titleholders and contract purchasers, must occupy either the principal dwelling unit or the accessory dwelling unit as their residence.

(H) The accessory dwelling unit shall be a minimum size of three hundred (300) square feet and a maximum size of six hundred (600) square feet.

(I) The accessory dwelling unit shall be designed so that the appearance of the building remains similar to the architectural character of the principle dwelling unit.

(J) The maximum height of the accessory dwelling unit shall be twenty (20) feet or the height of the primary structure, whichever is less.

(7) Live-work units shall meet all of the following standards:

(A) Uses shall be compatible with residential use and shall not produce or create noise, smoke, vibrations, smells, electrical interference, or fire hazards that would unreasonably interfere with residential uses. Permitted uses shall include:

(i) Accounting office.

(ii) Planning, engineering or architectural office.

(iii) Financial services office.

(iv) Insurance office.

(v) Legal office.

(vi) Counseling office.

(vii) Real estate office.

(viii) Information processing uses.

(ix) Tutorial/educational services.

(x) Fine arts studios and/or galleries.

(xi) Photography studios.

(xii) Consulting services.

(B) The maximum number of employees on the premises shall be two (2), in addition to the occupants of the residential space.

(C) The unit shall not accommodate more than two (2) customers at a time and shall limit operation to the hours of 9:00 a.m. and 5:00 p.m.

(D) The minimum size of the live-work unit shall be one thousand two hundred (1,200) square feet with at least one-third (1/3) of the unit designated for residential space.

(E) The residential space shall be occupied by the owner of record or tenant.

(8) Open space(s) and common open space(s).

(9) Community meeting and recreation facilities, including but not limited to, swimming pools, tennis courts, outdoor play areas, bikeways, walking trails, picnic pavilions, and clubhouses.

(c) The number of residential dwelling units and the amount of non-residential development (excluding open spaces and common open spaces) shall be determined in PC-2 District as follows:

(1) Residential density in the PC-2 District shall not exceed sixty (60) dwelling units per acre, excluding accessory dwelling units.

(2) A minimum of thirty (30) percent of the parcel shall be used for residential uses.

(3) A minimum of ten (10) percent of the parcel shall be used for non-residential uses.

(4) Individual non-residential uses shall not exceed fifty thousand (50,000) square feet per parcel. The building footprint area for each individual use shall not exceed twenty-five thousand (25,000) square feet.

(5) The building height of buildings in the residential component shall not exceed thirty-five (35) feet, except where buildings combine ground-level retail or office with multi-family housing units in the same building, the height of such building shall not exceed sixty (60) feet.

(d) The minimum height of non-residential buildings shall be twenty-six (26) feet.

(e) No building height shall exceed sixty (60) feet.

(f) The minimum size of each dwelling unit shall be as follows:

(1) *Single-family detached or attached:* One thousand (1,000) square feet excluding authorized accessory units.

(2) *Multi-family dwellings:*

(A) *One bedroom:* Six hundred fifty (650) square feet.

(B) *Two bedroom:* Eight hundred (800) square feet.

(C) *Three or more bedrooms:* One thousand (1,000) square feet.

(3) *Two- and three-family dwellings:* One thousand two hundred (1,200) square feet.

(g) Open space and common open space shall comply with all of the following requirements:

(1) A minimum of ten (10) percent of the PC-2 District parcel shall be open space.

(2) A minimum of eighty (80) percent of the required open space shall be in the form of common open space and shall include, but shall not be limited to, one (1) or more of the following forms:

(A) Environmental corridors.

(B) Courtyards.

(C) Plazas.

(D) Pedestrian walkways.

(E) Outdoor seating areas.

(F) Child-care outdoor spaces.

(3) No more than twenty (20) percent of common open space shall consist of impervious surface areas.

Sec. 2CC-16. Development Standards for PC-3 District.

The PC-3 District should provide for a complete and sustainable mixed use, pedestrian-oriented community. In addition to general standards and criteria set forth above, the following standards and criteria shall apply to all PC-3 Districts.

(a) PC-3 Districts shall meet each of the following criteria:

(1) Site characteristics that allow for an interconnected transportation network (streets, paths, greenways) both within the parcel and to surrounding areas.

(2) Provide a center of retail, employment, and community identity for existing residential areas.

(3) Support a long-term growth strategy of attracting and organizing new growth within areas of the county designated by the comprehensive plan for denser residential or commercial uses or mixed use or other areas as deemed appropriate by the county.

(b) The PC-3 District shall consist of at least two (2) distinct site components:

(1) A mixed-use component, which shall consist of the required number of residential units and at least two (2) of the following types of uses: commercial, office or civic uses. The mixed-use component shall constitute at least ten (10) percent of the total acreage of the PC-3 District.

(2) The residential use component shall constitute at least fifty (50) percent of the PC-3 District parcel.

(c) Commercial or office uses within a PC-3 District may be on the exterior of the parcel, but shall be connected to nearby residential areas through a network of streets and sidewalks or paths, such that fifty (50) percent of all housing units in the residential component are within one thousand three hundred twenty (1,320) lineal feet of the boundary of the mixed use component measured in a direct line from the closest boundary of the mixed use component to the closest edge of each housing unit.

(d) The following principal uses and structures shall be authorized in the PC-3 District:

(1) All uses authorized in the OI (Office-Institution) District except those uses identified in **Sections 2T-3(b)(1), (3), (6), 2T-3(c), 2T-3(e), 2T-3(f)(3), 2T-3(l), 2T-3(i)(1), 2T-3(j), 2T-3(a)**.

(2) All uses authorized in the OCR (Office-Commercial-Residential) District.

(3) All uses authorized in C-2 (General Commercial) District except those uses identified in **Sections 2Z-3(a), 2Z-3(c)(1), (2), (4), (5), (6), (7), (8), (10), (11), (12), 2Z-3(f)(1), (2), (5), 2Z-3(i), 2Z-3(m), 2Z-3(o), 2Z-3(s)(9), and 2Z-3(u)(1)**.

(4) Residential uses, as follows:

(A) Dwelling, single-family detached.

(B) Personal care home, family.

(C) Personal care home, registered.

(D) Dwelling, single-family attached.

(E) Dwelling, two-family.

(F) Dwellings, multi-family.

(G) Accessory dwelling units.

(H) Live-work units.

(5) Accessory dwelling units shall meet all of the following standards:

(A) The accessory dwelling unit shall be on the same lot as the principal dwelling unit to which it is accessory.

(B) The accessory dwelling unit may be attached to, or detached from, the principal dwelling unit.

(C) The accessory dwelling unit shall be subject to the setbacks and height requirements of the underlying zoning district for the principal dwelling unit, provided that a detached accessory dwelling unit shall not be closer than ten (10) feet to a side or rear lot line.

(D) A detached accessory dwelling unit shall be located to the rear of the principal dwelling unit.

(E) The accessory dwelling unit shall conform to all applicable standards for building, plumbing, electrical, mechanical, fire, health, and other applicable codes for residential units.

(F) Each lot shall contain no more than one (1) accessory dwelling unit.

(G) The property owner, who shall include titleholders and contract purchasers, must occupy either the principal dwelling unit or the accessory dwelling unit as their residence.

(H) The accessory dwelling unit shall be a minimum size of three hundred (300) square feet and a maximum size of six hundred (600) square feet.

(I) The accessory dwelling unit shall be designed so that the appearance of the building remains similar to that of a single-family residence.

(J) The maximum height of the accessory dwelling unit shall be twenty (20) feet or the height of the primary structure, whichever is less.

(6) Live-work units shall meet all of the following standards:

(A) Uses shall be compatible with residential use and shall not produce or create noise, smoke, vibrations, smells, electrical interference, or fire hazards that would unreasonably interfere with residential uses. Permitted uses shall include:

(i) Accounting office.

(ii) Planning, engineering or architectural office.

(iii) Financial services office.

(iv) Insurance office.

(v) Legal office.

(vi) Counseling office.

(vii) Real estate office.

(viii) Information processing uses.

(ix) Tutorial/educational services.

(x) Fine arts studios and/or galleries.

(xi) Photography studios.

(xii) Consulting services.

(B) The maximum number of employees on the premises shall be two (2), in addition to the occupants of the residential space.

(C) The unit shall not accommodate more than two (2) customers at a time and shall limit operation to the hours of 9:00 a.m. and 5:00 p.m.

(D) The minimum size of the live-work unit shall be one thousand two hundred (1,200) square feet with at least one-third (1/3) of the unit designated for residential space.

(E) The residential space shall be occupied by the owner of record or tenant.

(7) Open space(s) and common open space(s).

(8) Community meeting and recreation facilities, including but not limited to, swimming pools, tennis courts, outdoor play areas, bikeways, walking trails, picnic pavilions, and clubhouses.

(e) The number of residential dwelling units and the amount of non-residential development (excluding open spaces and common open spaces) shall be determined as follows:

(1) Within the residential component:

(A) Residential density shall not exceed thirty (30) dwelling units per acre, excluding accessory dwelling units.

(B) The residential component shall contain at least two (2) different permitted housing types (detached, attached, or multi-family)

(C) Single-family attached and multi-family dwellings shall not exceed fifty (50) percent of the total housing units in the residential component.

(D) Nonresidential uses shall not exceed twenty (20) percent of the acreage of the residential component.

(E) Individual nonresidential uses within the residential component shall not exceed fifteen thousand (15,000) square feet in building footprint area.

(2) Within the mixed use component:

(A) Residential density shall not exceed one hundred twenty (120) dwelling units per acre, excluding accessory dwelling units.

(B) A minimum of thirty (30) percent of the parcel of the mixed-use component shall be used for residential purposes.

(C) A minimum of ten (10) percent of the mixed-use component shall be used for nonresidential uses.

(D) Individual nonresidential uses within the mixed-use component shall not exceed fifty thousand (50,000) square feet in parcel. The building footprint area for each individual use shall not exceed twenty-five thousand (25,000) square feet.

(f) The height of buildings in the mixed-use component shall be as follows:

(1) The minimum building height shall be twenty-six (26) feet.

(2) No building height shall exceed one hundred twenty (120) feet.

(g) The building height of buildings in the residential component shall not exceed thirty-five (35) feet, except where buildings combine ground-level retail or office with multi-family housing units above then the height of such a building shall not exceed one hundred twenty (120) feet.

(h) The minimum size of each dwelling unit shall be as follows:

(1) In the residential component:

(A) *Single-family detached or attached:* One thousand two hundred (1,200) square feet with the exception of accessory dwelling units.

(B) *Multi-family dwellings:*

(i) *One bedroom:* Six hundred fifty (650) square feet.

(ii) *Two bedroom:* Eight hundred (800) square feet.

(iii) *Three or more bedrooms:* One thousand (1,000) square feet.

(iv) *Two- and three-family dwellings:* One thousand two hundred (1,200) square feet.

(2) In the mixed-use component:

(A) *Single-family detached or attached:* One thousand (1,000) square feet with the exception of accessory units.

(B) *One bedroom:* Six hundred fifty (650) square feet.

(C) *Two bedroom:* Eight hundred (800) square feet.

(D) *Three or more bedrooms:* One thousand (1,000) square feet.

(E) *Two- and three-family dwellings:* One thousand two hundred (1,200) square feet.

(i) Open space and common open space shall comply with all of the following requirements:

(1) A minimum of twenty (20) percent of the PC-3 District parcel shall be open space.

(2) A minimum of five (5) percent of the PC-3 District parcel shall be a park or a square.

(3) The residential component of the PC-3 District parcel shall have at least one (1) square or park that is a minimum of one (1) acre in size.

(4) The mixed-use component of a PC-3 District parcel shall have at least one (1) square that is a minimum of twenty thousand (20,000) square feet in size.

(5) A minimum of eighty (80) percent of the required open space shall be in the form of common open space and shall include, but shall not be limited to, one (1) or more of the following forms:

(A) Designated historic and archeological sites.

(B) Environmental corridors.

(C) Protected natural areas and conservation buffers.

(D) Parks and squares.

(E) Streams, ponds and other water bodies.

(F) Active recreation facilities.

(G) Passive recreation pathways (other than sidewalks) and linear parks.

(H) Plazas or pedestrian promenades.

(6) Seventy-five (75) percent of all housing units on the parcel shall be within one thousand three hundred twenty (1,320) feet of common open space measured in a straight line from the closest edge of the housing unit to the closest edge of the common open space.

ARTICLE III. OVERLAY DISTRICT REGULATIONS

DIVISION 3A. OVERLAY DISTRICTS

Sec. 3A-1. Overlay Districts Generally.

Overlay districts are supplemental to the zoning district classifications established in **Article II** of this Chapter. All development and building permits for lots located within any overlay district shall meet all of the requirements of the base zoning district in which they are located and in addition shall meet all of the requirements of the overlay district applicable to said lot. Where there are conflicts between overlay district regulation and other regulations contained in the Code, the overlay regulation shall govern. Where the overlay district regulation is equally restrictive with other regulations in the Code, the overlay district regulation shall govern.

DIVISION 3B. ENVIRONMENTALLY SENSITIVE LAND OVERLAY REGULATIONS

Sec. 3B-1. Environmentally Sensitive Lands; Purpose and Intent.

The City Council finds that there are land areas within the county within which regulations supplemental to those regulations imposed by the underlying zoning district should be imposed in order to preserve or protect environmental elements unique to said land area. The intent and purpose of the City Council in establishing such environmentally sensitive land overlay regulations is as follows:

(a) To reduce hazards to life and protect structures and uses from damage which may be caused by construction on or use of land which is unsafe or unsuitable for development;

(b) To protect land, public infrastructure and waters of the county from damages caused by improper use or construction on land which has physical, environmental or aesthetic limitations for development;

(c) To maintain and enhance natural land features which are environmentally significant or which constitute a natural resource of importance to the county at large, including especially Arabia Mountain and the valleys, ridges and areas of significant views surrounding said mountain;

(d) To maintain and protect significant and important archaeological resources of the county;

(e) To enhance public access to and enjoyment of the county's streams, creeks, and all other watercourses;

(f) To implement the policies of the comprehensive plan related to the protection and enjoyment of natural resources; and

(g) To identify specific resources so as to enable property owners to execute conservation easements and secure tax and other advantages therefrom.

Sec. 3B-2. Creation of Overlay Zoning Districts for Environmentally Sensitive Lands.

To carry out the purposes and provisions of this Chapter, Environmentally Sensitive Land Overlay Districts are hereby authorized to be established. Said overlay districts shall be implemented by district regulations particularly tailored to the specific land areas to be protected and shall be accompanied by an official zoning map amendment identifying said land area. Said map amendment and regulations shall be superimposed upon the underlying zoning district classification and shall apply to such land area in addition to the underlying district regulations.

Sec. 3B-3. Scope of Protection.

Within environmentally sensitive land areas, the City Council may adopt overlay zoning regulations as follows:

(a) To regulate the height of buildings and structures;

(b) To regulate the amount of land permitted to be cleared, graded and improved and to authorize density bonuses and internal and external transfers of development rights so as to protect specified land areas containing significant archaeological or environmental resources;

(c) To protect viewsheds through the imposition of reasonable height and development standards for buildings and structures within such viewsheds;

(d) To encourage and facilitate private or public conservation easements so as to promote the purposes and intent of the district;

(e) To impose limitations on the total amount of impervious surface which is permitted within such overlay zones and limitations on development or uses within such highly sensitive zones; and

(f) To enact other development restrictions or bonuses and incentives which are designed to protect the resources defined in such overlay districts while authorizing reasonable and economically feasible uses of such lands.

DIVISION 3C. DUNWOODY VILLAGE OVERLAY DISTRICT

Sec. 3C-1. Applicability of Regulations.

This division establishes standards and procedures that apply to any development, use, alteration, structure, or natural growth on any lot or portion thereof which is in whole or in part contained within the boundaries of the Dunwoody Village Overlay District.

Sec. 3C-2. Statement of Purpose and Intent.

The purpose and intent of the City Council in establishing the Dunwoody Village Overlay District is as follows:

(a) To implement the policies and objectives of the City of Dunwoody Comprehensive Plan 2008-2028 and the policies and objectives of the Dunwoody Commercial Core Design Guidelines;

(b) To ensure that new developments and additions to existing buildings are compatible with the Village/Colonial architectural style that is characteristic of the district;

(c) To strengthen the identity of the Dunwoody commercial core as the heart of the Dunwoody neighborhood;

(d) To create new opportunities for public open spaces and gathering spaces in the commercial core of Dunwoody;

(e) To assure that new developments within the commercial core are pedestrian-friendly and provide places for civic activities; and

(f) To improve the visual appearance, increase property values, and reduce vacancy rates within the Dunwoody Village.

Sec. 3C-3. District Boundaries.

The boundaries of the Dunwoody Village Overlay District shall be established by a zoning map amendment adopted pursuant to this Chapter which amendment shall be incorporated herein and made a part of this **Chapter 1 of the Code of Ordinance**.

Sec. 3C-4. Principal Uses and Principal Structures.

The principal uses of land and structures which are allowed in the Dunwoody Village Overlay District are as provided by the applicable zoning district, subject to the limitations and standards contained within this division.

Sec. 3C-5. Accessory Uses and Accessory Structure.

The accessory uses of land and structures which are allowed in the Dunwoody Village Overlay District are as provided by the applicable zoning district, subject to the limitations and standards contained within this division.

Sec. 3C-6. Architectural Regulations.

The following architectural regulations shall apply to all uses and structures, within the Dunwoody Village Overlay District:

(a) *Exterior materials.* The exterior portions of any building that are visible from the public right of way shall comply with the following requirements:

(1) Siding material shall consist of red brick, which is the preferred material, or, in the alternative, white/cream painted horizontal lap siding. Lap siding shall be wood or a material that exhibits wood-like properties such as cementitious lap siding. Vertical siding, stucco, external insulating finishing system ("EIFS"), metal siding, metal trim, vinyl siding, vinyl trim, marble siding, marble trim, stone siding, stone trim, exposed concrete, and block are prohibited.

(2) Siding material shall be consistent and uniform. Siding shall be predominantly brick or predominantly lap siding. Buildings with brick on the front face only and buildings with first floor brick and second floor lap siding are prohibited.

(3) All exposed bricks shall be approximately eighteen (8) inches wide by three (3) inches deep by two and two-thirds (2 2/3) inches high and shall not be laid in a definition of stackbond. All joints shall be tooled. Brick panel veneer systems are permitted.

(4) The maximum allowable exposure on lap siding is eight (8) inches.

(5) The roof shall be constructed of material that resembles asphalt shingles. Slate roofs are permissible. Roofs shall be black or a dark shade of gray. Standing seam roofs, built-up roofs, and metal roofs are prohibited.

(6) Applied trim materials shall consist of red brick, painted wood, or other painted materials that exhibit wood-like properties. Metal, vinyl, stucco, block stone and concrete are prohibited, provided however, that wrought iron handrails are permitted. Non-brick trim colors shall be equal to or similar to colors available in Martin Senour Williamsburg Paint.

(7) Foundations with greater than an eight-inch exposure shall be covered in red brick veneer. Exposed block, stone, stucco and concrete are prohibited.

(b) *Roofs.* The roof of any building that is visible from the public right of way shall comply with the following requirements:

(1) Gabled roofs, hipped roofs, mansard roofs, or combinations thereof are permitted. Flat roofs, curving roofs, and shed roofs are prohibited.

(2) Roofs shall comply with **Section 3C-3.6(a)(5)**.

(3) Roof overhangs of not less than eight (8) inches and not greater than sixteen (16) inches shall be provided. Gabled ends may be flush.

(4) Eave lines shall be consistent, largely unbroken, and horizontal. All eaves shall be architecturally detailed with one or more of the following elements: dental molding, crown molding, built-up fascia, or frieze board. The total width of fascias/cornices and rake trim shall be no less than seven and one-quarter (7-1/4) inches.

(5) Roofs shall contain at least one (1) roof projection for every one-hundred (100) lineal feet of building frontage. Roof projections may include cupolas, dormers, balustrade walks, chimneys, or gables.

(c) *Massing.* The massing of all buildings shall comply with the following requirements:

(1) Any building that is longer than one-hundred (100) feet shall be designed so as to appear as multiple structures through the use of varied roof forms, building projections, or architectural details.

(2) The apparent exterior floor-to-floor height of each story of a building shall be limited to twelve (12) feet. Individual floors shall be delineated on the building facade through the use of window placement and horizontal details. Interior floor-to-floor heights may exceed twelve (12) feet.

(3) No primary eave line shall be greater than twenty-five (25) feet above grade.

(4) Buildings shall have at least one (1) building projection on the front facade below the eave line. Building projections consist of stoops, bay windows, covered porches, extruded entrances, and pedestrian arcades. With the exception of pedestrian arcades, building projections shall not extend more than six (6) feet from the face of the building.

(5) Primary building walls shall be rectilinear and simplified in form. With the exception of bay projections, curved walls or non-ninety-degree corners are prohibited. Front facades shall have a predominant plane from the ground to the eave and shall not be dominated by building projections.

(6) Buildings that are longer than one hundred (100) feet shall provide no less than ten (10) lineal feet of pedestrian arcade or covered porch.

(7) Porches and arcade columns shall be not less than six (6) feet wide in any direction. Metal columns are prohibited. Columns shall contain a base and a capital and shall generally align with story heights. Two-story columns are prohibited.

(d) *Fenestration.* The fenestration of all buildings visible from the public right of way shall comply with the following requirements:

(1) Doors shall be compatible with the Village/Colonial style. All-glass doors and flush doors are prohibited. Solid doors shall be six-panel and shall contain sidelights or a transom window. Windowed doors shall contain a solid border a minimum of six (6) inches wide and shall also contain mullions or divided lights not exceeding twelve (12) inches in any direction.

(2) Individual doors shall be of a single color and shall be equal to or similar to colors available in Martin Senour Williamsburg Paint. Doors shall not be stained, naturally finished, or uncolored aluminum.

(3) Primary doors shall not exceed forty-two (42) inches in width and eighty-four (84) inches in height. Oversized doors are prohibited.

(4) All windows shall be vertically proportioned with a height to width ratio between 3:2 and 5:2. Transom windows are not subject to vertical proportions and do not count in the overall window proportion. Vertical windows may be ganged to create storefront windows but shall be limited to twenty-five (25) feet sections with a five (5) foot minimum of unbroken wall space in between. Slit windows, strip windows, and ribbon windows are prohibited.

(5) Windows shall be provided on at least ten (10) percent of the front facade but no more than fifty (50) percent of the front facade. Blank facades are prohibited. Windows shall generally be spaced in an even rhythm. Windowless sections of the front facade shall not exceed thirty (30) feet in width.

(6) All windows shall be rectilinear, provided however, that arch top windows are permitted. Triangular or otherwise angular windows are prohibited. Round windows are permitted as accent windows in locations such as gables.

(7) Primary windows shall be at least twenty-four (24) inches wide and at least thirty-six (36) inches tall. Picture windows shall be no wider than five (5) inches and no taller than seven and one half (7 1/2) feet.

(8) All windows shall have the appearance of mullions or divided lights. Panes shall be rectilinear, generally square in proportion, and shall not exceed twelve (20) inches in any direction. Diagonal panes are not permitted except in arch windows.

(9) Shutters shall be constructed of wood or a material with wood-like properties other than vinyl, shall be sized to fit the window, and shall have horizontal slats. Shutter colors shall be equal to or similar to colors available in Martin Senour Williamsburg Paint.

(10) All windows shall have sill and header trim details.

(11) The bottom of windows shall be at least twenty (20) inches above grade.

Sec. 3C-7. Sidewalk and Pedestrian Crosswalks.

The following sidewalks and pedestrian crosswalks and regulations shall apply to all uses and within the Dunwoody Village Overlay District:

(a) Public sidewalks shall be located adjacent to all public streets and shall be a minimum of fifteen (15) feet wide. This fifteen (15) foot wide area shall include a five-foot street furniture zone and a ten (10) foot clear walking area. The five-foot street furniture zone shall be used for locating streetlights, street trees, benches and trash receptacles. Ground cover and decorative pavers shall be installed between these elements.

(b) Pedestrian walkways shall be located on private property and shall be located at all building entrances. All buildings shall provide a ten (10) foot minimum pedestrian zone between the building and parking area. The pedestrian zone shall contain walkways, planting areas, plazas, and similar landscaped spaces. All pedestrian walkways shall be a minimum of five (5) feet wide.

(c) All public sidewalks and pedestrian walkways shall be continuous where possible and shall connect to other pedestrian areas through painted or raised crosswalks.

(d) All major intersections shall have well-defined pedestrian crossings including a red brick inlay walking area and pedestrian crossing signs. Traffic signals shall have mast arms.

(e) All utilities shall be placed under ground.

(f) The front entrance of all buildings shall be easily and safely accessible to pedestrians from the public sidewalk through a combination of pedestrian walkways and crosswalks.

(g) Covered sidewalks that are a part of the building and that are located within the buildable area of the lot are encouraged where possible. Such covered sidewalks may be used for outdoor seating and dining and as terraces and arcades.

(h) In multi-tenant retail buildings, a continuous, unimpeded walkway shall be provided to connect all business entrances.

Sec. 3C-8. Landscaping.

The following landscaping regulations shall apply to all uses and structures with the Dunwoody Village Overlay District:

(a) Each lot shall provide a planted area or areas in the front yard near the building entrance that consists of a total area no less than five (5) percent of the building area. Such planted area or areas may consist of grassed areas, linear beds along the building, raised planters, and similar landscaped areas.

(b) The landscaping on each lot shall contain at least one (1) of the following landscape elements: flowerbed, shrubs, or three (3) inch caliper tree.

(c) With the exception of trees, landscape elements including shrubs shall not exceed four (4) feet in height.

(d) Street trees are required along all public streets. Street trees shall be planted a minimum of forty (40) feet on center within a five-foot street furniture zone at the back of the curb. Street trees shall be planted in four (4) feet by four (4) feet minimum iron tree grates, and shall be no less than ten (10) feet in height and three (3) inches in caliper. Street trees shall be limbed to seven (7) feet above the sidewalk. Street trees shall be oak, elm, maple, or zelkova.

(e) All medians shall be landscaped with plant material that does not interfere with vehicle safety. Concrete-only means are prohibited.

Sec. 3C-9. Lighting.

The following lighting regulations shall apply to all permitted uses within the Dunwoody Village Overlay District are as follows:

(a) All lots shall provide streetlights, parking lights, pedestrian lights, and indirect building lights. With the exception of indirect building lights, all light fixtures shall be of a design that is compatible with the Village/Colonial style. All freestanding exterior light fixtures shall be black or dark green.

(b) Public streetlights shall be provided along public streets at a maximum of forty (40) feet on-center within the street furniture zone and shall be evenly spaced along the block face. Street light standards shall contain banner arms for season and special event banners and shall contain hanging flower baskets.

(c) All utilities shall be placed under ground.

(d) Parking lights shall be provided in all parking areas, shall not exceed twenty-five (25) feet in height, shall have light fixtures that project downward, and shall be spaced in a uniform manner so as to provide full lighting for the parking area.

(e) Pedestrian lights shall be provided within high-volume pedestrian areas and around public and private open space. Pedestrian lights shall be spaced a maximum of twenty-five (25) feet apart and shall be evenly spaced so as to provide full lighting for pedestrian areas.

(f) Indirect building lighting shall be provided and shall be located a maximum of ten (10) feet from the subject building. Such lighting shall not be located so as to impair vehicular traffic safety and shall not be directly across any pedestrian areas of travel.

Sec. 3C-10. Parking.

The following parking regulations shall apply to all uses within the Dunwoody Village Overlay District are as follows:

(a) Each lot shall provide no less than one parking space for each five hundred (500) square feet of floor area and no more than two (2) parking spaces for each five hundred (500) square feet of floor area.

(b) Parking areas shall be separated from buildings by a planted area or other landscaped area that is no less than ten (10) feet in width.

(c) Shared parking is encouraged and may be authorized by the director of planning. Applicants may make application to the director of planning for authorization for a special exception for shared parking. Said applications shall be considered and decided by the director of planning pursuant to the standards and procedures set forth in **Section 5D-13**.

(d) Parking lots shall be landscaped in accordance with the requirements of **Section 4-21**.

(e) The use of bicycle racks is encouraged. When placed in a parking lot, the bicycle racks shall be provided at a ratio of two bicycle racks for each twenty (20) parking spaces. Bicycle racks shall be located near building entries. The racks shall be equal to or similar to Urban Accessories Circle Bike Rack Model D.

Sec. 3C-11. Public Areas, Curb Cuts, and Service Areas.

The following regulations apply to the public areas, curb cuts, and service areas for the Dunwoody Village Overlay District.

(a) Public plazas and outdoor dining areas are encouraged. Such areas shall be protected from vehicular traffic by location, vegetation, and landscape walls and shall be easily accessible to pedestrians.

(b) All dumpsters and other building service areas shall be located where they are concealed from view from the public right of way. All dumpsters shall be concealed with secured gates and vegetative or solid screening.

(c) Curb cuts along public streets shall be minimized and shall be shared with adjacent development where possible. Curb cuts shall be permitted only where twenty-five (25) feet away from a curb cut on an adjoining property, and shall not be permitted within one hundred (100) feet of the intersection of any two (2) public streets. Curb cuts shall not exceed a width of twenty-four (24) feet.

Sec. 3C-12. Street Furniture.

The following regulations apply to street furniture for the Dunwoody Village Overlay District are as follows:

(a) At least one (1) bench and one (1) trash receptacle per seven thousand five hundred (7,500) square feet of retail area shall be provided on each lot and shall be located no more than fifty (50) feet from a building entry.

(b) All benches and trash receptacles shall be accessible from a building entrance by a pedestrian walkway. Benches and trash receptacles shall be used in conjunction with other pedestrian amenities such as planters, landscaped areas, and outdoor tables. Benches and trash receptacles shall not contain signs.

(c) Benches shall be Victory Stanley "Classic" or "Traditional" series or similar and shall be constructed of non-corrosive, weather-resistant material. Bench colors shall be natural wood stain, black, or dark green. Neon colors are prohibited. Benches shall be firmly anchored to the ground.

(d) Trash receptacles shall be Victor Stanley "Concourse" series or similar and shall be constructed of non-corrosive, weather-resistant material. Wood is prohibited. Trash receptacles shall be black or dark green. Neon colors are prohibited. Trash receptacles shall be firmly anchored to the ground.

Sec. 3C-13. Signs Regulations.

All lots in the Dunwoody Village Overlay District shall comply with all requirements of the City's Sign Ordinance subject to the following additional regulations:

(a) Signs shall be designed so as to be compatible with the Village/Colonial style that is characteristic of the Dunwoody Village area;

(b) All ground signs shall be monument style signs with a base and framework made of brick;

(c) Free-standing signs shall not be permitted in the Main Street Zone as defined on the Dunwoody Overlay District Map, described in **Section 3C-3**, on frontages where any portion of the principal structure is located within thirty-two (32) feet of the front property line;

(d) For lots containing nine (9) or fewer store fronts, ground signs shall not exceed six (6) feet in height and eight (8) feet in width;

(e) For lots containing nine (9) or fewer store fronts, ground signs shall not exceed thirty-two (32) square feet in sign area;

(f) For lots containing nine (9) or fewer store fronts, signs shall be located no more than thirty-two (32) feet from the principal building;

(g) For lots containing ten (10) or more store fronts, ground signs shall not exceed ten (10) feet in height and eight (8) feet in width;

(h) For lots containing ten (10) or more store fronts, ground signs shall not exceed fifty-four (54) square feet in sign area;

(i) Wall signs shall be located on the primary building facade and within fifteen feet (15) of the primary building entrance;

(j) Window signs are prohibited;

(k) Banners are prohibited;

(l) Signs shall have a matte finish consistent with a wood or wood-like appearance;

(m) Sign colors shall be equal to or similar to colors available in Martin Senour Williamsburg Paint;

(n) All signs shall be indirectly lighted;

(o) Internally lighted neon, gas, colored, flashing, animated, marquee, sound emitting, fluorescent, rotating or otherwise moving signs are prohibited; and

(p) Sign shape and lettering shall be limited as follows:

(1) All signs shall be rectangular, circular, or oval in proportion.

(2) Sign facing shall be flat in profile and shall not exceed a thickness of eight (8) inches.

(3) Signs with more than two (2) faces are prohibited.

(4) Sign lettering shall consist of block lettering in which individual letters do not exceed eighteen (18) inches in height.

(5) Sign lettering material shall be of a material that will not permit the passage of light through the lettering.

Sec. 3C-14. Design Guidelines

The planning director or designee is authorized to create, administer, and amend Design Guidelines for the Dunwoody Village Overlay District. These guidelines provide acceptable architectural design controls, landscaping, detail drawings, signage, fencing, lighting, street and site furniture, and grating. These guidelines shall be used to promote proper design criteria for the overlay district and shall guide the planning director in deciding whether a proposed design complies with the requirements of this overlay district.

Sec. 3C-15. Plans Required; Certificates of Compliance.

(a) *Plans required.* Prior to the issuance of any land disturbance permit, building permit, or sign permit, the applicant shall submit to the director of planning an application, full plans including a site plan, landscaping plan, building design including elevations and architectural details of proposed buildings, exterior materials and colors, and plans and elevations of all signs, all of which shall demonstrate that the proposed design is in compliance with all of the requirements of this Dunwoody Village Overlay District and the underlying zoning classification.

(b) *Fees.* Plans shall be accompanied by an application and payment of a fee in an amount determined by the City of Dunwoody City Council.

(c) *Review.* The director of planning shall review each application for compliance with all requirements of the Dunwoody Village Overlay District and the underlying zoning classification. Where the director determines that said plans comply with the requirements of the Dunwoody Village Overlay District a certificate of compliance shall be issued in the form of the director or the director's designee signing the plans and drawings after which the applicant shall then apply for land disturbance, building or signs permits. Where the director determines that said plans do not comply with the requirements of this Chapter, then the director shall notify the applicant in writing stating the manner in which said applicant fails to comply with such requirements. All applications shall be considered and decided by the director of planning within thirty (30) days of receipt of a complete application. Any appeal of the director of planning's decision in this regard shall be to the zoning board of appeals pursuant to **Section 5D-12**.

ARTICLE IV. SUPPLEMENTAL REGULATIONS

The regulations contained within this **Article IV** shall apply to all zoning districts within City of Dunwoody except as otherwise specified herein.

Sec. 4-1. Accessory Buildings, Structures, and Uses.

The following provisions apply to accessory buildings, structures, and uses of land that are incidental to authorized and permitted uses:

(a) All accessory buildings, accessory structures, and accessory uses of land, including off-street parking, shall be located on the same lot as the principal building(s) to which they are accessory.

(b) No accessory building or structure shall be constructed upon a lot until construction of the principal building has commenced.

(c) All accessory buildings or structures shall be located in the rear yard of the lot. No accessory building or structure shall be located closer than ten (10) feet to a side or rear lot line in any district. Basketball goals attached to the principal residential structure or erected adjacent to and abutting the driveway of the principal residential structure shall be allowed in the front yard but not within the right-of-way of a public street. No such basketball goal shall be erected in such a manner that the play area for the basketball goal is located within any portion of a public right-of-way.

(d) No accessory building or structure in a nonresidential district shall be used by other than employees of the owner, lessee or tenant of the premises, unless otherwise allowed by provisions of this Chapter.

(e) Except as otherwise provided herein within the R-200 district, accessory buildings in single-family residential districts shall not be used as separate dwelling units and shall not contain a bedroom or kitchen or other food preparation facility of any kind. Further no such accessory building shall be rented or occupied for gain, and no accessory structure or building shall be used for a home occupation.

(f) Where the rear yard of a corner lot adjoins the side yard of a lot in a residential district, no accessory building or structure shall be located closer than twenty-five (25) feet to the rear property line and no closer to the side street right-of-way line than the principal building.

(g) Where an accessory building or structure is attached to the principal building by a breezeway, passageway or similar means, the accessory building or structure shall comply with the yard requirements of the principal building to which it is accessory.

(h) Swimming pools, as accessory structures in a residential district, shall be measured from the decking or closest part of the pool structure to the applicable property line. Accessory swimming pools shall be authorized only after written approval from the board of health pursuant to applicable regulations.

(i) Accessory buildings, structures and uses authorized in an apartment complex include a leasing office, post office, clubroom, health club or exercise facilities, laundry facilities, child care center and similar facilities for the use of residents of the complex.

(j) The floor area of an accessory building(s) in single-family and two- and three-family residential districts shall not exceed the following maximum floor areas:

TABLE INSET:

Property Size	Maximum Floor Area
0 to 0.999 acres	900 square feet
1 to 4.999 acres	1,200 square feet
5 to 9.999 acres	2,000 square feet
10 or more acres	No size limit

Sec.4-2. Adult Entertainment Establishments.

(a) Purpose.

It is the purpose of the City of Dunwoody Zoning Ordinance to regulate land use by sexually oriented businesses in order to promote the health, safety, moral, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

(b) Findings and Rationale.

Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the City Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.,* 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.,* 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres,* 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); and

Daytona Grand, Inc. v. City of Daytona Beach, 490 F.3d 860 (11th Cir. 2007); *Artistic Entertainment, Inc. v. City of Warner Robins*, 331 F.3d 1196 (11th Cir. 2003): *Artistic Entertainment, Inc. v. City of Warner Robins*, 223 F.3d 1306 (11th Cir. 2000); *Williams v. Pryor*, 240 F.3d 944 (11th Cir. 2001); *Williams v. A.G. of Alabama*, 378 F.3d 1232 (11th Cir. 2004); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *Gary v. City of Warner*

Robins, 311 F.3d 1334 (11th Cir. 2002); *Ward v. County of Orange*, 217 F.3d 1350 (11th Cir. 2002); *Boss Capital, Inc. v. City of Casselberry*, 187 F3d 1251 (11th Cir. 1999); *David Vincent, Inc. v. Broward County*, 2000 F.3d 1325 (11th Cir. 200); *Sammy's of Mobile, Ltd. v. City of Mobile*, 140 F.3d 993 (11th Cir. 1998); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999); *This That And The Other Gift and Tobacco, Inc. v. Cobb County*, 285 F.3d 1319 (11th Cir. 2002): *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Grand Faloon Tavern, Inc. v. Wicker*, 670 F.2d 943 (11th Cir. 1982); *International Food & Beverage Systems v. Ft. Lauderdale*, 794 F.2d 1520 (11th Cir. 1986); *5634 E. Hillsborough Ave., Inc. v. Hillsborough County*, 2007 WL 2936211 (M.D. Fla. Oct. 4, 2007), *aff'd*, 2008 WL 4276370 (11th Cir. Sept. 18, 2008) (per curiam); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *Gammon v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *High Five Investments, LLC v. Floyd County*, No. 4:06-CV-190, R. 128 (N.D. Ga. Mar. 14, 2008); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); and

Fairfax MK, Inc. v. City of Clarkston, 274 Ga. 520 (2001); *Morrison v. State*, 272 Ga. 129 (2000); *Sewell v. Georgia*, 233 S.E.2d 187 (Ga. 1977), *dismissed for want of a substantial federal question*, 435 U.S. 982 (1978) (sexual devices); *Flippen Alliance for Community Empowerment, Inc. v. Brannan*, 601 S.E.2d 106 (Ga. Ct. App. 2004); *Oasis Goodtime Emporium I, Inc. v. DeKalb County*, 272 Ga. 887 (2000); *Chamblee Visuals, LLC v. City of Chamblee*, 270 Ga. 33 (1998): *World Famous Dudley's Food & Spirits, Inc. v. City of College Park*, 265 Ga. 618 (1995); *Airport Bookstore, Inc. v. Jackson*, 214 (1978);

And based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas – 1986: Indianapolis, Indiana – 1984; Garden Grove, California – 1991; Houston, Texas – 1983, 1997: Phoenix, Arizona – 1979, 1995-98; Chattanooga, Tennessee – 1999-2003; Los Angeles, California – 1977; Whittier, California – 1978; Spokane, Washington – 2001; St. Cloud, Minnesota – 1994; Littleton, Colorado – 2004; Oklahoma City, Oklahoma – 1986; Dallas, Texas – 1997; Ft. Worth, Texas – 2004; Kennedale, Texas – 2005; Greensboro, North Carolina – 2003; Amarillo, Texas – 1977; Jackson County, Missouri – 2008; New York, New York Times Square – 1994; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota).

The City Council finds:

(1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.

(2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.

(3) Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the City's rationale for this ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the City's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the City. The City finds that the cases and documentation relied on in this ordinance are reasonably believed to be relevant to said secondary effects.

The City hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the judicial opinions and reports related to such secondary effects.

(c) Definitions

1. "Adult Entertainment Establishment" or "*Sexually Oriented Business*" means an "adult bookstore or adult video store," an "adult cabaret," an "adult motion picture theatre," a "semi-nude model studio," or a "sexual device shop."

2. "*Adult Bookstore or Adult Video Store*" means a commercial establishment which, as one of its substantial business activities, offers for sale or rental for any form of consideration any one or more of the following items: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas." A "substantial business activity" exits where the commercial establishment meets any one or more of the following criteria:

    i. At least 25% of the establishment's displayed merchandise consists of the foregoing items, or

ii. At least 25% of the wholesale value of the establishment's displayed merchandise consists of the foregoing items, or

iii. At least 25% of the retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of the foregoing items, or

iv. At least 25% of the establishment's revenues derive from the sale or rental, for any form of consideration, of the foregoing items, or

v. The establishment maintains at least 25% of its interior business space for the display, sale, and/or rental of the foregoing items (aisles and walkways used to access said items shall be included in "interior business space" maintained for the display, sale, or rental of said items), or

vi. The establishment maintains at least five hundred square feet (500 sq. ft.) of its interior business space for the display, sale, and/or rental of the foregoing items (aisles and walkways used to access said items shall be included in "interior business space" maintained for the display, sale, or rental of said items) and limits access to the premises to adults only; or

vii. The establishment offers for sale or rental at least one thousand (1000) of the foregoing items *and* limits access to the premises or to the portion of the premises occupied by said items to adults only; or

viii. The establishment regularly advertises itself or holds itself out, using "adult," "XXX," "sex," "erotic," or substantially similar language, as an establishment that caters to adult sexual interests; or

ix. Maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or specified "anatomical areas."

3. "*Adult Cabaret*" means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, regardless of whether alcoholic beverages are served, which regularly feature persons who appear semi-nude.

4. "*Adult Motion Picture Theater*" means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas" are regularly shown to more than five persons for any form of consideration.

5. "*Semi-Nude Model Studio*" means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

   This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a modeling class operated:

   i. By a college, junior college, or university supported entirely or partly by taxation;

   ii. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

   iii. In a structure:

      1. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

      2. Where, in order to participate in a class a student must enroll at least three days in advance of the class.

6. "*Semi-Nude or State of Semi-Nudity*" means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a bikini, dress, blouse, shirts, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

7. *"Nudity or a State of Nudity*" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

8. "*Sexual Device Shop*" means a commercial establishment that regularly features sexual devices. This definition shall not be construed to include any pharmacy, drug store, medical clinic, any establishment primarily dedicated to providing medical or healthcare products or services, or any establishment that does not restrict access to its premises or a portion of its premises to adults only.

9. "*Sexual Device*" means any three (3) dimensional object designed and marketed for stimulation of the male or female human genitals, anus, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices such as

dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

10. "*Interior Business Space*" means the floor area inside a sexually oriented business that is visible or accessible to patrons for any reason, excluding restrooms.

11. "*Characterized by*" means describing the essential character or quality of an item. As applied in this ordinance, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

12. "*City*" means the City of Dunwoody, Georgia.

13. "*Operate or Cause to Operate*" shall mean to cause to function or to put or keep in a state of doing business. "Operator" means any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

14. "*Person*" shall mean individual, proprietorship, partnership, corporation, association, or other legal entity.

15. "*Premises*" means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a sexually oriented business license.

16. "*Regularly*" means the consistent and repeated doing of an act on an ongoing basis.

17. "*Specified Anatomical Areas*" means and includes:

    i. Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and

    ii. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

18. "*Specified Sexual Activity*" means any of the following:

i. Intercourse, oral copulation, masturbation or sodomy; or

ii. Excretory functions as a part of or in connection with any of the activities described in (i) above.

(d) Standards for Sexually Oriented Businesses.

Sexually oriented businesses are subject to the following standards:

1. It shall be unlawful to establish, operate, or cause to be operated a sexually oriented business in the City of Dunwoody, unless said sexually oriented business is at least:

i. 500 feet from any parcel in the City of Dunwoody zoned R-200, R-150, R-30,000, R-20,000, R-100, R-85, R-75, R-60, R-A5, R-50, R-A8, R-CH, R-CD, R-DT, RM-150, RM-100, RM-85, RM-75, RM-HD, MHP, TND, or NCD ;

ii. 600 feet from any business in the City of Dunwoody licensed by the State of Georgia to sell alcohol on the premises; and

iii. 1000 feet from any house of worship or a public or private elementary or secondary school.

For the purpose of this subsection, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest point on a boundary line of the sexually oriented business parcel to the closest point on a boundary line of any parcel in the City of Dunwoody zoned R-200, R-150, R-30,000, R-20,000, R-100, R-85, R-75, R-60, R-A5, R-50, R-A8, R-CH, R-CD, R-DT, RM-150, RM-100, RM-85, RM-75, RM-HD, MHP, TND, or NCD. Measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of the structure containing the sexually oriented business to the closest part of any structure in the City of Dunwoody occupied by a house of worship, public or private elementary or secondary school, or a business licensed by the State of Georgia to sell alcohol on the premises.

2. All sexually oriented businesses shall submit with the application for a building or occupancy permit a certified boundary survey by a licensed surveyor of the site and the property lines of surrounding properties identifying the use of properties at or within the distance requirement, as delineated in subsection (d)1 above, of the boundary lines of the subject property.

3. Each sexually oriented business shall provide off-street parking spaces as required by the applicable zoning district.

Sec. 4-4. Air Pollution.

Every use shall be so operated as to minimize the emission into the air of dirt, dust, fly ash or any other solid matter which causes damage to property or harm or discomfort to persons or animals at or beyond the lot line of the property on which the use is located.

Sec. 4-5. Animal Care Facilities.

(a) *Animal hospitals and veterinary clinics.* Any structure used as an animal hospital or veterinary clinic shall be located and the activities conducted at least one hundred (100) feet from any property zoned or used for residential purposes. When located within a shopping center, the use shall be adequately soundproofed and odor proofed so as not to create a nuisance; no boarding shall be allowed unless required in connection with medical treatment; and no outside runs or kennels shall be authorized.

(b) *Boarding and breeding kennels.* All structures used as boarding or breeding kennels shall be located and activities conducted at least one hundred (100) feet from any property zoned or used for residential purposes.

(c) *Dog grooming shop*s. All structures used as dog grooming shops shall be located and activities conducted at least one hundred (100) feet from any property zoned or used for residential purposes.

(d) *Noncommercial kennels.* All noncommercial kennels shall be located on a site of not less than two (2) acres. All structures shall be located at least two hundred (200) feet from any property line. All facilities shall be constructed and activities conducted in accordance with rules and regulations promulgated by the City Council for noncommercial kennels.

(e) *Household pets.* Except as is otherwise herein provided in the R-200 District, in any residential district within the county a person may keep not more than three (3) household pets on each lot which is two (2) acres or less in size. On any lot exceeding two (2) acres in size, a person may keep one (1) additional household pet for each additional acre above two (2) acres up to a maximum of ten (10) household pets. Litters of animals of not more than six (6) months of age shall not be counted for the purpose of calculating the total number of household pets on a lot.

Sec. 4-6. Amateur Radio Service Antenna Structure.

Amateur radio service antenna structures are a permitted accessory use in single-family residential districts provided that no such antenna structure, including any support upon which it may be constructed, shall exceed a combined height of seventy (70) feet. Amateur radio service antenna structures exceeding seventy (70) feet in height shall be permitted only by special land use permit subject to all of the requirements of **Section5E** of this Chapter. Amateur radio service antenna structures shall be located a distance of at least one-half (1/2) the height of the tower from all property lines.

Sec. 4-7. Automobile, Wash Service.

Automobile wash services shall provide a paved area on the lot for the storage of vehicles awaiting service. This paved area shall be equal to one-third (1/3) of the practical hourly capacity of the wash machines. Wastewater from all automobile wash services shall drain directly into the public sanitary sewer unless otherwise approved by the City of Dunwoody Health Department.

Sec. 4-8. Automotive Sales and Service; Boat and Trailer Sales and Service.

(a) *Automobile and truck sales.* No vehicle parked for sale or service shall be located within a street right-of-way. No other retail use shall be combined with automobile and truck sales. The lot shall be no less than one (1) acre in area.

(b) *Automobile repair and paint shops.* Automobile repair and paint shops shall not be permitted within three hundred (300) feet of any property used for a school, park, playground or hospital. All activities shall be carried on entirely within an enclosed building and the use shall not be established on a lot which is either adjacent to or directly across the street from any R or RM district.

(c) *Automobile service stations.* Unless otherwise permitted within the applicable zoning district, major automobile repair in association with an automobile service station shall not be permitted. Gasoline pumps and other service facilities shall be set back not less than thirty (30) feet from the street right-of-way line, provided however, that canopies covering such gasoline pumps shall be set back not less than fifteen (15) feet from the street right-of-way line.

(d) *Automobile, truck and trailer lease and rental.* Where a lot is used for automobile, truck and trailer lease and rental, all vehicles shall be set back at least thirty (30) feet from the street right-of-way. All parking areas shall be clearly marked and no automobile, truck or trailer shall be parked outdoors other than within these marked parking areas, except when being serviced. The lot shall be no less than one (1) acre in area but such lot size requirement shall be reduced to one-half (1/2) acre in area if the owner of the affected automobile, truck and trailer lease and rental entity provides written proof to the planning director or designee that one hundred (100) or more of the owner's vehicles available for lease or rental are registered in City of Dunwoody. If the lot is one-half (1/2) acre in area, at no time shall the number of vehicles parked on the lot exceed twenty-five (25) vehicles.

(e) *Automobile, truck and trailer lease and rental where accessory to an automobile service station.* Where the lease and rental of automobiles, trucks and trailers is a use which is accessory to an automobile service station, the following requirements shall apply:

(1) The lot shall be no less than one (1) acre in area.

(2) Parking areas for automobiles, trucks or trailers which are available for lease or rental shall be located only in the side or rear yard.

(f) *Automobile wrecking yards or junkyards.* Automobile wrecking yards and junkyards shall be enclosed by a wall not less than eight (8) feet in height. No activity and no vehicle storage associated with such uses shall be conducted within one hundred

(100) feet of any property line or within two hundred (200) feet of any property zoned or used for residential purposes. The use shall not be permitted within three hundred (300) feet of any property used for a school, park, playground or hospital. The incidental sale of automobile parts removed from vehicles on the site shall be permitted.

(g) *Boat and boat trailer sales.* All boats and boat trailers shall be set back at least thirty (30) feet from the street right-of-way line.

(h) *Minor automobile repair and maintenance establishments.* All minor automobile repair and maintenance establishment operations, including the servicing of vehicles, storage of materials and similar activities connected with the use, shall be conducted entirely within an enclosed building. In a shopping center minor automobile repair and maintenance is permitted only as a part of an automobile service station.

(i) *Automobile parts and tire stores, retail sales.* Unless otherwise authorized or permitted within the applicable zoning district, the following limitations apply to the conduct of retail sale of automobile parts and tire stores:

(1) There shall be no dismantling of vehicles on the premises to obtain automobile parts;

(2) There shall be no automobile parts installation other than the installation of tires and the installation of minor accessory parts.

(3) Major automobile repair shall not be permitted in connection with these uses.

(j) *Storage yards for damaged or confiscated automobiles.* The following provisions shall apply to storage yards for damaged or confiscated automobiles:

(1) The use shall be enclosed by a wall which is not less than eight (8) feet in height which provides visual screening.

(2) No dismantling, repair or other activity shall be conducted on the premises.

(3) The use shall be located at least one thousand (1000) feet from any residential district or use.

(4) Automobiles shall not be held longer than provided by state and county law.

(k) *Trailer salesrooms and sales lots.* All vehicles shall be set back at least thirty (30) feet from the street right-of-way line.

Sec. 4-9. Buildings on Single-Family and Duplex Lots.

In all single-family detached residential districts and in the R-DT district only one (1) principal building, together with its customary accessory uses, shall occupy each lot.

Sec. 4-10. Check Cashing Establishments.

The following provisions apply to check cashing establishments whether designed as a primary use or as a part of a shopping center:

(a) This use shall be permitted only on a parcel of land which has direct access to a major thoroughfare.

(b) This use shall not be permitted within one thousand (1,000) feet of an existing check cashing establishment, pawn shop, or liquor store.

(c) This use shall operate only as an independent use and shall not be combined with any other use.

Sec. 4-11. Child Day Care Facility.

Each child day care facility, shall be subject to the following requirements:

(a) Each child day care facility shall provide not less than thirty (30) square feet of indoor play area for each child, based on maximum permissible enrollment.

(b) Each child day care facility shall provide not less than one hundred (100) square feet of outdoor play area for each child, based on maximum permissible enrollment.

(c) All required outdoor play areas shall be enclosed by a fence or wall not less than four (4) feet in height.

(d) Each child day care facility shall provide off-street parking spaces as required by the applicable zoning district and an adequate turnaround on the site.

(e) Not more than fifty (50) percent of the floor area of a residence may be used for a child day care facility.

(f) The exterior appearance of any residential structure for which a special land use permit for a child day care facility is approved by the City Council shall be maintained as a residential structure and no signs other than those otherwise authorized within the applicable zoning district shall be erected, and no cut-outs, animals characters, or other graphics shall be affixed to the exterior of the structure or displayed upon the premises.

(g) No child day care facility shall be located within one thousand (1,000) feet of another child day care facility.

(h) No child day care facility may be established and operated in the county until a permit to do so has been obtained in accordance with the procedures set forth below.

(1) Permit application. Persons seeking to operate a child day care facility in the county must file a permit application with the public works department. Each application shall also be accompanied by the applicant's affidavit certifying the maximum number of children that will be served simultaneously and that the proposed child care facility will meet and be operated in accordance with all applicable state laws and regulations and with all ordinances and regulations of the county. The public works department may require clarification or additional information from the applicant that is deemed necessary by the county to

determine whether the proposed service will meet applicable laws, ordinances and regulations.

(2) Notwithstanding the above provisions, if a proposed child care facility is subject to the requirement that the applicant obtain a certificate of registration from the state department of human resources, and even though the application may have been approved under the provisions of this section, a permit for the operation of such facility shall not be issued until proof has been submitted by the applicant that the certificate of registration has been obtained.

Sec. 4-12. Child Day Care Center.

Each child day care center shall be subject to the following requirements:

(a) All required outdoor play areas shall be enclosed by a fence or wall not less than four (4) feet in height.

(b) Each child day care center shall provide off-street parking spaces as required by the applicable zoning district and an adequate turnaround on the site.

Sec. 4-13. Kindergarten.

Each kindergarten shall be subject to the following requirements:

(a) All required outdoor play areas shall be enclosed by a fence or wall not less than four (4) feet in height.

(b) Each kindergarten shall provide off-street parking spaces as required by the applicable zoning district and an adequate turnaround on the site.

Sec. 4-14. Adult Day Care Facility.

Each adult day care facility shall be subject to the following requirements:

(a) All outdoor recreation areas shall be enclosed by a fence or wall not less than four (4) feet in height.

(b) Each adult day care facility shall provide off-street parking spaces as required by the applicable zoning district and an adequate turnaround on the site.

(c) No adult day care facility shall be located within one thousand (1,000) feet of another adult day care facility.

(d) No adult day care facility may be established and operated in the county until a permit to do so has been obtained in accordance with the procedures set forth below.

(1) Permit application. Persons seeking to operate an adult day care facility in the county must file a permit application with the public works department. Each application shall also be accompanied by the applicant's affidavit certifying the maximum number of adults that will be served simultaneously and that the proposed adult day care facility will meet and be operated in accordance with all applicable state laws

and regulations and with all ordinances and regulations of the county. The public works department may require clarification or additional information from the applicant that is deemed necessary by the county to determine whether the proposed service will meet applicable laws, ordinances and regulations.

(2) Notwithstanding the above provisions, if a proposed adult day care facility is subject to the requirement that the applicant obtain a certificate of registration from the state department of human resources, and even though the application may have been approved under the provisions of this section, a permit for the operation of such facility shall not be issued until proof has been submitted by the applicant that the certificate of registration has been obtained.

Sec. 4-15. Adult Day Care Center.

Each adult day care center shall be subject to the following requirements:

(a) All outdoor recreation areas shall be enclosed by a fence or wall not less than four (4) feet in height.

(b) Each adult day care center shall provide off-street parking spaces as required by the applicable zoning district and an adequate turnaround on the site.

Sec. 4-16. Commercial Recreation and Entertainment.

The following shall apply to commercial recreation and entertainment uses:

(a) Art shows, carnival rides and special events of community interest. Art shows, carnival rides and similar events of community interest may be approved by the Director of Planning by special administrative permit, subject to the following requirements in NS, C-1, C-2, M and M-2 districts:

(1) For a time period not exceeding fourteen (14) days;

(2) The activity shall be conducted at least one hundred (100) feet from any residential district;

(3) No living accommodations on-site;

(4) Employees shall be uniformed and identified;

(5) Security or off-duty police officers on-site during operating hours;

(6) Portable toilets provided;

(7) Site plan to determine compliance with all zoning ordinance requirements.

(b) Rodeos, horse shows, carnivals, athletic events, and community fairs may be approved by the director of public works by special administrative permit, subject to the following requirements in C-2, M and M-2 districts:

(1) For a time period not exceeding fourteen (14) days;

(2) All buildings, structures and activities associated with such use shall be set back at least five hundred (500) feet from the boundary of any residential district;

(3) All buildings, structures and activities associated with such use shall be set back at least two hundred (200) feet from any property line;

(4) The minimum lot area for any such use shall be twenty (20) acres;

(5) Employees shall be uniformed and identified;

(6) Security or off-duty police officers on-site during operating hours;

(7) Sanitary facilities to be provided;

(8) Site plan to determine compliance with all zoning ordinance requirements.

(c) Drive-in theaters. The following provisions shall apply to drive-in theaters:

(1) The theater screen, projection booth or other buildings shall be set back not less than fifty (50) feet from any property line.

(2) Driving and parking areas shall be paved.

(3) Ingress and egress from a public street shall be so designed and constructed as to provide for safe traffic movement.

(4) Central loudspeakers shall be prohibited.

(5) The theater screen shall not be visible from any freeway or principal or major arterial street.

(6) The theater shall be enclosed by a six-foot screening fence and shall provide a buffer area ten (10) feet in width.

(d) Fairgrounds and amusement parks. The following provisions shall apply to fairgrounds and amusement parks:

(1) All buildings and structures associated with such uses shall be set back not less than two hundred (200) feet from any property line.

(2) Such uses shall not be permitted within five hundred (500) feet of a residential district.

(3) Such facilities shall be enclosed by a six-foot screening fence.

(e) Golf driving ranges and batting cage facilities. The following provisions shall apply to golf driving ranges and batting cage facilities:

(1) Such uses shall be enclosed by a six-foot screening fence and a buffer area ten (10) feet in width to screen adjacent property.

(2) Central loudspeakers shall be prohibited.

(3) Lighting shall be established in such a way that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways.

(f) Miniature golf courses. The following provisions shall apply to miniature golf courses:

(1) Such uses shall be enclosed by a six-foot screening fence and a buffer ten (10) feet in width to screen adjacent property.

(2) Central loudspeakers shall be prohibited.

(3) Lighting shall be established in such a way that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways.

(g) Golf courses. The following provisions shall apply to golf courses:

(1) Such uses shall be enclosed by a screening fence six (6) feet in height to screen adjacent property.

(2) Except for emergency purposes loudspeakers shall be prohibited.

(3) Lighting shall be established in such a way that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways.

(h) Recreation grounds, fishing lakes and other related facilities. The following provisions shall apply to recreation grounds and facilities:

(1) Such uses shall be enclosed by a screening fence six (6) feet in height to screen adjacent property.

(2) Central loudspeakers shall be prohibited.

(3) Lighting shall be established in such a way that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways.

(i) Tennis centers, clubs and facilities. The following provisions shall apply to tennis centers, clubs and facilities:

(1) Such uses shall be enclosed by a screening fence six (6) feet in height to screen adjacent property.

(2) Central loudspeakers shall be prohibited.

(3) Lighting shall be established in such a way that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways.

(j) Go-cart concessions. The following provisions shall apply to go-cart concessions:

(1) All buildings and structures associated with such use shall be set back not less than two hundred (200) feet from any property line.

(2) Such use shall not be permitted within five hundred (500) feet of the boundary of a residential district.

(3) Such use shall be enclosed by a six-foot wall.

(4) The maximum motor size of any cart used shall not exceed five (5) horsepower.

(5) The maximum area occupied by the facility shall not exceed forty thousand (40,000) square feet.

Sec. 4-17. Construction Contractors, Outdoor Storage.

There shall be no indoor or outdoor storage of construction equipment, construction materials, or construction vehicles in any zoning district other than C-2, M, and M-2, except on a lot for which a valid development or building permit has been issued by the director of public works and where construction work is actively being undertaken.

Sec. 4-18. Height Requirements.

The height limitations established in this Chapter shall not apply to the following:

(a) No new construction of a single-family detached dwelling shall exceed thirty-five (35) feet measured from the vertical distance from the front door threshold of the proposed residential structure to the highest point of the roof of the structure

(b) Except in the airport compatible use overlay district, the height limitations established in this chapter shall not apply to the following:

(i) Barns, silos or other farm structures when located on farms; belfries, cupolas and domes, chimneys; and flagpoles.

(ii) Bulkheads, elevator penthouses, water tanks and scenery lofts and similar structures, provided that these structures shall not cover more than twenty-five (25) percent of the total roof area of the building which the structures are located.

(iii) Telecommunications towers and antennas otherwise permitted by this Chapter by special administrative permit or permitted by special land use permit by the City Council pursuant to **Section 4-47**.

Sec. 4-19. Home Occupations and Private Educational Uses.

The following provisions shall apply to home occupations. Private educational uses shall only be required to comply with **subsections (a), (b), (c), (d) and (h)**:

(a) There shall be no exterior evidence of the home occupation.

(b) No use shall create noise, dust, vibration, odor, smoke, glare or electrical interference that would be detectable beyond the dwelling unit.

(c) The use shall be conducted entirely within the dwelling unit and only persons living in the dwelling unit shall be employed at the location of the home occupation.

(d) No more than twenty-five (25) percent of the dwelling unit and in no case more than five hundred (500) square feet, whichever is less, may be used for the conduct of the home occupation.

(e) No use shall involve public contact on the property and no article, product or service shall be sold on the premises other than by telephone.

(f) No materials or equipment shall be stored on the premises upon which the home occupation is located, except where such materials and equipment are stored entirely within the residence.

(g) No vehicle other than a passenger automobile, passenger van, or passenger truck shall be used in the conduct of a home occupation, and no other vehicle shall be parked or stored on such premises.

(h) No home occupation shall be operated so as to create or cause a nuisance.

(i) Home occupation shall not include the use of a dwelling unit for the purpose of operating any automobile repair establishment, taxi service, van service, limousine service, wrecker service, car wash, or ammunition or firearms sales establishment.

Sec. 4-20. Home Stay Bed and Breakfast Residence.

Home stay bed and breakfast residences may be undertaken only upon approval of a special land use permit by the City Council and with all of the following additional requirements:

(a) The home stay bed and breakfast residence shall be occupied by the owner or renter of the dwelling used for such purpose;

(b) Such use shall have a lot area of not less than twenty thousand (20,000) square feet and a floor area within the dwelling unit of not less than two thousand five hundred (2,500) square feet;

(c) No separate kitchen facilities shall be used or authorized;

(d) In addition to providing the off-street parking required for the dwelling unit, there shall also be provided at least one (1) off-street parking space for each bedroom used as a part of the home stay bed and breakfast residence;

(e) No signs or advertising are permitted to identify or advertise the existence of the home stay bed and breakfast residence;

(f) The residential character of the dwelling shall be maintained;

(g) Such use shall comply with all other applicable provisions of the City of Dunwoody Code of Ordinances; and

(h) Meals shall be served only to members of the family and to persons who are renting rooms pursuant to an approved special land use permit for home stay bed and breakfast residence.

(i) Business and accounting records of the facility shall be made available to the county upon request to verify compliance with regulations.

(j) No individual shall stay for longer than seven (7) days and shall not re-register within thirty (30) days.

Sec. 4-21. Landscaping Requirements for Parking Lots.

All accessory surface parking lots and authorized parking lots within the RM-150, RM-100, RM-85, RM-75, RM-HD, OI, O-I-T, OD, NS, C-1, C-2, M, and M-2 Districts which contain a total of twenty (20) or more parking spaces which are constructed subsequent to the adoption of this Chapter shall comply with the following requirements:

(a) Each such parking lot shall have a minimum of ten (10) percent of the total lot area of the parking lot in landscaped space.

(b) Non-continuous barrier curbs shall be installed around the perimeter of the parking lot and around landscaped areas that are required herein, except where the perimeter abuts an adjacent building or structure and except at points of ingress and egress into the facility, so as to prevent encroachment of vehicles onto adjacent property, rights-of-way, sidewalks and landscaped areas.

(c) Where required, barrier curbs shall be a minimum of six (6) inches in height and a minimum of six (6) inches in width and shall be permanent in nature. Barrier curbs shall be concrete or stone. Such curbs shall be securely installed and maintained in good condition.

(d) Where the end of a parking space abuts a landscaped area, barrier curbs may be placed in the parking space at a maximum of two (2) feet from the end of the parking space. This two-foot wide area may have the pavement removed, and be developed as part of the required landscaped area.

(e) A minimum of one (1) tree per eight (8) parking spaces shall be included in the required landscaped areas. For the purpose of satisfying this requirement, existing trees that are three (3) inches or more in caliper as measured at a height of thirty-six (36) inches above ground level shall be considered to be equivalent to

one (1) or more newly planted trees on the basis of one (1) tree for each three (3) inches of caliper.

(f) In addition to trees, ground cover shall also be provided in order to protect tree roots and to prevent erosion. Ground cover shall consist of shrubs, ivy, liriope, pine bark mulch, or other similar landscaping material.

(g) Shrubs shall be maintained at a maximum height of two and one-half (2 1/2) feet, except where such shrubs are screening the parking surface from an adjacent residential area.

(h) In the event that landscaped areas are in the interior of a parking lot, they shall be a minimum of six (6) feet in width and six (6) feet in length, with a minimum area of thirty-six (36) square feet.

(i) Continuous landscaped buffer strips shall be constructed along sidewalks and public rights-of-way where surface parking lots are adjacent to such sidewalks or public right-of-way except at points of ingress or egress into the facility. Such landscaped buffer strips shall be in a minimum of ten (10) feet in width and shall contain, in addition to ground cover, trees planted a maximum of forty (40) feet on center along the entire length.

(j) Newly planted trees shall be a minimum of three (3) inches in caliper as measured at a height of six (6) inches above ground level, shall be a minimum of ten (10) feet in height, shall have a forty-foot minimum mature height, and shall be drought tolerant. Trees shall be planted at a minimum of thirty inches from any barrier curb, so as to prevent injury to trees from vehicle bumpers. A minimum of seventy-five (75) percent of the trees planted pursuant to these requirements shall be deciduous hardwood shade trees.

(k) Where landscaped areas are located adjacent to vehicle overhangs, the trees shall be planted in line with the side stripes between parking spaces in order to avoid injury to trees by vehicle bumpers.

(l) All landscaped areas shall be properly maintained in accordance with approved landscape plans. In the event that a tree or any plant material dies, it shall be replaced within twelve (12) months so as to meet all requirements of this section and to allow for planting in the appropriate planting season.

(m) All trees planted pursuant to the requirements of this **Section 4-21** shall be counted for the purpose of meeting the tree planting and tree replacement requirements imposed by the City's tree Protection Ordinance.

Sec. 4-22. Lighting.

Lighting in all districts shall be established in such a way that no direct light is cast upon or adversely affects adjacent properties and roadways. This section shall not apply to lighting established by governmental authority within public rights-of-way.

Sec. 4-23. Loading Space and Loading Berth Requirements, Off-Street.

Off-street loading spaces and off-street loading berths shall be provided as follows:

(a) Each loading space shall be no less than twelve (12) feet by thirty-five (35) feet by fourteen (14) feet overhead clearance. Each loading berth shall be no less than twelve (12) feet by fifty-five (55) feet by fourteen (14) feet overhead clearance. Each loading space and each loading berth shall have sufficient maneuvering space on-site so as to prevent interference with pedestrian or vehicular circulation on public street and sidewalks.

(b) Loading spaces and loading berths shall be provided as follows:

(1) Retail operations, including restaurants and other retail uses within hotels and office buildings, with a total gross floor area of twenty thousand (20,000) square or more shall provide one (1) loading berth for each forty thousand (40,000) square feet of floor area or fraction thereof and one (1) loading space for each twenty thousand (20,000) square feet of floor area or fraction thereof.

(2) Retail uses including all first floor nonresidential uses with a gross floor area of less than twenty thousand (20,000) square feet, and all wholesale and light industrial operations with a gross floor area of less than ten thousand (10,000) square feet shall provide one (1) loading space.

(3) Office buildings and hotels with a gross floor area of one hundred thousand (100,000) square feet or more devoted to such use shall provide one (1) loading berth for each one hundred thousand (100,000) square feet of floor area or fraction thereof.

(4) Industrial and wholesale uses with a gross floor area of ten thousand (10,000) square feet or greater shall provide loading berths as follows:

a. 10,000--40,000 square feet: 1 berth.
b. 40,001--100,000 square feet: 2 berths.
c. 100,001--160,000 square feet: 3 berths.
d. 160,001--240,000 square feet: 4 berths.
e. 240,001--320,000 square feet: 5 berths.
f. 320,001--400,000 square feet: 6 berths.
g. 400,001 or more square feet: 6 berths plus one additional berth for each additional 90,000 square feet or fractional thereof in excess of 400,001 square feet.

Sec. 4-24. Lots.

All lots created after enactment of this Chapter shall conform in all respects to the minimum requirements set forth in the district in which such lot is located, to all other applicable requirements of this Chapter, and any other requirements of the City's codes.

Sec. 4-25. Lots, Corner.

On corner lots the side having the least street frontage shall be deemed to be the front of the lot for the purpose of applying required yards and setbacks.

Sec. 4-26. Lots Served by Septic Tanks, Minimum Area.

Any lot which is to be served by an individual septic tank shall have an area of not less than that required by state and county health regulations. The site location on the lot of the facility shall be approved by the county board of health in accordance with applicable board of health regulations.

Sec. 4-27. Lots with Well and Septic Tank.

Any lot upon which both an individual well and septic tank are to be provided shall have a minimum area of not less than that required by state and county health regulations. The site location on the lot of these facilities shall be approved by the county board of health in accordance with applicable board of health regulations.

Sec. 4-28. Mines, Mining, Quarries, Gravel Pits, Borrow Pits, and Sand Pits.

The following regulations apply to the use of land as a mine, mining operation, quarry, gravel pit, borrow pit, and sand pit:

(a) *Removal or extraction of dirt, sand and soil.* The following provisions apply to removal or extraction of dirt, sand and soil:

(1) The removal area shall be completely enclosed with a wall or fence not less than six (6) feet in height.

(2) Drainage plans and a plan for the redevelopment of the site when the removal is completed shall be submitted with the application for a development permit.

(3) The use shall not be established within one thousand (1000) feet of a residential use or three hundred (300) feet of any other use.

(4) This subsection shall not prohibit the removal of earth and rock and filling and grading in any district done for land development purposes, upon issuance of a development permit in accordance with the provisions of this Chapter.

(b) *Quarry and mining.* The following provisions apply to use of any parcel of land for a quarry, mine or mining operation:

(1) All improved and maintained entrances shall be fenced and locked during nonbusiness hours. The property shall be adequately posted as is required by state law and notice of such posting shall be filed with the director of public works.

(2) Operators shall comply with state department of natural resources, surface mining land reclamation program rules and

regulations, and the mining permit number issued by the state shall be filed with the director of public works.

(3) A blasting limit of two (2) inches per second peak particle velocity as measured from any of three (3) mutually perpendicular directions in the ground adjacent to off-site buildings shall not be exceeded.

(4) An air blast limit of one hundred twenty-eight (128) decibels (linear-peak) measured adjacent to off-site residential buildings shall not be exceeded.

(5) Seismographic and noise instrumentation shall be required for a minimum of one (1) blast per three-month period. The records of such instrumentation and records of all blasts, including total charge weight, charge weight per delay, charge depth, date and time, location and meteorological conditions, shall be retained by the operator for a period of not less than two (2) years. All non-instrumented blasts shall be in compliance with the recommended scaled distance, as defined by the United States Department of the Interior, Bureau of Mines Bulletin 656, entitled "Blasting Vibrations and Their Effects on Structures." This scale distance is 50 = D/W1/2 where D is the distance to the building and W is the maximum charged weight of the explosive per delay.

(c) *Reuse or reclamation plans required.* Prior to the issuance of any development permit for any, mine, mining, quarry, gravel pit, or sand pit, the applicant shall provide to the Director of Planning a reuse or reclamation plan which meets all requirements of the City of Dunwoody Code of Ordinances.

Sec. 4-29. Moving Buildings, Requirements for.

No dwelling unit or other permanent structure shall be moved within or into the county unless, when relocated, it meets all requirements of the Code of Ordinances of City of Dunwoody and is first approved by the Director of Planning.

Sec. 4-30. Noise Limitations.

(a) *Short title.* This section shall be known and may be cited as the noise ordinance of City of Dunwoody, Georgia.

(b) *General purposes.*

(1) City of Dunwoody seeks to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life, by adopting this section. Nothing in this section is intended to deter individuals from lawfully exercising the individual right to freedom of speech or any other freedom guaranteed under the Constitutions of the United States of America or of the State of Georgia.

(2) This section applies to all noises, sounds, and tones emitting from all property categories originating within the unincorporated limits of the county. Such property categories include, specifically:

a. Residential districts;

b. Commercial districts;

c. Industrial districts;

d. Multi-use properties;

e. Public and private right-of-ways;

f. Public uses;

g. Multi-family dwelling units; and

h. Public and private parks and open spaces.

(3) This section applies to all noises, sounds, and tones received at all property categories, except industrial districts, that originate within the unincorporated limits of the county.

(4) This section applies only to noises, sounds, and tones about which a complainant has lodged a complaint. Sound level measurements for determining compliance shall be conducted only on the property of the complainant regardless of the existence of other receptors in closer proximity to the noise source under investigation.

(c) *Maximum permissible sound levels.*

(1) *Maximum permissible sound level limits by receptor property dB(A)*

TABLE INSET:

Residential district			
7:00 a.m. -- 10:00 p.m.	Residential district	Commercial district	Industrial district
Noise Sensitive facility	10:00 p.m. -- 7:00 a.m.	24 hours	24 hours
60	50	65	75

a. *Continuous sound:*

1. No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property within residential districts, commercial districts, industrial districts, multi-use properties, public and private right-of-ways, public uses and multi-family dwelling units in such a manner as to create a sound level that exceeds the sound level limits listed in **subsection (c)(1)** of this section as measured at any location at or within the property line of the receptor property. Sound pressure levels in excess of those established in

subsection (c)(1) of this section shall constitute prima facie evidence that such sound is in violation of this section.

2. If the residential receptor property or noise sensitive facility is within two hundred (200) feet of a commercial or industrial zone, or within an OCR district, the permissible sound level limit of the residential receptor property or noise sensitive facility is increased by five (5) dB(A) between the hours of 7:00 a.m.--10:00 p.m.

b. *Impulsive sound:*

1. Between 7:00 a.m. and 10:00 p.m., impulsive sounds which occur less than ten (10) times in an hour shall not equal or exceed twenty (20) decibels above the permissible sound level limits in **subsection (c)(1)** of this section. Impulsive sound which repeats ten (10) or more times in any hour shall not exceed the permissible sound level limits in **subsection (c)(1)** of this section.

2. Between the hours of 10:00 p.m. and 7:00 a.m., impulsive sounds which occur less than four (4) times in an hour shall not equal or exceed twenty (20) decibels above the permissible sound level limits in **subsection (c)(1)** of this section. Impulsive sound which repeats four (4) or more times in any hour shall not exceed the permissible sound level limits in **subsection (c)(1)** of this section.

c. *Steady pure tones*: If the sound source under investigation is a mechanical device, and is emitting a sound with a steady tonal quality, the permissible sound level limits in **subsection (c)(1)** of this section shall be reduced by five (5) dB(A). Such sound sources include, but are not limited to heating, ventilating or air-conditioning units, refrigeration units, and transformers; however, this provision shall not apply to residential air-conditioning units.

(2) *Amplified sound reproduction device maximum permissible sound level limits indoors across a real property line dB(C) above ambient.*

TABLE INSET:

Residential district 7:00 a.m. -- 10:00 p.m. Noise Sensitive facility	Residential district 10:00 p.m. -- 7:00 a.m.	All Other Times
3	5	10

a. *Amplified sound:*

1. If the source of sound is an amplified sound reproduction device, and the complainant states that the use of the device is disturbing within their residence then the noise enforcement officer may take sound level measurements within the residence of the complainant.

2. No person shall cause, suffer, allow, or permit the operation of any amplified source of sound in such a manner that it raises the total sound levels by the permissible sound level limits set forth in **subsection (c)(2)** of this section when measured within the residence of a complainant. These sound level measurements shall be conducted with the sound level meter set for "C" weighting, "fast" response. Such measurements shall not be taken in areas that receive only casual use such as hallways, closets and bathrooms.

3. For the purposes of these measurements, the ambient sound level is that sound level which is measured in the residence when the sound source under investigation is not prominent, or in a room on the same floor that is relatively unaffected by the sound source under investigation.

(d) *Noise control administrator.* There shall be created a noise control administrator who shall be the police chief or designee who shall have the power to:

(1) Coordinate the noise control activities of all departments in City of Dunwoody and cooperate with all other public bodies and agencies to the extent practicable;

(2) Review the actions of City of Dunwoody and advise the county of the effect, if any, of such actions on noise control;

(3) Review public and private projects, subject to mandatory review or approval by other departments or boards, for compliance with this section;

(4) Promulgate and publish rules and procedures to establish techniques for measuring noise, and to provide for clarification, interpretation, and implementation of this section;

(5) Review at least every three (3) years the provisions of this section and recommend revisions consistent with technology to reduce noise, or to address new sound sources within City of Dunwoody, provided, however, that failure to review and/or recommend revisions shall not affect the validity of the provisions then in effect;

(6) Delegate the duties of the noise control officer to any duly qualified individual according to the provisions of **subsection (e)** of this section.

(e) *Noise control officers.*

(1) Where the provisions of this section require the measurement of sound with the use of a sound level meter, noise control officers shall make such measurement. A person shall be qualified to be a noise control officer if the person meets the criteria set forth by the noise control administrator and completes, at a frequency specified by the noise control administrator, a noise certification and re-certification course which has been approved by the administrator. When no measurement of the sound level is necessary to determine whether a sound is in violation of the provisions of this section, or when the level of sound measured by a noise control officer is in violation of the provisions of this section, any noise control officer or police officer having jurisdiction in the area where the violation takes place, may issue a citation/summons for the violation of this section returnable to the recorder's court of City of Dunwoody. Penalties for violations of this section will be governed by **subsection (o)** of this section.

(2) Noise control officers shall cooperate and assist any police officer in measuring sound to determine if same is in violation of this section.

(f) *Procedures for the determination of sound levels.*

(1) Insofar as practicable, sound will be measured while the source under investigation is operating at normal, routine conditions and, as necessary, at other conditions, including but not limited to, design, maximum and fluctuating rates. All noise measurements shall be made at or within the property line of the impacted site, unless otherwise directed in this section. When instrumentation cannot be placed at or within the property line, the measurement shall be made as close thereto as is reasonable. For the purposes of this section, noise measurements are measured on the A- or C- weighted sound scale, as applicable, of a sound level meter of standard design and quality having characteristics established by ANSI.

(2) The sound level meter and calibrator must be re-certified annually at a laboratory approved by the noise control administrator. A field check of meter calibration and batteries must be conducted before and after every set of measurements, and at least every hour as necessary.

(3) Total and neighborhood residual sound level measurements shall be taken in accordance with procedures established and approved by the noise control administrator. Calculation of source sound levels shall conform with accepted practice established by ANSI.

(g) *Exceptions.* The maximum decibel levels established in **subsections (c)(1)** and **(c)(2)** of this section shall not apply to any of the following noise sources:

(1) Agricultural activities;

(2) Sound by public safety vehicles, emergency signaling devices, or authorized public safety personnel for the purpose of alerting persons to the existence of an emergency;

(3) Noise from an exterior burglar alarm of any building, provided such burglar alarm shall terminate its operation within five (5) minutes of its activation if the sound is uninterrupted or ten (10) minutes if intermittent;

(4) Noise from any automobile alarm, provided such burglar alarm shall terminate its operation within five (5) minutes of its activation if the sound is uninterrupted or ten (10) minutes if the sound is intermittent;

(5) The generation of sound in situations within the jurisdiction of the Federal Occupational Safety and Health Administration;

(6) Noise resulting from any practice or performance sponsored by or associated with the educational process administered by a recognized institution of learning, including, but not limited to band, choir, and orchestral performances between the hours of 7:00 a.m. and 11:00 p.m.;

(7) Noise that results from, arises out of or stems from the occurrence of a professional sporting event or organized sports league;

(8) Unamplified bells, chimes or carillons while being used in conjunction with signaling the time of the day between the hours of 7:00 a.m.--10:00 p.m.;

(9) Unamplified bells, chimes or carillons while being used in conjunction with on-going religious services between the hours of 7:00 a.m.--10:00 p.m.;

(10) Emergency work;

(11) National Warning System (NAWAS): systems used to warn the community of attack or imminent public danger such as flooding, explosion or hurricane;

(12) Noise of aircraft operations, where federal regulations preempt the local regulation of such specific operations;

(13) Public celebrations such as marches, parades or any other event sanctioned by federal, state or local government(s);

(14) Surface carriers engaged in commerce by railroad;

(15) Sound from the travel of properly muffled motor vehicles on a public right-of-way;

(16) Events with amplified sound that are operating within the time and volume parameters set forth in an approved special administrative permit.

(h) *Restricted uses and activities.* Notwithstanding the provisions of **subsection (c)(1)** of this section and the exceptions above, the following standards shall apply to the activities or sources of sound set forth below:

(1) Non-commercial or non-industrial power tools used for landscaping and yard maintenance shall not be operated between the hours of 10:00 p.m. and 7:00 a.m., unless such activities can meet the applicable limits set forth in **subsection (c)(1)** of this section. All motorized equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in **subsection (c)(1)** of this section do not apply to non-commercial or non-industrial power tools and landscaping and yard maintenance equipment.

(2) Commercial or industrial power tools used for landscaping and yard maintenance shall be operated with a muffler. All motorized equipment used in these activities shall not be operated on a residential property or within two hundred fifty (250) feet of a residential property line, between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 10:00 p.m. and 8:00 a.m. on weekends, unless:

a. Such activities are deemed emergency work; or

b. Such activities meet the limits set forth in **subsection (c)(1)** of this section.

At all other times, the limits set forth in **subsection (c)(1)** of this section do not apply to commercial or industrial power tools and landscaping and yard maintenance equipment.

(3) Construction and demolition activity shall not be performed between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 10:00 p.m. and 8:00 a.m. on weekends, unless:

a. Such activities are deemed emergency work; or

b. Such activities meet the limits set forth in **subsection (c)(1)** of this section.

c. This provision shall not apply if the noise control administrator determines that the loss or inconvenience that would result to any party in interest is of such a nature as to warrant special consideration. In such cases, the noise control administrator may grant a renewable permit for a period not to exceed ten (10) days for this work to be done within the hours of 10:00 p.m. to 7:00 a.m.

(4) The testing of burglar or fire alarms shall not exceed five (5) minutes in duration, and shall not occur between the hours of 10:00 p.m. and 8:00 a.m. Fire drills may be conducted outside of these hours no more than once a month, and with prior notification to all residential properties within two hundred fifty (250) feet of the property line where the testing will take place. At all times during these tests, the limits set forth in **subsection (c)(1)** of this section do not apply.

(5) Domesticated or caged non-farm animals may not make any vocalizations for more than fifteen (15) minutes without interruption or more than thirty (30) minutes if intermittent. These time limits do not apply if the

vocalizations are given as a warning to the presence of an intruder. At all times, the limits set forth in **subsection (c)(1)** of this section do not apply.

(6) Personal or commercial vehicular music amplification or reproduction equipment, including, but not limited to boom cars, shall not be operated in such a manner as to be plainly audible at a distance of fifty (50) feet in any direction from the equipment between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m. such equipment shall not be operated in such a manner that it is plainly audible at a distance of twenty-five (25) feet in any direction.

(7) Boom boxes, or any similar device, shall not be operated in a public place or public right-of-way in such a manner as to be plainly audible at a distance of fifty (50) feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., such equipment shall not be operated in such a manner that it is plainly audible at a distance of three (3) feet in any direction.

(8) The provisions of **subsections (h)(1)** and **(2)** of this section do not apply to power tools or motorized equipment operated in association with the upkeep and maintenance of any public or private golf course, provided that all such power tools and motorized equipment are equipped with mufflers or are operated in conjunction with a device or system for lessening the sounds produced.

(i) *Initiation of applications; requests for temporary relief or stays; requests for variances.*

(1) Any person requesting temporary relief or a stay from the enforcement of this section shall apply for a special administrative permit for a period of time not to exceed thirty (30) days. The noise control administrator has discretion to consider and grant or deny the special administrative permit, pursuant to the procedures and standards contained in this section if strict enforcement of this section will result in exceptional and undue hardship to the applicant. Under no circumstances shall the noise control administrator grant a stay of enforcement of this section for more than sixty (60) days within any six-month period.

(2) All requests for variances shall be filed with the zoning board of appeals and shall be governed by **Section 5D et seq.** No variance shall be issued for amplified noise measured under **subsection (c)(2)** of this section.

(3) No special administrative permit or variance shall be granted for amplified noise described in **subsection (h)(6)** and **(7)** of this section.

(4) No special administrative permit or variance shall be authorized to delete, modify, or change in any manner any requirement enacted as a condition of zoning or as a condition of a special land use permit imposed by the City Council or the zoning board of appeals.

(j) *Successive applications.* An application for a variance affecting all or a portion of the same property shall not be submitted more than once every twenty-four (24) months measured from the date of the final decision by the zoning board of appeals. The zoning board of appeals may waive or reduce this twenty-four-month time interval by board action if the time interval between the date of said denial and any subsequent application affecting the same property is no less than six (6) months. The limitations in this section shall not apply to special administrative permits.

(k) *Application forms; filing of applications; application fees.* Applications for special administrative permits and variances shall be filed on forms provided by the noise control administrator and shall not be considered authorized or accepted unless complete in all respects. The City Council shall establish application fees.

(l) *Application forms; criteria.* Applications for special administrative permits shall include all of the following information:

(1) The nature and location of the noise source for which such application is made;

(2) The reason for which the permit or variance is requested, including the hardship that will result to the applicant, his/her client, or the public, if the permit or variance is not granted;

(3) The nature and intensity of noise that will occur during the period of the permit or variance; and

(4) A description of the noise control measures to be taken by the applicant to minimize noise and the impacts occurring therefrom.

(5) The name, address and means of contacting a responsible party during the hours of operation for which the permit or variance is issued.

(m) *Issuance of special administrative permits; required enumerated conditions.* Upon issuance of a special administrative permit, the noise control administrator shall enumerate the conditions of the permit including, but not limited to:

(1) Specific dates and times for which the permit is valid, not to exceed thirty (30) days;

(2) Sound level limits that may not be exceeded at the nearest affected residential district or noise sensitive property.

(n) *Revocation.*

(1) The noise control administrator may revoke special administrative permits if the terms of the permit are violated.

(2) A special administrative permit may be revoked by the noise control administrator, and the issuance of future special administrative permits withheld, if there is a:

a. Violation of one (1) or more conditions of the permit;

b. Material misrepresentation of fact in the permit application; or,

c. Material change in any of the circumstances relied upon by the noise control administrator in granting the permit.

(o) *Fines.*

(1) A conviction of a violation of the provisions of this section shall be punished by a minimum fine of one hundred dollars ($100.00), which may be combined with any other authorized penalty within the City's Code.

(2) If the activity or condition constituting the violation has been the subject of an enforcement action against the violator in the immediately preceding six (6) months, the minimum fine shall be five hundred dollars ($500.00), which may be combined with any other authorized penalty within the City's Code.

(3) If the activity or condition constituting the violation has been the subject of three (3) or more enforcement actions against the violator in the immediately preceding twelve (12) months, the minimum fine shall be eight hundred dollars ($800.00), which may be combined with any other authorized penalty within **Section 5D-12** of the Code.

(4) Violations of this section are continuous with respect to time; therefore, each day the violation continues is a separate offense.

(p) *Appeals.* Appeals of any special administrative permit decision made by the noise control administrator, his or her designee, or any officer authorized to enforce the provisions of this section shall be to the zoning board of appeals pursuant to **Section 5D-12 et seq.**

(q) *Inconsistent provisions.* Insofar as the provisions of this section are inconsistent with any other provision of any other title of the ordinance or any rule or regulation of any government agency of the county, then the provisions of this section shall control.

Sec. 4-31. Open Space.

Open space areas required to be established by this Chapter shall be permanently maintained as open space and appropriately landscaped with trees, shrubs, flowers, grass, stones, rocks or other landscaping materials. These areas may not be used for vehicular access, parking or similar uses except as otherwise permitted in this Chapter.

Sec. 4-32. Outdoor Storage of Materials, Supplies, Equipment or Vehicles.

The following regulations shall apply to outdoor storage of materials, supplies, equipment or vehicles:

(a) In the O-D, O-I, NS and C-1 districts there shall be no outdoor storage of materials, supplies, equipment or vehicles.

(b) In the C-2, M and M-2 districts outdoor storage shall be at least fifty (50) feet from the street right-of-way and shall be screened so as not to be visible at ground level from any adjoining property or from the public street.

Sec. 4-33. Parking Garage, Commercial.

Commercial automobile parking garages may include gasoline pumps if located entirely within the parking garage structure.

Sec. 4-34. Parking Regulations, Off-Street Parking Spaces.

Off-street parking spaces shall be provided in accordance with the following requirements:

(a) Each application for a development permit or building permit other than for a detached single-family residence shall be accompanied by a parking plan showing all required off-street parking spaces, driveways, and the internal circulation system for each such parking lot.

(b) All parking lots and spaces shall conform to the following requirements:

(1) Each parking space and parking lot shall have access to a public street.

(2) Each parking space and parking lot, including all internal circulation driveways, shall comply with the requirements of the City of Dunwoody Code of Ordinances. All vehicles shall be parked only on a paved surface.

(3) Each parking space shall be not less than one hundred fifty-three (153) square feet and not less than eight and one-half (8 1/2) feet wide and eighteen (18) feet deep. In any required parking lot consisting of twenty (20) or more parking spaces, forty (40) percent of such spaces may be small car spaces each of which shall be not less than one hundred twenty (120) square feet and not less than eight (8) feet wide and fifteen (15) feet deep. Each parking lot shall have adequate space for the parking and unparking of each car and for internal circulation within said parking lot.

(4) Each parking lot and parking space shall be separated from the public street or public sidewalk by wheel bumpers and a planted strip at least ten (10) feet in width, except that parking lots consisting of twenty (20) or more spaces shall comply with the requirements of **Section 4-21** of this Chapter.

(5) All parking lots and parking spaces shall conform to the geometric design standards of the Institute of Traffic Engineers.

(6) Parking and loading shall not be permitted within required front yard setbacks in any RM and OI district, except in the O-I-T district. Parking and loading shall be permitted within the required front yard set backs in the O-I-T district where provision of adequate parking spaces within the rear yard is impractical.

(7) Parking shall not be permitted within the front yard in any R district except within a driveway or in a carport or garage. Within any R district not more than thirty-five (35) percent of the total area between the street right-of-way line and the front of the principal building shall be paved. On any lot where adequate width exists so as meet the geometric design standards of the Institute of Traffic Engineers, a circular driveway shall be permitted, subject to the total driveway

coverage herein. However, no parking spaces or parking bays shall be established within any such front yard.

(8) No parking area or lot shall be used for the sale, repair, dismantling, servicing, or long-term storage of any vehicle or equipment unless located within a district which otherwise permits such use.

(9) The parking of business vehicles within R districts other than ordinary passenger vehicles shall be within a garage or carport or within a side or rear yard. The parking of any business vehicle other than a passenger automobile, passenger van, or passenger truck shall not be permitted in any residential district.

(10) All parking lots within the RM-150, RM-100, RM-85, RM-75, RM-HD, OI, O-I-T, OD, NS, C-1, C-2, M, and M-2 Districts which contain a total of twenty (20) or more parking spaces shall conform to all of the requirements of **Section 4-21** of this Chapter.

(c) In any case where the district regulation does not specify an off-street parking requirement for a use that is authorized or permitted within any such district, then the most restrictive off-street parking requirement within that district regulation shall apply.

Sec. 4-35. Pawn Shops.

The following provisions apply to pawn shops whether designed as a primary use or as a part of a shopping center:

(a) This use shall be permitted only on a parcel of land which has direct access to a major thoroughfare.

(b) This use shall not be permitted within one thousand (1,000) feet of an existing pawn shop or check cashing establishment.

Sec. 4-36. Places of Worship, Convents; Monasteries; Temporary Religious Meetings; General Requirements.

The following subsections shall apply to places of worship, convents and monasteries and their related uses, as defined within this Code:

(a) When located in a residential district, any building or structure established in connection with places of worship, monasteries or convents shall be located at least seventy-five (75) feet from any property line, except where the adjoining property is zoned for nonresidential use, the setback for any building or structure shall be no less than twenty (20) feet for a side-yard and no less than thirty (30) feet for a rear-yard.

(b) When located in a residential district, the required setback from any property line that adjoins a street right-of-way shall be the front-yard setback for the applicable residential district.

(c) When located in a residential district, the parking areas and driveways for any such uses shall be located at least twenty (20) feet from the boundaries of any property line, with a visual screen, e.g., a six-foot fence or sufficient vegetation established within that area.

(d) Places of worship, convents and monasteries in residential districts shall be located on a minimum lot area of three (3) acres and shall have frontage of at least one hundred (100) feet along a public street.

(e) Places of worship, convents and monasteries in residential districts shall be located only on a major or minor thoroughfare.

(f) The establishment of sites and tents for temporary religious meetings requires the grant of a special administrative permit by the director of planning. Such tents or sites for any specific location may not be used for a cumulative period of more than fourteen (14) days during any calendar year.

(g) Any uses, buildings or structures operated by a place of worship that are not specifically included within the definition of place of worship must fully comply with the applicable zoning district regulations, including, but not limited to, any requirement for a special land use permit.

(h) Any use, building or structure operated by a place of worship that is included within the definition of a place of worship must comply with the applicable supplemental regulations found in **Sections 4-1**.

(i) Any place of worship, convent or monastery located on a street other than a major or minor thoroughfare shall be a legal non-conforming use if constructed pursuant to a development permit issued between July 30, 1970 and April 13, 1999.

(j) **Subsections (d)** and **(e)**, above, shall only apply to places of worship, convents and monasteries developed or established after July 29, 1970.

Sec. 4-37. Private Elementary, Middle and High School.

The minimum lot size for private elementary, middle and high school for which an application for special land use permit is filed, shall be as follows:

(a) *Elementary school:* Five (5) acres plus one (1) additional acre for each one hundred (100) students based on the design capacity of the school.

(b) *Middle school:* Twelve (12) acres plus one (1) additional acre for each one hundred (100) students based on the design capacity of the school.

(c) *High school:* Twenty (20) acres plus one (1) additional acre for each one hundred (100) students based on the design capacity of the school.

Sec. 4-38. Utility Structure Necessary for the Transmission or Distribution of Service.

Any utility structure necessary for the transmission or distribution of service, whether an authorized use or a permitted use, shall provide security fencing and landscaping to lessen the visual impact of such structures on adjoining property. Noise resulting from temporary construction activity pursuant to a valid development or building permit, that is not a part of the usual and ongoing operation of the use on the site, that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the requirements of this section. Such structures shall be built only within the buildable area of any lot where permitted or authorized and shall meet all requirements of the district in which such structure facility is located.

Sec. 4-39. Relatives' Residence in Single-Family Residential Districts.

A second kitchen facility may be constructed and used within a single-family residence for the exclusive use of relatives of the real property owner subject to the following restrictions:

(a) The real property owner must live in the single-family residence.

(b) Relatives must be related by blood, marriage or law.

(c) The area of the second kitchen facility shall not exceed the area of the main kitchen facility.

(d) Access to the relatives' living area shall be required from the interior of the residence, although secondary access to the exterior of the dwelling is not prohibited.

(e) Paved off-street parking shall be provided for additional vehicles as needed. Permits for the second kitchen facility shall not be issued until such time as the real property owner has applied to and received from the director of public works a relative residence permit. The relative residence permit shall be in recordable form and, upon execution, shall be recorded in the office of the clerk of the superior court. The director of public works shall provide a copy of each such permit to the City of Dunwoody Board of Tax Assessors. The unit shall be removed when it is vacated by the relative(s) for whom the unit was installed.

Sec. 4-40. Regional Impact, Developments of; Area Plan Review.

Where any application for a development or building permit is received by the director of public works which constitutes a development of regional impact or an area plan review, the director of public works shall forward said application to the Atlanta Regional Commission for such review and shall make no final decision on said application until the review by the commission is complete within the time limit specified by state law. Where any application for an amendment to the official zoning map(s) or an application for a special land use permit is received by the director of planning constitutes a development of regional impact or an area plan review, the director of planning shall forward said application to the Atlanta Regional Commission for such review and shall provide to the City Council the findings of the Atlanta Regional Commission prior to their final decision on any such application.

Sec. 4-41. Satellite Television Antennae.

No satellite television antenna shall be erected, constructed or used except in conformance with the following regulations:

(a) *Satellite television antennae location*. Satellite television antennae shall be located as follows:

(1) In any office, commercial, industrial, or multifamily residential district, such satellite television antenna may be located, anywhere in the buildable area of the lot or on a building thereon, subject to applicable zoning district setback regulations.

(2) In any other district satellite television antennae shall be located only to the rear of any principal structure. If usable communication signals cannot be obtained from the rear location, the satellite television antenna may be located in the side yard. Both locations shall be subject to applicable zoning district setbacks or regulations.

(3) In the event that usable satellite television communication signals cannot be received by locating the antenna in the rear or to the side of the principal structure, such antenna may be placed in the front yard or on the roof of the dwelling, provided that the diameter does not exceed eighteen (18) inches and that approval of the director of public works shall be obtained prior to such installation. The director of public works shall issue such a permit only upon a showing by the applicant that usable communication signals are not receivable from any location on the property other than the location selected by the applicant.

(b) *Height limitations, screening, and grounds.* Satellite television antennae shall comply with the following regulations:

(1) In any district other than office, commercial, industrial, or multifamily residential, a satellite television antenna shall not exceed thirty-six (36) inches in diameter.

(2) A ground-mounted satellite television antenna shall not exceed twenty (20) feet in height including any platform or structure upon which said antenna is mounted or affixed. All non-ground-mounted satellite television antennae shall not exceed eighteen (18) feet in height.

(3) If usable satellite signals cannot be obtained from an antenna installed in compliance with the height limitation imposed by (2) above, such satellite television antennae may be installed at a greater height, provided that said greater height is approved by the director of public works. Such approval shall be granted only upon a showing by the applicant that installation at a height greater is necessary for the reception of usable communication signals. Under no circumstances shall said antennae exceed the height of the elevation of the ridge line of the principal structure.

(4) Except in office, commercial, industrial, or multifamily residential districts, satellite television antennae shall be screened to reduce visual impact from surrounding properties at street level and from public streets.

(5) All satellite television antennae shall meet all manufacturers' specifications, be located on non-combustible and corrosion-resistant material, and be erected in a secure, wind-resistant manner.

(6) All satellite television antennae shall be adequately grounded for protection against a direct strike of lightning pursuant to the requirements of the County Electrical Code.

Sec. 4-42. Service Areas for Nonresidential Uses.

All service areas for nonresidential uses shall be established so as not to infringe upon any yard requirement and shall be visually screened from adjacent residential properties.

Sec. 4-43. Signs and Outdoor Advertising.

Signs and outdoor advertising shall be in accordance with the provisions of this Chapter and the City's Sign Ordinance.

Sec. 4-44. Site Plan Preparation.

Site plans and other development plans required to be submitted under the provisions of this Chapter shall be prepared only by those currently registered for such work in accordance with applicable state law; no plans for structures shall be prepared by other than a currently state-registered architect or engineer.

Sec. 4-45. Storage Yards, Exterior.

Exterior storage yards (but not including the parking of vehicles for sale or lease) shall not be permitted in any district except the C-2, M and M-2 districts. In C-2, M and M-2 districts, these storage yards shall be enclosed by a screening fence not less than six (6) feet in height.

Sec. 4-46. [Reserved.]

Sec. 4-47. Telecommunications Towers and Antennas.

The following regulations shall apply to all telecommunications towers and antennas within City of Dunwoody:

(a) *Findings, purpose and intent.* City of Dunwoody finds that the number, height, design characteristics and location of telecommunications towers and antennas in the county directly affect the public health, safety and general welfare. The county finds that such structures are likely to substantially increase in number in the immediate future. The county further finds that such structures, when inappropriately located, have the potential to pose a danger to surrounding property owners and the general public and substantially detract from the beauty and aesthetic appearance of the county. The county finds that there is a

substantial need directly related to the public health, safety and welfare to comprehensively address those concerns through the adoption of regulations. The purpose and intent of the governing authority of City of Dunwoody in enacting this section are as follows:

(1) Encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the county;

(2) Encourage the joint use of new and existing tower sites;

(3) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;

(4) Minimize adverse visual and aesthetic effects of towers through careful design, siting, and vegetative screening;

(5) Avoid potential damage to adjacent properties and personal injury from tower failure and falling ice and debris through engineering, careful siting of tower structures, and other requirements;

(6) Ensure compliance with applicable federal statutes and regulations;

(7) Lessen traffic impacts on surrounding residential areas;

(8) Allow new towers in residential areas only if a comparable site is not available in a nonresidential area; and

(9) Comply with all necessary and relevant requirements of the Telecommunications Act of 1996, as amended.

(b) *Compliance required.* It shall be unlawful for any person to erect, install, construct, enlarge, move, alter or convert any telecommunications tower or antenna or cause the same to be done within City of Dunwoody except in accordance with the provisions of this section. In addition, except as otherwise specifically provided herein, all towers and antennas shall also comply with all regulations applicable to the zoning district in which said tower or antenna is located and any permits authorizing said towers or antennas.

(c) *Regulations.* The following regulations shall apply to all telecommunication towers and antennae, including those permitted by special administrative permit within a zoning district and those permitted by special land use permit:

(1) In addition to meeting all of the development standards required by the zoning district within which the tower or antenna is proposed to be located, all telecommunications towers or antennae shall be set back as follows:

a. Any tower or antenna located within any zoning district where permitted by special administrative permit shall be set back from all property lines which adjoin any other zoning

district boundary in which telecommunications towers or antennae are also permitted by special administrative permit a distance of one-third of the combined height of the tower and antenna or one hundred (100) feet, whichever is greater, except that where any such adjoining property is used for residential use then said telecommunications tower or antenna shall be set back from any such off-site structure in residential use, including any accessory structure designed for regular human use, a distance of one-half (1/2) the combined height of the tower and antenna or two hundred (200) feet, whichever is greater;

b. Any tower or antenna located within any zoning district where permitted by special administrative permit which adjoins any residential district shall be set back from any property line of any such adjoining residential district a distance of one-half (1/2) the combined height of the tower and antenna, or two hundred (200) feet, whichever is greater; and

c. Any telecommunications tower or antenna which is approved by special land use permit by the City Council to be located within any residential district shall provide setbacks as required by the City Council in their grant of the special land use permit, but in no case shall the set back from any property line be less than two hundred (200) feet.

(2) Telecommunications towers and antennas shall either maintain a galvanized steel finish or, subject to any applicable standards of the Federal Aviation Administration or Federal Communications Commission, be painted a neutral color, so as to reduce visual obtrusiveness. Said requirement shall not apply to an alternative tower structure.

(3) At a tower site, the design of the buildings and related structures shall, to the maximum extent possible, use materials, colors, textures, screening and landscaping that will blend the tower facilities to the natural setting and built environment.

(4) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment shall be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(5) Towers shall not be artificially lighted, unless required by the Federal Aviation Administration, Federal Communications Commission or other applicable authority. If lighting is required, such lighting shall be to the minimum applicable standards so as to minimize the disturbance to the surrounding views.

(6) Telecommunications towers and antennas shall be entirely enclosed by a security fence not less than six (6) feet in height. Towers shall be equipped with an appropriate anti-climbing device. This requirement shall not apply to alternative tower structures provided equivalent alternative security measures are installed.

(7) In addition to any other landscaping or buffer requirements that may apply, telecommunications towers and antennas shall be landscaped with plant material that effectively screens the tower site from adjacent uses. Existing tree growth and natural land forms on-site shall be preserved to the maximum extent possible. At a minimum, a landscaped strip ten (10) feet in width shall be provided around the perimeter of the site. Said requirement shall not apply to alternative tower structures.

(8) Telecommunications towers and antennas shall be constructed to the minimum height necessary to accomplish their required telecommunications purpose.

(9) The environmental effects of radio frequency emissions shall not serve as a basis to approve, deny or otherwise regulate a telecommunications tower or antenna to the extent said emissions comply with Federal Communications Commission regulations concerning said emissions.

(10) All decisions by the county or its officials denying a request to place, construct or modify a telecommunications tower or antenna shall be in writing and supported by a written record documenting the reasons for the denial and the evidence in support thereof. All such decisions shall be made within a reasonable time from the date a completed application is duly filed with the appropriate department. Applications in all cases where the telecommunications tower or antenna is a use which may be authorized by special administrative permit shall be made to and decided by the Director of Planning pursuant to all standards and requirements contained within this section and any other applicable section of this Chapter. Applications in all cases where the telecommunications tower or antenna is a use which may be authorized by special land use permit shall be made to and decided by the City Council pursuant to all standards and requirements contained within this section, in **Section 5B** of this Chapter, and any other applicable requirement of this Chapter.

(11) Each applicant requesting a special administrative permit for a telecommunications tower or antenna shall provide to the director of public works as a part of the application for special administrative permit and each applicant requesting a special land use permit for a telecommunications tower or antenna shall provide to the director of planning as a part of the application for special land use permit an inventory of its existing towers that are either within the jurisdiction of the governing authority or within one-quarter mile of the boundaries

thereof, including information regarding the location, height and design of each tower. The Director of Planning, as the case may be, may share such information with other applicants applying for special administrative permits or special land use permits under the requirements of this Chapter or with other organizations seeking to locate a telecommunications tower or antenna within the jurisdiction of City of Dunwoody, provided, however, that the Director of Planning are not, by sharing such information, in any way representing or warranting that such sites are available or suitable. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Director of Planning in the case of application for a special administrative permit or the City Council in the case of application for a special land use permit that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence shall be submitted at the time of application for special administrative permit or special land use permit, as the case may be, which demonstrates that no existing tower or structure can accommodate the applicant's proposed antenna and may consist of the following:

a. No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.

b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable.

f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

(12) The placement of additional buildings or other supporting equipment necessarily required in connection with an otherwise authorized telecommunication tower or antenna is specifically authorized.

(13) Any telecommunications antenna or tower that is not operated for a continuous period of 6 months shall be considered abandoned, and

the owner of such antenna or tower shall remove same within ninety (90) days of receipt of notice from the governing authority notifying the owner of such abandonment.

Sec. 4-48. Temporary Buildings, Use and Construction of.

Temporary buildings, except where herein otherwise specifically permitted, shall not be allowed in any district except temporary buildings used in conjunction with construction work or pending completion of a permanent building for a period not to exceed one (1) year. Such time period may be extended upon approval by the Director of Planning. Such temporary buildings shall be sited and permitted in any district upon approval of the Director of Planning. Such temporary buildings shall be removed when the construction has been completed.

Sec. 4-49. Temporary Outdoor Sales of Merchandise.

Temporary outdoor sales of merchandise, including flea markets, may be authorized upon approval of a special administrative permit by the director of public works in the C-1, C-2 and M districts pursuant to the following requirements:

(a) Any applicant for a permit for temporary outdoor sales of merchandise shall have the written authorization of the owner of the property to use the property for temporary outdoor sales of merchandise;

(b) No such temporary outdoor sales of merchandise shall be conducted on public property, within any public right-of-way and no display or sales area shall be located within fifty (50) feet of the street;

(c) All applicants for a permit for such temporary outdoor sales of merchandise shall obtain a business license;

(d) No such temporary outdoor sales of merchandise shall be approved for a time period exceeding three (3) consecutive days;

(e) No special administrative permit for temporary outdoor sales of merchandise shall be approved for the same lot or any portion thereof for a total of more than six (6) days in any calendar year; and

(f) Except as authorized herein by special administrative permit for temporary outdoor sales of merchandise, all other sales of merchandise shall be conducted within a permanent building which has a floor area of not less than three hundred (300) square feet and which complies with the requirements of this Chapter and all other applicable parts of the Code of Ordinances of City of Dunwoody.

(g) These uses shall be permitted only on developed lots.

(h) No temporary buildings, shacks or tents shall be permitted in connection with this use.

(i) All activities incident to this use shall be limited to daylight hours only.

(j) All displays and equipment incident to this use shall be removed nightly.

(k) No operator, employee or representative shall solicit directly to the motoring public.

(l) As a part of the application a location map for the activity shall be provided.

Sec. 4-50. Temporary Outdoor Sales, Seasonal.

Temporary outdoor seasonal retail sales and services, such as sale of plants, flowers, farm produce or seasonal greenery may be permitted in NS, C-1, C-2, M, and M-2 districts, and as an accessory use to a place of worship, upon approval of a special administrative permit by the director of planning or a duly authorized representative thereof pursuant to the following requirements:

(a) Any applicant for a special administrative permit for temporary outdoor seasonal retail sales and services shall have the written authorization of the owner of the property to use the property for temporary outdoor seasonal retail sales and services;

(b) No such temporary outdoor seasonal retail sales and services shall be conducted on public property or within any public right-of-way.

(c) No such temporary outdoor seasonal retail sales and services shall be approved for a time period exceeding forty-five (45) consecutive days;

(d) No single special administrative permit for temporary outdoor seasonal retail sales and services shall be approved for the same lot or any portion thereof for a total of more than ninety (90) days in any calendar year;

(e) These uses shall be permitted only on lots that have adjacent to them hard surface parking with a curb cut;

(f) No operator, employee or representative shall solicit directly to the motoring public;

(g) As a part of the application for a special administrative permit for temporary outdoor seasonal retail sales and services, a plat of the site that indicates parking shall be provided.

Sec. 4-51. Traffic and Street Improvements, Curb Cuts, and Visibility Requirements.

The following regulations shall apply to all lots hereinafter developed:

(a) Each building shall be located on a lot or parcel that abuts a public street or private street.

(b) Where this Chapter measures minimum building setback lines and frontages, or imposes development standards in connection with, or with reference to public streets, such measurements or standards set forth in the district regulations, the supplemental regulations or elsewhere in the Code of City of Dunwoody shall apply similarly for property abutting a private street where such private street has been approved by the planning commission. Nothing in this article is intended to authorize any kind of development on a private street that would not be authorized where there was a public right of way.

(c) Curb cuts for driveways serving as entrances and exits to private property within any district other than an R district shall not be located within fifty (50) feet of any intersection or within forty (40) feet of another curb cut. No curb cut shall be greater than forty (40) feet in width and no closer than twenty (20) feet to any property line, except where approved by the director of public works. The determination of need for any such improvement shall be based upon traffic warrant standards utilized by the Federal Highway Administration and the Georgia Department of Transportation.

(d) Any applicant for any development or building permit for any lot or parcel of land fronting on any roadway that is classified as a state route by the Georgia Department of Transportation shall obtain the preliminary approval of both the City of Dunwoody Public Works Department and the Georgia Department of Transportation prior to beginning any construction of any type.

(e) No fence, wall, building, structure, sign, plant material, or other obstruction of any kind shall be maintained within fifteen (15) feet of the intersection of the rights-of-way lines of any two (2) streets extended, or of a street intersection with a railroad right-of-way line.

Sec. 4-52. Trailers, Parking of.

In a residential district, no trailer, recreational vehicle, travel trailer, camper, pickup coach, motorized home, boat trailer or boat shall be permitted to be parked in front of the principal structure or within twenty (20) feet of the rear lot line, unless it is parked or stored completely within an enclosed garage or roofed carport.

Sec. 4-53. Transitional Buffer Zone.

Transitional buffer zones required by this Chapter shall be established and permanently maintained as follows:

(a) The natural topography of the land shall be preserved and natural growth shall not be disturbed except where necessary to remove dead or diseased trees and undergrowth. However, a slope easement may be cleared and graded where required to prevent soil erosion upon approval of the director of public works and such easement shall cover no more than twenty (20) percent of the required transitional buffer zone and shall be immediately replanted upon completion of easement improvements. It is the intent that such work be conducted in such a

manner as to avoid disturbance of the soil within the dripline of trees within said transitional buffer zone.

(b) When the conditions described in paragraph (a) above of this section cannot be met by reason of prior removal of or lack of trees and plant material, a landscape planting plan shall be prepared and implemented to provide the necessary visual screening. Said landscape planting plan shall consist of evergreen shrubs and trees not less than six (6) feet in height, or shrubs which will in normal growth attain a height of six (6) feet within three (3) years. Said plan shall be so designed as to result in a visual screen with sufficient density and height to form a visual barrier and to diffuse the transmission of sound.

(c) Any grading or construction adjacent to the transitional buffer zone shall be conducted far enough away from the transitional buffer zone so as avoid disturbance to or encroachment upon the transitional buffer zone.

(d) Access shall be provided as required for utilities and to assure adequacy of fire protection services.

Sec. 4-54. Walls, Fences and Retaining Walls.

(a) No wall, fence, and retaining wall shall be more than eight (8) feet in height. No wall or fence shall be constructed in any public right-of-way except upon approval of the director of public works. No wall or fence in a front yard in a residential district shall exceed four (4) feet in height. When this Chapter requires a wall or fence to be constructed, the wall or fence shall be completed prior to issuance of a certificate of occupancy for the principal structure.

(b) *Restrictions on retaining walls in single–family districts*. Newly constructed retaining walls in single family residential districts shall not be higher than four (4) feet; however existing retaining walls may be repaired and replaced so long as the height of the repaired or replaced wall does not increase in height over the original height of the wall. The distance between a retaining wall and the property line on all lots with single-family detached dwellings shall be equal to half of the distance between the property line and the required set back line.

(1) If exceptional topographical restrictions exist on the lot in context with the adjoining property which were not created by the applicant or owner and it is established to the satisfaction of the planning director or designee that no practical alternative design of such wall is feasible, then the planning director may grant a maximum two (2) foot increase in height of the applicable height requirement set forth in this section of such retaining wall. Applicant shall provide to the planning director or designee a certified field run site plan or a topographical map certified by an engineer or landscape architect with the application for a variance.

(2) If exceptional topographical restrictions exist on the lot in context with the adjoining property which were not created by the applicant or owner and it is established to the satisfaction of the zoning board of appeals that no

practical alternative design of such wall is feasible, the zoning board of appeals may allow the height of retaining walls to be greater than six (6) feet and/or vary the distance between the side property line and the required setback line for retaining walls. No variance shall be granted to allow the height of a retaining wall above eight feet (8). In addition to the materials otherwise required for a variance in Article V Division 5D, an applicant shall provide a certified field run site plan or a topographical map certified by an engineer or landscape architect with the application for a variance.

Sec. 4-55. Yard Requirements.

The following regulations shall apply relating to yard requirements:

(a) *Average setback.* When a lot (or lots) is (are) located within a block where sixty (60) percent or more of the lots within said block have been developed, and where there are existing buildings fronting on the same street and within the same zoning district within seventy-five (75) feet of the side lot lines of such vacant lot (or lots), then set back averaging shall be required. The minimum required building set back line for said vacant lot (or lots) shall be determined by averaging the existing building set backs of buildings within seventy-five (75) feet of the side lot lines of such vacant lot (or lots). The minimum setback for additions to existing structures may be the average of the existing set backs.

(b) *Double frontage lots.* Lots which adjoin a public street in the front and rear shall provide the minimum required front yard on each street.

(c) *Corner lots.* Corner lots shall provide required front yard setbacks along all public street frontages.

(d) *Projections into yards.*

(1) Every part of a required yard shall be open to the sky and unobstructed except for the ordinary projections of sills, belt courses, cornices, eaves, chimneys, buttresses and other ornamental and architectural features, provided that these features do not project more than three (3) feet into any required yard.

(2) An open, unenclosed porch or hard-surfaced terrace, steps, stoops and similar fixtures of a building may project into a required front yard or rear yard for a distance not to exceed ten (10) feet, and into a side yard to a point not closer than 5 feet from any side lot line.

(3) Notwithstanding other provisions of this Chapter, fences, walls, hedges, and driveways may be permitted in any required yard, provided that no fence, wall or hedge along the street sides of corner lots shall violate the corner visibility provisions of this Chapter.

(e) *Spacing between buildings for attached buildings in the R-A5 and R-A8 districts, and for all multifamily buildings in RM-150, RM-100, RM-85, RM-75, RM-HD, and multifamily buildings authorized or permitted in O-I and C-1:*

(1) Yards shall be provided as is required within the applicable zoning district requirements.

(2) Structures which are front face to front face, back face to back face, or front face to back face shall be not less than sixty (60) feet apart. Structures which are side face to side face shall not be less than twenty (20) feet apart. Structures which are side face to front face or back face shall be not less than forty (40) feet apart.

(3) No structure shall exceed two hundred fifty (250) feet in length along any elevation.

(4) Spacing between buildings within a single site, or the width of side and rear yards for all high-rise multifamily buildings within the RM-HD, O-I and C-1 districts, shall be the greater of the district requirement or the yard required by application of the following formula: D= 4 + s + L/10, in which D is the depth of the required spacing, s is the number of stories in the building, and L is the length of the building wall.

Sec. 4-56. Interim Development Controls.

The following shall apply to interim development controls:

(a) *Intent.* The intent of the City Council in enacting this section is to authorize and provide minimum procedures and standards for the imposition of interim development controls in situations in which the immediate temporary maintenance of the status quo or the immediate imposition of certain interim regulations is necessary for the protection of the public health, safety and welfare. The City Council finds that imposition of such controls may be necessary when current code provisions relating to a particular area, district, use, building, structure, permit or procedure are found to be nonexistent or deficient due to newly recognized or changing conditions, when existing code provisions do not adequately address said deficiencies, and when study or review may determine a need for new regulations that are appropriate and necessary to address the problem(s) identified.

(b) *Minimum standards.* The City Council may impose interim development controls on specific areas, districts, uses, buildings, structures, permits, or procedures. Such controls shall be imposed without the necessity for strict compliance with the procedural requirements otherwise required of such regulations, provided they are imposed by an ordinance that conforms to each of the following standards:

(1) A specific finding stating in detail the necessity for the rapid imposition of interim development controls, including but not limited to

identification of the harm, risks or hazards to the public health, safety and welfare that would occur in the absence of such controls;

(2) A specific plan mandating study, review, and/or drafting of new regulations to resolve the problem(s) identified;

(3) A provision setting forth with specificity the interim regulatory controls that will be put in place consistent with the intent of this section; and

(4) A provision specifying the period of time during which the interim regulatory controls will be in effect and demonstrating the necessity for said time frame. No interim development control ordinance shall be in place for a period of time exceeding one hundred eighty (180) days, provided that said ordinance may be extended by resolution for an additional period of time not exceeding ninety (90) days when said extension is necessary to resolve the problems identified.

Sec. 4-57. Cross-District Use of Land and Structures Prohibited.

Off-street parking, driveways or any other building, structure or use of land, including any accessory use or structure, shall be permitted only on land in which the zoning district classification authorizes the principal use to which the parking or driveway or other building, structure or use of land, including any accessory use or structure, is accessory.

Sec. 4-58. Shelters for Homeless Persons and Transitional Housing Facilities.

No shelter for homeless persons and no transitional housing facility shall be designed to exceed a capacity of twenty (20) persons.

Sec. 4-59. [Reserved.]

Sec. 4-60. Condominiums.

The following rules and regulations shall apply to any application for a zoning permit to allow the development of a condominium with four (4) or more residential units:

(a) The condominium shall be developed to include condominium instruments that include provisions providing the following:

(1) A limit to the total number of residential units occupied by non-owners via lease to a maximum of thirty (30) percent of the total number of residential units and an express definition of the term "lease" as the regular occupancy of a unit by any person other than the owner, for which the owner receives any consideration or benefit including, but not limited to, a fee, service, gratuity or emolument;

(2) A requirement that all leases of residential units be in writing in a form approved by the condominium association and include provisions providing the following: (1) a requirement that non-owner residents abide by the covenants, bylaws, and rules and regulations adopted pursuant thereto; (2) an acknowledgement that non-owner residents

agree to be personally obligated for the payment of all assessments and other charges against the owner, which become due during the term of the lease or become due as a consequence of the non-owner resident's activities; (3) an acknowledgement that a non-resident owner who is delinquent in the payment of assessments or other fees consents to the assignment of any rent due from his or her tenant during the period of delinquency and the non-owner resident shall pay same to the condominium association as requested by the condominium association;

(3) A requirement that non-resident owners and/or non-owner residents of residential units submit copies of their leases to the condominium association, and report the names of all non-owner residents to the condominium association; and

(4) A statement that the condominium association shall provide documents and/or information to the county to comply with any requests made by the county pursuant to **Section 4-61**.

(b) To ensure that the zoning requirements above are met, upon the request of the county, condominium associations shall provide the following documents and/or information to the county's planning director:

(1) A copy of the condominium instruments evidencing the inclusion of the above listed requirements;

(2) A copy of the financial records, including but not limited to the operating budget;

(3) A copy of the leases submitted to the condominium association by individual owners evidencing the inclusion of the above listed requirements;

(4) A list of the units that are being leased and the names of the corresponding non-owner residents; and

(5) The county may require compliance with additional conditions to include but not be limited to the installation of separate and independent metering of water, gas, electricity, heat, and air conditioning services to each individual unit within the condominium and the installation of devices to allow the termination of the delivery of those services to an individual unit within the condominium, without disturbing the delivery of those services to any other unit within the condominium.

(c) Violations of this section are continuous with respect to time; therefore, each day the violation continues is a separate offense. Violations of this section shall be governed by the general penalty provisions of this Code, including **Section 6B-2**.

Sec. 4-61. Conservation Subdivision regulations--Purpose and Intent.

The City Council desires to promote and encourage creative residential planning and development within the county while at the same time protecting critical components of

established residential areas. The board finds that certain of the county's land areas, due to various environmental and economic factors, may lend themselves to innovative groupings of residential lots and structures in a way that will preserve unique environmental features as well as being consistent with the comprehensive land use plan and the Green DeKalb Initiative that provides greenspace areas and preserves existing natural trees and vegetation. The City Council, therefore, establishes the following administrative procedures applicable to lots within residentially zoned districts that meet specified criteria and standards and can be developed in cluster or other innovative designs without negatively affecting nearby properties or the county at large. The goals of the conservation subdivision regulations are:

(1) To provide a residential development that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land;

(2) To conserve significant areas of greenspace within single-family residential zoning categories;

(3) To promote interconnected greenways and corridors throughout the community and adjacent communities;

(4) To promote construction of convenient landscaped walking trails and bike paths both within the subdivision and connected to neighboring communities, business, and facilities to reduce reliance on automobiles;

(5) To improve water quality and reduce runoff and soil erosion by reducing the total amount of clearing, grading, and paving, within the total area of a development;

(6) To increase the accessibility of greenspace and recreational areas, while maintaining the total number of homes in a density-neutral manner as allowed in the underlying zoning classification so long as designed consistent with current City of Dunwoody standards;

(7) To provide a clear, direct and timely process that allows all interested parties an opportunity to verify that the proposal is in compliance with the conservation subdivision regulations;

(8) To preserve natural features, specimen trees, historic buildings, archaeological sites and a sense of community; and

(9) To encourage efficient community design that reduces infrastructure maintenance and public service costs borne by the county;

(10) To encourage street designs that reduce traffic speeds and reliance on main arteries.

Sec. 4-61.1. Same--Eligible Property.

(a) *Zoning classification.* Only lots zoned R-200, R-150, R-100, R-85, or R-75 are eligible for consideration as a conservation subdivision.

(b) *Minimum size of tract.* Only parcels containing a minimum of ten (10) acres are eligible for consideration as a conservation subdivision.

(c) *Public sanitary sewer.* Only parcels to be served by the public sanitary sewer system are eligible for consideration as a conservation subdivision.

Sec. 4-61.2. Same--Applications.

Any property owner that desires to have lots zoned R-200, R-150, R-100, R-85, or R-75 designated, as a conservation subdivision shall submit two (2) sketch plats for review by county officials in accordance with the process established in the City's subdivision regulations of this Code. Both sketch plats shall conform to all requirements set forth in this Code, including the City's subdivision regulations; however, the conservation subdivision sketch plat shall also comply with the requirements of the conservation subdivision regulations.

Sec.4-61.3. Same--Approval Process.

The proposed conservation subdivision sketch plat shall be submitted contemporaneously with the traditional sketch plat described in the City's subdivision regulations of this Code and both sketch plats shall be considered in accordance with the plat approval process set forth in the City's subdivision regulations of this Code. In addition to the review standards contained in the City's subdivision regulations, before the conservation subdivision sketch plat is forwarded to the planning commission for consideration, the planning director shall ensure that:

(1) The proposed conservation subdivision sketch plat complies with all standards contained in this Code;

(2) The conservation subdivision sketch plat is density-neutral and does not in any way exceed the density of the traditional sketch plat; and

(3) The conservation subdivision sketch plat complies with any and all previously approved conditions of zoning or special permits issued by the county.

Sec. 4-61.4. Same--Lot Width; Lot Area; Setbacks.

(a) If a property owner agrees to allot greenspace in the manner described in the conservation subdivision regulations and the conservation sketch plat is approved in accordance with the plat approval process in the City's subdivision regulations of this Code, the subdivision is then designated as an official conservation subdivision of City of Dunwoody, Georgia, and shall be subject to the following reduced zoning requirements. However, a property owner shall not be allowed to subdivide property pursuant to the reduced requirements in this section if appropriate greenspace is not allotted and if the conservation subdivision sketch plat is not finally approved in accordance with the approval process in the City's subdivision regulations of this Code.

(b) The following requirements shall apply to lots designated as a conservation subdivision:

(1) *Lot width:* All lots shall have a width of at least sixty (60) feet as measured at the required front yard building setback line.

(2) *Minimum lot area:* Eight thousand (8,000) square feet.

(3) *Minimum yard adjacent to public street:*

(A) From major thoroughfares: Fifty (50) feet.

(B) From minor thoroughfares: Forty (40) feet.

(C) From collector streets: Thirty-five (35) feet.

(D) From other streets: Twenty (20) feet.

(4) *Interior side yard setbacks:* Seven and one-half (7.5) feet.

(5) *Rear yard:* Twenty (20) feet.

Sec. 4-61.5. Same--Minimum Exterior Requirements.

The building setback requirements from an existing public street, side yard and rear yard on lots that abut the exterior property line of a conservation subdivision shall not be less than the requirements of the underlying zoning district unless the property owner establishes an additional area of greenspace that is fifty (50) feet in width adjacent to and immediately abutting the exterior property boundary. Such fifty-foot greenspace shall be in addition to the required greenspace described in **Section61.8**.

Sec. 4-61.6. Same--Development Standards and Permitted Uses.

(a) In addition to the development standards required by this Code, all of the following general development standards shall apply to a conservation subdivision:

(1) Grassed playing fields, village greens, stormwater management facilities, trails, bikeways, paths and greenways as submitted and approved shall be installed prior to the recording of the conservation subdivision final plat;

(2) Only those permitted uses allowed in the underlying zoning district shall be allowed in a conservation subdivision; and

(3) All conservation subdivisions must strictly comply with the City of Dunwoody Tree Protection Ordinance.

(b) Greenspace may consist of and be designed for the following uses only:

(1) Natural undisturbed areas;

(2) Natural areas that preserve the one hundred-year floodplain;

(3) Grassed playing fields for active recreation;

(4) Village greens for community gathering places;

(5) Natural trails and green ways;

(6) Natural bikeways and paths;

(7) Asphalt or concrete bikeways and paths with a maximum width of eight (8) feet; and/or

(8) Natural and landscaped stormwater management facilities located on soils particularly suited to such uses.

(c) Applicants are encouraged to place the following features into greenspace:

(1) Floodplains;

(2) Streams and stream buffers;

(3) Wetlands;

(4) Rock outcroppings;

(5) Steep slopes;

(6) Mature wooded areas;

(7) Specimen trees;

(8) Historic structures or sites; and

(9) Sites of archeological significance.

Sec.4-61.7. Same--Calculation and Design of Greenspace.

The required greenspace to be protected in a conservation subdivision shall be calculated as follows and shall meet each of the following standards and requirements:

(1) The allotted greenspace in a conservation subdivision must comprise at least twenty (20) percent of the property in the subdivision;

(2) The allotted greenspace must comprise a minimum aggregate area of two (2) acres;

(3) At least fifty (50) percent of the allotted greenspace must be contiguous with a minimum width of fifty (50) feet, however irregularly shaped parcels of less than fifty (50) feet in width may be allowed if so approved by the planning commission;

(4) Village greens and trails do not have to comply with the minimum width requirement set forth in **Section 61.6(a)(3)** above.

a. Any tower or antenna located within any zoning district where permitted by special administrative permit shall be set back from all property lines which adjoin any other zoning district boundary in which telecommunications towers or antennae are also permitted by special administrative permit a distance of one-third of the combined height of the tower and antenna or one hundred (100) feet, whichever is greater, except that where any such adjoining property is used for residential use then said telecommunications tower or antenna shall be set back from

any such off-site structure in residential use, including any accessory structure designed for regular human use, a distance of one-half (1/2) the combined height of the tower and antenna or two hundred (200) feet, whichever is greater;

b. Any tower or antenna located within any zoning district where permitted by special administrative permit which adjoins any residential district shall be set back from any property line of any such adjoining residential district a distance of one-half (1/2) the combined height of the tower and antenna, or two hundred (200) feet, whichever is greater; and

c. Any telecommunications tower or antenna which is approved by special land use permit by the City Council to be located within any residential district shall provide setbacks as required by the City Council in their grant of the special land use permit, but in no case shall the set back from any property line be less than two hundred (200) feet.

(5) To calculate the greenspace required for designation as a conservation subdivision, each square foot of lot size reduction allowed in **Section 61.5** shall require the property owner to dedicate a corresponding square foot of land area as greenspace. The dedicated greenspace shall be no less than the total reduction in lot size allowed pursuant to the conservation subdivision regulations;

(6) No impervious surface, except (1) a historic building(s) or historic site(s); and (2) asphalt or concrete bikeways and paths with a maximum width of eight (8) feet, may be considered in the greenspace calculation; asphalt or concrete paths and bikeways must protect greenspace features. Paths requiring grading must not damage critical root zones of specimen trees. Impervious surfaces are prohibited within the seventy-five-foot stream buffer.

(7) A maximum of twenty (20) percent of the required greenspace may include wetlands and rock outcroppings;

(8) Preservation of historic buildings or sites may be included in greenspace if intended to be for the common use and benefit of all residents of the subdivision;

(9) A maximum of twenty (20) percent of greenspace may be comprised of utility easement areas (such as, but not limited to, overhead transmission lines, underground gas lines, and sewer lines) unless such easements were to be used as part of platted lots in the traditional sketch plat. Utility easement areas in greenspace must remain unfenced and open to the residents of the subdivision, unless safety concerns dictate otherwise;

(10) Greenspace shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe, convenient access to the greenspace;

(11) Greenspace shall connect with other greenspace areas and trails on adjacent or nearby property where possible;

(12) Only storm water management facilities that consist primarily of natural solutions shall be permitted in greenspace. Natural solutions include but are not limited to stormwater retention ponds, constructed wetlands, bioretention areas, biofilters and enhanced swales. If stormwater management facilities are located in greenspace, tree removal must be kept to a minimum and a complete and comprehensive landscape plan must be approved by the county arborist;

(13) Grassed playing fields may be included in greenspace if reasonably level and shall be required in any Conservation Subdivision that contains one hundred (100) or more units. In a conservation subdivision that contains between one hundred (100) and two hundred (200) units, the grassed playing field must be a minimum of one (1) acre in size. In any conservation subdivision that contains two hundred (200) units or more, the grassed playing field must be a minimum of two (2) acres in size or there must be a minimum of two (2) grassed playing fields that are each one (1) acre in size. However, no grassed playing fields may be located within any wetland, stream buffer, or rock outcropping. Formal active recreation areas should not be credited toward greenspace. Grassed playing fields should not include ball fields for organized league play with outdoor lighting, bleachers, concession areas;

(14) All grading is prohibited within a stream buffer, floodplain, wetland, rock outcropping in greenspace and all clearing must comply with all requirements set forth in this Code;

(15) Minimal grading is allowed in greenspace only for:

(A) Grassed playing fields and village greens;

(B) As needed for utility easements; or

(C) As needed for the creation of paths designed to enhance passive recreation opportunities such as walking or biking.

(16) During construction, the stream buffer, rock outcropping, wetlands, and floodplain areas in greenspace shall be inaccessible to all development related activities other than minimal access to construct a sewer line if necessary, and shall otherwise be protected by a four-foot orange tree save fence, which shall only be removed upon completion of all construction and landscaping activities.

(17) Grading should not damage roots of trees remaining in greenspace areas. No specimen trees shall be damaged or removed in order to create village greens, grassed playing fields or paths, unless approved by the county arborist.

Sec. 4-61.8. Same--Ownership, Control, and Maintenance of Required Greenspace.

(a) *Program for unified control.* Each applicant under the conservation subdivision regulations shall provide a legal mechanism for unified control of the entire parcel, for review and approval by the county attorney. During the development process, more than one (1) builder may participate in the development of the approved plan so long as each parcel of land remains subject to:

(1) Any zoning conditions imposed on the property;

(2) Any terms and conditions on the approved preliminary plat; and

(3) Terms and conditions associated with any special land use permit or any special administrative permit.

(b) *Maintenance and protection of land held in common.* Each applicant shall present as a part of the application under the conservation subdivision regulations a legal mechanism under which all land to be held in common and used for greenspace purposes shall be protected in perpetuity. Such legal mechanism shall be approved by the county attorney, prior to the approval of the conservation subdivision, and may include deed restrictions, homeowner associations, common areas held in common ownership or control, conservation easements held by a land trust meeting the requirements of state law, assuring in perpetuity each of the following mandatory requirements:

(1) That all land held in greenspace shall remain undivided and shall not be subdivided or removed from joint access or benefit in perpetuity;

(2) That all subsequent property owners in perpetuity within said conservation subdivision be placed on notice of this development restriction through the deed records of City of Dunwoody Superior Court;

(3) That all land held as greenspace will be properly maintained to county standards and ensure that no liability or maintenance responsibilities shall accrue to the county;

(4) That a legal mechanism exists for notice of deficiencies in maintenance of the land held as greenspace, correction of these deficiencies, and assessment and liens against the properties for the cost of the correction of these deficiencies by a third party or the county;

(5) That the legal mechanism be created and implemented prior to or at the time of recording the final plat and the sale of any individual properties within the conservation subdivision; and

(6) That all requirements of the legal mechanism chosen by the applicant and approved by the county attorney shall be specified on the final plat and recorded with the Clerk of Superior Court of City of Dunwoody.

(c) When an applicant for a conservation subdivision chooses to utilize a homeowners' association in order to comply with the requirements of this section, the applicant, in addition to meeting all of said requirements, shall provide for all of the following:

(1) That all owners have equal access and right of use to all greenspace and that mandatory and automatic membership in the homeowners' association is a requirement of dwelling unit ownership for all homeowners and their successors;

(2) A fair and uniform method of assessment and collection/payment for dues, maintenance and related costs;

(3) The homeowners' association shall have lien authority to ensure the collection of dues from all members;

(4) Perpetual and continued maintenance and liability by the homeowners' association of land held as greenspace; and

(5) That all required covenants, declarations and restrictions shall be filed with the Clerk of the Superior Court of City of Dunwoody.

Sec. 4-62. Special Events Facility.

A special events facility shall provide one (1) parking space for each 100 square feet on floor area within the facility. Parking shall be provided on-site.

Sec. 4-63. Solid Waste Facility Regulations.

(a) The City Council shall not approve any amendment to the zoning maps, the comprehensive land use map or any application for a special land use permit if such landfill is not in compliance with the applicable requirements of Georgia's Comprehensive Solid Waste Management Act, O.C.G.A. § 12-8-20 et seq., and as may hereafter be amended.

(b) The City Council shall not approve any amendment to the zoning maps, the comprehensive land use map or any application for a special land use permit unless the applicant obtains written verification from the Georgia Environmental Protection Division of the Georgia Department of Natural Resources that the landfill complies with or is not yet required to comply with all the applicable requirements set forth in the Comprehensive Solid Waste Management Act.

(c) As used in this section the term "landfill" means a disposal facility, a materials recovery facility, a solid waste handling facility, a solid waste landfill, a private industry solid waste disposal facility, a solid waste handling facility, a solid waste thermal treatment technology facility, and a disposal facility for biomedical waste, hazardous and/or toxic materials including radioactive materials as all such terms are defined in O.C.G.A. § 12-8-22 and as may hereafter be amended.

Sec. 4-64 . Elevation of Residential Thresholds.

The following standards shall apply to single-family detached dwellings:

(a) *Replacement of a single-family detached dwelling.* The proposed front door threshold elevation for any new single-family detached dwelling shall not be more than two (2) feet higher than the front door threshold elevation of the residential structure that existed on the lot prior to demolition. If no such dwelling existed on

the same lot, then the proposed front door threshold elevation for any new single-family detached residence on the lot shall not be more than two (2) feet higher than the average elevation of the existing natural grade at the front building line. If the new construction would require alteration or eradication of the original threshold, then the original elevation shall be measured and certified by a licensed surveyor or engineer.

(b) *Sewer Conditions*. If the existing residence or lot is not connected to county sewer and if the applicant for a building permit establishes to the satisfaction of the planning director that the proposed residence is unable to be connected to county sewer within the allowable front door threshold height, then the Community Development Director or designee may , upon the recommendation of the Public Works Director or designee, grant a maximum three (3) feet increase in threshold height above the threshold elevation allowed by Section 4-64(a) above allowing for gravity flow into the existing sewer tap.

(c) *Topographical conditions.* If exceptional topographical restrictions exist on the subject lot in context with the adjoining properties that were not created by the owner or applicant, then the planning director or designee may grant a maximum three (3) feet increase in threshold height above the threshold elevation allowed by Section 4-64(a). The applicant shall provide a site plan, including topography, certified by an engineer or landscape architect.

(d) *Threshold Averaging.* The proposed front door threshold elevation for new single family detached dwellings may exceed the threshold elevation allowed by Section 4-64(a) if the applicant for a building permit establishes that the elevation of the front door threshold of the proposed residential structure does not exceed the average elevation of the front door thresholds of the residential structures on both lots immediately adjacent to the subject lot. When using threshold averaging, the height of the new residence shall not exceed thirty-five (35) feet measured as the vertical distance from the front door threshold of the proposed residential structure to the highest point of the roof of the structure. In order to threshold average, certification of the threshold elevation shall be provided by a licensed surveyor or engineer to the planning director or designee.

(e) Any replacement of a single-family detached dwelling shall submit building plans for review and approval prior to issuance of a building permit. Plans shall contain all information necessary to determine compliance with building code and city code.

ARTICLE V. ADMINISTRATION

DIVISION 5A. OFFICIAL ZONING MAP, TEXT, AND COMPREHENSIVE PLAN LAND USE MAP AMENDMENTS

Sec. 5A-1. Initiation of Amendments.

The text of this Chapter, the official zoning maps, and the comprehensive plan land use maps may be amended by the City Council pursuant to a proposed ordinance introduced by one (1) or more members of the City Council or by official action of the planning commission. In addition, amendments to the official zoning maps and the comprehensive plan land use maps may be initiated upon application by the owner(s) of the subject property or the authorized agent of the owner(s). Before enacting any amendment to this Chapter, the official zoning maps, or the comprehensive plan land use maps the City Council shall provide for the public notice and public hearings required by this Chapter.

Sec. 5A-2. Planning Commission Established; Membership; Terms.

There is hereby established a City of Dunwoody Planning Commission consisting of seven (7) members, whose qualifications and guidelines shall be dictated by Chapter 2 ("Administration") of the City of Dunwoody Code of Ordinances. If a provision of Chapter 2 of the City Code is in conflict with any portion of the City of Dunwoody Zoning Ordinance as it pertains to the Planning Commission, Chapter 2 of the City Code shall control.

Sec. 5A-3. Planning Commission to Hold Public Hearing and Make Recommendation on All Proposed Amendments.

No amendment to the text of this Chapter, the official zoning map, or the comprehensive plan land use maps shall become effective unless it has been submitted to the planning commission for public hearing and recommendation pursuant to the requirements of this division and this Chapter.

Sec. 5A-4. Reserved.

Sec. 5A-5. Secretary of Planning Commission; Staff Support.

The planning commission shall appoint a secretary who may be an officer or employee of the governing authority or of the planning commission. The director of the department of planning, or the director's designee, may serve as secretary of the county planning commission as directed by the Mayor of the City of Dunwoody. The secretary shall provide support to the planning commission reasonable and necessary to accomplish said commissions' duties. The secretary of the planning commission shall provide the members of the planning commission all information submitted to, or generated by, county staff on each proposed amendment, which the commission considers, including: a copy of the application and all supporting materials; all other written communications given to the staff either in support of or in the opposition to the amendment; and the proposed amendment. The secretary shall be responsible for permanently maintaining the records of the planning commission.

Sec. 5A-6. Filing of Applications; Amendments of Filed Applications.

(a) All applications for amendments to the comprehensive plan land use maps and the official zoning map shall be filed with the director of planning on forms provided by the department of planning. The processing of said applications shall be based upon an annual schedule prepared by the department of planning and adopted by the City Council. No application shall be considered an authorized application unless complete in all respects. No application shall be amended later than the required deadline for advertising in the legal organ of the county prior to the scheduled hearing before the planning commission, except as provided for in this code section. There shall be no refund of application fees after the planning department has accepted an application.

(b) The following shall constitute a major amendment to an application:

(1) The movement of any building or structure adjacent to an exterior boundary line, closer to the boundary line of the property;

(2) Any increase in the number of dwelling units or any increase in the total amount of floor space of any nonresidential building;

(3) Any decrease in the minimum size of residential units;

(4) Any decrease in the buffer requirements;

(5) Any increase in the height of any building or structure;

(6) Any change in the proportion of floor space devoted to different authorized uses;

(7) Any change in the zoning classification requested; or

(8) Any change in the land use plan classification that increases the density of the proposed use.

(c) Any major amendment submitted after the required deadline for advertising in the legal organ of the county prior to the scheduled hearing before the planning commission shall be deferred by the City Council for a full-cycle review. The amended application must comply with the requirements of this Chapter as if it where a new application, for the purpose of publication, review, notice and hearings, including review by the Community Council and planning commission, also known as a full-cycle review. However, such amended application shall not be a new application for any other purposes. An amendment to an application shall not change the original filing date of that application. An amended application shall not require a new application fee.

(d) A minor amendment shall be defined as any amendment that is not included within the definition of a major amendment.

(e) Any minor amendment submitted after the required deadline for advertising in the legal organ of the county prior to the scheduled hearing before the planning commission shall be deferred until the next regularly scheduled City Council' meeting and reviewed for recommendations by the planning department, law department and development department, unless such minor amendment has been so previously reviewed.

Sec. 5A-7. Types of Applications.

Applicants seeking amendment to the official zoning map may request to change their property from one zoning district classification to another zoning district classification with no further conditions proposed, or may include the following proposed conditions as a part of their application:

(a) Written conditions; or

(b) Site plan(s), architectural rendering(s), elevation(s), photograph(s), or other graphic representation(s) of proposed conditions; or

(c) Any combination of (a) and (b) above.

(d) Any site plan filed as a proposed condition of a zoning amendment shall be prepared, signed and sealed by an architect, landscape architect or engineer licensed in the State of Georgia.

Sec. 5A-8. Amendments to Official Zoning Map; Application Forms.

Each applicant seeking an amendment to the official zoning map shall complete all questions and requested materials contained within the required application form and shall provide the following information:

(a) Survey plat of subject property, prepared and sealed within the last ten (10) years by a professional engineer, landscape architect or land surveyor registered in the State of Georgia. Said survey plat shall:

(1) Indicate the complete boundaries of the subject property and all buildings and structures existing thereon;

(2) Include a notation as to whether or not any portion of the subject property is within the boundaries of the one hundred-year floodplain; and

(3) Include a notation as to the total acreage or square footage of the subject property.

(b) Name, mailing address and phone number of all owners of the property which is the subject of the application for zoning amendment.

(c) Signed and notarized affidavit of all owners of the subject property authorizing the filing of the application for zoning amendment, and where applicable, the signed and notarized affidavit of the owner(s) of the subject property authorizing an applicant or agent to act on their behalf in the filing of the application for zoning amendment. The application also shall contain the mailing address and phone number of any applicant or agent who is authorized to represent the owner(s) of the subject property.

(d) Written legal description of property.

(e) Statement of current zoning classification of property and classification which applicant is seeking in the official zoning map amendment.

(f) A written, documented, detailed analysis of the impact of the proposed zoning map amendment with respect to each of the standards and factors specified in **Section 5A-12**.

Sec. 5A-9. Amendments to Comprehensive Plan Land Use Maps; Application Forms; Criteria.

Each applicant seeking an amendment to the comprehensive plan land use maps shall complete all questions and requested materials contained within the required application form and shall provide the following information:

(a) Survey plat of subject property, prepared and sealed within the last ten years by a professional engineer, landscape architect or land surveyor registered in the State of Georgia. Said survey plat shall:

(1) Indicate the complete boundaries of the subject property and all buildings and structures existing thereon;

(2) Include a notation as to whether or not any portion of the subject property is within the boundaries of the one hundred-year floodplain; and

(3) Include a notation as to the total acreage or square footage of the subject property.

(b) Name, mailing address and phone number of all owners of the property which is the subject of the application for comprehensive plan land use map amendment.

(c) Signed and notarized affidavit of all owners of the subject property authorizing the filing of the application for comprehensive plan land use map amendment, and where applicable, the signed and notarized affidavit of the owner(s) of the subject property authorizing an applicant or agent to act on their behalf in the filing of the application for comprehensive plan land use map amendment. The application also shall contain the mailing address and phone number of any applicant or agent who is authorized to represent the owner(s) of the subject property.

(d) Written legal description of property.

(e) Statement of current comprehensive plan land use map classification of property and land use classification which applicant is seeking in the comprehensive plan land use map amendment.

(f) Complete written response to each of the following standards and factors for evaluating applications for amendments to the comprehensive plan land use maps:

(1) Whether the proposed land use change will permit uses that are suitable in view of the use and development of adjacent and nearby property;

(2) Whether the proposed land use change will adversely affect the existing use or usability of adjacent or nearby property;

(3) Whether the proposed land use change will result in uses which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools;

(4) Whether the amendment is consistent with the written policies in the comprehensive plan text.

(5) Whether there are environmental impacts or consequences resulting from the proposed change.

(6) Whether there are impacts on properties in an adjoining governmental jurisdiction in cases of proposed changes near county boundary lines.

(7) Whether there are other existing or changing conditions affecting the use and development of the affected land areas which support either approval or denial of the proposed land use change.

(8) Whether there are impacts on historic buildings, sites, districts or archaeological resources resulting from the proposed change.

Sec. 5A-10. Application Fees.

The application fees for amendments to the official zoning maps and comprehensive plan land use maps shall be as established by ordinance by the City Council.

Sec. 5A-11. Initiation of Ordinance for Amendment.

Upon receipt of a complete application for an amendment to the official zoning maps or the comprehensive plan land use maps the secretary shall prepare a proposed ordinance to change the subject property from its existing zoning district classification or existing comprehensive plan land use map classification to the zoning district classification or land use classification for which the application is filed. Said proposed ordinance shall be referred to the planning commission for public hearing and recommendation pursuant to the requirements of this Chapter and presented to the City Council for decision at their next scheduled zoning meeting agenda.

Sec. 5A-12. Standards and Factors Governing Review of Proposed Amendments to Official Zoning Map.

The following standards and factors are found to be relevant to the exercise of the county's zoning powers and shall govern the review of all proposed amendments to the official zoning map:

(a) Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

(b) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties.

(c) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

(d) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.

(e) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

(f) Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources.

(g) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

Sec. 5A-13. Conditions.

Conditions may be requested by an applicant, recommended by the planning department and planning commission, and imposed by the City Council, as a part of any proposed change to the official zoning map, in accordance with the following requirements:

(a) Conditions may be imposed so as to ameliorate the effect(s) of the proposed developmental change for the protection or benefit of neighboring persons or properties consistent with the purpose and intent of the district(s) involved, and the goals and objectives of the comprehensive plan and state law. No condition shall be imposed which reduces the requirements of the district(s) involved. All conditions shall be of sufficient specificity to allow lawful and consistent application and enforcement. All conditions shall be supported by a record that evidences the relationship between the condition and the impact of the developmental change. No condition in the form of a development exaction for other than a project improvement shall be imposed within the meaning of the Georgia Development Impact Fee Act, as amended.

(b) A condition, whether recommended by a commissioner, the applicant, or any other person or entity, placed upon an application after the required deadline for advertising in the legal organ of the county prior to the scheduled hearing before the planning commission shall be treated as an amendment to the application and shall follow the requirements of **Section 5A-6**.

(c) Once imposed, conditions shall become an integral part of the approved amendment and shall be enforced as such. Changes to approved conditions shall be authorized only pursuant to **Section 5A-25** of this Chapter.

Sec. 5A-14. Staff Analysis, Findings of Fact, and Recommendation on Applications to Amend the Official Zoning Map and Text; Time Limit Regarding Amendments.

The staff of the department of planning shall conduct a site inspection on all applications for zoning map amendments and shall investigate and prepare an analysis of each proposed ordinance to amend the text of this Chapter and each proposed ordinance to amend the official zoning map. The findings and recommendations of the staff shall be made based on each of the

standards and factors contained in **Section 5A-12**. In any recommendation of approval of any application for an amendment, the planning staff may recommend the imposition of conditions in accordance with **Section 5A-13**. The staff shall present its findings and recommendations in written form to the planning commission and the City Council. Copies of the written findings and recommendations of the staff shall be reasonably made available to the public.

Sec. 5A-15. Staff Analysis, Findings of Fact, and Recommendation on Applications to Amend the Comprehensive Plan Land Use Maps.

The staff of the department of planning shall conduct a site inspection and shall investigate and prepare an analysis of each proposed application to amend the comprehensive plan land use maps. The findings and recommendations of the staff shall be made based on each of the standards and factors contained in **Section 5A-9**. Said staff shall present its findings and recommendations in written form to the planning commission and the City Council. Copies of the written findings and recommendations of the staff shall be reasonably made available to the public.

Sec. 5A-16. Notice of Applications Filed.

The secretary shall, no later than twenty-one (21) days following each closing date for receipt of applications, provide to the City Council a list of all applications and amendments filed. The listing of applications shall be reasonably made available to the public.

Sec. 5A-17. **Reserved.**

Sec. 5A-18. Notice of Public Hearings.

(a) For any zoning decision initiated by the county, at least fifteen (15) but not more than forty-five (45) days prior to the date of the public hearing before the City Council, the county shall cause to be published within a newspaper of general circulation within the territorial boundaries of the county a notice of the hearing. The notice shall state the time, place, and purpose of the hearing.

(b) For any zoning decision initiated by a party other than the county, notice of the public hearing shall be provided as follows:

(1) Written notice of the proposed zoning decision shall be mailed by via first class mail by the planning director or designee to all property owners within two hundred fifty (250) feet of the boundaries of the subject property, as such property owners are listed on the tax records of the City of Dunwoody, at least fifteen (15) days before the public hearing before the planning commission and not more than forty-five (45) days prior to the date of the public hearing before the City Council, which states the nature of the proposed change, and the date, time, and place of the public hearing before the planning commission and the City Council; and

(2) The director of the department of planning or the director's designee must post at least one sign on the road frontage on the subject property at least fifteen (15) days before the hearing before the planning commission and not more than forty-five (45) days prior to the date of the public hearing before the City Council.

(A) At least one (1) sign shall be posted on each street on which the subject property has frontage. One (1) additional sign shall be posted for each additional five hundred (500) feet of frontage or fraction thereof in excess of five hundred (500) feet of frontage on each street on which the subject property has frontage.

(B) Signs shall be double-faced and posted so that the face of the sign is at a right angle to the street to allow the signs to be read by the traveling public in both directions. All signs shall be no smaller than six (6) square feet with lettering on the signs at least two (2) inches in size.

(C) The sign shall state the nature of the proposed zoning decision and the date, time and place of the public hearing before the planning commission and the City Council. The planning director, or designee, shall sign an affidavit attesting to the posting of signs in accordance with the requirements herein, and shall photograph each sign as evidence of its proper posting.

(3) The county shall cause a notice of the public hearing regarding the proposed zoning decision to be published in a newspaper of general circulation within the county at least fifteen (15) days prior to the hearing before the planning commission and not more than forty-five (45) days prior to the public hearing before the City Council. The notice shall include the date, time and place of the hearing before the planning commission and the public hearing before the City Council, the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property.

Sec. 5A-19. Consistency with Comprehensive Plan Land Use Maps; Public Hearing for Official Zoning Map Amendment Applications and Comprehensive Plan Land Use Maps.

No amendment to the text of this Chapter or the official zoning maps shall become effective unless it is consistent with the comprehensive plan land use maps. In any case where an application for an amendment to the official zoning maps is filed which would first require an amendment to the comprehensive plan land use maps pursuant to the requirements of the division, the planning commission and the City Council may conduct a public hearing on the proposed amendment to the comprehensive plan land use and the proposed amendment to the official zoning map in accordance with the rules of procedure adopted pursuant to **Section 5A-4**.

Sec. 5A-20. Action by the Planning Commission.

The secretary shall provide the members of the planning commission complete information on each proposed amendment which the commission considers including: a copy of the application and all supporting materials; all other written communications given to the staff either in support of or in opposition to the amendment; and the written report and recommendation of the planning staff on each proposed amendment. After conduct of a public hearing with public notice as is required by this division, the Planning Commission shall vote its recommendations as required by Chapter 2, Article 4, Section 8 of the City Code. In its recommendation of any application for an amendment, the planning commission may

recommend the imposition of conditions in accordance with **Section 5A-13**. All findings and recommendations of the planning commission relating to amendments to the official zoning maps and amendments to the text of this Chapter shall be made based on each of the standards and factors contained in **Section 5A-12**. All recommendations of the planning commission relating to amendments to the comprehensive plan land use maps shall be made based on each of the standards and factors contained in **Section 5A-9**. The secretary of the planning commission shall make and maintain a written record of the planning commission's investigation and recommendations, which record shall be a public record.

Sec. 5A-21. Action by the City Council.

Following review and recommendation from the planning commission, the City Council, after conduct of a public hearing with public notice as is required by this division, shall vote to approve the proposed ordinance, approve the proposed ordinance with conditions, deny the proposed ordinance, defer the proposed ordinance, or, upon request of the applicant, permit withdrawal of the proposed ordinance without prejudice. No proposed ordinance to amend the text of this Chapter and no proposed ordinance to amend the official zoning map shall be approved except by the majority vote of the members of the City Council. In the approval of any proposed ordinance to amend the official zoning map, the City Council may impose conditions in accordance with **Section 5A-13**. For each proposed ordinance to amend the official zoning map, the analysis submitted by the applicant, if any, the record prepared by the planning department, and the record prepared by the planning commission shall be presented in written form to and reviewed by each member of the City Council. A limited supply of said findings shall be available at the public hearing and available upon request to the public. All decisions of the City Council relating to each proposed ordinance to amend the text of this Chapter and each proposed ordinance to amend the official zoning map shall be made based on each of the standards and factors contained in **Section 5A-12**. All decisions of the City Council relating to amendments to the comprehensive plan land use maps, shall be made based on each of the standards and factors contained in **Section 5A-9**. Any proposed amendment or any proposed substitute ordinance considered by the City Council shall be presented in written form prior to being voted on by the board.

Sec. 5A-22. Withdrawal of Application by Applicant; Filing of Ordinances by City Council.

Applications shall not be withdrawn prior to the meeting of the City Council after they have been filed for advertising for public hearing before the planning commission. Application fees shall be forfeited in any case where the City Council permits the withdrawal of an application.

Sec. 5A-23. Clerk of Commission to Provide Signed Copy of Ordinance to Director of Planning for Modification of Zoning Maps.

The clerk of the commission shall, within ten (10) days from action of the City Council on each proposed ordinance to amend the text of this Chapter and each proposed ordinance to amend the official zoning map, provide to the director of planning a signed and certified copy of each such ordinance. The director of planning shall thereafter cause the official zoning maps to be changed in accordance with any such approved ordinance.

Sec. 5A-24. Successive Applications.

An application for an amendment to the comprehensive plan land use maps or the official zoning maps affecting all or a portion of the same property shall not be submitted more than once every twenty-four (24) months measured from the date of final decision by the City Council. The City Council may waive or reduce this twenty-four-month time interval by resolution, provided that if the application to amend the official zoning maps was denied by the City Council, the time interval between the date of said denial and any subsequent application or amendment affecting the same property shall be no less than six (6) months. This twenty-four-month time interval shall not apply to amendments initiated by the City Council, provided that if such a proposed amendment to the official zoning map was denied by the City Council, the time interval between the date of said denial and any subsequent application or amendment shall be no less than six (6) months.

Sec. 5A-25. Modifications and Changes to Conditional Zoning Amendments.

The director of planning shall have sole authority to approve minor changes to conditions attached to an approved zoning amendment. Minor changes are those that implement only slight alterations to the approved conditions, made necessary by actual field conditions at the time of development, that do not alter the impact of the development on nearby properties nor the intent or integrity of the conditions as originally imposed. Any request for minor change of conditions shall be made in written form to the director of planning. If an approved site plan exists, the request for minor change shall be accompanied by four copies of the revised site plan. Any major change to conditions attached to an approved zoning amendment shall require an application and hearing before the planning commission and the City Council as is required in this **Section 5A** for amendments to the official zoning map generally. Without limiting the meaning of the phrase, the following shall be deemed to constitute "major change" for purposes of interpreting this section:

(a) The movement of any building or structure adjacent to an exterior boundary line, closer to the boundary line of the property;

(b) Any increase in the number of dwelling units or any increase in the total amount of floor space of any nonresidential building;

(c) Any decrease in the minimum size of residential units imposed in the original conditional zoning amendment;

(d) Any change in any buffer requirement(s) imposed in the original conditional zoning amendment;

(e) Any increase in the height of any building or structure; or

(f) Any change in the proportion of floor space devoted to different authorized uses.

DIVISION 5B. SPECIAL LAND USE PERMITS

Sec. 5B-1. Special Land Use Permits Generally.

A special land use permit is a means by which the City Council gives special consideration, pursuant to a clear set of standards and criteria, to those types of uses which may or may not be compatible with uses and structures authorized as of right within a particular zoning district. Special land use permits are required for uses that have operational characteristics and/or impacts that are significantly different from the zoning district's principal authorized uses and therefore require individual review pursuant to the standards and criteria set forth in this division and Chapter. Special land use permit applications shall be authorized only for those uses specifically listed in the applicable zoning district regulations as permitted by special land use permit. An applicant desiring to apply for a special land use permit authorized within a district contained within this Chapter shall file an application with the department of planning in accordance with this division. The City Council, following recommendation by the planning commission, shall determine whether the proposed use, in the particular location contemplated, meets the standards and criteria set forth in this division and Chapter. Such uses may further require, and the City Council shall be authorized to impose, special conditions in order to assure their compatibility with surrounding uses and to minimize adverse impacts of the use on surrounding property.

Sec. 5B-2. Initiation of Applications; Public Hearing before Planning Commission.

Special land use permit applications may be initiated upon application by the owner(s) of the subject property or the authorized agent of the owner(s). Before deciding on any special land use permit pursuant to the requirements set forth in this division and Chapter, the City Council shall provide for public notice and a public hearing thereon as is required by this division. No application for a special land use permit shall be decided by the City Council unless it has been submitted to the planning commission for public hearing and recommendation pursuant to the requirements of this division and this Chapter.

Sec. 5B-3. Application Forms; Filing of Applications; Plans Required.

Applications for special land use permits shall be made on forms published and provided by and shall be filed with the department of planning. Each applicant shall complete all questions and requested materials contained within the required application form and shall provide all of the following information:

(a) Survey plat of subject property, prepared within the last ten (10) years by a professional engineer, landscape architect or land surveyor registered in the State of Georgia. Said survey plat shall:

(1) Indicate the complete boundaries of the subject property and all buildings and structures existing thereon;

(2) Include a notation as to whether or not any portion of the subject property is within the boundaries of the one hundred-year floodplain; and

(3) Include a notation as to the total acreage or square footage of the subject property.

(b) Name, mailing address and phone number of all owners of the property which is the subject of the application for special land use permit;

(c) Signed and notarized affidavit of all owners of the subject property authorizing the filing of the application for special land use permit, and where applicable, the signed and notarized affidavit of the owner(s) of the subject property authorizing an applicant or agent to act on their behalf in the filing of the application for special land use permit. The application also shall contain the mailing address and phone number of any applicant or agent who is authorized to represent the owner(s) of the subject property;

(d) Written legal description of property.

(e) Statement of current zoning classification of property, the proposed use of the property, and the specific reference within the applicable zoning district classification which authorizes application for said use by special land use permit.

(f) A written, documented analysis of the impact of the proposed special land use permit with respect to each of the criteria contained in **Section 5B-13** and, where applicable to the use proposed, also the criteria contained in **Section 5B-14**.

(g) Complete and detailed site plan of the proposed use prepared, signed and sealed by an architect, landscape architect or engineer licensed in the State of Georgia, showing the following:

(1) All buildings and structures proposed to be constructed and their location on the property;

(2) Height of proposed building(s);

(3) Proposed use of each portion of each building;

(4) All driveways, parking areas, and loading areas;

(5) Location of all trash and garbage disposal facilities;

(6) Setback and buffer zones required in the district in which such use is proposed to be located;

(7) Landscaping plan for parking areas.

Sec. 5B-4. Application Fees.

Application fees shall be as established by ordinance by the City Council.

Sec. 5B-5. Staff Analysis, Findings of Fact, and Recommendation on Each Application.

Applications shall be filed on forms provided by the department of planning and shall not be considered an authorized application unless complete in all respects. The staff of the department of planning shall conduct a site inspection and shall prepare an analysis of each application for special land use permit and shall present its findings and recommendations in written form to the planning commission. No application shall be amended later than the

required deadline for advertising by the legal organ of the county prior to the scheduled hearing before the planning commission. Staff recommendations on each application for special land use permit shall be based on the criteria contained in **Section 5B-13** and in addition, where applicable to the use proposed, to the criteria contained in **Section 5B-14**.

Sec. 5B-6. Initiation of Ordinance for Application for Special Land Use Permit.

Upon receipt of a complete application for a special land use permit, the secretary shall prepare a proposed ordinance to grant the proposed special land use permit and said proposed ordinance shall be referred to the planning commission for public hearing and recommendation pursuant to the requirements of this Chapter and presented to the City Council at their next scheduled zoning meeting agenda.

Sec. 5B-7. Notice of Applications Filed.

The secretary shall provide to the City Council, no later than twenty-one (21) days following the monthly closing date for receipt of applications, a list of all applications for special land use permit. The listing of applications shall be reasonably made available to the public.

Sec. 5B-8. **Reserved.**

Sec. 5B-9. Notice of Public Hearings.

Notice of public hearing on any proposed application for a special land use permit shall be provided as is required in **Section 5A-18** of this Chapter.

Sec. 5B-10. Action by the Planning Commission.

The secretary shall provide the members of the planning commission complete information on each proposed application for special land use permit which the commission considers including a copy of the application and all supporting materials, all communications and other writings either in support of or in opposition to the application, and the written report and recommendation of the secretary applying the required criteria in **Section 5B-13** and **Section 5A-14**, where applicable, to each application. The planning commission, after conduct of a public hearing with public notice as is required by **Section 5A-18** of this Chapter, shall vote its recommendation to the City Council. The planning commission may recommend approval of the application, approval of the application with conditions, denial of the application, or deferral of the application. The planning commission may recommend the imposition of conditions based upon the facts in a particular case in accordance with **Section 5A-13**. The planning commission recommendation on each application shall be based on a determination as to whether or not the applicant has met the criteria contained in **Section 5A-13**, the criteria contained in **Section 5A-14** where applicable to the use proposed, and the requirements of the zoning district in which such use is proposed to be located.

Sec. 5B-11. Withdrawal of Application by Applicant; Filing of Ordinances by City Council.

Applications may not be withdrawn after they have been filed for advertising for public hearing before the planning commission.

Sec. 5B-12. Action by the City Council.

The City Council, after conduct of the public hearing with public notice required by this division, shall vote to approve the application, approve the application with conditions, deny the application, defer the application, or, upon request of the applicant, to permit withdrawal of the application without prejudice. The City Council may impose conditions based upon the facts in a particular case in accordance with **Section 5A-13**. The decision of the City Council on each application for special land use permit shall be based on a determination as to whether or not the applicant has met the criteria contained in **Section 5A-13**, the criteria contained in **Section 5B-14** where applicable to the use proposed, and the requirements of the zoning district in which such use is proposed to be located. The City Council shall specify the length of time of the duration of each such special land use permit which is approved.

Sec. 5B-13. Special Land Use Permit; Criteria to be Applied.

The following criteria shall be applied by the department of planning, the planning commission, and the City Council in evaluating and deciding any application for a special land use permit. No application for a special land use permit shall be granted by the City Council unless satisfactory provisions and arrangements have been made concerning each of the following factors, all of which are applicable to each application:

(a) Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located;

(b) Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district;

(c) Adequacy of public services, public facilities, and utilities to serve the use contemplated;

(d) Adequacy of the public street on which the use is proposed to be located and whether or not there is sufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area;

(e) Whether or not existing land uses located along access routes to the site will be adversely affected by the character of the vehicles or the volume of traffic generated by the proposed use;

(f) Ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency;

(g) Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust, or vibration generated by the proposed use;

(h) Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use;

(i) Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.

(j) Whether or not the proposed plan is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located;

(k) Whether or not the proposed use is consistent with the policies of the comprehensive plan;

(l) Whether or not the proposed plan provides for all required buffer zones and transitional buffer zones where required by the regulations of the district in which the use is proposed to be located;

(m) Whether or not there is adequate provision of refuse and service areas;

(n) Whether the length of time for which the special land use permit is granted should be limited in duration;

(o) Whether or not the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings;

(p) Whether the proposed plan will adversely affect historic buildings, sites, districts, or archaeological resources;

(q) Whether the proposed use satisfies the requirements contained within the supplemental regulations for such special land use permit.

(r) Whether or not the proposed building as a result of its proposed height will create a negative shadow impact on any adjoining lot or building.

Sec. 5B-14. Additional Criteria for Specified Uses.

In addition to the criteria contained in **Section 5B-13** above, which each applicant for special land use permit is required to meet, the following additional criteria shall apply to the uses specified below. No application for a special land use permit for the uses specified below shall be granted by the City Council unless it is determined that in addition to meeting the requirements contained within the zoning district in which such property is located and the criteria contained in **Section 5B-13** above, satisfactory provisions and arrangements have been made concerning each of the following factors:

(a) *Telecommunications towers and antennas.* In determining whether to authorize a special land use permit for a telecommunication tower or antenna, the City Council shall also consider each of the following factors:

(1) Height of the proposed tower;

(2) Proximity of the tower to residential structures;

(3) Nature of uses on adjacent and nearby properties;

(4) Surrounding topography;

(5) Surrounding tree cover and foliage;

(6) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and

(7) Compliance with all requirements specified in **Section 4-47**.

(b) *Mine, mining operation, gravel pit, quarry, or sand pit.* In determining whether to authorize a special land use permit for a mine, mining operation, gravel pit, quarry, or sand pit, the City Council shall also consider each of the following factors:

(1) Whether the type and volume of traffic associated with such use will cause congestion in the streets and will create noise and vibration along streets used for residential purposes.

(2) Whether the applicant has provided a soil erosion control plan and a reuse or reclamation plan which meets the requirements of City of Dunwoody and of the Georgia Surface Mining Act, O.C.G.A. § 12-4-70 et seq., as amended, and the Rules of Department of Natural Resources, **Chapter 391-3-3**, as amended; and

(3) Whether or not the applicant meets the requirements of noise limitations in **Section 4-30**.

(c) *Child day care facility.* In determining whether to authorize a special land use permit for a child day care facility, the City Council shall also consider each of the following factors:

(1) Whether there is adequate off-street parking for all staff members and for visitors to the child day care facility.

(2) Whether the proposed off-street parking areas and the proposed outdoor play areas can be adequately screened from adjoining properties so as not to adversely impact any adjoining land use.

(3) Whether there is an adequate and safe location for the dropping off and picking up of children at the child day care facility.

(4) Whether the character of the exterior of the proposed structure will be compatible with the residential character of the buildings in the district in which the child day care facility is proposed to be located.

(d) *Biomedical waste disposal facilities, disposal facilities, landfills, materials recovery centers, county solid waste disposal facilities, county solid waste landfills, private industry solid waste disposal facilities, recovered materials processing facilities, solid waste handling facilities, solid waste thermal treatment technology facilities, and disposal facilities for hazardous and/or toxic materials including radioactive materials.* In determining whether to authorize a special land use permit for a biomedical waste disposal facility, disposal facility, landfill, materials recovery center, county solid waste disposal facility, county solid waste landfill, private industry solid waste disposal facility, recovered materials processing facility, solid waste handling facility, solid waste thermal treatment technology facility, or disposal facility for hazardous and/or toxic materials

including radioactive materials, the City Council shall also consider each of the following factors:

(1) A showing that the proposed use does not pose any potential negative impact resulting from air pollution, degradation of soil and/or water quality, noise, odor, or other negative environmental effects;

(2) A showing that the proposed use will not have a deleterious effect on use of land and value of existing housing in adjacent and nearby neighborhoods;

(3) A showing that the proposed use will not create a negative traffic impact on any adjacent or nearby residential street(s) resulting from truck and other vehicular traffic associated with the facility; and

(4) A showing that the proposed use does not represent an over-concentration of such uses in the area.

(e) *Truck stops.* The following provisions apply to truck stops whether designed as primary uses or as part of planned industrial centers.

(1) These uses shall be permitted only within one thousand (1,000) feet of an interstate highway interchange.

(2) These uses shall be permitted only on parcels of ten (10) acres or more.

(3) These uses shall not be permitted within one thousand (1,000) feet of any property used for a school, park, playground, church, day care center, or community center unless such facility is located in an M or M-2 district.

(4) These uses shall not be permitted within one thousand (1,000) feet of any R or RM district.

(5) Entrance drives for truck stop facilities shall not be closer than three hundred (300) feet from any point of an interstate highway interchange.

(6) These uses shall meet state and federal environmental guidelines and requirements.

Sec. 5B-15. The City Clerk shall Provide a Signed Copy of Ordinance to Director of Planning to be Noted on Official Zoning Maps.

The City clerk shall, after action by the City Council on any special land use permit application, provide to the director of planning a signed, certified copy of each such ordinance. The director of planning shall cause the official zoning maps to be appropriately annotated to reflect the approval of any such ordinance granting a special land use permit by the City Council.

Sec. 5B-16. Successive Applications.

An application for a special land use permit affecting all or a portion of the same property shall not be submitted more than once every twenty-four (24) months measured from the date of

final decision by the City Council. The City Council may waive or reduce this twenty-four-month time interval by resolution, provided that if the application for a special land use permit was denied by the City Council, the time interval between the date of said denial and any subsequent application affecting the same property shall be no less than six (6) months.

Sec. 5B-17. Transfer of Special Land Use Permits.

A special land use permit, including the site plan and any conditions imposed at the time of the grant of the special land use permit by the City Council, is granted to a person, corporation or other legal entity. A special land use permit may be transferred from one person, corporation, or other legal entity to another person, corporation, or other legal entity upon application to the director of planning. Any such application by any person, corporation, or other legal entity to transfer a special land use permit shall be accompanied by an affidavit of the proposed transferee certifying that the new owner or operator is familiar with and will abide by the approved site plan and all of the conditions, if any, imposed by the City Council at the time of the grant of the special land use permit.

Sec. 5B-18. Compliance upon Denial.

In such case that an application to the board is initiated due to an existing violation of this Chapter and such application is denied, the violation shall be required to cease within thirty (30) days of such denial or as specified by the board if a greater time period is required. The maximum extension of time the board may grant for correction shall not exceed ninety (90) days.

DIVISION 5C. SPECIAL ADMINISTRATIVE PERMITS

Sec. 5C-1. Special Administrative Permits Generally.

The Director of Planning is hereby authorized to consider and decide requests for special administrative permits specifically authorized in any zoning district classification or specifically authorized in **Article IV**. All such requests for special administrative permits shall be filed in writing on forms promulgated by the director of planning and the director of public works.

Sec. 5C-2. Standards for Special Administrative Permits.

Each application for special administrative permit specifically authorized in this Chapter shall be considered and decided by that official, either the Director of Planning to whom the authority to consider and decide said permit is delegated herein. All applications filed for special administrative permit with the director of planning and the director of public works shall be considered and decided pursuant to the standards contained in **Section 5B-13** of this Chapter. All special administrative permits approved by the Director of Planning shall specify the length of time of the duration of each such special administrative permit.

Sec. 5C-3. Time Limitations.

All applications for special administrative permits shall be considered and decided pursuant to the standards in the zoning ordinance by the authorized official no later than thirty (30) days from the receipt of a complete application for such special administrative permit, unless an extension of time is agreed to by the applicant and the applicable authorized official.

DIVISION 5D. VARIANCES, SPECIAL EXCEPTIONS, AND APPEALS

Sec. 5D-1. Zoning Board of Appeals Established.

There is hereby established a City of Dunwoody Board of Zoning Appeals consisting of seven (7) members, whose qualifications shall be dictated by Chapter 2 ("Administration") of the City of Dunwoody Code of Ordinances. If a provision of Chapter 2 of the City Code is in conflict with any portion of the City of Dunwoody Zoning Ordinance as it pertains to the Board of Zoning Appeals, the provisions of Chapter 2 of the City Code shall control.

Sec. 5D-2. **Reserved.**

Sec. 5D-3. Meetings of the Board.

The board shall set its meeting times pursuant to Chapter 2, Article 4 of the City Code.

Sec. 5D-4. Rules of Procedure.

The board shall conduct its meetings in accordance with the procedures contained in this division and Chapter. The board shall further adopt rules of procedure governing the conduct of its meetings pursuant to the requirements of Chapter 2, Article 4 of the City Code.

Sec. 5D-5. **Reserved.**

Sec. 5D-6. **Reserved.**

Sec. 5D-7. **Reserved.**

Sec. 5D-8. Secretary.

The director of planning or the director's designee may serve as secretary to the board as directed by the City Manager. The secretary shall make tape recordings and keep minutes of the proceedings of the board, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its official actions and evidence submitted, all of which shall be filed in the office of the planning department and shall be a public record. Permanent and complete records of the proceedings and decisions of the board shall be maintained.

Sec. 5D-9. Application Forms; Filing of Applications; Application Fees.

Applications for appeals, variances and special exceptions shall be filed on forms provided by the department of planning and shall not be considered authorized or accepted unless complete in all respects. Application fees shall be as established by the City Council.

Sec. 5D-10. Staff Analysis, Findings of Fact, and Recommendation on Each Application for Variance and Special Exception.

The staff of the department of planning shall conduct a site inspection of and shall prepare an analysis of each application for variance and special exception applying the criteria and standards set forth in this division appropriate to each such application. Said staff shall present its findings and recommendations in written form to the board at least seven (7) days prior to the public hearing thereon.

Sec. 5D-11. Testimony.

All testimony before the board shall be taken as if under oath regardless of whether or not a formal oath or affirmation is administered. The chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses by subpoena.

Sec. 5D-12. Power and Duty of the Board to Hear Appeals of Decisions of Administrative Officials.

The zoning board of appeals shall have the power and duty to hear and decide appeals where it is alleged by the appellant that there is error in any final order, requirement, or decision made by an administrative official based on or made in the enforcement of the zoning ordinance. A failure to act shall not be construed to be an order, requirement or decision within the meaning of this division. All such appeals shall be heard and decided following the notice requirements of **Section 5D-17**, and pursuant to the following criteria and procedural requirements:

(a) *Appeals of decisions of administrative officials.* Appeals may be filed by any person aggrieved by, or by any county official, department, board or agency affected by, any final order, requirement, or decision of an administrative official, based on or made in the enforcement of the zoning ordinance, by filing with the secretary of the board an application for appeal specifying the grounds thereof, within fifteen (15) days after the action appealed from was taken. A failure to act shall not be construed to be an order, requirement or decision within the meaning of this division. A person shall be considered aggrieved for purposes of this subsection only if:

(1) Said person or said person's property was the subject of the action appealed from; or

(2) Said person has a substantial interest in the action appealed from that is in danger of suffering special damage or injury not common to all property owners similarly situated.

(b) *Appeal stays all legal proceedings.* An appeal stays all legal proceedings in furtherance of the action appealed from unless the official from whom the appeal is taken certifies to the board, after notice of appeal has been filed, that by reasons of facts stated in the certificate, a stay would, in that official's opinion, cause imminent peril to life and property. In such a case, proceedings shall be stayed only by a restraining order granted by the Superior Court of City of Dunwoody on notice to the officer from whom the appeal is taken and on due cause shown.

(c) *Time of hearing.* The board shall fix a reasonable time for the hearing of the appeal and give notice thereof pursuant to the requirements of **Section 27-917** as well as due notice to the parties in interest. Any party may appear at the hearing in person, by an agent, by an attorney or by a written documentation.

(d) *Decision of the board.* Following the consideration of all testimony, documentary evidence, and matters of record, the board shall make a determination on each appeal. The board shall decide the appeal within a reasonable time but in no event more than sixty (60) days from the date of the

hearing. An appeal shall be sustained only upon an expressed finding by the board that the administrative official's action was based on an erroneous finding of a material fact, or that the administrative official acted in an arbitrary manner. In exercising its powers, the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all the powers of the administrative official from whom the appeal was taken and may issue or direct the issuance of a permit provided all requirements imposed by all other applicable laws are met.

Sec. 5D-13. Power and Duty of the Board to Hear Applications for Special Exceptions to Reduce or Waive Off-Street Parking or Loading Space Requirements.

The zoning board of appeals shall hear and decide applications for special exceptions to reduce or waive required off-street parking or loading spaces in accordance with the provisions and standards of this section and without further compliance with the standards set forth in **Section 5D-16(b)**. All such applications shall be heard and decided based on the notice requirements of **Section 5D-17**. The board may waive or reduce the required number of parking spaces or the required number of loading spaces in any district only upon an expressed finding that:

(a) The character of the use of the building(s) is such as to make unnecessary the full provision of parking or loading spaces; or

(b) The lot upon the building(s) is located is within one thousand (1,000) feet of the boundary of a MARTA Rapid Transit Station.

(c) The provision of the full number of parking spaces would have a deleterious affect on a historic building, site, district or archaeological resource.

Sec. 5D-14. Power and Duty of the Board to Hear Applications for Variances; Limitations of Authority of Board.

The zoning board of appeals shall hear and decide applications for variances from the strict application of the regulations of this Chapter where the strict application of any regulation enacted under said Chapters would result in exceptional and undue hardship upon the owner of such property. In determining whether or not to grant a variance, the board shall apply the criteria specified in **Section 5D-17** below to the facts of each case. The board may attached reasonable conditions to any approved variance or special exception in accordance with **Section 5A-13**. Once imposed, conditions shall become an integral part of the approved variance or special exception and shall be enforced as such. No changes to an approved condition attached to a variance or special exception shall be authorized except by re-application to the board in full accordance with the provisions of this division. No variance shall be granted by the board to:

(a) Allow a structure or use not authorized in the applicable zoning district or a density of development that is not authorized within such district;

(b) Allow an increase in maximum height of building;

(c) Allow any variance which conflicts with or changes any requirement enacted as a condition of zoning or of a special land use permit by the City Council;

(d) Vary the requirements for an off premises sign which decreases the applicable development standard by thirty (30) percent or more, or to grant more than two (2) variances for a specific parcel of property for an off-premises sign during a five-year period of time;

(e) Reduce, waive or modify in any manner the minimum lot width and minimum lot area where the lot has been conditionally zoned to a specific site plan;

(f) Reduce, waive or modify in any manner the minimum lot area established by the City Council for any use permitted by special land use permit or by special exception;

(g) Extend the time period for a temporary outdoor social, religious, entertainment or recreation activity approved by the director of public works;

(h) Permit the expansion or enlargement of any nonconforming use of land, nonconforming use of land and buildings in combination, nonconforming use of land and structures in combination, or nonconforming use requiring special land use permit;

(i) Permit the reestablishment of any nonconforming use of land, nonconforming use of land and buildings in combination, nonconforming use of land and structures in combination, or nonconforming use requiring special land use permit where such use has lapsed pursuant to the requirements and limitations of **Section 5E** of this Chapter; or

(j) Permit customer contact for a home occupation authorized by this Chapter.

Sec. 5D-15. Criteria to be Used by the Board in Deciding Applications for Variances and Special Exceptions.

No relief may be granted or action taken under the terms of this division unless such relief can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of this Chapter and the comprehensive plan text. The zoning board of appeals shall apply the following criteria to the types of applications specified below as follows:

(a) Variances from the provisions or requirements of this Chapter shall be authorized only upon making all of the following findings:

(1) By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic conditions, which were not created by the owner or applicant, the strict application of the requirements of this Chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district;

(2) The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located;

(3) The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located;

(4) The literal interpretation and strict application of the applicable provisions or requirements of this Chapter would cause undue and unnecessary hardship; and

(5) The requested variance would be consistent with the spirit and purpose of this Chapter and the City of Dunwoody Comprehensive Plan text.

(b) Special exceptions shall be authorized only upon making a finding that the application conforms to all of the requirements of **Section 5B-13**.

(c) In lieu of the requirements set forth in **subsection (a)**, requests for variances from the provisions of the noise ordinance set forth in **Section 4-30**, the zoning board of appeals shall be authorized to grant variances only upon making all of the following findings:

(1) By reason of exceptional conditions, which were not created by the owner or applicant, the strict application of **Section 4-30** would deprive the property owner of rights and privileges enjoyed by other property owners in the same residential, commercial or industrial district;

(2) The requested variance does not go beyond the minimum necessary to afford relief, and the applicant has exhausted the best practical noise control measures, such as those promulgated by INCE, without being able to conform to the noise levels established in **Section 4-30**;

(3) The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located;

(4) The literal interpretation and strict application of the applicable provisions or requirements of **Section 4-30** would cause undue and unnecessary hardship; and

(5) The requested variance would be consistent with the purposes of the **Section 4-30** and shall not exceed:

a. Ten (10) dB(A) beyond what is allowed by the **Section 4-30** during the hours of 7:00 am to 10:00 p.m.; and

b. Five (5) dB(A) beyond what is allowed by **Section 4-30** during the hours of 10:00 p.m. to 7:00 a.m.

Sec. 5D-16. Notice of Public Hearings.

Notice of public hearing before the board on any application for appeal, variance, or special exception shall be provided as follows:

(a) Written notice of the nature of the proposed application, and the date, time, and place of the public hearing before the board shall be mailed by first class mail to all property owners within two hundred fifty (250) feet of the boundaries of the subject property as measured by use of the official zoning maps, and as such property owners are listed on the tax records of the City of Dunwoody, at least fifteen (15) days before the public hearing before the board;

(b) Signs shall be posted within the public right-of-way or on the subject property at least fifteen (15) days before the hearing before the board. One (1) sign shall be posted for each five hundred (500) feet of street frontage or fraction thereof along each street on which the subject property has frontage. Signs shall be double-faced and posted so that the face of the sign is at a right angle to the street in order that said signs can be read by the traveling public in both directions. The lettering on the signs shall be at least one (1) inch in size and the sign shall state the nature of the proposed application and the date, time and place of the public hearing before the board; and

(c) Notice of the nature of the proposed application and the date, time and place of the public hearing before the board shall be published in the newspaper of general circulation within the county in which are carried the legal advertisements of the county at least fifteen (15) days prior to the date of the hearing before the board and not more than forty-five (45) days prior to the date of the hearing before the board.

Sec. 5D-17. Decision by Board.

Each application presented to the board regarding a variance or special exception shall be scheduled for a public hearing within sixty (60) days of the filing of a complete application and shall be supported by findings and conclusions which shall be a part of the record established by the board for each application. The board may adopt the findings of fact of the staff, or they may adopt the findings of fact of the staff with modifications, or they may adopt a separate set of facts developed by the board.

Sec. 5D-18. Compliance with Standards upon Denial.

In such case that an application to the board is initiated due to an existing violation of this Chapter and such application is denied, the violation shall be required to be corrected within ten (10) to thirty (30) days of such denial or as specified by the board if a greater time period is required. The maximum extension of time the board may grant for correction shall not exceed thirty (30) to ninety (90) days.

Sec. 5D-19. Successive Applications.

An application for a variance or special exception affecting all or a portion of the same property which was denied by the zoning board of appeals shall not be submitted more than once every twenty-four (24) months measured from the date of final decision by the zoning board of

appeals. The zoning board of appeals may waive or reduce this twenty-four-month time interval by resolution provided that if the application for a variance or special exception was denied by the zoning board of appeals, the time interval between the date of said denial and any subsequent application or amendment affecting the same property shall be no less than six (6) months.

Sec. 5D-20. Appeals of Decisions of the Zoning Board of Appeals.

All appeals of all final decisions of the board under the provisions of this Chapter shall be as follows:

(a) Any person aggrieved by a final decision of the board, or any officer, department, board or agency affected by such decision, may seek review of such decision by petitioning the Superior Court of DeKalb County for a writ of certiorari, setting forth plainly the alleged errors. Such petition shall be filed within thirty (30) days after the final decision of the board is rendered.

(b) Notice to board. In any such petition filed, the zoning board of appeals shall be designated the respondent in certiorari and City of Dunwoody the defendant in certiorari. The secretary of the zoning board of appeals shall be authorized to acknowledge service of a copy of the petition and writ for the zoning board of appeals as respondent. Service upon the county as defendant shall be as otherwise provided by law. Within the time prescribed by law, the zoning board of appeals shall cause to be filed with the clerk of DeKalb Superior Court a duly certified record of the proceedings had before the board, including a transcript of the evidence heard before it, if any, and the decision of the board.

Sec. 5D-21. Administrative Variances and Special Exceptions.

(a) The director of planning is hereby authorized to consider and grant or deny, pursuant to the procedures and standards contained in this section, a variance or a special exception from the following regulations:

(1) Reduce by variance any front, side or rear yard setback by an amount not to exceed ten (10) percent of the district requirement, but not including any transitional buffer zone or any setback which is a condition of zoning or special land use permit, pursuant to the standards specified in **Section 5D-16**.

(2) Reduce by variance the required spacing between buildings in districts where multiple buildings are authorized on a single lot in an amount not to exceed ten (10) percent of the requirement, but not in an amount which is less than the minimum requirement imposed by of the City of Dunwoody Code of Ordinances, pursuant to the standards specified in **Section 5D-16**.

(3) Reduce by special exception the off-street parking or loading requirements imposed by this Chapter in an amount not to exceed ten (10) percent of the district requirement, pursuant to the standards specified in **Section 5D-13(a)**.

(4) Reduce by special exception the off-street parking requirements imposed by this Chapter for any lot which is located within one

thousand (1,000) feet of the boundary of a MARTA Rapid Transit Station in an amount not to exceed twenty-five (25) percent of the district requirement, pursuant to the standards specified in **Section 5D-13(b)**.

(5) Increase by variance the retaining wall height as set forth in Section 4-54(b) by an amount not to exceed two (2) feet.

(6) Increase by variance the distancing requirements for retaining walls as set forth in Section 4-54 (b) by an amount not to exceed two (2) feet.

(7) Increase by variance the elevation of front door thresholds as set forth in Sec. 4-64

(a) Any request for an administrative variance or a special exception permitted by this section shall be filed in writing with the director of planning. The director shall review and decide upon each such application pursuant to the applicable standards referred to in each subsection above, and shall make a written decision on each such application no later than thirty (30) days from the date such application was filed. Notice of an application for an administrative variance shall be posted by the applicant on the subject property within ten (10) days of the filing of the application.

(i) At least one (1) sign shall be posted on each street on which the subject property has frontage. One (1) additional sign shall be posted for each additional five hundred (500) feet of frontage or fraction thereof in excess of five hundred (500) feet of frontage on each street on which the subject property has frontage.

(ii) Signs shall be a minimum of twenty two (22) inches by twenty-four (24) inches in size and contain the following information: address, nature of variance request, date of submittal of application, and planning and development department contact information.

(iii) The applicant shall sign an affidavit attesting to the posting of signs in accordance with the requirements herein, and shall provide a dated photograph of each sign as evidence of its proper posting.

No administrative variance or special exception shall be authorized to delete, modify, or change in any manner any condition imposed by the board of commissioners or the zoning board of appeals.

DIVISION 5E. NONCONFORMING USES

Sec. 5E.1. Statement of Intent and Purpose.

Within the districts established by this Chapter, or by amendments that may later be adopted, there exist lots, uses of land, uses of land and buildings, uses of land and structures, and characteristics of buildings and structures which were lawful before this Chapter was adopted or amended, but which would be prohibited under the terms of this Chapter or future amendment. Such nonconforming uses are hereby declared to be incompatible with authorized and permitted uses in the districts involved. It is the intent of the City Council to require the cessation of certain of these nonconformities, and to permit others to continue until they are otherwise removed or cease. It is further the board's intent that nonconformities not be used as grounds for adding other buildings, structures, or uses of land prohibited by this Chapter, and that no such building, structure, or use of land shall be enlarged, expanded, moved, or otherwise altered in a manner that increases the degree of nonconformity.

Sec. 5E-2. Nonconforming Use of Land.

The nonconforming use of land may be continued, but no such nonconforming use of land which has been discontinued for a continuous period of six (6) months shall be reestablished unless such cessation is a direct result of governmental action impeding access to the property. Such nonconforming use of land shall not be enlarged, expanded, moved, or otherwise altered in any manner that increases the degree of nonconformity.

Sec. 5E-3. Nonconforming Lot of Record.

A nonconforming lot of record in a residential district may be used for a single-family residence without the need for a variance from the zoning board of appeals.

Sec 5E-4. Nonconforming Use of Land and Buildings in Combination and Nonconforming Use of Land and Structures in Combination.

The following regulations apply to the nonconforming use of land and building(s) in combination and the nonconforming use of land and structure(s) in combination:

(a) Such uses of land and buildings or land and structures may be continued, but no such use which has been discontinued for a continuous period of six (6) months shall be reestablished unless such cessation is a direct result of governmental action impeding access to the property.

(b) Such uses of land and buildings or land and structures, or any such building or structure, shall not be enlarged, expanded, moved, or otherwise altered in any manner that increases the degree of nonconformity.

(c) A nonconforming use of a building may be extended into those interior parts of a building which were manifestly designed for such use prior to the enactment of this Chapter.

Sec. 5E-5. Nonconforming Characteristics of Buildings and Structures.

Any building or structure with nonconforming characteristics which is occupied by a conforming use shall not be enlarged, expanded, moved, or otherwise altered in any manner that increases the degree of nonconformity.

Sec. 5E-6. Nonconforming Uses Requiring Special Administrative Permit, Special Exception or Special Land Use Permit.

No nonconforming use, building or structure requiring a special administrative permit, special exception or special land use permit under the terms of this Chapter, including any use, building or structure that was authorized as of right prior to the adoption of this Chapter but would require a special administrative permit, special exception, or special land use permit upon the adoption of this Chapter, shall be enlarged, expanded, moved, or otherwise altered in any manner except after application for and approval of a special administrative permit, special exception or special land use permit. Normal repair and maintenance of buildings and structures is authorized without the need for special permits. No such use, building, or structure which has been discontinued for a continuous period of six (6) months shall be reestablished unless such cessation is a direct result of governmental action impeding access to the property.

Sec. 5E-7. Reconstruction of Buildings or Structures which are Defined as Nonconforming Use of Land and Building or Nonconforming Use of Land and Structure.

Any building or structure constituting a nonconforming use of land and building(s) or nonconforming use of land and structure(s) which has been damaged by fire or other cause, may be reconstructed and used as it was prior to damage if said reconstruction is completed within two (2) year of the date of the damage, except that if said building or structure has been declared by the director of public works to have been damaged to an extent exceeding sixty (60) percent of its fair market value at the time of destruction, then any repair, reconstruction or new construction shall conform to all of the requirements of the district in which said building or structure is located.

Sec. 5E-8. Strengthening and Restoring to Safe Condition of Buildings and Structures.

Nothing in this Chapter shall prevent the strengthening or restoration to a safe condition of any part of any building or structure declared unsafe by the director of public works.

Sec. 5E-9. Buildings and Structures where Construction has Begun.

To avoid undue hardship, nothing in this Chapter shall be deemed to require a change in the plans, construction, or designated use of any building or structure for which development or building permits were lawfully applied for or issued, or preliminary or final subdivision plats were lawfully approved, prior to the effective date of this Chapter or amendment thereto, provided: (i) such permit or approval has not by its own terms expired prior to such effective date; (ii) actual building construction is commenced prior to the expiration of such permit or approval; (iii) actual building construction is carried on pursuant to said permit or approval and limited to and in strict accordance with said permit or approval; and (iv) no renewals or extensions of said permit or approval shall be authorized.

Sec. 5E-10. Prior Variances, Special Exceptions, and Special Permits Authorized.

Variances, special exceptions, and special permits lawfully authorized and granted prior to the effective date of this Chapter shall continue to be utilized provided the terms of said authorization are followed.

ARTICLE VI. ENFORCEMENT AND PENALTIES

DIVISION 6A. ADMINISTRATION AND ENFORCEMENT

Sec. 6A-1. Administration and Enforcement.

The Planning Director shall be responsible for the interpretation, administration and enforcement of the provisions of this Chapter, except with regard to the current zoning status of property as specified in **Section 1-9**.

Sec. 6A-2. Development Permits.

Unless otherwise exempted by this article, a development permit shall be required for any proposed use of land or buildings in order to assure compliance with all provisions of this Chapter and all other county ordinances and regulations before any building permit is issued or any improvement, grading, or alteration of land or buildings commences.

Sec. 6A-3. Building Permits and Certificates of Occupancy Required.

A building permit and a certificate of occupancy shall be obtained prior to occupancy of any building or structure.

Sec. 6A-4. Applications for Permits and Certificates of Occupancy.

All applications for development permits, building permits, and certificates of occupancy shall be made to the City Manager or his/her designee.

Sec. 6A-5. Development and Building Permits; Plans Required.

The Director of Planning shall be responsible for determining whether applications for development permits and building permits required by this Chapter comply with the requirements of this Chapter, and no development permit shall be issued without certification that plans conform to applicable zoning regulations.

(a) *Plans required.* All applications for development permits shall be accompanied by complete plans which shall be drawn to scale, filed in duplicate, and which shall contain the following information:

(1) The name and signature of the author, and the author's address and telephone number;

(2) Plans shall show the actual shape and dimensions of the lot to be built upon, based on an actual survey by a professional engineer or land surveyor registered in the State of Georgia;

(3) Plans shall show all required building setback lines, buffer zones, and open space required by this Chapter;

(4) Plans shall show the exact sizes and locations on the lot of the buildings and accessory buildings then existing and the lines within which the proposed building or structure shall be erected or altered;

(5) Plans shall show the current zoning classification of the property including zoning conditions and zoning variances, if any;

(6) Plans shall show the existing or intended use of each building or part of building, and the number of families or housekeeping units the building is designed to accommodate;

(7) Plans shall show such other information as may be required by the director of public works with regard to the lot and neighboring lots as may be necessary to determine and provide for the application of and enforcement of the requirements of this Chapter.

(b) One (1) copy of the plans shall be returned to the owner when the plans have been approved by the director of public works.

(c) Approval of the preliminary subdivision plat and compliance with all applicable provisions of the subdivision regulations of the Code of the City of Dunwoody and in this Chapter shall constitute approval of the development permit for a subdivision.

(d) Development permits for individual structures within approved residential subdivisions or developments shall not be required.

Sec. 6A-6. Issuance of Development Permits.

In no case, shall a development permit issued for the use, construction or alteration of any land or building if the land or building as proposed to be used, constructed or altered would be in violation of any of the provisions of this Chapter or any other ordinances and laws of the county or the state, except as provided herein. Development permits issued on properties for which any variance or special exception has been approved by the board of zoning appeals shall be in compliance with all of the terms and conditions of such approval. Development permits issued on properties for which any special land use permit has been approved by the City Council shall be in compliance with all of the terms, conditions, and site plans related to such approval. Development permits issued on properties in the classification TND (Traditional Neighborhood Development) District shall be in compliance with the final plans approved by the director of planning. Development permits issued on properties for which conditional zoning is approved shall be in compliance with the approved statement of zoning conditions for such application. Minor alterations of conditions shall be authorized only in accordance with the provisions of **Section5A-25** of this Chapter.

Sec. 6A-7. Duration of Validity of Development Permits.

A development permit shall be valid for two (2) years from its issuance subject to the following provisions:

(a) If the work authorized in any development permit has not begun within ninety (90) days from the date of issuance thereof, the permit shall expire.

(b) If the work described in any development permit has not been substantially completed within two (2) years of the date of issuance thereof, the permit shall expire.

(c) Written notice of the expiration shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed until a new development permit has been obtained.

Sec. 6A-8. Building Inspection.

Building inspection duties with respect to this Chapter shall include, but not be limited to:

(a) Issuance of building permits in accordance with all provisions of this Chapter and only after the department has issued a development permit.

(b) Making field inspections to determine that the building or structure being constructed, reconstructed or structurally altered or used is being pursued in accordance with the site plan for which a development and building permit has been issued. These inspections and reports of findings shall be made within two (2) working days of the date that an inspection is requested by the developer. When a violation is found to exist, the director of public works shall immediately initiate appropriate legal action to ensure compliance.

(c) Ensuring that all construction has been completed in accordance with all applicable requirements of the Code of City of Dunwoody prior to allowing occupancy.

Sec. 6A-9. Records.

The City Manager or his/her designee shall maintain records of all official administrative actions. The director shall further maintain records of all complaints filed pursuant to the requirements of this Chapter and of all actions taken with regard to such complaints, and of all violations discovered by whatever means, with remedial action taken and disposition of cases. All such records shall be public records.

Sec. 6A-10. Inspection; Right of Entry.

Upon presentation of county identification to the developer, contractor, owner, owner's agent, operator or occupants, county employees authorized by the director of public works may enter during all reasonable hours any property for the purpose of making inspections to determine compliance with the provisions of this Chapter.

Sec. 6A-11. Inspection; Warrants.

The Director of Planning, in addition to other procedures provided, may obtain an inspection warrant under the conditions specified in this division. The warrant shall authorize the director of public works to conduct a search or inspection of property, either with or without the consent of the person whose property is to be searched or inspected, under the conditions set out in this section.

(a) Inspection warrants may be issued by the municipal court of the City when the issuing judge is satisfied that all of the following conditions are met:

(1) The person seeking the warrant must establish under oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection which includes that property or that there is probable cause for believing that there is a condition, object, activity, or circumstance which legally justifies such an inspection of that property.

(2) The issuing judge determines that the issuance of the warrant is authorized by this section.

(b) The inspection warrant shall be validly issued only if it meets all of the following requirements:

(1) The warrant is attached to the affidavit required to be made in order to obtain the warrant.

(2) The warrant describes, either directly or by reference to the affidavit, the property upon which the inspection is to occur and is sufficiently accurate that the executor of the warrant and the owner or possessor of the property can reasonably determine from it the property for which the warrant authorizes an inspection.

(3) The warrant indicates the conditions, objects, activities, or circumstances which the inspection is intended to check or reveal.

(4) The warrant refers, in general terms, to the ordinance provisions sought to be enforced.

Sec. 6A-12. Remedies.

In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of any provision of this Chapter, the City may, in addition to other remedies, and after due notice to the owner of the violation, issue a citation for violation of this Chapter requiring the presence of the violator in the recorder's court. The City may also in such cases institute injunction or other appropriate action or proceeding to prevent an unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate this violation or to prevent the occupancy of this building, structure of land. Where a violation of this Chapter exists with respect to a structure or land, the Director of Planning may, in addition to other remedies, require that public utility service be withheld therefrom until such time as the structure or premises is no longer in violation of this Chapter.

Sec. 6A-13. Notice in Writing; Order to Stop Work; Revocation of Permits.

Whenever any building or premises is being constructed, used, or occupied contrary to the provisions of this Chapter, the Director of Planning may order the work stopped. The Director of Planning may revoke any building permit or certificate of occupancy for any land, building or this Chapter in order to protect the health, safety and general structure being constructed, used or occupied in violation of welfare of the residents of the county.

Sec. 6A-14. Fees.

Fees and charges for permits and inspections shall be as adopted by ordinance of the City Council.

Sec. 6A-15. Certificates of Occupancy.

Certificates of occupancy are required as follows and shall be issued by the Director of Planning or his/her designee only after all requirements of this Chapter and other applicable parts of the Code of City of Dunwoody have been met:

(a) *For new or altered structures and uses.* No person shall use or permit the use of any building, structure, or premises or part thereof hereafter created, erected, changed, converted, enlarged or moved, wholly or partly, in use or structure, until a certificate of occupancy reflecting use, extent and location shall have been issued to the owner or tenant by the director of public works. Where a building permit is involved, such certificate of occupancy shall show that the structure or use, or both, to the affected part thereof, are in conformance with the requirements of this Chapter. It shall be the duty of the director of public works to issue such certificate of occupancy if the director finds that all of the requirements of this Chapter have been met, and to withhold such certificate of occupancy if the director finds that all of the requirements of this Chapter have not been met.

(b) *Temporary certificates of occupancy.* A temporary certificate of occupancy for a part of a building or premises may be issued in accordance with the requirements of the Code of Dunwoody, and the City Manager or his/her designee may impose such additional conditions and safeguards as are necessary in the circumstances of the case to protect the safety of the occupants and of the general public.

(c) *Certificates of occupancy for existing uses or structures.* An owner may request a new certificate of occupancy for existing uses or structures. Said requests shall be in the form required by the City Manager and shall require all professional surveys or certifications required by said director to adequately comply with said request. The City Manager shall require as a part of said request, fees to process said requests as are established by the City Council. Upon review of the application and other relevant investigation by the City Manager, if in conformance with the requirements of this Chapter, the director of public works shall issue a certificate of occupancy for any buildings, premises or use, certifying that the building, premises or use is in conformance with the requirements of this Chapter.

DIVISION 6B. VIOLATION AND PENALTIES

Sec. 6B-1. Violations of this Chapter.

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building

or structure or use any land in the county, or cause the same to be done, contrary to or in violation of any of the provisions of this Chapter.

Sec. 6B-2. Penalties.

Any person, firm or corporation violating any of the provisions of this Chapter shall be deemed guilty of an offense and upon conviction in municipal court shall be punished as is provided of the Criminal Code of City of Dunwoody. Where any violation continues, each day's continuance of a violation shall be considered a separate offense. The owner of any buildings or premises or parts thereof, where anything in violation of this Chapter exists, and any architect, builder, contractor or any other agent of the owner, or any tenant, who commits or assists in the commission of any violation, shall be guilty of a separate offense. In addition, the county may revoke a City of Dunwoody business license of any entity found guilty of violating this Chapter in accordance with the procedures of this subsection for a period of time not to exceed five years, except to the extent prohibited by law.

Sec. 6B-3. Repeal of Conflicting Ordinances; Validity of Prior Approvals and Actions.

This Chapter is the zoning ordinance of the City, and all other conflicting ordinances or resolutions are hereby repealed, provided that nothing herein shall be construed as repealing the conditions of use, operation, or site development accompanying zoning approval(s) or permits issued under previous zoning ordinances or resolutions, provided further that modification or repeal of these past conditions of approval may be accomplished as authorized and provided by this Chapter. All variances and exceptions heretofore granted by the DeKalb County Board of Appeals shall remain in full force and effect, and all terms, conditions and obligations imposed by that Board of Appeals shall remain in effect insofar as required for the initiation of any proceedings against these violations and for the prosecution of any violations heretofore commenced.

Sec. 6B-4. Additional Legal Remedies.

In addition to all other actions and penalties authorized in this Chapter, the law department is hereby authorized to institute injunctive, abatement or any other appropriate judicial or administrative actions or proceedings to prevent, enjoin, abate, or remove any violations of this Chapter.

Sec. 6B-5. Severability.

In the event that any article, division, section, subsection, sentence, clause, paragraph or phrase of this Zoning Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no matter affect other articles, divisions, sections, subsections, sentences, clauses, paragraphs or phrases of this Ordinances, which shall remain in full force and effect, as if the article, section, subsection, sentence, clause, paragraph or phrase so declared or adjudged invalid or unconstitutional was not originally a part thereof.

STATE OF GEORGIA
COUNTY OF DEKALB

ORDINANCE NO. 2008-12-47

AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 21, SIGNS, PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF DUNWOODY, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 21 (SIGNS) AS ATTACHED HERETO AND INCOPORATED HEREIN

WHEREAS: The Ordinance relating to Chapter 21, Signs, is hereby adopted and approved, and is attached hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 21 of the Code of Ordinances of the City of Dunwoody, Georgia; and

WHEREAS, A second read and an advertised Public Hearing has been held on December 18, 2008 pursuant to the Zoning Procedures Act, O.C.G.A. § 36-66-1 et. seq., prior to the adoption of this Ordinance; and

WHEREAS: This Ordinance shall become effective upon its adoption.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF DUNWOODY HEREBY ORDAINS that Chapter 21, Signs, is hereby adopted and approved as part of the Code of Ordinances for the City of Dunwoody, Georgia. Any ordinance in conflict with this ordinance is hereby repealed.

SO ORDAINED AND EFFECTIVE this the 18th day of December, 2008.

Approved:

_____

Ken Wright, Mayor

Attest:

_____

Joan Jones, Acting City Clerk
(Seal)

Approved as to Form and Content:

_____

Brian Anderson, City Attorney

Chapter 21 – Signs

Article I. In General

Section 1: Purpose and Findings

The City Council finds that signs provide an important medium through which persons may convey a variety of noncommercial and commercial messages. However, left completely unregulated, the number, size, design characteristics, and locations of signs in the City can become a threat to public safety as a traffic hazard and a detriment to property values and to the City's general public welfare, as well as create an aesthetic nuisance. The City further finds that signs have become excessive, and that many signs are distracting and dangerous to motorists and pedestrians, and substantially detract from the beauty and appearance of the City. The City finds that there is a substantial need directly related to the public health, safety and welfare to comprehensively address these concerns through the adoption of the following regulations.

The City further finds that there is a substantial difference between signs erected by public authority and signs erected by private citizens or businesses. Signs erected by public authority are virtually all erected for the purpose of maintaining the public safety either through direct control of traffic or through provision of such type signage as street signs which enable the traveling public to know where they are located and to find where they are going. As such, with the exception of signs indentifying government buildings, virtually all government signs are erected purely for public safety purposes. Moreover, their use in the public right-of-way is necessary to ensure their visibility to the motoring public. The Mayor and council finds that public utility signs are frequently of the same nature as those signs erected by governmental entities in that they provide necessary information to safeguard the public from downed power lines and from street excavations. Even where signs serve a propriety purpose, such as identifying markings on utility poles, public utility signs are marked primarily for the purpose of benefiting the public generally through identification of locations where there may be temporary losses of power.

The City finds that some signage has a single targeted function and that identification of such signs by description is impossible without referring to its function. For instance, address numerals are used for the sole purpose of locating addresses, which is of benefit to those persons looking for those addresses and is essential to public safety personnel responding to emergencies. Signs at the entrances to subdivisions or major developments favor a similar purpose in enabling both the traveling public and emergency personnel to quickly locate entrances for the purpose of either visitation or responding to emergency calls. While such signage is referenced based upon the function it serves within the context of this Ordinance, the provisions of this Ordinance are unrelated to the content of speech provided and allow maximum expressive potential to sign owners.

The purpose and intent of the governing authority of the City of Dunwoody in enacting this Chapter are as follows:

(1) To protect the health, safety and general welfare of the citizens of Dunwoody, and to implement the policies and objectives of a comprehensive development plan of the City through the enactment of a comprehensive set of regulations governing signs in the City of Dunwoody;

(2) To regulate the erection and placement of signs within the City of Dunwoody in order to provide safe operating conditions for pedestrian and vehicular traffic without unnecessary and unsafe distractions to drivers or pedestrians;

(3) To preserve the value of property on which signs are located and from which signs may be viewed;

(4) To maintain an aesthetically attractive city in which signs are compatible with the use patterns of established zoning districts;

(5) To maintain for the City's residents, workers and visitors a safe and aesthetically attractive environment and to advance the aesthetic interest of the City;

(6) To establish comprehensive sign regulations that effectively balance legitimate business and development needs with a safe and aesthetically attractive environment for residents, workers, and visitors to the City;

(7) To provide fair and reasonable opportunities for the identification of business which are located within the City of Dunwoody, and to provide for the identification of the availability of products, goods or services so as to promote the economic vitality of businesses that are located within the City;

(8) To ensure the protection of free speech rights under the State and United States Constitutions within the City of Dunwoody;

(9) To establish a permit system to allow specific types of signs in zoning districts consistent with the uses, intent and aesthetic characteristics of those districts;

(10) To allow certain signs that are small, safe, unobtrusive on lots, subject to the substantive requirements of this Chapter but without a requirement for permits;

(11) To provide for temporary signs in limited circumstances;

(12) To place reasonable controls on nonconforming signs that are by definition contrary to the public health, safety and welfare while protecting the constitutional rights of the owners of said nonconforming signs; and

(13) To provide for the maintenance of signs, and to provide for the enforcement of the provisions of this chapter.

Section 2: Definitions

For the purposes of this Chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future, the singular number shall include the plural, and the plural the singular, the word "shall" is mandatory and not directory, the word "person" includes a firm, organization, partnership, trust and corporation, and the word "City" shall mean the City of Dunwoody, Georgia.

As used in this Chapter, unless the context otherwise indicates, the following words and terms shall have the meaning ascribed to them:

Abandoned or Dilapidated sign shall mean any sign that contains or exhibits broken panels, visible rust, visible rot, damaged support structures, holes on or in the sign structure, broken, missing, loose or bent parts, faded or flaking paint, non-operative or partially non-operative illumination or mechanical devices or which is otherwise dilapidated, unsightly, or unkempt.

Aggregate sign area shall mean the sum total of the sign area of any and all signs for a given lot. Subdivision signs, flags and banners are excluded from any determination of aggregate sign area in residentially zoned districts. Street numbers assigned by the United States Postal Service shall not be considered in calculating the aggregate sign area.

Animated sign shall mean a sign that all or any part thereof visibly moves or uses movement or a change of lighting to depict action or to create a special effect or scene. This includes signs that rotate or revolve to display a message in more than one (1) direction and tri-vision signs.

Area of a sign/sign area shall mean the total area upon which a message is displayed on any sign consisting of the smallest square, rectangle, triangle, circle, or combination thereof, which encompasses the entire sign, inclusive of any border and trim, but excluding the base, apron, supports, and other structural members. For double-faced signs, the side of the sign with the largest sign area shall be used in computing the sign area.

Banner shall mean a sign other than a flag with or without characters, letters, illustrations or ornamentation applied to cloth, paper, or fabric that is intended to be hung either with a frame or without a frame. Neither flags nor canopy signs are considered banners.

Business day shall mean any day during which city government offices are open for public business. For purposes of this Chapter, a "business day" shall not any include any day during which city government offices are closed after a partial business day due to a holiday, emergency, inclement weather, or the like.

Beacon Sign shall mean any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source, also, any light with one or more beams that rotate or move.

Canopy sign shall mean a sign affixed to, superimposed upon, or painted on any roof or roof-like structure which is extended over a sidewalk, walkway, or vehicle access area.

Changeable copy sign/reader board shall mean a sign that is capable of changing the position or format of word messages or other displays on the sign face or change the visible display of words, numbers, symbols and graphics by the use of a matrix of electric lamps, movable discs, movable panels, light apertures or other methods, provided these changes are actuated by either a control mechanism or manually on the face of the sign."

City shall mean the City of Dunwoody, Georgia.

Directional sign shall mean any sign placed within five (5) feet of an authorized curb cut.

Director shall mean the director of the Community Development Department, or his/her designee.

Double-faced sign shall mean a sign which has two (2) display areas placed back to back against each other and the interior angle formed by the display areas is less than fifty-nine (59) degrees, where one (1) sign face is designed to be seen from one direction and the other face from another direction.

Electronic sign shall mean a sign whose message may be changed at intervals by electronic process or by remote control, including the device known as a trivision sign or LED sign.

Entrance sign shall mean any ground sign placed at the intersection of a public street and a private entrance into an apartment, office, condominium, church or industrial complex or some other building with multiple residential or commercial units.

Facade shall mean the exterior wall of a building facing any street which provides direct ingress and egress to the lot.

Flag shall mean any fabric or bunting containing colors, patterns, or symbols used as a symbol of a government or other entity or organization..

Flagpole shall mean a freestanding structure or a structure attached to a building or to the roof of a building on a parcel of record and used for the sole purpose of displaying flags.

Ground sign shall mean a permanent sign designed so the base of the sign face is flush with the supporting base and the supporting base is flush with the ground. Sign shall include a solid, decorative base and may include a decorative frame. The base shall be at least as wide as

the sign and/or frame upon it and a minimum of two (2) feet in height. Decorative based and frame material shall include stone, brick, or stucco. No support posts shall be exposed.

Illegal sign shall mean any sign that was erected in violation of the laws, as they existed at the time the sign permit was issued, or signs that were not built in conformance with the issued permit.

Illuminated sign shall mean a sign that has light cast upon the sign from a source either internal to the sign or from an external light source directed primarily toward such sign. Such source cannot be a device that changes color, flashes or alternates.

LED sign shall mean an electronically controlled sign utilizing light-emitting diodes to form some or all of the sign message.

Lot shall mean a designed 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. In addition, a lot shall be a parcel of land that is of sufficient size to meet minimum zoning requirements for lot area, coverage, and use and that can provide such yards and other open spaces as required by the zoning standards.

Lot, substandard shall mean a designated parcel, tract, or area of land created after the time of enactment of this Chapter or amendment of this Chapter which does not meet the lot area; lot width, or public street frontage and access requirements of this Chapter. Such a lot is illegal except where created by governmental action in which case such lot shall have the status of a nonconforming lot of record as defined in the City Zoning Ordinance.

Neon Sign shall mean a sign composed of neon tubing without any protective covering.

Nonconforming sign shall mean any sign which was legal at the time of erection but does not conform to the provisions of this chapter.

Permit shall mean a sign permit reviewed, approved and issued by the City Department of Community Development.

Permittee shall mean the person and/or entity owning or leasing the land on which the sign is erected or for which an application has been submitted.

Person shall mean a natural or legal person, including a firm, organization, partnership, trust and corporation.

Planned commercial center means any commercial, office, industrial or mixed-use development that contains any combination of offices, residences, retail or industrial uses with a common entry from a public street and are managed as a whole and in accordance with all applicable requirements of the Zoning Ordinance.

Portable sign shall mean any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support constructed without wheels is converted to an "A" or "T" frame sign or attached temporarily or permanently to the ground.

Primary facade shall be the facade of the building which is most nearly parallel to the widest street to which the building faces.

Projecting sign shall mean any sign which is attached perpendicular to a building or other structure and extends more than twelve (12) inches horizontally from the plane of the building wall.

Pump-island sign shall mean a sign located under a canopy over pump islands of a service station or convenience store with gas pumps.

Road, accessible shall mean any road or street that provides a means of ingress and egress to the lot.

Street frontage shall mean the lot line that is coincident with any road or street that provides a means of direct ingress and egress to the lot.

Roof sign shall mean a sign attached to or supported by the roof of a building that extends above the immediately adjacent roof line of the building or a sign that is wholly or partially above the roof line of a building.

Rotating sign. See *animated sign.*

Secondary facade shall mean any facade that is not the primary facade.

Sign shall mean a device, fixture, placard, structure or representation that uses any color, form, graphic, illumination, symbol or writing for visual communication which is used for the purpose of bringing the subject thereof to the attention of others. For purposes of this Chapter, the term "sign" shall include the structure upon which a sign face is located. Flags and banners shall be included within this definition only as provided elsewhere herein.

Sign Face shall mean that part of a sign that is or can be used for advertising purposes.

Standard Informational Sign shall mean a sign with a sign face made for short term use, containing no reflecting elements, flags, or projections and which is mounted on a stake or metal frame with a thickness or diameter not greater than one and one-half (1 ½) inches.

Store front shall mean the exterior wall of a single, undivided unit located within a planned commercial center or business park.

String Lights shall mean signs consisting in whole or in part of a series, line, or row of lights, whether supported by cables or other physical means, within one hundred fifty (150) feet

of a street and visible therefrom. Notwithstanding the foregoing, white holiday lights shall be exempted from this Section and colored holiday lights and decorations displayed not more than thirty (30) days before a holiday shall be exempted from this Section.

Subdivision sign shall mean any ground sign placed at the intersection of two (2) roads, at least one (1) of which is a public road, with the other road being the main thoroughfare into and out of a commercial or residential subdivision.

Suspended sign shall mean a sign securely suspended above a pedestrian passageway from beneath a canopy or awning and oriented perpendicular to the adjacent building facade.

Tri-faced sign shall mean a sign structure with more than two (2) sign faces situated so that each sign face is facing a different direction.

Tri-vision sign shall mean a sign designed with a series of triangular slats that mechanically rotate in sequence with one another to show three different sign messages in rotation.

Wall sign shall mean any sign attached parallel to a wall, painted on the wall surface or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building and which displays only one sign surface. No wall sign shall extend more than six (6) inches from any wall, building, or structure.

Window sign shall mean any sign that is placed inside a window within ten (10) feet of a window or upon the window panes or glass, either inside or outside the building, and is visible from the exterior of the structure.

Article II. Administration and Enforcement

Section 1: Permits.

(a) Except for those signs which may be erected without obtaining a permit, every person desiring to erect a sign in the City shall first obtain a sign permit and all other permits required for the desired structure in accordance with City ordinances.

Section 2: Application Information

(a) Applications for sign permits required by this Chapter shall be filed by the sign owner or the owner's agent with the Director or his/her designee. The application shall describe and set forth the following:

(1) The street address of the property upon which the sign is to be located and a plat map of the property which bears an indication of the proposed location of the sign;

(2) The name(s) and address(es) of the owner(s) of the real property upon which the subject sign is to be located;

(3) Consent of the owner, or the owner's agent, granting permission for the placement or maintenance of the sign;

(4) Name, address, phone number and occupational tax certificate number of the sign contractor;

(5) The type of sign to be erected, the area of the sign, the height of the sign, the shape of the sign, how the sign is to be illuminated (if at all) and an explanation of how the sign is to be mounted or erected;

(6) The size of the lot on which the sign is to be placed;

(7) The payment in full of the applicable application fee; and

(8) Application for ground signs shall include a site plan drawn to scale, including a closed boundary survey of the property, gross acreage, the proposed location of subject sign, location of all ground signs on the property, entrance driveways from public streets, street rights-of-way, public or private easements, building locations, gross area of buildings and floor area occupied by subject owner or tenants.

(b) The Director shall develop such forms as may be necessary to facilitate the permit application process.

(c) The applicant shall apply for all other permits or licenses required by City ordinances and State laws and regulations. No sign permit shall be valid unless other required permits or licenses have been issued by the authority responsible thereof.

(d) Each application shall contain an agreement to indemnify and save and hold harmless the City harmless from all damages, demands or expenses of every character which may in any manner be caused by the sign or sign structure. Each applicant shall present to the Department, upon request, a certificate of liability insurance prior to the issuance of a sign permit.

Section 3: Time for Consideration and Issuance

The Director shall issue permits for all applications meeting the requirements of this Ordinance and all other laws and ordinances regulating signs within the twenty (20) business day review period provided by this section. Signs not meeting the requirements shall be denied pursuant to the procedure outlined in Section 4.The Director shall give notice to the applicant of his/her decision by hand delivery or first class mail to the address on the permit application on or

before the twentieth business day after the Director's receipt of the completed application. If the Director fails to act within the twenty (20)-day period, the permit shall be deemed to have been granted. A sticker or other device bearing the sign permit number shall be affixed to the sign structure.

Section 4: Denial and Revocation

(a) *Procedure.* The Director shall deny permits to applicants that submit applications for signs that do not comply with the provisions of this Chapter, incomplete applications, and applications containing any false material statements. Violation of any provision of this Chapter and any other applicable State laws or City ordinances governing signs will be grounds for terminating a permit granted by the City for the erection of a sign. Should it be determined that a sign permit was issued pursuant to an incomplete application or an application containing a false material statement, or that a permit has been erroneously issued in violation of this Chapter, the Director shall revoke the permit. Should the Director deny a permit, the reasons for the denial are to be stated in writing and hand delivered or mailed by certified mail, return receipt requested, to the address on the permit application on or before the twentieth business day after the Director's receipt of the application. Any application denied and later resubmitted shall be deemed to have been submitted on the date of resubmission, instead of the date of the original submission. No permit shall be denied or revoked, except for due cause as hereinafter defined. "Due cause" is the violation of the provisions of this Chapter, other applicable ordinances, State or Federal law, or the submission of an incomplete application or an application containing false material statements.

(b) *Appeal.* A rejection pursuant to this Section shall be appealable pursuant to the procedures for Zoning Appeals outlined in the City of Dunwoody Zoning Ordinance. However, notwithstanding the foregoing, a final decision will be rendered within ninety (90) days from date an appeal is filed. If a final decision is not rendered within the ninety (90) day period, the decision sought to be appealed shall be affirmed.

(c) *Certiorari.* In the event a person whose permit has been denied or revoked is dissatisfied with the decision of the Board of Zoning Appeals, he/she/it may petition for writ of certiorari to the Superior Court of Dekalb County as provided by law.

Section 5: Permit Expiration

A sign permit shall become null and void if the sign for which the permit was issued has not been completed and fully installed within six (6) months after the date of issuance. A sixty (60) day extension may be granted to the six (6) month limit to alleviate hardship upon proof of hardship beyond the ability of the owner to rectify. No refunds will be made for permit fees paid for permits that expired due to failure to erect a permitted sign. If an individual later desires to

erect a sign at the same location, a new application must be processed and another fee paid in accordance with the fee schedule applicable at such time.

Section 6: Enforcement and Penalties

(a) The Director or his/her designee may issue a citation for violation of this Chapter by any person, including if applicable, the owner, manager or tenant of the lot upon which a sign is located, for a sign erected, altered, maintained, converted, or used in violation of this Chapter or in violation of any other applicable ordinance, including, but not limited to, the building and electrical codes.

(b) The Director and/or his/her designee shall have the same duties, authority, and obligations regarding access to private property, inspections, including the procurement of inspection warrants provided in Article VI of the City of Dunwoody Zoning Ordinance with regard to the enforcement of this Chapter.

(c) Any person violating any provision of this Chapter shall be guilty of an offense and upon conviction, shall be subject to the general penalty provided in Chapter 1 of the City Code. Each sign installed, created, erected or maintained in violation of this Chapter shall be considered a separate violation, and each day of a continued violation for each sign shall be considered a separate violation when applying the penalties authorized in the City Code.

(d) The City may seek affirmative equitable relief in a court of competent jurisdiction to cause the removal or repair of any sign in violation of this Chapter or other City ordinances.

(e) The Director or designee may remove any sign or structure illegally placed upon a public right-of-way without any notice and may dispose of said sign or structure by taking it to any landfill. Such removal and disposal of illegally placed signs shall not preclude the prosecution of any person for illegally placing such signs in the public right-of-way.

Section 7: City Occupation Tax Certificate; Public Liability Insurance Required

It shall be unlawful for any person to engage in the business of erecting or maintaining signs within the City unless and until such entity shall have obtained a City occupation tax certificate and a certificate of insurance from an insurance company authorized to do business in the state evidencing that the entity has in effect public liability and property damage insurance in the sum of twenty-five thousand dollars ($25,000.00) for property damage for any one (1) claim, and public liability insurance in an amount not less than one hundred thousand dollars ($100,000.00) for injuries, including accidental death to one (1) person. The certificate of insurance shall state that the insurance carrier shall notify the City thirty (30) days in advance of any termination and/or restriction of the coverage, including nonrenewal, cancellation, and nonpayment of any premium.

Section 8: Fees.

The cost of a sign permit shall be established by Resolution of the City Council and collected by the Director.

Article III. Regulations and Restrictions

Section 1: Exemptions from permit requirements.

The following signs shall be exempt from the permit requirements of Article II, Section 1 above; provided, however, that such signs shall be subject to all other provisions of this Chapter:

(1) Window signs;

(2) Door signs not to exceed one (1) square foot in size and not more than one (1) sign per door;

(3) One (1) suspended sign per tenant of a multi-tenant building when the area of the sign is less than six (6) square feet per side;

(4) Address numerals no higher than four (4) inches in residential districts and 10 inches in non-residential districts erected for the sole purpose of displaying street numbers as may be required by other ordinances and other signs required by law;

(5) Flags and banners as provided in Sections 19 and 20 of this Article; and

(6) Non-governmental traffic control devices in or adjacent to parking areas and driveways and signs located at railroad crossings.

(7) Standard Informational Signs meeting the standards of this Chapter.

Section 3: Prohibited Signs

The following types of signs are prohibited throughout the City:

(1) Signs on public rights-of-way other than publicly owned or maintained signs and signs pertaining to railroad crossings;

(2) Window signs which exceed thirty (30) percent of the window area;

(3) Signs that contain words, pictures, or statements which are obscene, as defined by O.C.G.A. § 16-12-80, as amended;

(4) Signs that simulate an official traffic control device, warning sign, or regulatory sign or which hide from view any traffic control device, signal or public service sign, except as allowed by Article III, Section 1(b)(6) above;

(5) Signs that emit or utilize in any manner any sound capable of being detected on any traveled road or highway by a person with normal hearing abilities;

(6) Signs that interfere with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic or which otherwise pose a hazard to traffic due to structural deficiencies in the structure of such signs;

(7) Signs erected by nailing, fastening or affixing the sign in any manner to any tree, curb, utility pole, natural feature, or other structure;

(8) Signs that obstruct any fire escape, any means of egress or ventilation or shall prevent free passage from one part of a roof to any other part thereof, as well as signs attached to any fire escape;

(9) Signs that do not conform to City building and electrical codes;

(10) Signs for which a permit is required that do not display the sign permit number and the name and address of the person responsible for erecting and maintaining the sign;

(11) Roof signs;

(12) Tri-faced signs;

(13) Signs that are in violation of the rules and regulations of any zoning overlay district presently existing or as may later be enacted;

(14) Any sign constructed of non-durable material including, but not limited to, paper, cardboard or flexible plastic that has been displayed for more than sixty (60) days. Nothing herein shall prohibit such a sign from being replaced. This provision does not apply to flags and banners which are governed by Sections 19 and 20;

(15) Portable signs;

(16) Abandoned or Dilapidated signs;

(17) Any sign that is structurally unsound, or is a hazard to traffic or pedestrians;

(18) Animated sign;

(19) Electronic Sign;

(20) Beacon Sign;

(21) LED Sign;

(22) Changeable copy sign/reader board.

(23) String Lights

(24) Balloons, streamers or air or gas filled figures.

(25) Neon window signs larger than 3 square feet

(26) Tri-vision sign

Section 4: Owner's Consent Required

No sign may be permitted or posted on property without the consent of the property's owner or authorized agent. Should it be determined that a sign was erected on a lot pursuant to an alleged agent's incorrect representation that the record owner of the lot in fact gave permission for the erection of a sign, the permit for such sign shall be revoked as provided in Article II, Section 4 herein.

Section 5: Restrictions in Residential Zoning Districts

The following regulations shall pertain to lots located in residential zoning districts:

(1) Lots used for residential purposes other than for apartments, condominium, mobile home, or townhouse developments shall not have an aggregate sign area greater than twenty-four (24) square feet per lot. Flags and banners shall not be included in the calculation of aggregate sign area. Subdivision and entrance signs shall not be included in the calculation of aggregate sign area;

(2) Lots used for apartments, condominiums, mobile homes, or townhouse developments shall not have an aggregate sign area exceeding six (6) square feet per unit, not to exceed an aggregate of one hundred (100) square feet for the development;

(3) There shall be a maximum of two (2) subdivision/entrance signs per entrance into any residential subdivision or real estate development in a residential district;

(4) Ground signs and standard informational signs having a height of greater than four (4) feet above the grade level of the adjacent street to which the lot on which the sign is located as measured from the top of the sign, pole or support included, or three (3) feet above ground level, as measured from the top of the sign, pole, or

support structure to ground level, whichever is greater, are prohibited, with the exception of subdivision signs and entrance signs;

(5) No sign in any residentially zoned district may be illuminated, except for subdivision and entrance signs, subject to the provisions of Article III, Section 15 hereof. No subdivision or entrance sign may be internally illuminated;

(6) No single sign in a residential zoning district governed by this section, except for flags, banners, subdivision signs and entrance signs, may exceed six (6) square feet in size;

(7) Subdivision and entrance signs shall not exceed thirty-two (32) square feet of sign area, excluding the base, and shall not exceed eight (8) feet in height;

(8) Should any new zoning district be created that incorporates any residential use, this section shall apply to such new district unless otherwise stated in the ordinance creating the new zoning district.

Section 6: Height and Setback Requirements

(a) All signs shall be set back as follows:

(1) Ten (10) feet from the curb line of each street adjacent to the lot upon which the sign is situated where an authorized curb cut exists; (applicable to all zoning districts);

(2) If the right-of-way is more than ten (10) feet from the curb line as described in (1) above, the sign, including its footing or foundations, shall be setback at least one (1) foot from the right-of-way (applicable to all zoning districts);

(3) In a residential zoning district, if the distance between the right of way to the front of the principal structure is less than fifteen (15) feet, signs shall be setback two-thirds (2/3) of the distance between the curbline and the front of the principal structure on the lot on which the sign is located;

(4) Along all lot lines which are not adjacent to a road with an authorized curb cut, any and all signs shall be within the buildable area of the lot. All signs shall be so located and shall provide such vertical clearance as to provide for safe, convenient and unobstructed passage for pedestrians and vehicles.

(b) No sign or sign structure above a height of three (3) feet shall be maintained within fifteen (15) feet of the intersection of the right-of-way lines extended of two (2) streets, or of a street intersection with a railroad right-of-way. However, a

sign support structure not more than ten (10) inches in diameter may be located within the required corner visibility area if all other requirements of this Chapter are met and the lowest elevation of the sign surface is at least twelve (12) feet above the ground level.

(c) Window signs are only allowed on the ground floor of a commercial building.

(d) Also see regulations in Section 10 below.

Section 7: Convenience Stores and Service Stations with Pump Islands

In addition to the signs otherwise allowed in this Chapter, convenience stores and service stations with pump islands may have signage subject to the following limitations:

(a) Within the limits of the canopy covering the pump islands, one (1) sign per canopy face per public street frontage with a maximum of six (6) square feet.

(b) Within the limits of the canopy covering the pump islands, pump-island signs shall be limited to no more than two (2) signs per island, not to exceed four (4) square feet per sign. However, total square footage of all pump island signs shall not exceed twenty-four (24) square feet.

(c) Accessory car wash, if a separate drive-through car wash building is on site, one (1) additional wall sign per face of car wash, not to exceed five (5) square feet, may be permitted.

Section 8: Non-Commercial Messages

Any sign provided for in any zoning district may contain non-commercial messages. In addition, during a political election, between the date of qualification and final determination on each ballot issue or candidate, each lot may display an unlimited number of standard informational signs as defined in Article I, Section 2 of this Chapter.

Section 9: Wall or Projecting Signs

(a) Wall or projecting signs shall be securely fastened to the building surface.

(b) No wall sign greater than one hundred eighty (180) square feet shall be placed below the twelfth story of a building.

(c) Projecting signs may project from the building up to two (2) feet; provided that no projecting sign shall be maintained less than ten (10) feet above the ground level when erected over pedestrian walkways or driveways and no less than fourteen (14) feet above vehicle access.

(d) No wall or projecting sign shall extend above the parapet wall.

(e) Wall or Projecting Signs are prohibited in residential districts.

Section 10: Ground Signs

(a) The height of all ground signs at their highest point above the level of the ground shall not exceed twenty (20) feet in non-residentially zoned districts; however, when the ground level is lower than the level of the adjoining street pavement, then a sign may be raised so as to be no more than twenty (20) feet above the center line of street. Residentially zoned districts shall be governed by Article III, Section 5 above. The level of the ground shall not be altered in such a way to provide additional sign height. Ground signs shall be measured from the ground level base of the sign structure (deemed to include any skirting) to the highest point of the sign.

(b) The height of any directional sign shall not be more than three (3) feet above the ground and not more than 6 Square Feet.

(c) All ground signs allowed for primary facades shall place between the primary facade and the street the primary facade faces.

(d) All ground signs allowed for secondary facades shall place between the secondary facade and the street the secondary facade faces.

Section 11: Canopy Signs

Canopy signs are permitted in non-residential districts and shall be no less than eight (8) feet above the ground when erected over pedestrian walkways and fourteen (14) feet above areas of vehicle service access at the lowest extremity of the sign. No canopy sign shall extend above the parapet wall.

Section 12: Non-Residential Zoning District Regulations

(a) In addition to all other applicable regulations in this Chapter, all lots that are located in non-residential districts not developed as a planned commercial center are limited to the following signs:

TABLE INSET:

	Ground Sign	Canopy or Wall Sign	Projecting Sign	Directional Sign	Entrance Sign	Subdivision Sign	Window Sign	Standard Informational Sign
Max Height	20 feet	N/A	20 feet or height of building	3 feet	8 feet	12 feet	N/A	10 feet
Max Width	15 feet	80% of the	N/A	3 feet	8 feet	15 feet	N/A	N/A

		Wall or Canopy Width						
Max sq. ft.	160	30 sq. ft. or 4 sq. ft. per linear foot of the wall or canopy, whichever is greater, up to a maximum of 150 sq. ft. for buildings under 12 stories and up to 500 sq. ft. for buildings 21 stories or more (See Article III, Section 9(b))	40 feet	6 feet	32 feet	100 feet	10% of the window space	16 feet
Max number allowed	1/ façade	1 sign per business entity or tenant	1/primary façade and 1/secondary façade	2/ authorized curb cut	1/ entrance	1/ subdivision	N/A	1 per lot
Max projection from structure	N/A	6 feet	2 feet	N/A	N/A	N/A	N/A	N/A
Required setback from electrical transmission lines	10 feet	N/A	0 feet	10 feet	N/A	10 feet	N/A	10 feet

(b) In lieu of the sign regulations of Table (a) above, a lot located in a non-residential district and developed as a planned commercial center shall be allowed the following:

TABLE INSET:

	Ground Sign	Canopy or Wall Sign	Directional Sign	Entrance Sign	Window Sign	Standard Informational Sign
Maximum height	20 feet	N/A	3 feet	8 feet	N/A	10 feet
Maximum Width	20 feet	80% of the wall or canopy width	3 feet	8 feet	N/A	N/A
Max. sq. ft.	200	30 sq. ft. or 4 sq. ft. per linear foot of the wall or canopy, whichever is greater, up to a maximum of 150 sq. ft. for buildings under 12 stories and up to 500 sq. ft. for buildings 12 stories or more (See Article III, Section 9(b))	6	32	30% of the window space for buildings under 50,000 sq. ft.; 10 % of the window area for buildings 50,000 sq. ft. or over	16 feet
Maximum number allowed	1 sign per business entity or tenant	1/primary façade and 1/secondary façade	2/authorized curb cut	1/entrance	N/A	1 per lot
Maximum projection from structure	N/A	6 feet	2 feet	N/A	N/A	N/A
Required setback from electrical transmission	10 feet	N/A	0 feet	10 feet	N/A	10 feet

lines						

(c) No property zoned for non-residential use may have more than one (1) ground sign that is oriented towards travelers along the same street.

(d) In addition to those regulations set forth in subsection (a) and (b) above, no person may maintain a lot zoned for commercial use where the aggregate sign area exceeds four hundred fifty (450) square feet, or two (2) square feet of signage for each one hundred (100) square feet of floor area, whichever is greater, regardless of the construction, placement or type of sign or signs.

Section 14: Nonconforming Signs

(a) Maintenance.

A nonconforming sign shall not be replaced by another nonconforming sign, except that the substitution or interchange of poster panels, painted boards, or dismountable material on nonconforming signs shall be permitted. All nonconforming signs shall be maintained in good repair.

(b) Repairs; Material Change.

Minor repairs and maintenance of nonconforming signs shall be permitted. Provided, however, no structural repairs or changes in the size or shape of a nonconforming sign shall be permitted except to make the sign comply with the standards of this Article. To the extent that any sign allowable hereunder is damaged or destroyed by act of God or by other circumstances beyond control of owner of the sign then such sign may be repaired without regard to the restrictions of this paragraph.

(c) Grandfathering

Subject to the restrictions of this paragraph, a nonconforming sign may be used, but not expanded nor improved unless the sign is made conforming. Nonconforming signs are subject to the maintenance requirements of this Chapter and may be subject to removal for violations of maintenance standards. No structural repairs or change in shape or size of a nonconforming sign shall be permitted except to make the sign comply with all standards of this Chapter, provided that a nonconforming sign damages or destroyed by act of God or by other circumstances beyond the control of the owner of the sign may be repaired without regard to the restrictions of this paragraph.

Section 15: Illumination

Internally and externally illuminated signs shall not exceed twenty (20) foot candles of light at a distance of ten (10) feet from such structure. All exterior light fixtures shall be ground mounted and no more than 2 fixtures per side. The light from an illuminated sign shall be established in such a way that no direct light is cast upon adjacent properties and roadways. No illuminated sign shall be constructed or maintained within seventy-five (75) feet of any single-family lot property line.

Section 16: Building Code

To the extent that it is not inconsistent with this Chapter, the present edition of the Standard Building Code, National Electric Code and other building and construction codes as adopted and modified by the City and the Georgia Department of Community Affairs are incorporated as a part of this Chapter as if fully restated herein for the same purposes stated in Article I, Section 1 hereof and for the same purposes for which the Standard Building Code was promulgated and enacted, which purposes are expressly incorporated herein.

Section 17: Zoning Ordinance

Except as provided elsewhere in this section, to the extent that it is not inconsistent with this Chapter, the City of Dunwoody Zoning Ordinance, as amended including, but not limited to, definitions of terms contained therein, is incorporated as a part of this Chapter as if fully restated herein for the same purposes stated in Article I, Section 1 hereof and for the same purposes for which the Zoning Ordinance, and any amendments thereto, were adopted, which purposes are expressly incorporated herein. However, to the extent that any regulations governing any zoning overlay district now existing or later enacted conflict with this Article, the rules of the zoning overlay district shall control.

Section 18: Variances

(a) Where a literal application of this Article, due to special circumstances, would result in an unusual hardship in an individual case, a variance may be granted by the Board of Zoning Appeals after receiving evidence that the applicant meets all of the following criteria:

(1) Exceptional conditions pertaining to the property where the sign is to be located as a result of its size, shape, or topography, which are not applicable to other lands or structures in the area;

(2) Granting the variance would not confer on the applicant any significant privileges which are denied to others similarly situated;

(3) The exceptional circumstances are not the result of action by the applicant;

(4) The requested variance is the minimum variance necessary to allow the applicant to enjoy the rights commonly enjoyed by others similarly situated;

(5) Granting of the variance would not violate more than one (1) standard of this Article; and

(6) Granting the variance would not result in allowing a sign that interferes with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic.

(b) No variance shall be granted to the height of a sign or the aggregate area of signs permitted on a lot.

(c) No variance shall be granted which increases the size of a sign more than twenty (20) percent of that allowed by this Chapter.

Section 19: Flags

(a) All flags shall be displayed on flagpoles, which may be vertical or mast arm flagpoles. In non-residential districts, flagpoles shall not exceed the height allowed in the applicable zoning district, or sixty (60) feet, whichever is less. Flagpoles in residential districts shall not exceed twenty-five (25) feet in height or the height of the primary structure on the lot, whichever is less.

(b) The maximum dimensions of any flag shall be proportional to the flagpole height. The hoist side of the flag shall not exceed twenty (20) percent of the vertical height of the flagpole. In addition, flags are subject to the following limitations:

TABLE INSET:

Pole Height (feet)	**Flag Size Maximum (total square feet)**
Up to 25	24
25 – 39	40
40 – 49	60
50 – 60	96

(c) Each lot shall be allowed a maximum of three (3) flagpoles.

(d) A maximum of two (2) flags shall be allowed per flagpole.

(e) A vertical flagpole must be set back from all property boundaries a distance which is at least equal to the height of the flagpole.

(f) Flags and flagpoles shall be maintained in good repair, and to the extent applicable shall be in compliance with the building code. Flagpoles with broken

halyards shall not be used and flags which are torn or frayed shall not be displayed.

(g) On officially designated City, State, or Federal holidays, there shall be no maximum flag size or number or other limitations on display.

(h) This section shall not be construed to restrict the right to display eligible flags as banners as provided elsewhere in this Article.

Section 20: Banners

(a) Banners shall conform to the following standards:

(1) Each banner shall not exceed twenty-four (24) square feet;

(2) Each banner must be individually attached to poles, mast arms, or other structures;

(3) No more than two (2) banners shall be displayed on any lot at one (1) time; and

(4) All banners must be maintained in good condition as provided for flags in Section 19 above.

(5) No banner shall be displayed for more than fourteen (14) days, with no more than three (3) such fourteen (14) day periods being permitted per calendar year per lot.

Section 21: Severability

Should any article, section, clause, or provision of this Chapter be declared by a court of competent jurisdiction to be invalid or unconstitutional, such action shall not affect the validity of the ordinance as a whole or any part hereof other than the part so declared to be invalid or unconstitutional, it being the intent of the City Council of the City of Dunwoody that each article, section, clause, and provision hereof be severable.

STATE OF GEORGIA
DEKALB COUNTY **Ordinance No. 2008-12-48**

AN ORDINANCE ESTABLISHING LICENSING REQUIREMENTS AND REGULATIONS FOR SEXUALLY ORIENTED BUSINESSES WITHIN DUNWOODY, GEORGIA

WHEREAS, sexually oriented businesses require special supervision from the public safety agencies of the City in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens of the City; and

WHEREAS, there is convincing documented evidence that sexually oriented businesses, as a category of establishments, have deleterious secondary effects and are often associated with crime, illicit activity, and adverse effects on surrounding properties; and

WHEREAS, the City Council desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from crime; preserve the quality of life; preserve the character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, it further appears that the public health, welfare and safety may be compromised in the event any such sexually oriented business opens or remains open in the absence of City ordinances licensing and regulating such businesses.

NOW THEREFORE, the Council of the City of Dunwoody hereby ordains as follows:

1. That after receiving and considering evidence of the effects of sexually oriented businesses upon the surrounding businesses and neighborhoods, as well as the general public, the Council determines that such businesses have profound effects on the life, health, property and public peace of the citizens of the City; and

2. That the aforesaid evidence is described in clear and specific terms as follows:

(a)(1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.

(2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.

(3) Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the City's rationale for this Ordinance, exists independently of any comparative analysis between sexually oriented and non-sexually oriented businesses.

Additionally, the City's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the City. The City finds that the cases and documentation relied on in this Ordinance are reasonably believed to be relevant to said secondary effects.

(b) The City of Dunwoody does not presently have its own ordinances in effect for the licensing and regulation of sexually oriented businesses.

3. The ordinance attached hereto and incorporated herein by reference as Exhibit "A", entitled "AN ORDINANCE ESTABLISHING LICENSING REQUIREMENTS AND REGULATIONS FOR SEXUALLY ORIENTED BUSINESSES WITHIN DUNWOODY, GEORGIA" be and the same is hereby adopted by the City Council and shall be incorporated, with the exception of the Preamble, as Article 10 of Chapter 15 of the City of Dunwoody Code of Ordinances.

4. In the event that any one or more of the provisions contained in this ordinance shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this ordinance, but this ordinance shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

5. This ordinance shall become effective upon its adoption by the City Council.

SO ORDAINED, THIS 18th day of December, 2008.

_____
Ken Wright, Mayor

ATTEST:

_____
Joan C. Jones, Acting City Clerk

Approved as to form:

_____
Brian Anderson, City Attorney

EXHIBIT A

AN ORDINANCE ESTABLISHING LICENSING REQUIREMENTS AND REGULATIONS FOR SEXUALLY ORIENTED BUSINESSES WITHIN THE CITY OF DUNWOODY, GEORGIA.

Section

– Preamble
1. Rationale and Findings.
2. Definitions.
3. Classifications.
4. License Required.
5. Issuance of License.
6. Fees.
7. Inspection.
8. Expiration and Renewal of License.
9. Suspension.
10. Revocation.
11. Hearing; License Denial, Revocation, and Suspension; Appeal.
12. Transfer of License.
13. Hours of Operation.
14. Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos on Premises.
15. Loitering, Exterior Lighting, Visibility, and Monitoring Requirements.
16. Penalties and Enforcement.
17. Applicability of Ordinance to Preexisting Businesses.
18. Prohibited Conduct.
19. Scienter Required to Prove Violation or Business Licensee Liability.
20. Failure of City to Meet Deadline Not to Risk Applicant/Licensee Rights.
21. Location of Sexually Oriented Businesses.
22. Severability.
23. Conflicting Code Provisions Repealed.
24. Effective Date.

WHEREAS, sexually oriented businesses require special supervision from the public safety agencies of the City in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens of the City; and

WHEREAS, the City Council finds that sexually oriented businesses, as a category of establishments, are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

WHEREAS, there is convincing documented evidence that sexually oriented businesses, as a category of establishments, have deleterious secondary effects and are often associated with crime and adverse effects on surrounding properties; and

WHEREAS, the City Council desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from crime; preserve the quality of life; preserve the character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, certain sexually oriented products and services offered to the public are recognized as not inherently expressive and not protected by the First Amendment, *see, e.g., Sewell v. Georgia*, 233 S.E.2d 187 (Ga. 1977), *dismissed for want of a substantial federal question*, 435 U.S. 982 (1978) (sexual novelty devices); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 224 (1990) (escort services and sexual encounter services); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007) (upholding ban on sexual novelty devices); and

WHEREAS, there is documented evidence of sexually oriented businesses, including adult bookstores and adult video stores, manipulating their inventory and/or business practices to avoid regulation while retaining their essentially "adult" nature, *see, e.g.*, *City of New York v. Hommes*, 94 N.Y.2d 267; 724 N.E.2d 368 (N.Y. 1999); *For the People Theatres of N.Y., Inc. v. City of New York*, 793 N.Y.S.2d 356; 2005 N.Y. App. Div. LEXIS 3743 (April 12, 2005); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001) (finding "plaintiff's argument that it is not an adult entertainment establishment frivolous at best"); *Taylor v. State*, 2002 Tex. App. LEXIS 5381 (Tex. App. 2002) (noting that "the nonadult video selections appeared old and several of its display cases were covered with cobwebs"); *Illinois v. Lions' Den, Inc.*, June 10, 2005, Circuit Court of Fourth Judicial Circuit, Effingham County, Ill., Case 04-CH-26 (noting that "the accuracy and credibility" of the evidence on inventory in a Lion's Den was suspect, and that testimony was "less than candid" and "suggested an intention to obscure the actual amount of sexually explicit material sold");

WHEREAS, the City intends to regulate such businesses as sexually oriented businesses through a narrowly tailored ordinance designed to serve the substantial government interest in preventing the negative secondary effects of sexually oriented businesses;

WHEREAS, the City's regulations shall be narrowly construed to accomplish this end;

WHEREAS, with the passage of any Ordinance, the City and the City Council accept as binding the applicability of general principles of criminal and civil law and procedure and the rights and obligations under the United States and Georgia Constitutions, Georgia Code, and the Georgia Rules of Civil and Criminal Procedure; and

WHEREAS, it is not the intent of this Ordinance to suppress any speech activities protected by the U.S. Constitution or the Georgia Constitution, but to enact legislation to further the content-neutral governmental interests of the City, to wit, the controlling of secondary effects of sexually oriented businesses.

NOW, THEREFORE, BE IT RESOLVED AND ORDAINED by the City Council of the City of Dunwoody, Georgia, on the 18th day of December, 2008, that the following Ordinance be enacted:

Article 10: Sexually Oriented Businesses

Section 1: Rationale and findings.

(a) Purpose. It is the purpose of this Ordinance to regulate sexually oriented businesses in order to promote the health, safety, moral, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Ordinance to condone or legitimize the distribution of obscene material.

(b) Rationale and Findings. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the City Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.,* 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); and

Daytona Grand, Inc. v. City of Daytona Beach, 490 F.3d 860 (11th Cir. 2007); *Artistic Entertainment, Inc. v. City of Warner Robins*, 331 F.3d 1196 (11th Cir. 2003); *Artistic Entertainment, Inc. v. City of Warner Robins*, 223 F.3d 1306 (11th Cir. 2000); *Williams v. Pryor*, 240 F.3d 944 (11th Cir. 2001); *Williams v. A.G. of Alabama*, 378 F.3d 1232 (11th Cir. 2004); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *Gary v. City of Warner Robins*, 311 F.3d 1334 (11th Cir. 2002); *Ward v. County of Orange*, 217 F.3d 1350 (11th Cir. 2002); *Boss Capital, Inc. v. City of Casselberry*, 187 F3d 1251 (11th Cir. 1999); *David Vincent, Inc. v. Broward County*, 200 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 & 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); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *High Five Investments, LLC v. Floyd County*, No. 4:06-CV-190, R. 128 (N.D. Ga. Mar. 14, 2008); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); and

Fairfax MK, Inc. v. City of Clarkston, 274 Ga. 520 (2001); *Morrison v. State*, 272 Ga. 129 (2000); *Sewell v. Georgia*, 233 S.E.2d 187 (Ga. 1977), *dismissed for want of a substantial federal question*, 435 U.S. 982 (1978) (sexual devices); *Flippen Alliance for Community Empowerment, Inc. v. Brannan*, 601 S.E.2d 106 (Ga. Ct. App. 2004); *Oasis Goodtime Emporium I, Inc. v. DeKalb County*, 272 Ga. 887 (2000); *Chamblee Visuals, LLC v. City of Chamblee*, 270 Ga. 33 (1998); *World Famous Dudley's Food & Spirits, Inc. v. City of College Park*, 265 Ga. 618 (1995); *Airport Bookstore, Inc. v. Jackson*, 242 Ga. 214 (1978);

And based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas – 1986; Indianapolis, Indiana – 1984; Garden Grove, California – 1991; Houston, Texas – 1983, 1997; Phoenix, Arizona – 1979, 1995-98; Chattanooga, Tennessee – 1999-2003; Los Angeles, California – 1977; Whittier, California – 1978; Spokane, Washington – 2001; St. Cloud, Minnesota – 1994; Littleton, Colorado – 2004; Oklahoma City, Oklahoma – 1986; Dallas, Texas – 1997; Ft. Worth, Texas – 2004; Kennedale, Texas – 2005; Greensboro, North Carolina – 2003; Amarillo, Texas – 1977; Jackson County, Missouri – 2008; New York, New York Times Square – 1994; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota).

the City Council finds:

(1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.

(2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the

secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.

(3) Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the City's rationale for this Ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the City's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the City. The City finds that the cases and documentation relied on in this Ordinance are reasonably believed to be relevant to said secondary effects.

The City hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the judicial opinions and reports related to such secondary effects.

Section 2: Definitions.

For purposes of this Ordinance, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

"*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: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specialized sexual activities" or "specified anatomical areas." A "substantial business activity" exits 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; or

(b) At least 25% of the wholesale value of the establishment's displayed merchandise consists of the foregoing items; or

(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; or

(d) At least 25% of the establishment's revenues derive from the sale or rental, for any form of consideration, of the foregoing items; or

(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 said items shall be included in "interior business space" maintained for the display, sale, or rental of said items); or

(f) The establishment maintains at least five hundred square feet (500 sq. ft.) of its interior business space for the display, sale, and/or rental of the foregoing items (aisles and walkways used to access said items shall be included in "interior business space" maintained for the display, sale, or rental of said items) and limits access to the premises to adults only; or

(g) The establishment regularly offers for sale or rental at least one thousand (1000) of the foregoing items *and* limits access to the premises or to the portion of the premises occupied by said items to adults only; or

(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."

"*Adult Cabaret*" means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, regardless of whether alcoholic beverages are served, which regularly features persons who appear semi-nude.

"*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.

"*Characterized by*" means describing the essential character or quality of an item. As applied in this Ordinance, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

"*City*" means the City of Dunwoody, Georgia.

"*Employ, Employee, and Employment*" describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

"*Establish or Establishment*" shall mean and include any of the following:

(a) The opening or commencement of any sexually oriented business as a new business;

(b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or

(c) The addition of any sexually oriented business to any other existing sexually oriented business.

"*Hearing Officer*" means an attorney, not otherwise employed by the City, who is licensed to practice law in Georgia, and retained to serve as an independent tribunal to conduct hearings under this Ordinance.

"*Influential Interest*" means any of the following: (1) the actual power to operate the sexually oriented business or control the operation, management or policies of the sexually oriented business or legal entity which operates the sexually oriented business, (2) ownership of a financial interest of thirty percent (30%) or more of a business or of any class of voting securities of a business, or (3) holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the sexually oriented business.

"*Interior Business Space*" means the floor area inside a sexually oriented business that is visible or accessible to patrons for any reason, excluding restrooms.

"*Licensee*" shall mean a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In the case of an "employee," it shall mean the person in whose name the sexually oriented business employee license has been issued.

"*Nudity or a State of Nudity*" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

"*Operate or Cause to Operate*" shall mean to cause to function or to put or keep in a state of doing business. "Operator" means any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

"*Person*" shall mean individual, proprietorship, partnership, corporation, association, or other legal entity.

"*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.

"*Regularly*" means the consistent and repeated doing of an act on an ongoing basis.

"*Semi-Nude or State of Semi-Nudity*" means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

"*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.

"*Sexual Device*" means any three (3) dimensional object designed and marketed for stimulation of the male or female human genitals, anus, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

"*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 limit access to its premises or a portion of its premises to adults only.

"*Sexually Oriented Business*" means an "adult bookstore or adult video store," an "adult cabaret," an "adult motion picture theater," a "semi-nude model studio," or a "sexual device shop."

"*Specified Anatomical Areas*" means and includes:

(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.

"*Specified Criminal Activity*" means any of the following specified offenses for which less than five years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

(1) rape, child molestation, sexual assault, sexual battery, aggravated sexual assault, aggravated sexual battery, or public indecency;

(2) prostitution, keeping a place of prostitution, pimping, or pandering;

(3) obscenity, disseminating or displaying matter harmful to a minor, or use of child in sexual performance;

(4) any offense related to any sexually-oriented business, including controlled substance offenses, tax violations, racketeering, crimes involving sex, crimes involving prostitution, or crimes involving obscenity;

(5) any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or

(6) any offense in another jurisdiction that, had the predicate act(s) been committed in Georgia, would have constituted any of the foregoing offenses.

"*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 (a) above.

"*Transfer of Ownership or Control*" of a sexually oriented business shall mean any of the following:

(a) The sale, lease, or sublease of the business;

(b) The transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means; or

(c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

"*Viewing Room*" shall mean the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video reproduction.

Section 3: Classifications.

The classifications for sexually oriented businesses shall be as follows:

(a) Adult bookstore or adult video store;

(b) Adult cabaret;

(c) Adult motion picture theater;

(d) Semi-nude model studio; and

(e) Sexual device shop.

Section 4: License required.

(a) Business License. It shall be unlawful for any person to operate a sexually oriented business in the City without a valid sexually oriented business license.

(b) Employee License. It shall be unlawful for any person to be an "employee," as defined in this Ordinance, of a sexually oriented business in the City without a valid sexually oriented business employee license, except that a person who is a licensee under a valid sexually oriented business license shall not be required to also obtain a sexually oriented business employee license.

(c) Application. An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at the office of the City Manager or his/her designee a completed application made on a form provided by the City Manager or his/her designee. A sexually oriented business may designate an individual with an influential interest in the business to file its application for a sexually oriented business license in person on behalf of the business. The application shall be signed as required by subsection (d) herein and

shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in this subsection (c), accompanied by the appropriate licensing fee:

(1) The applicant's full legal name and any other names used by the applicant in the preceding five (5) years.

(2) Current business address or another mailing address for the applicant.

(3) Written proof of age, in the form of a driver's license or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.

(4) If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business.

(5) If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.

(6) A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in this Ordinance, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.

(7) A statement of whether any sexually oriented business in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):

(i) been declared by a court of law to be a nuisance; or

(ii) been subject to a court order of closure or padlocking.

(8) An application for a sexually oriented business license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who are required to comply with the stage, booth, and/or room configuration requirements of this Ordinance shall submit a diagram indicating that the setup and configuration of the premises meets the requirements of the applicable regulations.

The information provided pursuant to this subsection (c) shall be supplemented in writing by certified mail, return receipt requested, to the City Manager or his/her designee within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

(d) Signature. A person who seeks a sexually oriented business employee license under this section shall sign the application for a license. If a person who seeks a sexually oriented business license under this section is an individual, he shall sign the application for a license as applicant. If a person who seeks a sexually oriented business license is other than an individual, each person with an influential interest in the sexually oriented business or in a legal entity that controls the sexually oriented business shall sign the application for a license as applicant. Each applicant must be qualified under this Ordinance and each applicant shall be considered a licensee if a license is granted.

(e) The information provided by an applicant in connection with an application for a license under this Ordinance shall be maintained by the office of the City Manager or his/her designee on a confidential basis, and such information may be disclosed only as may be required, and only to the extent required, by court order.

Section 5: Issuance of license.

(a) Business License. Upon the filing of a completed application for a sexually oriented business license, the City Manager or his/her designee shall immediately issue a Temporary License to the applicant if the completed application is from a preexisting sexually oriented business that is lawfully operating in the City and the completed application, on its face, indicates that the applicant is entitled to an annual sexually oriented business license. The Temporary License shall expire upon the final decision of the City to deny or grant an annual license. Within twenty (20) days of the filing of a completed sexually oriented business license application, the City Manager or his/her designee shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The City Manager or his/her designee shall issue a license unless:

(1) An applicant is less than eighteen (18) years of age.

(2) An applicant has failed to provide information required by this Ordinance for issuance of a license or has falsely answered a question or request for information on the application form.

(3) The license application fee required by this Ordinance has not been paid.

(4) The sexually oriented business is not in compliance with the interior configuration requirements of this Ordinance or is not in compliance with locational requirements of this Ordinance or the locational requirements of

any other part of the City of Dunwoody Code or Georgia law, including the City of Dunwoody Zoning Ordinance.

(5) Any sexually oriented business in which the applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):

(i) been declared by a court of law to be a nuisance; or

(ii) been subject to an order of closure or padlocking.

(6) An applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this Ordinance.

(b) Employee License. Upon the filing of a completed application for a sexually oriented business employee license, the City Manager or his/her designee shall immediately issue a Temporary License to the applicant if the applicant seeks licensure to work in a licensed sexually oriented business and the completed application, on its face, indicates that the applicant is entitled to an annual sexually oriented business employee license. The Temporary License shall expire upon the final decision of the City to deny or grant an annual license. Within twenty (20) days of the filing of a completed sexually oriented business employee license application, the City Manager or his/her designee shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The City Manager or his/her designee shall issue a license unless:

(1) The applicant is less than eighteen (18) years of age.

(2) The applicant has failed to provide information as required by this Ordinance for issuance of a license or has falsely answered a question or request for information on the application form.

(3) The license application fee required by this Ordinance has not been paid.

(4) Any sexually oriented business in which the applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):

(i) been declared by a court of law to be a nuisance; or

(ii) been subject to an order of closure or padlocking.

(5) The applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this Ordinance.

(c) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be read at any time that the business is occupied by patrons or is open to the public. A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing.

Section 6: Fees.

The initial license and annual renewal fees for sexually oriented business licenses and sexually oriented business employee licenses shall be as follows: one hundred dollars ($100) for the initial fee for a sexually oriented business license and fifty dollars ($50) for annual renewal; fifty dollars ($50) for the initial sexually oriented business employee license and twenty-five dollars ($25) for annual renewal.

Section 7: Inspection.

Sexually oriented businesses and sexually oriented business employees shall permit the City Manager and his or her agents to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this Ordinance, during those times when the sexually oriented business is occupied by patrons or is open to the public. This section shall be narrowly construed by the City to authorize reasonable inspections of the licensed premises pursuant to this Ordinance, but not to authorize a harassing or excessive pattern of inspections.

Section 8: Expiration and renewal of license.

(a) Each license shall remain valid for a period of one calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in this Ordinance.

(b) Application for renewal of an annual license should be made at least ninety (90) days before the expiration date of the current annual license, and when made less than ninety (90) days before the expiration date, the expiration of the current license will not be affected.

Section 9: Suspension.

(a) The City Manager or his/her designee shall issue a written notice of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) days if the sexually oriented business licensee has knowingly violated this Ordinance or has knowingly allowed an employee or any other person to violate this Ordinance.

(b) The City Manager or his/her designee shall issue a written notice of intent to suspend a sexually oriented business employee license for a period not to exceed thirty (30) days if the employee has knowingly violated this Ordinance.

Section 10: Revocation.

(a) The City Manager or his/her designee shall issue a written notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if the licensee knowingly violates this Ordinance or has knowingly allowed an employee or any other person to violate this Ordinance and a suspension of the licensee's license has become effective within the previous twelve-month (12-mo.) period.

(b) The City Manager or his/her designee shall issue a written notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if:

(1) The licensee has knowingly given false information in the application for the sexually oriented business license or the sexually oriented business employee license.

(2) The licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances on the premises of the sexually oriented business;

(3) The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises of the sexually oriented business;

(4) The licensee knowingly or recklessly operated the sexually oriented business during a period of time when the license was finally suspended or revoked;

(5) The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity to occur in or on the premises of the sexually oriented business; or

(6) The licensee has knowingly or recklessly allowed a person under the age of eighteen (18) years to consume alcohol or appear in a state of semi-nudity or nudity on the premises of the sexually oriented business.

(c) The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.

(d) When, after the notice and hearing procedure described in this Ordinance, the City Council revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for one (1) year from the date revocation becomes effective.

Section 11: Hearing; license denial, revocation, and suspension; appeal.

(a) When the City Manager or his/her designee issues a written notice of intent to deny, suspend, or revoke a license, the City Manager or his/her designee shall immediately send such notice, which shall include the specific grounds under this Ordinance for such action, to the applicant or licensee (hereinafter "respondent") by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the City Manager or his/her designee for the respondent. The notice shall also set forth the following: The respondent shall have ten (10) days after the delivery of the written notice to submit, at the office of the City Manager, a written request for a hearing. If the respondent does not request a hearing within said ten (10) days, the City Manager's or his/her designee's written notice shall become a final denial, suspension, or revocation, as the case may be, on the thirtieth (30th) day after it is issued, and shall be subject to the provisions of subsection (b) of this Section.

If the respondent does make a written request for a hearing within said ten (10) days, then the City Manager or his/her designee shall, within ten (10) days after the submission of the request, send a notice to the respondent indicating the date, time, and place of the hearing. The hearing shall be conducted not less than ten (10) days nor more than twenty (20) days after the date that the hearing notice is issued. The City shall provide for the hearing to be transcribed.

At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the City Manager's or his/her designee's witnesses. The City Manager or his/her designee shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two (2) days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The Hearing Officer shall issue a written decision, including specific reasons for the decision pursuant to this Ordinance, to the respondent within five (5) days after the hearing.

If the decision is to deny, suspend, or revoke the license, the decision shall not become effective until the thirtieth (30th) day after it is rendered, and the decision shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction. If the Hearing Officer's decision finds that no grounds exist for denial, suspension, or revocation of the license, the

Hearing Officer shall, contemporaneously with the issuance of the decision, order the City Manager or his/her designee to immediately withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by certified mail of such action. If the respondent is not yet licensed, the City Manager or his/her designee shall contemporaneously therewith issue the license to the applicant.

(b) If any court action challenging a licensing decision is initiated, the City shall prepare and transmit to the court a transcript of the hearing, if any, within thirty (30) days after receiving written notice of the filing of the court action. The City shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings. The following shall apply to any sexually oriented business that is lawfully operating as a sexually oriented business, or any sexually oriented business employee that is lawfully employed as a sexually oriented business employee, on the date on which the completed business or employee application, as applicable, is filed with the City Manager or his/her designee: upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the City's denial, suspension, or revocation of a Temporary License or annual license, the City Manager or his/her designee shall immediately issue the respondent a Provisional License. The Provisional License shall allow the respondent to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin the City's final administrative decision. The Provisional License shall not be construed to provide the applicant with any substantive right, entitlement, or claim of estoppel beyond the ability to continue operation or employment until the court enters judgment on the respondent's appeal or other action to restrain or otherwise enjoin the City's final administrative decision.

Section 12: Transfer of license.

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

Section 13: Hours of operation.

No sexually oriented business shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.

Section 14: Regulations pertaining to exhibition of sexually explicit films or videos on premises.

(a) A person who operates or causes to be operated a sexually oriented business which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements:

(1) Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, video cassettes, digital video discs, or other video reproductions. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The City Manager or his/her designee may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

(3) The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.

(4) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no sexual activity occurs in or on the licensed premises.

(5) It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:

(i) That the occupancy of viewing rooms less than 150 square feet is limited to one person.

(ii) That sexual activity on the premises is prohibited.

(iii) That the making of openings between viewing rooms is prohibited.

(iv) That violators will be required to leave the premises.

(v) That violations of these regulations are unlawful.

(6) It shall be the duty of the operator to enforce the regulations articulated in (5)(i) though (iv) above.

(7) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

(8) It shall be the duty of the operator to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.

(b) It shall be unlawful for a person having a duty under subsections (a)(1) through (a)(8) to knowingly fail to fulfill that duty.

(c) No patron shall knowingly enter or remain in a viewing room less than 150 square feet in area that is occupied by any other patron.

(d) No patron shall knowingly be or remain within one foot of any other patron while in a viewing room that is 150 square feet or larger in area.

(e) No person shall knowingly make any hole or opening between viewing rooms.

Section 15: Loitering, exterior lighting, visibility, and monitoring requirements.

(a) It shall be the duty of the operator of a sexually oriented business to: (i) ensure that at least two conspicuous signs stating that no loitering is permitted on the premises are posted on the premises; (ii) designate one or more employees to monitor the activities of persons on the premises by visually inspecting such property at least once every ninety (90) minutes or inspecting the premises by use of video cameras and monitors; and (iii) provide lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. Said lighting shall be of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one (1.0) foot candle as measured at the floor level. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.

(b) It shall be the duty of the operator of a sexually oriented business to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.

(c) No sexually oriented business shall erect a fence, wall, or other barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right of way.

(d) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

Section 16: Penalties and enforcement.

(a) A person who knowingly violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this Ordinance shall, upon conviction, be punished by fines not to exceed one thousand dollars ($1,000.00) per violation, or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. Each day a violation is committed, or permitted to continue, shall constitute a separate offense and shall be punished as such.

(b) The City's legal counsel is hereby authorized to institute civil proceedings necessary for the enforcement of this Ordinance to enjoin, prosecute, restrain, or correct violations hereof. Such proceedings shall be brought in the name of the City, provided, however, that nothing in this section and no action taken hereunder, shall be held to exclude such criminal or administrative proceedings as

may be authorized by other provisions of this Ordinance, or any of the laws in force in the City or to exempt anyone violating this code or any part of the said laws from any penalty which may be incurred.

Section 17: Applicability of Ordinance to preexisting businesses.

All preexisting sexually oriented businesses lawfully operating in the City in compliance with all state and local laws prior to the effective date of this Ordinance, and all sexually oriented business employees working in the City prior to the effective date of this Ordinance, are hereby granted a *De Facto* Temporary License to continue operation or employment for a period of ninety (90) days following the effective date of this Ordinance. By the end of said ninety (90) days, all sexually oriented businesses and sexually oriented business employees must conform to and abide by the requirements of this Ordinance.

Section 18: Prohibited conduct.

(a) No patron, employee, or any other person shall knowingly or intentionally, in a sexually oriented business, appear in a state of nudity or engage in a specified sexual activity.

(b) No person shall knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six (6) feet from any patron or customer and on a stage at least eighteen (18) inches from the floor in a room of at least six hundred (600) square feet.

(c) No employee who regularly appears semi-nude in a sexually oriented business shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually oriented business.

(d) No person shall sell, use, or consume alcoholic beverages on the premises of a sexually oriented business.

(e) No person shall knowingly or recklessly allow a person under the age of eighteen (18) years to be or remain on the premises of a sexually oriented business.

(f) No operator or licensee of a sexually oriented business shall knowingly violate the regulations in this section or knowingly allow an employee or any other person to violate the regulations in this section.

(g) A sign in a form to be prescribed by the City Manager or his/her designee, and summarizing the provisions of subsections (a), (b), (c), (d), and (e), shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry. No person shall cover, obstruct, or obscure said sign.

Section 19: Scienter required to prove violation or business licensee liability.

This Ordinance does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this Ordinance. Notwithstanding anything to the contrary, for the purposes of this Ordinance, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for purposes of finding a violation of this Ordinance, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

Section 20: Failure of City to meet deadline not to risk applicant/licensee rights.

In the event that a City official is required to act or to do a thing pursuant to this Ordinance within a prescribed time, and fails to act or to do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the act required of the City official under this Ordinance, and not completed in the time prescribed, includes approval of condition(s) necessary for approval by the City of an applicant or licensee's application for a sexually oriented business license or a sexually oriented business employee's license (including a renewal), the license shall be deemed granted and the business or employee allowed to commence operations or employment the day after the deadline for the City's action has passed.

Section 21: Location of sexually oriented businesses.

(a) It shall be unlawful to establish, operate, or cause to be operated a sexually oriented business in the City of Dunwoody, unless said sexually oriented business is at least:

(1) 500 feet from any parcel in the City of Dunwoody zoned R-200, R-150, R-30,000, R-20,000, R-100, R-85, R-75, R-60, R-A5, R-50, R-A8, R-CH, R-CD, R-DT, RM-150, RM-100, RM-85, RM-75, RM-HD, MHP, TND, or NCD; and

(2) 600 feet from any business in the City of Dunwoody licensed by the State of Georgia to sell alcohol on the premises; and

(~~2~~3) 1000 feet from any ~~parcel occupied by a~~ house of worship or a public or private elementary or secondary school in the City of Dunwoody.

(b) Measurement. For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest point on a boundary line of the sexually oriented business parcel to the closest point on a boundary line of any parcel in the City of Dunwoody

zoned R-200, R-150, R-30,000, R-20,000, R-100, R-85, R-75, R-60, R-A5, R-50, R-A8, R-CH, R-CD, R-DT, RM-150, RM-100, RM-85, RM-75, RM-HD, MHP, TND, or NCD~~, and of any parcel containing a house of worship or a public or private elementary or secondary school~~. Measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of the structure containing the sexually oriented business to the closest part of any structure in the City of Dunwoody occupied by a house of worship, public or private elementary or secondary school, or a business licensed by the State of Georgia to sell alcohol on the premises.

(c) Preexisting Sexually Oriented Businesses. Notwithstanding anything to the contrary in the City of Dunwoody Code, a nonconforming sexually oriented business, lawfully existing in all respects under law prior to the effective date of this Ordinance, may continue to operate for one (1) year following that date in order to make a reasonable recoupment of its investment in its current location. At the conclusion of said one (1) year, the use will no longer be recognized as a lawful nonconforming use, except that a nonconforming sexually oriented business may obtain an extension of the original one-year period upon a showing of financial hardship. An application for an extension based upon financial hardship ("hardship exception") shall be made at least sixty (60) days before the conclusion of the aforementioned one-year (1-yr.) period. If a hardship extension is granted, subsequent applications for hardship extensions shall be made at least sixty (60) days before the conclusion of the non-conforming sexually oriented business's current extension period.

(d) Procedure for Seeking Hardship Extension. An application for a hardship extension shall be filed in writing with the City Manager or his/her designee, and shall include evidence of purchase and improvement costs, income earned and lost, depreciation, appraised value of the property and/or leasehold interests, and costs of relocation. Within ten (10) days after receiving the application, the City Manager or his/her designee shall schedule a hearing on the application before the Hearing Officer, which hearing shall be conducted within thirty (30) days after the City Manager's or his/her designee's receipt of the application. Notice of the time and place of such hearing shall be provided to the applicant via certified mail at least ten (10) days before the hearing. At the hearing, all parties shall have the right to offer testimony, documentary and tangible evidence bearing on the issues; may be represented by counsel, and shall have the right to confront and cross-examine witnesses.

The Hearing Officer shall issue a written decision within ten (10) days after the hearing on the application for a hardship extension. The hardship extension shall be granted upon a showing of financial hardship. Such a showing shall be established if the Hearing Officer makes the following findings:

(1) The applicant has, prior to the effective date of this ordinance, made a substantial investment, including but not limited to lease obligations

incurred in an arms-length transaction, in the property or structure on or in which the nonconforming use is conducted;

(2) The applicant will be unable to recoup said investment as of the date established for termination of the use; and

(3) The applicant has made good faith efforts to recoup the investment prior to the conclusion of the one-year (1-yr.) period.

Any extension granted under the provisions of this Section 21 shall be for a reasonable period of time commensurate with the investment involved.

Section 22: Severability.

This Ordinance and each section and provision of said Ordinance hereunder, are hereby declared to be independent divisions and subdivisions and, not withstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said Ordinance, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid. Should any procedural aspect of this Ordinance be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this Ordinance.

Section 23: Conflicting code provisions repealed.

Any provision(s) in the City of Dunwoody code of ordinances specifically in conflict with any provision in this Ordinance is hereby deemed inoperative and repealed.

Section 24: Effective date.

This Ordinance shall take effect immediately upon passage.

STATE OF GEORGIA
COUNTY OF DEKALB

ORDINANCE NO. 2008-12-49

AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 7, BUILDING CODE, PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF DUNWOODY, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 7 (BUILDING CODE) AS ATTACHED HERETO AND INCOPORATED HEREIN

WHEREAS: The Ordinance relating to Chapter 7, Building Code, is hereby adopted and approved, and is attached hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 7 of the Code of Ordinances of the City of Dunwoody, Georgia; and

WHEREAS: This Ordinance shall become effective upon its adoption.
.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF DUNWOODY HEREBY ORDAINS that Chapter 7, Building Code, is hereby adopted and approved as part of the Code of Ordinances for the City of Dunwoody, Georgia. Any ordinance in conflict with this ordinance is hereby repealed.

SO ORDAINED AND EFFECTIVE this the 18th day of December, 2008.

Approved:

_____

Ken Wright, Mayor

Attest:

_____

Joan Jones, Acting City Clerk
(Seal)

Approved as to Form and Content:

_____

Brian Anderson, City Attorney