UNIFIED LAND DEVELOPMENT CODE
CITY OF GAINESVILLE, GEORGIA

Originally Adopted
July 19, 2005
(As Amended from Time to Time by Ordinance)

CONTENTS OF TITLE 9
OF THE GAINESVILLE CITY CODE
"UNIFIED LAND DEVELOPMENT CODE"

ARTICLE 9-1 ENACTMENT AND LEGAL STATUS PROVISIONS
CHAPTER 9-1-1 PREAMBLE AND ENACTMENT
CHAPTER 9-1-2 LEGAL STATUS PROVISIONS

ARTICLE 9-2 INTERPRETATIONS AND DEFINITIONS
CHAPTER 9-2-1 INTERPRETATIONS
CHAPTER 9-2-2 DEFINITIONS

ARTICLE 9-3 GENERAL PROVISIONS
CHAPTER 9-3-1 GENERAL USE PROVISIONS
CHAPTER 9-3-2 GENERAL DIMENSIONAL REQUIREMENTS

ARTICLE 9-4 ZONING DISTRICTS AND OVERLAY ZONES GENERALLY
CHAPTER 9-4-1 ZONING DISTRICTS
CHAPTER 9-4-2 OVERLAY ZONES
CHAPTER 9-4-3 RULES GOVERNING BOUNDARIES

ARTICLE 9-5 RESIDENTIAL ZONING DISTRICTS
CHAPTER 9-5-1 R-I-A RESIDENTIAL DISTRICT
CHAPTER 9-5-2 R-I RESIDENTIAL DISTRICT
CHAPTER 9-5-3 N-C NEIGHBORHOOD CONSERVATION DISTRICT
CHAPTER 9-5-4 R-II RESIDENTIAL DISTRICT
CHAPTER 9-5-5 R-O RESIDENTIAL AND OFFICE DISTRICT
TABLE 9-5-1 PERMITTED AND SPECIAL USES FOR RESIDENTIAL ZONING DISTRICTS
TABLE 9-5-2 DIMENSIONAL REQUIREMENTS FOR RESIDENTIAL ZONING DISTRICTS

ARTICLE 9-6 NONRESIDENTIAL ZONING DISTRICTS
CHAPTER 9-6-1 O-I OFFICE AND INSTITUTIONAL DISTRICT
CHAPTER 9-6-2 N-B NEIGHBORHOOD BUSINESS DISTRICT
CHAPTER 9-6-3 C-B CENTRAL BUSINESS DISTRICT
CHAPTER 9-6-4 R-B REGIONAL BUSINESS DISTRICT
CHAPTER 9-6-5 G-B GENERAL BUSINESS DISTRICT
CHAPTER 9-6-6 L-I LIGHT INDUSTRIAL DISTRICT
CHAPTER 9-6-7 H-I HEAVY INDUSTRIAL DISTRICT
TABLE 9-6-1 PERMITTED AND SPECIAL USES FOR NONRESIDENTIAL ZONING DISTRICTS
TABLE 9-6-2 DIMENSIONAL REQUIREMENTS FOR NONRESIDENTIAL ZONING DISTRICTS

ARTICLE 9-7 FLEXIBLE ZONING DISTRICTS
CHAPTER 9-7-1 PUD PLANNED UNIT DEVELOPMENT

ARTICLE 9-8 OVERLAY ZONES
CHAPTER 9-8-1 AIRPORT OVERLAY ZONE
CHAPTER 9-8-2 GATEWAY OVERLAY ZONE

CHAPTER 9-8-3 LIMESTONE PARKWAY OVERLAY ZONE
CHAPTER 9-8-4 NORTH OCONEE WATER SUPPLY WATERSHED PROTECTION OVERLAY ZONE
CHAPTER 9-8-5 GROUNDWATER RECHARGE AREA PROTECTION OVERLAY ZONE
CHAPTER 9-8-6 WETLAND PROTECTION OVERLAY ZONE
CHAPTER 9-8-7 MIDTOWN OVERLAY ZONE
CHAPTER 9-8-8 HISTORIC PRESERVATION OVERLAY ZONE

ARTICLE 9-9 SITE AND ARCHITECTURAL DESIGN REVIEW
CHAPTER 9-9-1 GENERAL PROVISIONS
CHAPTER 9-9-2 SITE AND ARCHITECTURAL DESIGN REVIEW
CHAPTER 9-9-3 SITE DESIGN GUIDELINES
CHAPTER 9-9-4 GUIDELINES FOR STEEP SLOPES
CHAPTER 9-9-5 ARCHITECTURAL DESIGN GUIDELINES
CHAPTER 9-9-6 PEDESTRIAN RETAIL DESIGN GUIDELINES
CHAPTER 9-9-7 DESIGN GUIDELINES FOR SPECIFIC USES
CHAPTER 9-9-8 SUBURBAN COMMERCIAL DESIGN GUIDELINES
CHAPTER 9-9-9 SIGN DESIGN GUIDELINES

ARTICLE 9-10 SPECIFIC USE PROVISIONS
CHAPTER 9-10-1 GENERAL ACCESSORY USE REGULATIONS
CHAPTER 9-10-2 PRINCIPAL RESIDENTIAL USES
CHAPTER 9-10-3 ACCESSORY RESIDENTIAL USES
CHAPTER 9-10-4 HOME OCCUPATIONS
CHAPTER 9-10-5 INSTITUTIONAL USES
CHAPTER 9-10-6 PRINCIPAL NONRESIDENTIAL USES
CHAPTER 9-10-7 ACCESSORY NONRESIDENTIAL USES
CHAPTER 9-10-8 TEMPORARY USES
CHAPTER 9-10-9 TOWERS AND WIRELESS TELECOMMUNICATION FACILITIES
CHAPTER 9-10-10 OTHER USES
CHAPTER 9-10-11 SEXUALLY-ORIENTED ADULT BUSINESSES
CHAPTER 9-10-12 INFILL RESIDENTIAL DEVELOPMENT PROJECTS

ARTICLE 9-11 NONCONFORMITIES
CHAPTER 9-11-1 NONCONFORMING LOTS
CHAPTER 9-11-2 NONCONFORMING BUILDINGS
CHAPTER 9-11-3 NONCONFORMING USES
CHAPTER 9-11-4 NONCONFORMING SIGNS
CHAPTER 9-11-5 CORRECTION OF NONCONFORMING SITUATIONS

ARTICLE 9-12 [RESERVED FOR FUTURE USE]

ARTICLE 9-13 SUBDIVISIONS AND LAND DEVELOPMENT
CHAPTER 9-13-1 GENERAL PROVISIONS
CHAPTER 9-13-2 DEFINITIONS
CHAPTER 9-13-3 DESIGN REQUIREMENTS FOR BLOCKS AND LOTS
CHAPTER 9-13-4 PRELIMINARY PLATS
CHAPTER 9-13-5 [RESERVED FOR FUTURE USE]
CHAPTER 9-13-6 MINOR LAND DEVELOPMENT PERMITS
CHAPTER 9-13-7 LAND DEVELOPMENT PERMITS
CHAPTER 9-13-8 IMPROVEMENT REQUIREMENTS GENERALLY
CHAPTER 9-13-9 DESIGN REQUIREMENTS FOR STREETS

CHAPTER 9-13-10 PRIVATE STREETS
CHAPTER 9-13-11 UTILITIES
CHAPTER 9-13-12 STORMWATER MANAGEMENT
CHAPTER 9-13-13 LAND DEVELOPMENT INSPECTIONS
CHAPTER 9-13-14 FINAL PLATS
CHAPTER 9-13-15 CONSERVATION SUBDIVISIONS
CHAPTER 9-13-16 CORRIDOR MAP

ARTICLE 9-14 SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL
CHAPTER 9-14-1 DEFINITIONS
CHAPTER 9-14-2 EXEMPTIONS
CHAPTER 9-14-3 MINIMUM REQUIREMENTS FOR EROSION AND SEDIMENTATION CONTROL
CHAPTER 9-14-4 ADDITIONAL PROVISIONS

ARTICLE 9-15 FLOODPLAIN MANAGEMENT
CHAPTER 9-15-1 GENERAL PROVISIONS
CHAPTER 9-15-2 ADMINISTRATION AND PERMITTING
CHAPTER 9-15-3 FLOOD HAZARD REDUCTION

ARTICLE 9-16 BUFFERS, LANDSCAPING AND TREE PROTECTION
CHAPTER 9-16-1 DEFINITIONS
CHAPTER 9-16-2 BUFFERS AND SCREENING
CHAPTER 9-16-3 STREAM PROTECTION BUFFERS
CHAPTER 9-16-4 LANDSCAPING
CHAPTER 9-16-5 TREE PROTECTION

ARTICLE 9-17 ACCESS, PARKING AND LOADING REQUIREMENTS
CHAPTER 9-17-1 GENERAL PROVISIONS
CHAPTER 9-17-2 ACCESS
CHAPTER 9-17-3 DRIVEWAYS
CHAPTER 9-17-4 SITE VISIBILITY TRIANGLE EASEMENTS
CHAPTER 9-17-5 PARKING REQUIREMENTS
CHAPTER 9-17-6 OFF-STREET LOADING

ARTICLE 9-18 SIGN REGULATIONS
CHAPTER 9-18-1 PURPOSE AND DEFINITIONS
CHAPTER 9-18-2 GENERAL PROVISIONS
CHAPTER 9-18-3 PERMITS AND PERMISSIONS
CHAPTER 9-18-4 MAINTENANCE AND REMOVAL
CHAPTER 9-18-5 LOCATION AND PLACEMENT REQUIREMENTS
CHAPTER 9-18-6 NUMBER, SIZE AND HEIGHT LIMITATIONS
CHAPTER 9-18-7 ADDITIONAL ALLOWANCES FOR SPECIFIC TYPES OF SIGNS

ARTICLE 9-19 DEVELOPMENT IMPACT FEES
CHAPTER 9-19-1 GENERAL PROVISIONS
CHAPTER 9-19-2 PUBLIC SAFETY DEVELOPMENT IMPACT FEES
CHAPTER 9-19-3 PARK AND RECREATION DEVELOPMENT IMPACT FEES

ARTICLE 9-20 BUILDING REGULATIONS
CHAPTER 9-20-1 CODES ADOPTED
CHAPTER 9-20-2 FIRE PREVENTION

CHAPTER 9-20-3 EXCAVATION AND GRADING
CHAPTER 9-20-4 STRUCTURES DANGEROUS TO PUBLIC HEALTH
CHAPTER 9-20-5 BUILDING OFFICIAL
CHAPTER 9-20-6 PERMITS AND EXEMPTIONS
CHAPTER 9-20-7 CONSTRUCTION DOCUMENTS
CHAPTER 9-20-8 TEMPORARY STRUCTURES AND USES
CHAPTER 9-20-9 FEES
CHAPTER 9-20-10 INSPECTIONS
CHAPTER 9-20-11 CERTIFICATE OF OCCUPANCY
CHAPTER 9-20-12 BUILDING BOARD OF APPEALS
CHAPTER 9-20-13 VIOLATIONS AND PENALTIES
CHAPTER 9-20-14 ADDITIONAL PROVISIONS FOR BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

ARTICLE 9-21 BOARDS AND COMMISSIONS
CHAPTER 9-21-1 PLANNING AND APPEALS BOARD
CHAPTER 9-21-2 HISTORIC PRESERVATION COMMISSION

ARTICLE 9-22 APPLICATIONS AND PROCEDURES
CHAPTER 9-22-1 DEFINITIONS
CHAPTER 9-22-2 ZONING CHANGES AND SPECIAL USES
CHAPTER 9-22-3 ANNEXATIONS
CHAPTER 9-22-4 TRAFFIC IMPACT ANALYSIS
CHAPTER 9-22-5 DEVELOPMENT OF REGIONAL IMPACT
CHAPTER 9-22-6 ZONING VARIANCES
CHAPTER 9-22-7 APPEAL OF ADMINISTRATIVE DECISION
CHAPTER 9-22-8 TEXT AMENDMENTS
CHAPTER 9-22-9 PROCEDURES FOR CALLING AND CONDUCTING PUBLIC HEARINGS

ARTICLE 9-23 HISTORIC PRESERVATION APPLICATIONS AND PROCEDURES
CHAPTER 9-23-1 DEFINITIONS
CHAPTER 9-23-2 DESIGNATIONS
CHAPTER 9-23-3 CERTIFICATE OF APPROPRIATENESS
CHAPTER 9-23-4 UNDUE HARDSHIP

ARTICLE 9-24 ADMINISTRATION AND ENFORCEMENT
CHAPTER 9-24-1 ADMINISTRATION
CHAPTER 9-24-2 ENFORCEMENT
CHAPTER 9-24-3 ADMINISTRATIVE VARIANCES

ARTICLE 9-1
ENACTMENT AND LEGAL STATUS PROVISIONS

CHAPTER 9-1-1 PREAMBLE AND ENACTMENT 1-1
CHAPTER 9-1-2 LEGAL STATUS PROVISIONS 1-4

CHAPTER 9-1-1
PREAMBLE AND ENACTMENT

Section 9-1-1-1. Title.
Section 9-1-1-2. Scope.
Section 9-1-1-3. Authority.
Section 9-1-1-4. Purposes.
Section 9-1-1-5. Adoption.

Section 9-1-1-1. Title.

This Ordinance shall be known as and may be cited as “The Unified Land Development Code of the City of Gainesville, Georgia” or, for brevity, “The Gainesville Development Code.”

Section 9-1-1-2. Scope.

This Ordinance constitutes Title 9 of the Code of Ordinances of the City of Gainesville, Georgia, including regulations governing zoning, land subdivision, historic preservation, land development, building, and related activities among other topics.

Section 9-1-1-3. Authority.

This Ordinance is adopted under authority of Article 9, Section 2, Paragraphs 3 and 4 of the Constitution of the State of Georgia, and pursuant to the Zoning Procedures Law (O.C.G.A. 36-66-1 et seq.) and other applicable laws enacted by the General Assembly and rules of various departments of state government including but not limited to the following, which shall not be deemed to limit or repeal any other powers granted the Governing Body under state statutes.

(a) The Georgia General Assembly has enacted the Georgia Planning Act of 1989, (Georgia Laws, 1989, pp. 1317-1391, Act 634) which among other things provides for local governments to adopt plans and regulations to implement plans for the protection and preservation of natural resources, the environment, vital areas, and land use.

(b) The Georgia General Assembly has enacted the Georgia Historic Preservation Act of 1980 which authorizes local governments to establish historic districts and designate individual properties as historic, and to approval or deny certificates of appropriateness for material changes in appearance in such districts or on such properties designated as historic.

(c) The Georgia Department of Community Affairs has promulgated Minimum Standards and Procedures for Local Comprehensive Planning (Chapter 110-3-2 of Rules of the Georgia Department of Community Affairs) to implement the Georgia Planning Act of 1989. Said standards and procedures were ratified by the Georgia General Assembly, and have since been amended. Said rules require local governments that adopt a

comprehensive plan pursuant to the Georgia Planning Act of 1989 to describe regulatory measures and land development regulations needed to implement local comprehensive plans.

(d) The Georgia Department of Natural Resources has promulgated Rules for Environmental Planning Criteria, commonly known as the "Part V" Standards. Said rules were ratified by the Georgia General Assembly and have since been amended. Said rules require local governments that adopt a comprehensive plan to plan for the protection of the natural resources, the environment, and vital areas of the State.

(e) The Governing Body has adopted a Comprehensive Plan in accordance with the requirements of the Georgia Planning Act of 1989, Rules of the Georgia Department of Community Affairs, and Rules of the Georgia Department of Natural Resources, and the comprehensive plan has been revised from time to time.

(f) The Georgia Legislature, through the enactment of the Georgia Development Impact Fee Act, Georgia Code Title 36-71-1 through 36-71-13, has authorized the City of Gainesville to enact development impact fees.

(g) The Georgia Department of Community Affairs has adopted administrative rules, Chapter 110-12-2, Development Impact Fee Compliance Requirements, and the City has adopted amendments to its comprehensive plan which have been found by said Department to be in compliance with said administrative rules.

Section 9-1-1-4. Purposes.

The purposes of this Ordinance include but are not limited to the following:

(a) Implement the comprehensive plan including goals and policies not currently implemented by land use regulations of the city.

(b) Promote the health, safety, welfare, morals, convenience, order, and prosperity of the citizens and the city.

(c) Promote responsible growth, lessen congestion in the public streets, secure safety from fire and health dangers, and promote desirable living conditions.

(d) Provide adequate access to natural light and air.

(e) Promote the orderly and desirable subdivision of land and development of streets, blocks, and lots.

(f) Ensure the adequate provision of public facilities, including but not limited to water, sewerage, surface drainage, roads, schools, parks, and playgrounds.

(g) Regulate the height, bulk, and the size of buildings and structures.

(h) Classify land uses, set out zoning districts and overlay districts, establish procedures for the handling of certain land use matters, and regulate the distribution and density of uses on the land to avoid both the undue concentration of population and the

inappropriate dispersion of population, prevent the encroachment of incompatible land uses within residential areas, and preserve property values.

(i) Provide for economically sound and stable land development by assuring the provision in land developments of adequate streets, utilities, services, traffic access and circulation, public open spaces.

Additional purposes and intentions are articulated in the various articles, chapters, and sections, as appropriate.

Section 9-1-1-5. Adoption.

It is hereby ordained by the authority of the Governing Body that the following articles, chapters, and sections, which collectively constitute Title 9 of the Code of Ordinances of the City of Gainesville, Georgia, are adopted.

CHAPTER 9-1-2
LEGAL STATUS PROVISIONS

Section 9-1-2-1. Effective Date.
Section 9-1-2-2. Repeal of Conflicting Ordinances.
Section 9-1-2-3. Relationship to Private Restrictions.
Section 9-1-2-4. Validity and Severability.
Section 9-1-2-5. Validity of Existing Conditions of Zoning.
Section 9-1-2-6. Previously Issued Permits.
Section 9-1-2-7. Governmental Bodies.
Section 9-1-2-8. Codification.
Section 9-1-2-9. Amendments.

Section 9-1-2-1. Effective Date.

This Ordinance shall take effect immediately upon its adoption, the public welfare demanding it.

Section 9-1-2-2. Repeal of Conflicting Ordinances.

(a) Ordinance Number 98-61, adopted November 17, 1998, which repealed the former Title 9 in its entirety and replaced it with a new Title 9, Unified Land Development Code, is hereby repealed and replaced with this Ordinance.

(b) Ordinance Number 99-47, “Limestone Parkway Overlay Zone,” last revised June 15, 1999, is hereby repealed and replaced with Chapter 9-8-3 of this Unified Land Development Code.

(c) Ordinance Number 2000-32, relative to protection of water supply watersheds groundwater recharge areas, and wetlands, adopted February 8, 2001, is hereby repealed and replaced with Chapters of the same general name in Article 9-8 of this Unified Land Development Code.

(d) Chapter 4-6, “Soil Erosion and Sediment Control,” of the Gainesville Code of Ordinances, including Ordinance Number 2001-57, adopted Sept. 18, 2001, and Ordinance Number 98-61, § 1, adopted Nov. 17, 1998, are hereby repealed and replaced with Article 9-14 of this Unified Land Development Code.

(e) Chapter 4-7, “Stormwater Management,” of the Gainesville Code of Ordinances, including Section 1 of Ordinance Number 90-74, adopted Dec. 27, 1990, is hereby repealed and replaced with Chapter 9-13-12, “Stormwater Management,” of this Unified Land Development Code.

(f) Title 7, “Buildings and Construction,” Chapter 7-1, “Building Regulations,” of the Gainesville Code of Ordinances is hereby repealed and replaced with Article 9-20 of this Unified Land Development Code.

(g) Chapter 8-1, “Historic Preservation,” of the Gainesville Code of Ordinances, including Ordinance No. 2001-59, “Historical Preservation,” and Ordinance No. 2005-07 which amended Chapter 8-1, are hereby repealed and replaced with regulations in this Ordinance.

(h) All other conflicting ordinances or parts of ordinances are hereby repealed to the extent of their conflict. Where this Ordinance and another overlap, whichever imposes the more stringent restrictions shall prevail.

Section 9-1-2-3. Relationship to Private Restrictions.

This Ordinance is not intended to repeal, abrogate, or impair any valid easement, covenant, or deed restriction duly recorded with the Clerk of the Superior Court of Hall County, Georgia.

Section 9-1-2-4. Validity and Severability.

If any article, chapter, section, subsection, sentence, clause, phrase, or portion of this Ordinance or any amendment thereto is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof which is not specifically declared to be invalid.

Section 9-1-2-5. Validity of Existing Conditions of Zoning.

Notwithstanding the repeal of prior ordinances as stated in this Chapter, if a property was zoned subject to conditions prior to the adoption of this Unified Land Development Code, the existing zoning conditions shall continue to apply to said property, until or unless amended by the Governing Body.

Section 9-1-2-6. Previously Issued Permits.

The provisions of this Ordinance and any subsequent amendments shall not affect the validity of any lawfully issued and effective building or development permit if:

(a) The development activity or building construction authorized by the permit has been commenced prior to the effective date of this Ordinance or the amendment, or will be commenced after such effective date but within six (6) months of issuance of the permit; and

(b) The development activity or building construction continues without interruption (except because of war or natural disaster) until the development or construction is complete. If the permit expires, any further development or construction on that site shall occur only in conformance with the requirements of this Ordinance in effect on the date of the permit expiration.

Section 9-1-2-7. Governmental Bodies.

Except as otherwise specifically provided in this Unified Land Development Code, all governmental bodies and authorities exempt from regulation under the police power of the City of Gainesville are exempt from the regulations contained in this Ordinance.

Section 9-1-2-8. Codification.

It is the intention of the Governing Body, and it is hereby ordered that this Unified Land Development Code shall become and be made a part of the Code of Ordinances of the City of

Gainesville, Georgia, and the articles, chapters, and sections of this Unified Land Development Code may be renumbered if necessary to fit most appropriately into the Code of Ordinances of the city.

Section 9-1-2-9. Amendments.

This Unified Land Development Code may be amended by following procedures specified in the Gainesville, Georgia, Code of Ordinances for such amendment.

In cases where an amendment is proposed involving Articles 9-1 through 9-11, Articles 9-16 through 9-18, and Articles 9-21 through 9-24 of this Unified Land Development Code the amendment procedure shall satisfy the requirements of the Zoning Procedures Law (O.C.G.A. 36-66-1 et seq.) and Chapter 9-22-8 of this Unified Land Development Code. Amendments to Articles of this Unified Land Development Code other than those cited in this Section shall be considered under procedures generally applicable to amendment to the Code of Ordinances of the City of Gainesville, provided that the Director of Planning and Development is notified and gives concurrence to the amendment to ensure that the proposed amendment does not conflict with the Unified Land Development Code as a whole.

ARTICLE 9-2
INTERPRETATIONS AND DEFINITIONS

CHAPTER 9-2-1 INTERPRETATIONS 2-1
CHAPTER 9-2-2 GENERAL DEFINITIONS 2-3

CHAPTER 9-2-1
INTERPRETATIONS

Section 9-2-1-1. Responsibility for Interpretation.
Section 9-2-1-2. Interpretations.
Section 9-2-1-3. Use of Figures.
Section 9-2-1-4. Use of Words and Phrases.

Section 9-2-1-1. Responsibility for Interpretation.

The Director of Planning and Development shall be responsible for the interpretation of the requirements, standards, definitions, or any other provision of this Ordinance, unless that authority is provided to another administrative official within a specific Article. Interpretations of the Director or other administrative official may be appealed under the provisions of Chapter 9-22-7 of this Ordinance. The Director shall have administrative authority of this ordinance.

Section 9-2-1-2. Interpretations.

In the interpretation and application of this Ordinance all provisions shall be considered as minimum requirements. Where the literal interpretation is clear to the Director, it shall be construed literally. Where the Article, Chapter, Section, or Subsection has a statement of purpose and intent, the Director shall consider said purpose and intent in making the interpretation. The Director shall make interpretations in a way that are liberally construed in favor of the Governing Body; provided, however, that where ambiguity exists the Director shall interpret this Ordinance in favor of the free use of property.

Section 9-2-1-3. Use of Figures.

Figures associated with defined terms or regulatory paragraphs in this Ordinance are provided for illustration only and do not limit or change the meaning of the term as defined or the requirements of the regulation as written.

Section 9-2-1-4. Use of Words and Phrases.

For the purpose of this Ordinance, the following shall apply to the use of words and phrases:

(a) Words used in the present tense include the future tense. Words used in the singular tense include the plural tense, and words used in the plural tense include the singular tense.

(b) The masculine person “he” or “his” also means “her” or “hers.”

(c) The word “person” is intended to include 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.

(d) The words “shall” and “must” are always mandatory and not discretionary, while the word “may” is permissive.

(e) The word “and” indicates that all of the conditions, requirements or factors so connected must be met or fulfilled, while the word “or” indicates that at least one condition, requirement or factor so connected must be met.

(f) The term “such as” is intended to introduce one or more examples in illustration of a requirement or point, and is intended to mean “including but not limited to the following.”

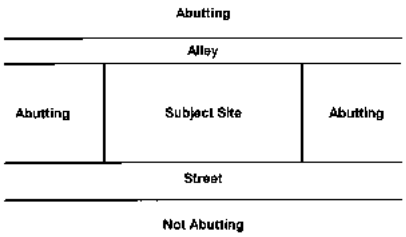
(g) The word “day” shall mean a calendar day unless otherwise specified.

(h) Where a term is defined in this Article, it shall be construed to have meaning and application throughout this Ordinance, unless the context clearly indicates otherwise.

(i) Where a term is defined in any Article other than this Article, it is generally the intent that such definition applies only within the Article it appears, since it is positioned in the Article to which it most readily refers; provided, however, that this provision shall not prevent the Director from interpreting that defined term as applying outside the strict context of the Article in which it appears, and to that end, all definitions, regardless of location within this Ordinance, apply equally to the use of such terms throughout the Ordinance.

CHAPTER 9-2-2
GENERAL DEFINITIONS

Abutting: Having property lines in common, or having property separated by only an alley. Separation by a street right-of-way is not considered abutting.



Alteration: Any change in the supporting members of a building or structure such as bearing walls columns, and girders, except such emergency change as may be required for safety purposes; any addition to a building; any change in use; or, any movement of a building from one location to another.

Annexation: The process by which a parcel of land is transferred from the jurisdiction of unincorporated Hall County to the jurisdiction of the City of Gainesville.

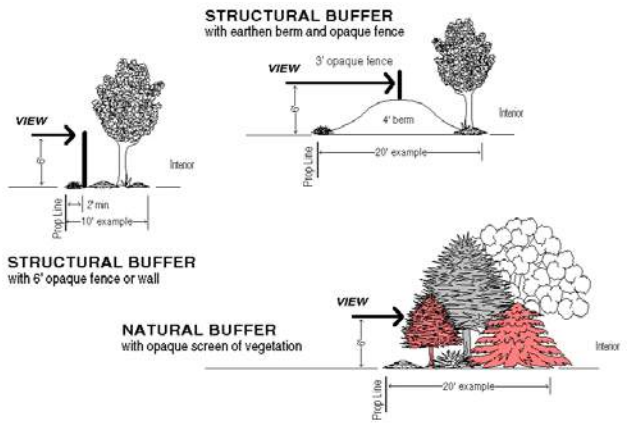
Appeal: A request for a review of an administrative official's interpretation of any provision of this Unified Land Development Code, or a request for a review of an action taken by an administrative official in the application or enforcement of this Unified Land Development Code.

As-built survey drawings: Drawings specifying the dimensions, location, capacities, and operational capabilities of structures and facilities as they have been constructed.

Buffer: A strip of land located between a side or rear property line and a building, structure, or use, intended to separate and obstruct the view of the site on which the buffer is located from an abutting property. A buffer is usually intended to provide screening, as defined and as may be required by this Unified Land Development Code.

(1) Buffer, natural undisturbed: A buffer that contains a natural area consisting of trees and/or other vegetation, undisturbed except for approved access and utility crossings, and replanted where sparsely vegetated.

(2) Buffer, structural: A visual screen created through construction of a solid wooden fence, decorative masonry wall, earthen berm, or combination of fence or wall with an earthen berm, which may be supplemented with vegetation, so as to present an opaque visual separation when viewed from one side to the other throughout the year.

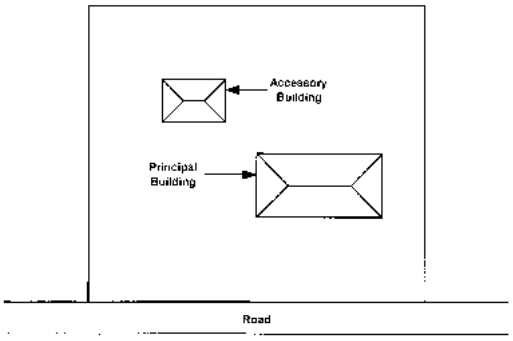


Buildable area: The portion of a lot which is not located within any minimum required yard, landscape strip, landscaped area, or buffer; that portion of a lot wherein a building or structure may be located.

Building: 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.

(1) Building, accessory: A building subordinate to the main building on a lot and used for purposes incidental to the main or principal building and located on the same lot therewith.

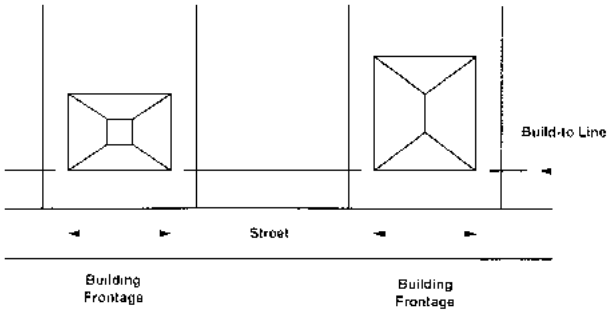
(2) Building, principal: A building in which is conducted the principal use of the lot on which said building is situated. In any residential zoning district, any structure containing a dwelling unit shall be defined to be the principal building on the lot on which same is situated, except for detached accessory apartments.



Building, Accessory and Principal

Building frontage: The width in linear feet of the front exterior wall of a particular building, as measured more or less parallel to the front property line.

Build-to-line: A front building setback line required for a principal building on a particular property so that a continuous and consistent building setback will be achieved considering the front building setbacks of buildings on abutting and/or adjacent lots on the same side of the street or right-of-way.



Building Frontage and Build-To Line

Building coverage: The horizontal area measured within the outside of the exterior walls of the ground floor (i.e., "footprint") of all principal buildings, accessory buildings, and accessory structures on the lot, not including steps, terraces, and uncovered porches.

Building coverage, maximum: The percentage of a given lot that may be occupied by all principal and accessory buildings and structures on said lot, measured within the outside of the exterior walls of the ground floor (i.e., "footprint") of all principal and accessory buildings and structures on the lot, not including steps, terraces, and uncovered porches.

Building height: The vertical distance measured to the highest point of a building from the average finished grade across those sides of a building that face a street

Building Official: The city's official responsible for implementing and enforcing the applicable building codes of the city.
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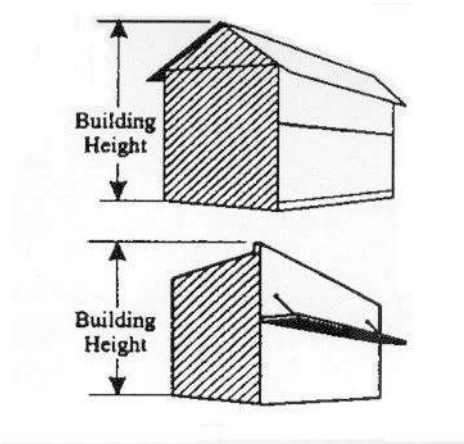


Building setback line: A line establishing the minimum allowable distance between the front wall of a principal building (excluding roof overhangs of 36 inches or less) and the street right-of-way line or a side or rear building wall and a side or rear property line when measured perpendicularly thereto. For purposes of this Ordinance, a minimum required building setback line and minimum required yard shall be considered the same.

Certificate of occupancy: An approval issued by the Building Official, indicating that the building and use or reuse of a particular building or land is in conformity with all applicable codes and regulations, and that such building or land may be occupied for the purpose stated therein.

City: The City of Gainesville, Georgia.

City Engineer: The Director of Public Works, or the city's official responsible for implementing and enforcing the applicable engineering requirements of this Unified Land Development Code and those other engineering requirements of the city.

Compatibility: The characteristics of different uses or activities that permit such uses or activities to be located near each other in harmony and without conflict. Some elements affecting compatibility include: intensity of occupancy as measured by dwelling units per acre or gross square footage per acre; pedestrian or vehicular traffic generated; volume of goods handled, and such environmental affects as noise, vibration, odor, glare, air pollution or radiation.

Comprehensive plan: Any plan adopted by the Governing Body, or any plan adopted by a regional development center covering the local jurisdiction, or portion of such plan or plans. This definition shall be construed liberally to include the major thoroughfare plan, master parks and recreation plan, or any other study, document, or written recommendation pertaining to subjects normally within the subject matter of a Comprehensive Plan as provided by the Georgia Planning Act of 1989, if formally adopted by the governing body of a participating municipality.

Concept plan: A document submitted with an application for a rezoning, zoning amendment, annexation, or other type of application upon which the applicant has shown the intended development and its design. Approval of the application request shall not constitute approval of the concept plan; said plan must be adjusted according to the requirements listed for submittal of civil plans or building plans and reviewed by the appropriate departments for permitting.

Condition of zoning approval: A requirement adopted by the City Council at the time of approval of a rezoning, zoning amendment, special use or annexation; placing greater or additional requirements or restrictions on the property than provided in this Ordinance in order to reduce an adverse impact of the request and to further protect the public health, safety, or general welfare.

Consumer fireworks: Any small fireworks devices containing restricted amounts of pyrotechnic composition, designed primarily to produce visible or audible effects by combustion, that comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission as provided for in Parts 1500 and 1507 of Title 16 of the Code of Federal Regulations, the United States Department of Transportation as provided for in Part 172 of Title 49 of the Code of Federal Regulations, and the American Pyrotechnics Association as provided for in the 2001 American Pyrotechnics Association Standard 87-1, and additionally shall mean Roman candles. The term consumer fireworks shall not include: (1) Model rockets and model rocket engines designed, sold, and used for the purpose of propelling recoverable aero models, toy pistol paper caps in which the explosive content averages 0.25 grains or less of explosive mixture per paper cap or toy pistols, toy cannons, toy canes, toy guns, or other devices using such paper caps; nor shall the term consumer fireworks include ammunition consumed by weapons used for sporting and hunting purposes; and (2) Wire or wood sparklers of 100 grams or less of mixture per item; other sparkling items which are nonexplosive and nonaerial and contain 75 grams or less of chemical compound per tube or a total of 500 grams or less for multiple tubes; snake and glow worms; smoke devices; or trick noise makers which include paper streamers, party peppers, string peppers, snappers, and drop pops each consisting of 0.25 grains or less of explosive mixture.

Consumer fireworks retail sales facility: Shall have the same meaning as provided for by the National Fire Protection Association Standard 1124, *Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles*, 2006 Edition (NFPA 1124).

Density: The quantity of building per unit of lot area; for example, the number of dwellings per lot area (gross square foot or per acre).

Designation: a decision by the Governing Body to designate a district or property as "historic" and thereafter prohibit all material changes in appearance prior to the issuance of a Certificate of Appropriateness pursuant to this Unified Land Development Code.

Development: 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, drilling operations, or permanent storage of materials; any activity which alters the elevation of the land, removes or destroys plant life, or causes structures of any kind to be erected or removed.

Development permit: An official authorization issued by the Director in accordance with this code to proceed with land disturbance and grading, as set forth in this ordinance.

Director: The Director of the Department of Planning and Development of the City of Gainesville, Georgia, or his or her authorized designee including staff of the Planning and Development Department. This term shall be the same as the Director of the Community Development Department or his or her authorized designee including staff of the Community Development Department.
Dwelling: Any building or portion thereof which is arranged, designed or used for living quarters for one or more families on a permanent or long-term basis.

EPD Director: The Director of the Environmental Protection Division of the Georgia Department of Natural Resources.

Environmental Health Department: The Hall County Environmental Health Department.

Family: An individual, or 2 or more persons related by blood, marriage, adoption or guardianship, or a group of not more than 3 unrelated persons, occupying a single dwelling unit; provided, however, that domestic servants employed on the premises may be housed on the premises without being counted as a separate family or families.

Fireworks: Any combustible or explosive composition or any substance or combination of substances or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, including blank cartridges, balloons requiring fire underneath to propel them, firecrackers, torpedos, skyrockets, Roman candles, bombs, sparklers, and other combustibles and explosives of like construction, as well as articles containing any explosive or flammable compound and tablets and other devices containing an explosive substance. The term fireworks shall not include: (1) Model rockets and model rocket engines designed, sold, and used for the purpose of propelling recoverable aero models, toy pistol paper caps in which the explosive content averages 0.25 grains or less of explosive mixture per paper cap or toy pistols, toy cannons, toy canes, toy guns, or other devices using such paper caps; nor shall the term fireworks include ammunition consumed by weapons used for sporting and hunting purposes; and (2) Wire or wood sparklers of 100 grams or less of mixture per item; other sparkling items which are nonexplosive and nonaerial and contain 75

grams or less of chemical compound per tube or a total of 500 grams or less for multiple tubes; snake and glow worms; smoke devices; or trick noise makers which include paper streamers, party peppers, string peppers, snappers, and drop pops each consisting of 0.25 grains or less of explosive mixture.

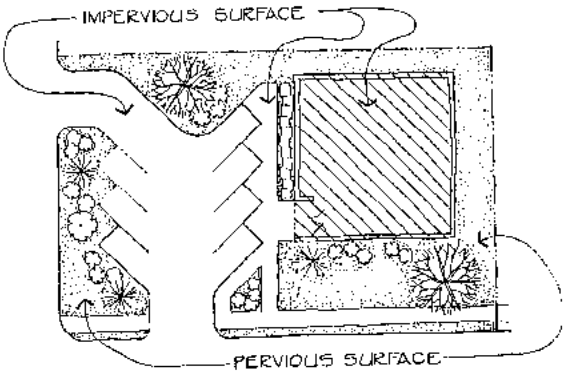
Floor area: The sum of all square footages (areas) of each floor of a building, measured from the interior faces of the exterior walls or from the centerline of walls separating two buildings. The following areas are excluded from the measurement of floor area: unfinished attics, attached garages or spaces used for off-street parking and loading, breezeways, and enclosed or unenclosed decks and porches.

Floor Area Ratio: The ratio of the floor area of a building to the area of the lot in which the building is located. For example, a 10,000 square-foot lot with a maximum FAR of 0.5 cannot exceed a total building floor area of 5,000 square feet.

Governing Body: The Mayor and City Council of the City of Gainesville, Georgia.

Grading: Altering the shape or topography 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.

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



Improvements: The physical addition and changes to land that may be necessary to produce usable, desirable and acceptable lots or building sites.

Industrialized building: Any structure or component thereof which is designed and constructed in compliance with the state minimum standards codes and 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.

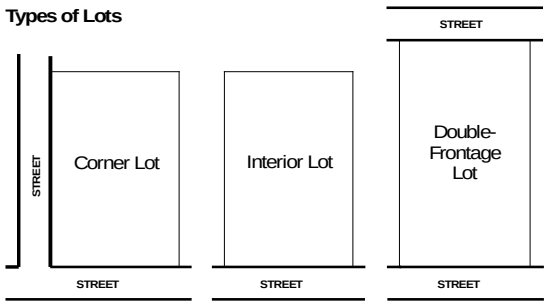
Land-disturbing activity: Any activity that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting and filling of land but not including plowing and tilling for agricultural practices.

Lot: A parcel or tract of land held in single ownership.

(1) Corner lot: Any lot bounded by 2 streets at their intersection.

(2) Double-frontage lot: A lot bounding on 2 or more streets, but not at their intersection, so that it is not a corner lot.

(3) Interior lot: A lot having frontage on only one street.

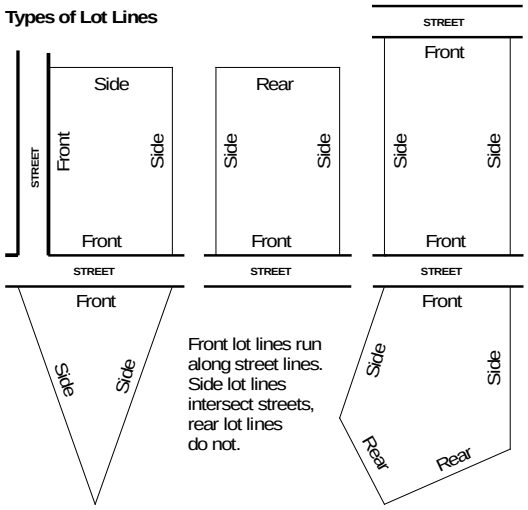


Lot Lines: The boundary dividing a given lot from the street, an alley, or adjacent lots.

(1) Front lot line: Any boundary line of a lot that abuts a street right-of-way line. A lot adjacent to more than one street will have more than one front lot line.

(2) Rear lot line: Any boundary line of a lot that does not intersect with a street right-of-way line and is not a front lot line.

(3) Side lot line: Any boundary line of a lot that intersects with a street right-of-way line and is not a front lot line.



Manufactured Home: A dwelling fabricated in an off-site facility for installation or assembly at the building site, bearing a label certifying that it is constructed in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401, et seq.), which first became effective on June 15, 1976. The term “manufactured home” includes a structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet in floor area, 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 includes any structure which meets all the requirements of this definition except the size requirement 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. 5401, et seq.

Manufactured Home Park: Any lot or parcel under single ownership on which 2 or more manufactured homes are to be located or intended to be located for purposes of residential occupancy.

Mobile Home: A dwelling manufactured prior to June 15, 1976, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet in floor area, 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.

Occupied: The word "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."

Open space, landscaped: That portion of a given lot, not covered by buildings, parking, access and service areas, that is designed to enhance privacy and the amenity of the development by providing landscaping features, screening and buffering for the benefit of the occupants or those in neighboring areas, or a general appearance of openness. Landscaped open space may include, but need not be limited to, grass lawns, decorative planting, berms, walls and fences, sidewalks/walkways, ornamental objects such as fountains, statues and other similar natural and man-made objects, wooded areas, and water courses, any or all of which are designed and arranged to produce an aesthetically pleasing effect within and exterior to the development.

Overlay zone: A defined geographic area that encompasses one or more underlying zoning districts and that imposes additional requirements above those required by the underlying zoning district. An overlay zone can be coterminous with existing zoning districts or contain only parts of one or more such districts.

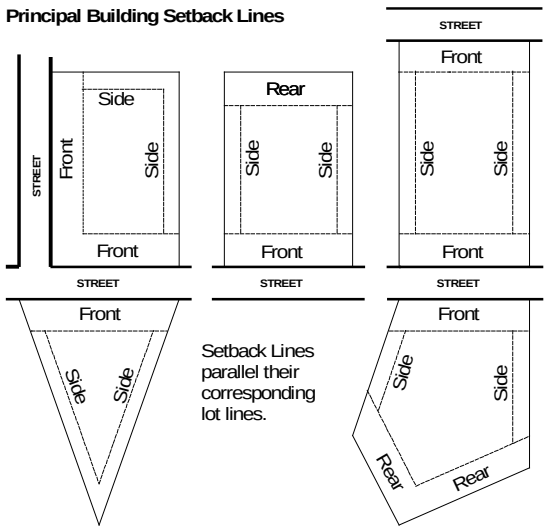
Permitted use: A use by right which is specifically authorized in a particular zoning district, or permitted by right in a particular overlay zone.

Planning and Appeals Board: The Planning and Appeals Board of the City of Gainesville, Georgia; also known or referred to as the “Planning Commission.”

Premises: An area of land with its appurtenances and buildings which is one unit of real estate because of its unity of use.

Principal building setback line: A line delineating the minimum allowable distance between a property line or the right-of-way line of an abutting street and a principal building on a lot.

(1) Front building setback: The minimum allowable distance between the right-of-way line of any abutting street and any part of a principal building on a lot. The front setback distance is applied along the full length of the right-of-way line and is parallel to it.



(2) Rear building setback: The minimum allowable distance between a rear lot line and any part of a principal building on a lot. The rear building setback extends along the full length of the rear lot line.

(3) Side building setback: The minimum allowable distance between a side lot line and any part of a principal building on a lot. The side building setback extends along the side lot line between the front building setback and a rear building setback (if any).

Property or parcel of land: See "Lot."

Professional Engineer: An engineer licensed and registered to perform the duties of a professional engineer (P.E.) by the State of Georgia.

Public Utilities Director: The Director of the Department of Public Utilities of the City of Gainesville, Georgia, or his designee, whose duties include the review and approval of construction plans for public utilities for the City.

Public Works Director: The Director of the Department of Public Works of the City of Gainesville, Georgia, or his designee, whose duties include the review and approval of construction plans for public streets for the City.

Registered Land Surveyor: A land surveyor licensed and registered to perform the duties of a registered land surveyor (R.L.S.) by the State of Georgia.

Residential Industrialized building: Any dwelling unit designed and constructed in compliance with the Georgia State Minimum Standard One and Two Family Dwelling Code which is wholly or in substantial part made, fabricated, formed, or assembled in a manufacturing facility and cannot be inspected at the installation site without disassembly, damage to, or destruction thereof. Any such structure shall not contain a permanent metal chassis and shall be affixed to a permanent load-bearing foundation. The term shall not include manufactured homes as defined by the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq.

Rezoning: An amendment to the Official Zoning Map, or an amendment to an overlay zone boundary, that changes the zoning district or overlay zone of one or more properties specified in an application; provided, however, that changes to the Historic Preservation Overlay Zone are not considered "rezoning" for purposes of this Unified Land Development Code and are instead regulated by the provisions of Chapter 9-23-3 of this Unified Land Development Code. Rezoning also includes applications to change conditions of zoning approval.

Setback: The shortest straight line distance between a street right-of-way or lot line and the nearest point of a structure or building or projection therefrom (excluding roof overhangs of 30 inches or less).

Setback, minimum: The shortest distance allowed between a street right-of-way line or any other lot line and any principal or accessory building on a lot. Minimum setback requirements for buildings are associated with the type of lot line from which the setback is taken; for instance, a "side yard setback" is measured from a side lot line.

Special use: A use that would not be appropriate generally or without restriction throughout a particular zoning district and is not automatically permitted by right within said zoning district, but

which, if controlled as to number, area, location, relation to the neighborhood or other pertinent considerations, may be found to be compatible and approved by the Governing Body within that particular zoning district as provided in certain instances by this Unified Land Development Code. An approved special use runs with the property.

Story: That portion of a building compromised between a floor and the floor or roof next above. The first floor of a two (2) or multi-story building shall be deemed the story that has no floor immediately below it and that is designed for living quarters or for human occupancy. Those stories above the first floor shall be numbered consecutively.

Structure: Anything built, constructed or erected, or established or composed of parts joined together in some definite manner, the use of which requires location on the ground or which is attached to something having permanent location on the ground. For purposes of this Unified Land Development Code, parking decks, swimming pools, tennis courts, signs, dog houses, and outdoor fenced animal runs are considered structures. Tents, vehicles, trailers, and play equipment attached to the ground in some permanent or temporary way shall be considered structures. A structure may or may not be easily moved from a given location on the ground. Walls and fences are considered structures but are subject to setback regulations for walls and fences rather than principal or accessory building setback regulations. Driveways and parking lots are not considered structures.

Used: The word "used" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

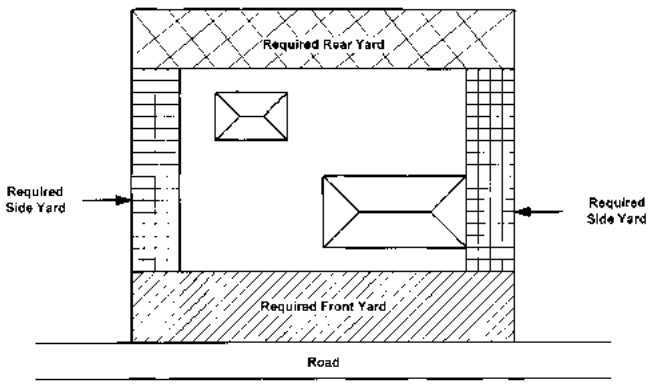
Variance: A grant of relief from the requirements of this Unified Land Development Code which permits construction or use in a matter otherwise prohibited by this Code, which may be approved in individual cases upon application and applied to specific property where compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to make a profit.

(1) Variance, administrative: A variance which is authorized to be approved by an administrative official under the terms of this ordinance.

(2) Variance, improvement standards: A variance which relieves or modifies an applicant or subdivider of certain subdivision or land development specifications or standards under the terms of this ordinance.

(3) Variance, zoning: A minimal relaxation or modification of the strict terms of the height, area, placement, setback, yard, buffer, landscape strip, parking and loading, or other regulations which are dimensional in nature as applied to specific property when, because of particular physical surroundings, shape, or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to make a profit.

Yard: A space on the same lot with a principal building, open unoccupied and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.



Yards

(1) Yard, front: An open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the street right-of-way and the front line of the building projected to the side lines of the lot. For corner and double frontage lots, front yard requirements apply to all road frontages.

(2) Yard, rear: An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.

(3) Yard, side: An open, unoccupied space on the same lot with the principal building, situated between the building and the side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.

Zoning map: The official zoning map or maps of the City of Gainesville, Georgia.

ARTICLE 9-3
GENERAL PROVISIONS

CHAPTER 9-3-1 GENERAL USE PROVISIONS 3-1
CHAPTER 9-3-2 GENERAL DIMENSIONAL REQUIREMENTS 3-3

CHAPTER 9-3-1
GENERAL USE PROVISIONS

Section 9-3-1-1. Use of Land or Water.
Section 9-3-1-2. Use Prohibited When Not Specified.
Section 9-3-1-3. Prohibited Uses.
Section 9-3-1-4. Every Use Must Be Upon a Lot of Record.
Section 9-3-1-5. One Single-family Dwelling Per Lot of Record.

Section 9-3-1-1. Use of Land or Water.

No land or water shall hereafter be used, occupied, or altered except in full compliance with the provisions of this Ordinance, unless specifically provided otherwise by this Ordinance.

No use or activity shall hereafter be established, reestablished, located, extended, or expanded except in full compliance with the provisions of this Ordinance, unless specifically provided otherwise by this Ordinance.

No building or structure or part thereof shall hereafter be located, relocated, occupied or used, extended, converted, or structurally altered except in full compliance with the provisions of this Ordinance, unless specifically provided otherwise by this Ordinance.

Section 9-3-1-2. Use Prohibited When Not Specified.

Any use not specifically permitted as a use by right or specifically indicated as a special use in a given zoning district (or if applicable and controlling, in a given overlay zone) shall be prohibited in that zoning district or overlay zone if applicable and controlling.

Section 9-3-1-3. Prohibited Uses.

Without limiting the generality of Section 9-3-1-2 of this Chapter, the following uses are expressly prohibited in the City of Gainesville:

(a) Mobile homes and manufactured homes.

(b) Mobile home parks and manufactured home parks.

(c) The manufacture of or industries that produce: caustic or corrosive acids; chlorine or other noxious gasses; explosives; fertilizer or glue; products involving hair or fur; and industrial uses involving a drop forge or using power hammers.

(d) Solid waste landfills.

(e) Tanning or finishing of leather or other hides, except taxidermy.

(f) Hazardous waste disposal.

(g) Petroleum refining.

(h) Stockyards or animal feeding pens.

(i) Peddlers and mobile vendors, except as may be permitted by the Governing Body in association with a public event.

Section 9-3-1-4. Every Use Must Be Upon a Lot of Record.

No building or structure shall be erected or use established unless upon a lot of record as defined by this Ordinance unless specifically provided otherwise in this Ordinance.

Section 9-3-1-5. One Single-family Dwelling Per Lot of Record.

Only one detached, single-family dwelling unit under fee-simple ownership shall be permitted on a single lot of record. This Section shall not be construed to prevent the location of more than one detached single-family dwelling under condominium ownership on a single lot of record, where permitted, or the location of more than one non-residential building on a single lot of record.

CHAPTER 9-3-2
GENERAL DIMENSIONAL REQUIREMENTS

Section 9-3-2-1. Height.
Section 9-3-2-2. Exemptions to Height Limits.
Section 9-3-2-3. Density and Lot Size.
Section 9-3-2-4. Lot Width.
Section 9-3-2-5. Street Frontage.
Section 9-3-2-6. Yards and Building Setbacks.
Section 9-3-2-7. Building Coverage.
Section 9-3-2-8. Impervious Surface Coverage.
Section 9-3-2-9. Landscaping or Open Space.
Section 9-3-2-10. Buffers and Tree Protection Zones.
Section 9-3-2-11. Acquisition for Public Purpose.

Section 9-3-2-1. Height.

No building or structure shall hereafter be erected or altered so as to exceed the height limits established for the zoning district (or if applicable and controlling, for the overlay zone including the Airport Overlay Zone in which the building or structure is located, or any height limits established for a specific building, structure, or use if regulated by Article 9-10 “Supplementary Regulations for Specific Uses”), or any other provision of this Ordinance, except as otherwise specifically provided by this Ordinance.

Section 9-3-2-2. Exemptions to Height Limits.

Except as may be otherwise required in the Airport Overlay Zone, height limitations of this Ordinance shall not apply to chimneys, smokestacks, church spires and steeples, domes, flag poles, public monuments, observation towers, water towers, non-commercial radio and television towers, electricity transmission towers, utility poles, agricultural uses such as silos and windmills, and similar structures.

Section 9-3-2-3. Density and Lot Size.

No lot shall hereafter be developed with a number of housing units that exceeds the residential density for the zoning district (or if applicable and controlling, for the overlay zone) in which the lot is located as established by this Ordinance.

No lot shall hereafter be platted, established, or developed unless it meets or exceeds the minimum lot size for the zoning district (or if applicable and controlling, for the overlay zone) in which the lot is located as established by this Ordinance; provided, however, that where a zoning district or overlay zone allows the reduction of lot size such as in the case of a conservation subdivision, the overall density requirements for the applicable zoning district or overlay zone shall apply unless the context clearly indicates otherwise.

Section 9-3-2-4. Lot Width.

No lot shall hereafter be platted, established, or developed that fails to meet the minimum lot width for the zoning district (or if applicable and controlling, for the overlay zone) in which the lot is located as established by this Ordinance, except as otherwise specifically provided.

Section 9-3-2-5. Street Frontage.

No lot shall hereafter be platted, established, or developed that fails to maintain a minimum of forty (40) feet of street frontage on a public street, or on an approved private street; provided, however, that fee-simple lots for attached residential dwelling units (i.e. townhouses) may be platted to lot widths and with street frontages specified for such uses in this Ordinance.

The street frontage requirements of this Ordinance shall not prevent a building, structure, or activity from being accessed through an access easement, so long as the lot on which it is located meets the minimum required street frontage and provided further that the access easement is located in a zoning district that permits the use accessing the easement.

Section 9-3-2-6. Yards and Building Setbacks.

No lot shall hereafter be developed, and no building or structure shall hereafter be erected or altered in a manner to have narrower or smaller rear yards, front yards, or side yards than specified for the zoning district (or if applicable and controlling, by the overlay zone) in which the property is located, or for the specific use if yards and setback regulations specified in this Ordinance pertain to the specific use.

Where this Ordinance establishes a build-to line, no building or structure shall hereafter be erected or altered in a manner inconsistent with the build-to lines specified for the zoning district (or if applicable and controlling, by the overlay zone) in which the property is located, unless otherwise specifically provided in this Ordinance.

Section 9-3-2-7. Building Coverage.

No lot shall hereafter be developed, and no building or structure shall hereafter be erected or altered in a manner that exceeds the maximum building coverage or floor-area ratio specified for the zoning district (or if applicable and controlling, for the overlay zone) in which it is located, or for the use if specific regulations for such use are established by this Ordinance.

Section 9-3-2-8. Impervious Surface Coverage.

No lot shall hereafter be developed, and no building, structure, or improvement shall hereafter be erected, installed, or altered in a manner that exceeds the maximum impervious surface coverage specified for the zoning district (or if applicable and controlling, for the overlay zone) in which it is located, or for the use if specific regulations for such use are established by this Ordinance.

Section 9-3-2-9. Landscaping or Open Space.

No lot shall hereafter be developed, and no building or structure shall hereafter be erected or altered in a manner to have less than the minimum percentage of landscaping or open space than specified for the zoning district (or if applicable and controlling, by the overlay zone) in which the property is located, or for the specific use if a minimum percentage of landscaping or open space for the specific use is required by this Ordinance, except as otherwise specifically provided in this Ordinance.

No lot shall hereafter be developed, and no building or structure shall hereafter be erected or altered in a manner that reduces the minimum required width of a landscape strip specified for the zoning district (or if applicable and controlling, by the overlay zone) in which the property is located, or for the specific use if a landscape strip for the specific use is required by this Ordinance, except as otherwise specifically provided in this Ordinance.

Section 9-3-2-10. Buffers and Tree Protection Zones.

No lot shall hereafter be developed, and no building or structure shall hereafter be erected or altered in a manner to have narrower or smaller buffers than specified for the zoning district (or if applicable and controlling, by the overlay zone) in which the property is located, or for the specific use if buffers for the specific use are required by this Ordinance, except as otherwise specifically provided in this Ordinance. The application of buffer requirements established by this Ordinance supersede minimum required yards.

No part of a required buffer shall be included as a part of the buffer required for another lot, building, or use.

No lot shall hereafter be developed, and no building or structure shall hereafter be erected or altered in a manner that encroaches on a required tree protection zone, unless otherwise specifically provided by this Ordinance.

Section 9-3-2-11. Acquisition for Public Purpose.

When a portion of a lot is acquired for a public purpose and such acquisition renders the lot with less than the required lot area, lot width, or not in compliance with other dimensional requirements of this Ordinance or where such remaining lot has an existing building or structure that does not meet required building setbacks of this Ordinance, the provisions of this Chapter shall not be construed to prevent the development of the lot in accordance with requirements for nonconforming lots established in this Ordinance; nor shall it be construed to prevent the continuation of the existing building or structure that otherwise conforms to the requirements of this Ordinance.

ARTICLE 9-4
ZONING DISTRICTS AND OVERLAY ZONES GENERALLY

CHAPTER 9-4-1 ZONING DISTRICTS 4-1
CHAPTER 9-4-2 OVERLAY ZONES 4-3
CHAPTER 9-4-3 RULES GOVERNING BOUNDARIES 4-4

CHAPTER 9-4-1
ZONING DISTRICTS

Section 9-4-1-1. Zoning Districts Established.
Section 9-4-1-2. Official Zoning Map.
Section 9-4-1-3. Revisions to Official Zoning Map.

Section 9-4-1-1. Zoning Districts Established.

The following zoning districts are hereby established in the City of Gainesville:

Residential:

R-I-A	Residential
R-I	Residential
N-C	Neighborhood Conservation
R-II	Residential
R-O	Residential and Office

Nonresidential:

O-I	Office and Institutional
N-B	Neighborhood Business
C-B	Central Business
R-B	Regional Business
G-B	General Business
L-I	Light Industrial
H-I	Heavy Industrial

Flexible:

PUD	Planned Unit Development

Section 9-4-1-2. Official Zoning Map.

The boundaries of zoning districts created by this Ordinance are hereby established as shown on a map entitled the “Official Zoning Map,” which is hereby adopted and made a part of this Ordinance. The Official Zoning Map shall indicate the date of adoption and most recent amendment.

The Official Zoning Map, as adopted by the Governing Body and subsequently amended from time to time by its action, shall be maintained by the Director. The original of the Official Zoning Map shall be kept in the office of the City Clerk.

The Official Zoning Map may be kept electronically in a geographic information system and such electronic data shall constitute an integral part of the Official Zoning Map. The Director may make copies of the Official Zoning Maps available to the public for a reasonable fee.

Section 9-4-1-3. Revisions to Official Zoning Map.

No changes of any nature shall be made to the Official Zoning Map except in conformity with amendments to the map approved by the Governing Body. If, in accordance with the provisions of this Ordinance, the Governing Body approves changes in the zoning district boundaries or other subject matter portrayed on the Official Zoning Map, such changes shall be made promptly after the amendment has been approved by the Governing Body.

CHAPTER 9-4-2
OVERLAY ZONES

Section 9-4-2-1. Overlay Zones Established.
Section 9-4-2-2. Overlay Zone Maps.
Section 9-4-2-3. Revisions to Overlay Zone Maps.

Section 9-4-2-1. Overlay Zones Established.

The following overlay zones are hereby established in the City of Gainesville, as set forth more fully in Article 9-8 of this Unified Land Development Code:

Airport Overlay Zone
Gateway Corridor Overlay Zone
Limestone Parkway Overlay Zone
North Oconee Water Supply Watershed Protection Overlay Zone
Groundwater Recharge Area Protection Overlay Zone
Wetland Protection Overlay Zone
Midtown Overlay Zone
Historic Preservation Overlay Zone

Section 9-4-2-2. Overlay Zone Maps and Boundaries.

The boundaries of overlay zones are established in chapters of Article 9-8 of this Unified Land Development Code.

The Overlay Zone Maps may be kept electronically in a geographic information system and such electronic data shall constitute an integral part of the Overlay Zone Maps. The Director may make copies of the Overlay Zone Maps available to the public for a reasonable fee.

Section 9-4-2-3. Revisions to Overlay Zone Maps.

No changes of any nature shall be made to any of the Overlay Zone Maps except in conformity with amendments to the map approved by the Governing Body and the requirements of this Unified Land Development Code for their amendment (see Chapter 9-22-2). If, in accordance with the provisions of this Ordinance, the Governing Body approves changes to any overlay zone boundaries or other subject matter portrayed on an Overlay Zone Map, such changes shall be made promptly after the amendment has been approved by the Governing Body.

CHAPTER 9-4-3
RULES GOVERNING BOUNDARIES

Section 9-4-3-1. Legal Description.
Section 9-4-3-2. Streets and Railroads.
Section 9-4-3-3. City Limits.
Section 9-4-3-4. Property Lines.
Section 9-4-3-5. Streams and Rivers.
Section 9-4-3-6. Abandonment or Vacation of Right-of-Way.
Section 9-4-3-7. Determinations, Interpretations, and Appeals.

Section 9-4-3-1. Legal Description.

The boundaries of the zoning districts as shown on the Official Zoning Map and the boundaries of overlay zones as shown on the various Overlay Zone Maps shall be determined on the basis of the legal descriptions associated with approved annexation, rezoning, or special use applications where they exist, or, in the absence of such legal descriptions, on the basis of the location of the boundary as depicted on the Official Zoning Map or Overlay Zone Maps. In cases where questions arise as to the boundaries of a zoning district or overlay zone, the rules of this Chapter shall apply.

Section 9-4-3-2. Streets and Railroads.

Where boundaries of zoning districts or overlay zones are indicated as approximately following the centerline of streets highways, or railroads, street right-of-way lines or such lines extended, such centerline, right-of-way lines or such lines extended shall be construed to be such boundaries. Where boundaries are indicated as approximately paralleling the centerline of streets, highways, or railroads, the location of said boundaries shall be determined by using an engineering scale on the map showing such boundaries.

Section 9-4-3-3. City Limits.

Where boundaries of zoning districts or overlay zones are indicated as approximately following the corporate limit line of a city, such corporate limit line shall be construed to be such boundaries.

Section 9-4-3-4. Property Lines.

Where boundaries of zoning districts or overlay zones are indicated as approximately following property lines or such lines extended, such property lines or such lines extended shall be construed to be such boundaries.

Section 9-4-3-5. Streams and Rivers.

Where boundaries of zoning districts or overlay zones are indicated as approximately following the centerline of stream beds or river beds, such centerline shall be construed to be such boundaries.

Section 9-4-3-6. Abandonment or Vacation of Right-of-Way.

Where a public street or other right-of-way is officially vacated or abandoned, and said street or right-of-way is also a zoning district or overlay zone boundary, the regulations applicable to the property to which it reverted shall apply to such vacated or abandoned public street or right-of-way.

Section 9-4-3-7. Determinations, Interpretations, and Appeals.

In the case where the exact location of a zoning district or overlay zone boundary cannot be determined by the foregoing methods, the Director shall determine the location of the boundary. Any such administrative determination is subject to appeal as an administrative decision in accordance with Chapter 9-22-7 of this Ordinance regarding the appeal of administrative decisions.

ARTICLE 9-5
RESIDENTIAL ZONING DISTRICTS

CHAPTER 9-5-1	R-I-A	RESIDENTIAL DISTRICT	5-1
CHAPTER 9-5-2	R-I	RESIDENTIAL DISTRICT	5-2
CHAPTER 9-5-3	N-C	NEIGHBORHOOD CONSERVATION DISTRICT	5-3
CHAPTER 9-5-4	R-II	RESIDENTIAL DISTRICT	5-4
CHAPTER 9-5-5	R-O	RESIDENTIAL AND OFFICE DISTRICT	5-5

CHAPTER 9-5-1
R-I-A RESIDENTIAL DISTRICT

Section 9-5-1-1. Purpose and Intent.
Section 9-5-1-2. Permitted and Special Uses.
Section 9-5-1-3. Dimensional Requirements.

Section 9-5-1-1. Purpose and Intent.

The R-I-A Residential District is established to provide areas of primarily low density single-family residential development along with other uses that are compatible with a residential environment such as recreational, educational, and religious facilities. This district is intended to implement the Gainesville comprehensive plan's suburban, medium-density residential future land use category with a density not to exceed two dwelling units per acre.

Section 9-5-1-2. Permitted and Special Uses.

Permitted and special uses shall be as provided in Table 9-5-1, "Permitted and Special Uses for Residential Zoning Districts."

Section 9-5-1-3. Dimensional Requirements.

Dimensional requirements shall be as provided in Table 9-5-2, "Dimensional Requirements for Residential Zoning Districts."

CHAPTER 9-5-2
R-I RESIDENTIAL DISTRICT

Section 9-5-2-1. Purpose and Intent.
Section 9-5-2-2. Permitted and Special Uses.
Section 9-5-2-3. Dimensional Requirements.

Section 9-5-2-1. Purpose and Intent.

The R-I Residential District is established to provide areas of primarily low- to moderate-density, single-family residential development along with other uses that are compatible with a residential environment such as recreational, educational, and religious facilities. This district is intended to implement the Gainesville comprehensive plan's suburban, medium-density residential future land use category with a density not to exceed two dwelling units per acre). This district is also intended to provide for new, high-quality infill residential development that maintains community character, and ensures stable, long-term property values and neighborhoods, at higher densities than the base density of the zoning district, subject to compatibility standards and/or pursuant to a specific neighborhood plan.

Section 9-5-2-2. Permitted and Special Uses.

Permitted and special uses shall be as provided in Table 9-5-1, "Permitted and Special Uses for Residential Zoning Districts."

Section 9-5-2-3. Dimensional Requirements.

Dimensional requirements shall be as provided in Table 9-5-2, "Dimensional Requirements for Residential Zoning Districts."

CHAPTER 9-5-3
N-C NEIGHBORHOOD CONSERVATION DISTRICT

Section 9-5-3-1. Purpose and Intent.
Section 9-5-3-2. Permitted and Special Uses.
Section 9-5-3-3. Dimensional Requirements.

Section 9-5-3-1. Purpose and Intent.

The N-C Neighborhood Conservation District is established to allow the transition of older residential areas to primarily low- to moderate-density single-family residential development, along with other uses that are compatible with a residential environment such as recreational, educational and religious facilities. This district is intended to implement the Gainesville comprehensive plan's suburban, medium-density residential future land use category with density not to exceed two dwelling units per acre. This district is also intended to provide for new, high-quality infill residential development that maintains community character, and ensures stable, long-term property values and neighborhoods, at higher densities than the base density of the zoning district, subject to compatibility standards and/or pursuant to a specific neighborhood plan.

Section 9-5-3-2. Permitted and Special Uses.

Permitted and special uses shall be as provided in Table 9-5-1, "Permitted and Special Uses for Residential Zoning Districts."

Section 9-5-3-3. Dimensional Requirements.

Dimensional requirements shall be as provided in Table 9-5-2, "Dimensional Requirements for Residential Zoning Districts."

CHAPTER 9-5-4
R-II RESIDENTIAL DISTRICT

Section 9-5-4-1. Purpose and Intent.
Section 9-5-4-2. Permitted and Special Uses.
Section 9-5-4-3. Dimensional Requirements.

Section 9-5-4-1. Purpose and Intent.

The R-II Residential District is established to provide for single-family, two-family and multi-family residential development, along with other uses that are compatible with a residential environment such as recreational, educational and religious facilities. This district is intended to implement the following categories of Gainesville's future land use map: urban residential low, including areas containing or planned for urban residential development at a density range of 4-5 dwelling units per acre; urban residential medium, including areas containing or planned for urban residential development at a density range of 5-10 dwelling units per acre; and urban, high-density residential, including areas containing or planned for urban residential development at a density range of 10-12 dwelling units per acre.

Section 9-5-4-2. Permitted and Special Uses.

Permitted and special uses shall be as provided in Table 9-5-1, "Permitted and Special Uses for Residential Zoning Districts."

Section 9-5-4-3. Dimensional Requirements.

Dimensional requirements shall be as provided in Table 9-5-2, "Dimensional Requirements for Residential Zoning Districts."

CHAPTER 9-5-5
R-O RESIDENTIAL AND OFFICE

Section 9-5-5-1. Purpose and Intent.
Section 9-5-5-2. Permitted and Special Uses.
Section 9-5-5-3. Dimensional Requirements.

Section 9-5-5-1. Purpose and Intent.

The basic character of this district is one which encourages and assures a compatible mixture of residential, office, and specialty retail types of land uses. This district is identified as one in which the physical character and design of existing and proposed new structures play an important role in assuring the compatibility of the various uses. The provisions of this district are set forth with a goal of allowing greater flexibility of use for older existing structures and encouraging their continued viability by permitting new structures whose design is compatible within the district. Special procedures for the review of building design and uses are recognized as essential for the establishment and maintenance of the character of this district.

Dimensional requirements for R-O zoning districts are configured on the basis of the platted lot, and such requirements are intended to allow for mixed-use buildings and nonresidential development at scales compatible with residential neighborhoods.

Section 9-5-5-2. Permitted and Special Uses.

Permitted and special uses shall be as provided in Table 9-5-1, “Permitted and Special Uses for Residential Zoning Districts.” Business service establishments and Personal service establishments are special uses in this zoning district.

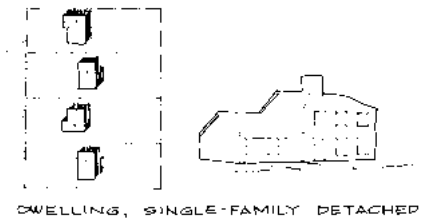
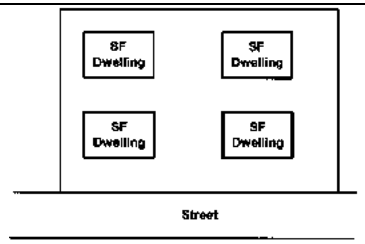
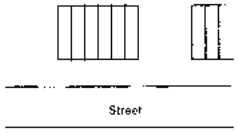
Section 9-5-5-3. Dimensional Requirements.

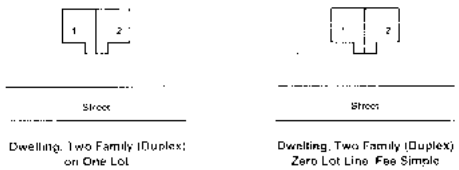
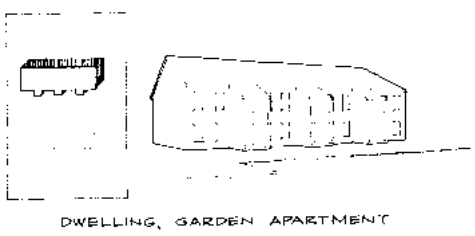
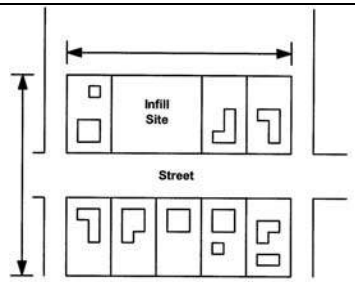
Dimensional requirements shall be as provided in Table 9-5-2, “Dimensional Requirements for Residential Zoning Districts.”

TABLE 9-5-1
PERMITTED AND SPECIAL USES FOR RESIDENTIAL ZONING DISTRICTS

● = Permitted	○ = Special Use	X = Not Permitted
Permitted use: A use by right which is specifically authorized in a particular zoning district, or permitted by right in a particular overlay zone.	Special use: A use that would not be appropriate generally or without restriction throughout a particular zoning district and is not automatically permitted by right within said zoning district, but which, if controlled as to number, area, location, relation to the neighborhood or other pertinent considerations, may be found to be compatible and approved by the Governing Body in accordance with this Unified Land Development Code. An approved special use runs with the property.	Use is prohibited.

Use	Definition	Specific Regulations	R-I-A	R-I	N-C	R-II	R-O
AGRICULTURAL USES							
Agriculture	Agriculture: Farming, including plowing, tilling, cropping, utilization of best management practices, seeding, cultivating or harvesting for the production of food and fiber products (except commercial logging and timber harvesting operations); aquaculture; sod production; orchards; Christmas tree plantations; nurseries; and the cultivation of products as part of a recognized commercial enterprise. This term specifically includes “horticulture,” (i.e., orchards), or the growing of fruits, vegetables, herbs, flowers or ornamental plants. This term also includes plant nurseries and greenhouses, where lands or structures are used primarily to cultivate trees, shrubs, flowers or other plants.		●	X	X	X	X
Animal quarters for horses only, with an allowable intensity of one horse per two acres (principal use)	Animal quarters: Any building or structure which surrounds or is used to raise, breed (husbandry), house, shelter, care for, feed, exercise, train, exhibit, display, or show any animals or livestock other than domestic pets. This is not intended to apply to non-structural, fenced land for grazing. This includes the term “barn” when used to shelter livestock or other animals.	9-10-3-8	●	X	X	X	X
Forestry	Forestry: An operation involved in the growing, conserving, and managing of forests and forest lands. Forestry operations or practices include the raising and harvesting of timber, pulp woods and other forestry products for commercial purposes, the construction of roads, insect and disease control, fire protection, and may include the temporary operation of a sawmill and/or chipper to process the timber cut from the parcel or parcels. This term does not include the cutting of timber associated with approved land development.		●	X	X	X	X

Use		Definition	Specific Regulations	R-I-A	R-I	N-C	R-II	R-O
Riding academy or equestrian center		Riding academy or equestrian center: An establishment where horses are kept for riding or are kept for competition or educational purposes incidental to a club, association, ranch, educational institution or similar establishment but which does not involve commercial sales and is not open to the general public for a fee.		○	X	X	X	X
RESIDENTIAL USES				**R-I-A**	**R-I**	**N-C**	**R-II**	**R-O**
Dwelling, single-family detached, fee-simple,		Dwelling, single-family detached, fee-simple: A site-built residential building, or a single-family residential industrialized building designed for occupancy by one family only, where each dwelling is located on its own lot. This term does not include manufactured homes or mobile homes.	9-10-2-6	●	●	●	●	●
Dwelling, single-family detached, condominium	 **Dwelling, Single-Family Detached, Condominium**	Dwelling, single-family detached, condominium: A site-built residential building, or residential industrialized building designed for occupancy by one family only, where more than one dwelling is located on a single lot and the land is owned in common. This term does not include manufactured homes or mobile homes.	9-10-2-3	X	X	X	●	●
Dwelling, single-family attached (townhouse)	 Townhouses (Attached Single Family Fee Simple)	Dwelling, single-family attached, fee-simple (townhouse): One (1) of a group of three or more single-family, attached dwelling units under fee simple ownership. Attached single-family dwellings that are not under fee-simple ownership are considered row houses (multi-family dwellings).	9-10-2-5	X	X	X	●	●

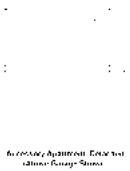
Use	Definition	Specific Regulations	R-I-A	R-I	N-C	R-II	R-O
Dwelling, two-family (duplex)	 Dwelling, two-family (duplex): A building designed or arranged to be occupied by two (2) families living independently of each other. The building contains two dwelling units either on one lot, or, each dwelling is located on its own lot in fee-simple title and the two dwelling units are attached along a common property line.	9-10-2-6	X	X	X	●	●
Dwelling, multiple-family, including apartments, condominiums, and cooperatives	 Dwelling, multi-family: A building other than a duplex, designed for or occupied exclusively by three (3) or more families with separate household facilities for each family. This term includes attached residential condominiums, row houses (not fee-simple ownership) and apartments.	9-10-2-3	X	X	X	●	●
Infill residential development project	 **Infill Site and Established Residential Area** Infill residential development project: A development containing detached, site-built single-family dwellings or single-family residential industrialized buildings constructed on property in an established residential area containing detached, single-family dwellings on individual lots. This use does not prevent the redevelopment or further subdivision of property within the R-I-A, R-II and R-O zoning districts.	Chapter 9-10-12 Section 9-10-2-6	X	●	●	X	X
Model home	Model home: A principal residential building, temporarily open to viewing by prospective homebuyers, on property containing or proposed to contain a residential subdivision, and which may also be used temporarily as real estate sales office for lots in the residential subdivision.		●	●	●	●	●

Use	Definition	Specific Regulations	R-I-A	R-I	N-C	R-II	R-O
Relocated residential structure	Relocated residential structure: A detached, site-built single-family dwelling or single-family residential industrialized building (i.e., excluding a manufactured home or mobile home) that is moved or disassembled into more than one structure and moved to another site, whether temporarily or permanently.	9-10-2-4 9-10-2-6	●	●	●	●	●
RECREATIONAL USES			**R-I-A**	**R-I**	**N-C**	**R-II**	**R-O**
Community recreation facility	Community recreation facility: A private recreational facility for use solely by the residents and guests of a particular residential development and located within the boundaries of such development, which may include any of the following: indoor facilities such as community meeting rooms; and outdoor facilities such as swimming pools, tennis courts, and playgrounds.	9-10-2-1	●	●	●	●	●
Conservation area	Conservation area: Any land set aside for conservation of the land in its natural state.		●	●	●	●	●
Golf course as part of residential subdivision	Golf course as part of residential subdivision: A recreational facility involving the game of golf, designed within or around but on the same development site as a residential subdivision, for members which include but may not be limited to residents of the residential subdivision of which it is a part.		○	○	○	○	X
INSTITUTIONAL USES	**Definition**	**Specific Regulations**	**R-I-A**	**R-I**	**N-C**	**R-II**	**R-O**
Cemetery	Cemetery: The use of property as a burial place.		X	○	○	○	○
Church, temple, synagogue, or place of worship	Church: A building or structure, or group of buildings or structures, which by design and construction are primarily intended for conducting organized religious services. Associated accessory uses include but are not limited to: schools, meeting halls, indoor recreational facilities, unlighted outdoor recreational facilities, day care, counseling, and kitchens. This term includes synagogues, temples, and other places of worship.	9-10-5-1	●	●	●	●	●

Use	Definition	Specific Regulations	R-I-A	R-I	N-C	R-II	R-O
Club or lodge, nonprofit	Club or lodge, nonprofit: A building or premises, used for associations or organizations of an educational, fraternal, or social character, not operated or maintained for profit. Representative organizations include Elks, Veterans of Foreign Wars, and Lions and for youth activities such as boys and girls clubs. This term includes civic, social, fraternal organizations operating on a nonprofit basis. The term shall not include casinos, nightclubs, bottle clubs, or other establishments operated or maintained for profit.	9-10-5-2	○	○	○	○	○
Continuing care retirement community	Continuing care retirement community: A residential facility providing multiple, comprehensive services to older adults. Such facility normally contains a combination of independent living units, assisted living, and skilled nursing care units.	9-10-5-3	**X**	**X**	**X**	○	○
Crisis Center	Crisis center: A facility or portion thereof and premises that are used for the purposes of emergency shelter, crisis intervention, including counseling, referral, hotline response, and similar human social service functions. Said facility may include meal preparation, distribution, or service for residents of the center as well as nonresidents, merchandise distribution, or shelter, including boarding, lodging, or residential care. This term includes domestic violence and centers, homeless shelters, and halfway houses.		**X**	**X**	**X**	○	○
Group home	Group home: A single household of four (4) or more unrelated persons, whether or not they are developmentally disabled, and whether or not they are under the supervision of a resident manager.	9-10-5-5	**X**	**X**	**X**	○	○
Institutionalized residential living and care facilities, serving eighteen (18) persons or less	Institutional residential living and care facility: An umbrella term that encompasses the following uses: assisted living facility, convalescent home, personal care home, intermediate care home, nursing home, and skilled nursing care facility.	9-10-5-4	**X**	**X**	**X**	○	○
Rooming house	Rooming house: A single household within which a resident family or manager offers lodging or lodging and meals to two or more unrelated adults in exchange for monetary compensation or other consideration.	9-10-5-5	**X**	**X**	**X**	○	○
School, private: elementary, middle, or high	School, private, elementary, middle, or high: An educational use for students in grades K through twelve or for only certain ranges of grades K through twelve, not operated by the City of Gainesville School System or the Hall County Board of Education, which has a curriculum at least equal to a public school with regard to the branches of learning and study required to be taught in the public schools of the state of Georgia.		●	●	●	●	●

Use	Definition	Specific Regulations	R-I-A	R-I	N-C	R-II	R-O
School, professional	An educational institution with a curriculum and offering instruction in a profession devoted primarily to business, such as but not limited to dancing, acting, barbers and beauticians, broadcasting, bartending, and including medical specialties (e.g., therapeutic massage). This is distinguished from a trade school and other types of schools as defined.		X	X	X	X	●
School, special	School, special: An educational use not operated by the City of Gainesville School System or Hall County Board of Education that provides special education to more than two students at a time, including but not limited to the training of gifted, learning disabled, and mentally or physically handicapped persons.		○	○	○	○	●
OFFICE AND COMMERCIAL USES			**R-I-A**	**R-I**	**N-C**	**R-II**	**R-O**
Adaptive reuse of a detached single-family dwelling for an office	Adaptive reuse of a detached single-family dwelling: The conversion of a detached, single-family dwelling to a new, different use.		X	X	X	X	●
Adaptive reuse of a detached single-family dwelling for personal service establishment	Adaptive reuse of a detached single-family dwelling: The conversion of a detached, single-family dwelling to a new, different use.		X	X	X	X	○
Adaptive reuse of a detached single-family dwelling for a restaurant without drive-through	Adaptive reuse of a detached single-family dwelling: The conversion of a detached, single-family dwelling to a new, different use.		X	X	X	X	○
Adaptive reuse of a detached single-family dwelling for an enclosed retail establishment	Adaptive reuse of a detached single-family dwelling: The conversion of a detached, single-family dwelling to a new, different use.		X	X	X	X	○
Bed and breakfast inn	Bed and breakfast inn: A business establishment operated within a dwelling by the owner-occupant, offering temporary lodging and one or more meals to the traveling public while away from their normal places of residence.	9-10-6-2	X	X	X	X	○
Business service establishment, not exceeding 2,500 square feet of gross floor area	Business service establishment: The use of a building or premises primarily for rendering a service to other business establishments on a contract or fee basis, such as advertising, credit reporting, computer programming and data processing, photocopying, blueprinting and duplication services, commercial art and graphic design, mailing agencies, employment services, detective, protective, and security system services, accounting, auditing, and bookkeeping services, messenger services and couriers, business consulting firms, interior decorating, and locksmiths. This use is distinguished from an “office” use in that business service establishments have frequent visitations by patrons or clients of such business services.		X	X	X	X	○

Use	Definition	Specific Regulations	R-I-A	R-I	N-C	R-II	R-O
Clinic	Clinic: An institution or professional office, other than a hospital or nursing home, where persons are counseled, examined, and/or treated by one or more persons providing any form of healing or medical health service. Persons providing these services may offer any combination of counseling, diagnostic, therapeutic or preventative treatment, instruction, or services, and which may include medical, physical, psychological, or mental services and facilities for primarily ambulatory persons. Patients are not lodged overnight and are admitted for examination or treatment requiring only short (e.g., a matter of a few hours) recovery time.		X	X	X	X	○
Custom order shop	Custom order shop: A business establishment that offers merchandise but which maintains no merchandise inventory on site other than display items (which shall not be visible from the exterior of the building).		X	X	X	X	○
Day care center serving eighteen (18) persons or less	Day care center: Any place operated by a person, society, agency, corporation, institution or group, and licensed or registered by the State of Georgia as a group day care home or day care center, wherein are received for pay for group supervision and care, for fewer than twenty-four (24) hours per day, seven (7) or more children under eighteen (18) years of age.	9-10-6-4	X	X	X	○	○
Museum	Museum: A building having public significance by reason of its architecture or former use or occupancy, or a building serving as a repository for a collection of natural, scientific, literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be viewed by members of the public with or without an admission fee, and which may include as an accessory use the sale of snacks and goods to the public as gifts or for their own use.		X	X	X	X	●
Office	Office: A building or portion thereof wherein services are performed involving predominantly administrative, professional or clerical operations and not involving retail sales or other sales of any kind, or business service establishments on the premises.		X	X	X	X	●
Personal service establishment, 2,500 square feet or less of gross floor area per establishment	Personal service establishment: A facility engaged in the provision of services to persons and their apparel, including but not limited to barber and beauty shops, coin-operated laundromats, full-service laundries, dry cleaners, photographic studios, massage therapy, shoe repair and shoeshine shops, tattoo parlor and travel agencies.		X	X	X	X	○
Special event facility	Special event facility: A facility or assembly hall available for lease by private parties or special events such as weddings.		X	X	X	X	○

Use	Definition	Specific Regulations	R-I-A	R-I	N-C	R-II	R-O
OTHER USES							
Mixed-use building	Mixed-use building: A building designed, planned and constructed as a unit, used partially for residential use and partially for office, personal service, retail, entertainment or public uses. This term includes live-work units, which are jointly used for commercial and residential purposes but where the residential use of the space is secondary or accessory to the primary use as a place of work.		**X**	**X**	**X**	**X**	○
Public use	Public use: Any building, structure, or use owned and/or operated by the federal government, state of Georgia, Hall County or other County, the City of Gainesville, another municipality, or any authority, agency, board, or commission of the above governments, that is necessary to serve a public purpose, such as but not limited to the following: government administrative buildings, post offices, police and fire stations, schools, libraries and publicly operated museums, public health facilities and public hospitals, public works camps, parks and community centers, public roads and streets, airports, water and sanitary sewerage intake, collection, pumping, treatment, and storage facilities, emergency medical facilities, and jails and correctional facilities.		●	●	●	●	●
Utility company substation	Utility company substation: A facility used for the transmission or distribution of services provided by a utility company, such as an electrical transformer station, telephone junction box, cable box, television box, or natural gas regulator station.	9-10-10-4	●	●	●	●	●
ACCESSORY USES			**R-I-A**	**R-I**	**N-C**	**R-II**	**R-O**
Accessory use or structure	Accessory use or structure: A use or structure that is permitted on a property in conjunction with a principal use. An accessory use or structure is incidental to the principal use and would not exist independent of the principal use.	9-10-1-1 9-10-3-2	●	●	●	●	●
Accessory apartment, detached 	Accessory apartment, detached: A second dwelling unit that is added to an existing accessory structure (e.g., residential space above a detached garage), or as a new freestanding accessory building, for use as a complete, independent living facility for a single household, with provision within the accessory apartment for cooking, eating, sanitation and sleeping. Such a dwelling is considered an accessory use to the principal dwelling. Includes the term garage apartment.	9-10-3-4	**X**	**X**	**X**	●	●

Use	Definition	Specific Regulations	R-I-A	R-I	N-C	R-II	R-O
Accessory apartment, attached	Accessory apartment, attached: A second dwelling unit that is added to the structure of an existing site-built single-family dwelling or residential industrialized building, for use as a complete, independent living facility for a single household, with provision within the accessory apartment for cooking, eating, sanitation and sleeping (e.g., "in-law suite"). Such a dwelling is considered an accessory use to the principal dwelling.	9-10-3-4	X	X	X	●	●
Construction field office	Construction field office: A building or structure temporarily located on a site under development and/or construction which houses offices of the construction contractor. Includes the term "construction trailer."		●	●	●	●	●
Family day care home	Family day care home: A private residence in which a business, registered by the State of Georgia, is operated by any person who receives therein (for pay) for supervision and care for fewer than twenty-four (24) hours per day, three (3) to not more than six (6) children under eighteen (18) years of age who are not residents in the same private residence. For purposes of this Unified Land Development Code, a family day care home may be operated as a home occupation, subject to the requirements of this Ordinance.	Chapter 9-10-4	●	●	●	●	●
Guest house	Guest house: An accessory use to a dwelling designed and intended for the occasional housing of visitors to a property at the behest of the property residents for no fee or other consideration, not rented or otherwise used as a separate dwelling.	9-10-3-3	●	●	●	●	●
Home occupation	Home occupation: Any use, occupation or activity conducted entirely within a dwelling by the residents thereof, which is clearly incidental and secondary to the use of the dwelling for residence purposes and does not change the character thereof.	Chapter 9-10-4	●	●	●	●	●
Tower, amateur radio	Tower, amateur radio: A freestanding or building-mounted structure, including any base, tower or pole, antenna, and appurtenances, intended for airway communication purposes by a person holding a valid amateur radio (HAM) license issued by the Federal Communications Commission.		○	○	○	○	○

Use	Definition	Specific Regulations	R-I-A	R-I	N-C	R-II	R-O
Yard sale	Yard sale: The temporary sale of home furniture, appliances, clothing and/or domestic items owned by an occupant of a residential dwelling and taking place on the premises on which such occupant resides, whether in the yard or in a carport or garage. Yard sales which do not take place on the premises where such occupant resides are considered open-air businesses, except that this shall not be construed to prevent the sale of such items by another family or household in connection with an event where such items are sold by the occupant of a residence on the premises where the yard sale occurs. This term includes garage sales.	9-10-3-6	●	●	●	●	●

TABLE 9-5-2
DIMENSIONAL REQUIREMENTS FOR RESIDENTIAL ZONING DISTRICTS

BUILDING AND SITE REQUIREMENTS	**R-I-A**	**R-I**	**N-C**	**R-II**	**R-O**
Maximum residential density (dwelling units per acre)	2.18	2.18	2.18	12.0	12.0
Minimum lot size, detached single-family dwelling (square feet)	20,000	20,000*	20,000*	7,500	10,000
Minimum lot size, two-family dwelling (square feet)	NP	NP	NP	7,500	10,000
Minimum lot size for other permitted uses (square feet)	20,000	20,000	20,000	7,500	10,000
Minimum road frontage (feet)	40	40	40	40	40
Minimum lot width, all uses (feet)	100	75	60	60	75
Maximum building coverage (percent of lot area)	20	25	25	35	35
Maximum impervious surface coverage (percent of lot area)	40	50	50	60	60
Minimum landscaped open space for non-single-family residential use if permitted (percent of lot area)	20	20	20	20	20
HEIGHT REQUIREMENTS	**R-I-A**	**R-I**	**N-C**	**R-II**	**R-O**
Maximum height (feet)	50	50	50	60	50
Maximum height (number of stories)	3	3	3	4	3
PRINCIPAL BUILDING SETBACKS AND BUFFERS	**R-I-A**	**R-I**	**N-C**	**R-II**	**R-O**
Front setback, all streets (feet)	40	30	30	30	30
Side setback (unless otherwise specified) (feet)	15	10	10	10	10
Rear setback (unless otherwise specified) (feet)	25	20	20	20	20
Side or rear vegetative/structural buffer** when abutting an R-I-A, R-I, or N-C district (feet)	-	-	-	20	20
Corps of Engineers property line (unless otherwise specified) (feet)	-	-	-	-	-
ACCESSORY BUILDING SETBACKS AND BUFFERS	**R-I-A**	**R-I**	**N-C**	**R-II**	**R-O**
Front setback (feet)	NP	NP	NP	NP	NP
Side setback (unless otherwise specified) (feet)	10	10	10	10	10
Rear setback (unless otherwise specified) (feet)	10	10	10	10	10
Side or rear vegetative/structural buffer** and building setback when abutting an R-I-A, R-I, or N-C district (feet)	10	10	10	20	20

Corps of Engineers property line (unless otherwise specified) (feet)	-	-	-	-	-
LANDSCAPE STRIPS	**R-I-A**	**R-I**	**N-C**	**R-II**	**R-O**
Minimum landscape strip required along right-of-ways for any non-single-family residential use (width in feet)	20	20	20	20	20
Minimum landscape strip required along right-of-way of existing street for any residential subdivision involving a new street with more than five lots (along that part of the frontage not used for the new street). Plantings within landscape strips shall not obstruct sight visibility triangle easements.	20	20	20	20	20

NP = Not Permitted

*Lot size may be reduced in this zoning district to 10,000 square feet within infill residential development projects, subject to the requirements of Chapter 9-10-12.

** Required zoning buffers may be reduced in width with installation of a structural buffer as provided in Chapter 9-16-2 of this Unified Land Development Code.

ARTICLE 9-6
NONRESIDENTIAL ZONING DISTRICTS

CHAPTER 9-6-1	O-I	OFFICE AND INSTITUTIONAL DISTRICT	6-1
CHAPTER 9-6-2	N-B	NEIGHBORHOOD BUSINESS DISTRICT	6-2
CHAPTER 9-6-3	C-B	CENTRAL BUSINESS DISTRICT	6-3
CHAPTER 9-6-4	R-B	REGIONAL BUSINESS DISTRICT	6-4
CHAPTER 9-6-5	G-B	GENERAL BUSINESS DISTRICT	6-5
CHAPTER 9-6-6	L-I	LIGHT INDUSTRIAL DISTRICT	6-6
CHAPTER 9-6-7	H-I	HEAVY INDUSTRIAL DISTRICT	6-7

CHAPTER 9-6-1
O-I OFFICE AND INSTITUTIONAL DISTRICT

Section 9-6-1-1. Purpose and Intent.
Section 9-6-1-2. Permitted and Special Uses.
Section 9-6-1-3. Dimensional Requirements.

Section 9-6-1-1. Purpose and Intent.

Within an Office and Institutional (O-I) district a variety of offices, professional offices, institutions, and public offices are permitted, but only those not involving the sale, wholesale, storage, or processing of merchandise. Multi-family residences are permitted as a special use.

Areas zoned to this classification are not intended to be retail centers, commercial, or industrial activities. Rather, it is the intent of the district to provide locations for a wide range of open, uncrowded sites for offices, professional offices, institutions, and residences. The district is primarily intended to be located along arterial streets, but it can also be located in areas dominated by institutions such as a college, where a wide range of land uses are required.

In some cases, this district may be appropriate as a transition between commercial and residential zoning districts.

Section 9-6-1-2. Permitted and Special Uses.

Permitted and special uses shall be as provided in Table 9-6-1, “Permitted and Special Uses for Nonresidential Zoning Districts.”

Section 9-6-1-3. Dimensional Requirements.

Dimensional requirements shall be as provided in Table 9-6-2, “Dimensional Requirements for Nonresidential Zoning Districts.”

CHAPTER 9-6-2
N-B NEIGHBORHOOD BUSINESS DISTRICT

Section 9-6-2-1. Purpose and Intent.
Section 9-6-2-2. Permitted and Special Uses.
Section 9-6-2-3. Dimensional Requirements.

Section 9-6-2-1. Purpose and Intent.

The Neighborhood Business zoning district is intended to implement the neighborhood commercial category of the future land use map. These districts are envisioned to form nodes of development containing a total of 10,000 to 50,000 square feet of small-scale buildings on sites totaling 2 to 5 acres, serving a population of approximately 2,500 to 5,000 living within a 1 to 2-mile radius. Such areas are typically made up of small shops and offices, possibly anchored by a small neighborhood grocery or drug store.

Within a Neighborhood Business (N-B) District a limited range of retailing and service activities are permitted. These limitations apply regarding both size and character of individual establishments. All of the uses permitted in this district shall be conducted inside buildings.
This zoning district excludes most highway-oriented and automobile-related sales and service establishments and uses that rely on passer-by traffic from highways. Most of the uses permitted in this zoning district are not auto-oriented in nature, and the overall character of neighborhood business districts is such that access by both vehicles and pedestrians is possible.

Section 9-6-2-2. Permitted and Special Uses.

Permitted and special uses shall be as provided in Table 9-6-1, “Permitted and Special Uses for Nonresidential Zoning Districts.”

Section 9-6-2-3. Dimensional Requirements.

Dimensional requirements shall be as provided in Table 9-6-2, “Dimensional Requirements for Nonresidential Zoning Districts.”

In addition to the provisions of Table 9-6-2, buildings shall observe the following requirement:

No individual establishment shall exceed 50,000 square feet of gross floor area total or 18,000 square feet of gross floor area on the ground level floor.

CHAPTER 9-6-3
C-B CENTRAL BUSINESS DISTRICT

Section 9-6-3-1. Purpose and Intent.
Section 9-6-3-2. Permitted and Special Uses.
Section 9-6-3-3. Dimensional Requirements.

Section 9-6-3-1. Purpose and Intent.

The Central Business (C-B) District provides for the most intensive use of land for retail, service and office uses. The district is intended to provide a compact, pedestrian-friendly area of economic activity in the city. Activities in the C-B district are not normally oriented to serving residential areas in the same manner are as the neighborhood shopping and general business zoning districts.

This district is unique in that the existing development pattern consists of buildings covering very large percentages of the lot, little if any building setbacks on front, side, and rear property lines, and a lack of off-street parking sufficient to meet the requirements of other commercial zoning districts. This district is distinguished from other commercial zoning districts in that greater building coverage is permitted and yard requirements are minimal. Permitted uses are those that contribute to a pedestrian-friendly central business district. Automobile-related facilities and services are not appropriate to this character and are restricted in this zoning district.

Section 9-6-3-2. Permitted and Special Uses.

Permitted and special uses shall be as provided in Table 9-6-1, “Permitted and Special Uses for Nonresidential Zoning Districts.”

Section 9-6-3-3. Dimensional Requirements.

Dimensional requirements shall be as provided in Table 9-6-2, “Dimensional Requirements for Nonresidential Zoning Districts.”

CHAPTER 9-6-4
R-B REGIONAL BUSINESS DISTRICT

Section 9-6-4-1. Purpose and Intent.
Section 9-6-4-2. Permitted and Special Uses.
Section 9-6-4-3. Dimensional Requirements.

Section 9-6-4-1. Purpose and Intent.

The purpose of the Regional Business (R-B) District shall be to provide for the grouping of certain uses for the shopping convenience of consumers and the efficient provision of parking for business patrons in a manner that minimizes the impact of traffic on the street network and that minimizes the adverse visual and other impacts of loading, storage, and building service areas on surrounding properties and on the view from public streets.

This district provides areas for those business and commercial uses which primarily serve the public traveling by automobile and which benefit from direct access to highways. Such districts are generally designed so that the automobile has precedence over the pedestrian, although pedestrian access is required.

Section 9-6-4-2. Permitted and Special Uses.

Permitted and special uses shall be as provided in Table 9-6-1, “Permitted and Special Uses for Nonresidential Zoning Districts.”

Section 9-6-4-3. Dimensional Requirements.

Dimensional requirements shall be as provided in Table 9-6-2, “Dimensional Requirements for Nonresidential Zoning Districts.”

CHAPTER 9-6-5
G-B GENERAL BUSINESS DISTRICT

Section 9-6-5-1. Purpose and Intent.
Section 9-6-5-2. Permitted and Special Uses.
Section 9-6-5-3. Dimensional Requirements.

Section 9-6-5-1. Purpose and Intent.

Within the General Business (G-B) District, a wide range of office, retailing, commercial activities, and services are permitted. The permitted uses have more off-site impacts on residential areas and other adjoining land uses than neighborhood commercial areas. This district typically serves a larger number of patrons than neighborhood commercial districts.

This district provides areas for those business and commercial uses which primarily serve the public traveling by automobile and which benefit from direct access to highways. Such districts are generally designed so that the automobile has precedence over the pedestrian, although pedestrian access is required.

Section 9-6-5-2. Permitted and Special Uses.

Permitted and special uses shall be as provided in Table 9-6-1, “Permitted and Special Uses for Nonresidential Zoning Districts.”

Section 9-6-5-3. Dimensional Requirements.

Dimensional requirements shall be as provided in Table 9-6-2, “Dimensional Requirements for Nonresidential Zoning Districts.”

CHAPTER 9-6-6
L-I LIGHT INDUSTRIAL DISTRICT

Section 9-6-6-1. Purpose and Intent.
Section 9-6-6-2. Permitted and Special Uses.
Section 9-6-6-3. Dimensional Requirements.

Section 9-6-6-1. Purpose and Intent.

The Light Industrial (L-I) District is intended to provide areas where light manufacturing uses that primarily involve finishing, fabrication or assembly of previously manufactured parts may be located. The district's proximity to residential and other districts makes it desirable to limit industrial operations to those that are not objectionable due to generation of noise, vibration, smoke, dust, gas, fumes, odors, or radiation and that do not create fire or explosion hazards or other objectionable conditions. The district is intended to exclude manufacturing or industrial uses that emit noxious odors, dust, fumes, gas, noise or vibration outside of any building on the premises.

The industries locating in this district are characterized as lower in intensity, cleaner, and generally more compatible when located adjacent to commercial areas than are heavy industrial uses. Such industries are capable of operation in a manner so as to control the external effects of the manufacturing process through prevention or mitigation devices and conduct of operations within the confines of buildings.

Section 9-6-6-2. Permitted and Special Uses.

Permitted and special uses shall be as provided in Table 9-6-1, "Permitted and Special Uses for Nonresidential Zoning Districts."

Section 9-6-6-3. Dimensional Requirements.

Dimensional requirements shall be as provided in Table 9-6-2, "Dimensional Requirements for Nonresidential Zoning Districts."

CHAPTER 9-6-7
H-I HEAVY INDUSTRIAL DISTRICT

Section 9-6-7-1. Purpose and Intent.
Section 9-6-7-2. Permitted and Special Uses.
Section 9-6-7-3. Dimensional Requirements.

Section 9-6-7-1. Purpose and Intent.

The Heavy Industrial (H-I) District is intended for the location of primarily light and heavy manufacturing uses with limited restrictions on off-site impacts such as noxious odors, dust, fumes, gas, noise, and vibration. Some permitted or special uses may be objectionable due to the emission of noise, vibration, smoke, dust, gas, fumes, odors, or radiation and that may create fire or explosion hazards or other objectionable conditions. Special uses in this district include those uses known to create a severe safety hazard or to be major producers of air pollution, thus being subject to state and/or federal environmental controls.

Section 9-6-7-2. Permitted and Special Uses.

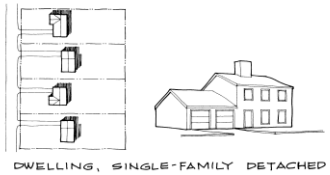
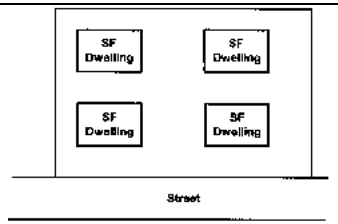
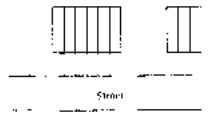
Permitted and special uses shall be as provided in Table 9-6-1, “Permitted and Special Uses for Nonresidential Zoning Districts.”

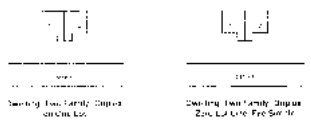
Section 9-6-7-3. Dimensional Requirements.

Dimensional requirements shall be as provided in Table 9-6-2, “Dimensional Requirements for Nonresidential Zoning Districts.”

TABLE 9-6-1
PERMITTED AND SPECIAL USES
FOR NONRESIDENTIAL ZONING DISTRICTS

● = Permitted	○ = Special Use	X = Not Permitted
Permitted use: A use by right which is specifically authorized in a particular zoning district, or permitted by right in a particular overlay zone.	Special use: A use that would not be appropriate generally or without restriction throughout a particular zoning district and is not automatically permitted by right within said zoning district, but which, if controlled as to number, area, location, relation to the neighborhood or other pertinent considerations, may be found to be compatible and approved by the Governing Body in accordance with this Unified Land Development Code. An approved special use runs with the property.	Use is prohibited.

Use		Definition	Specific Regulations	O-I	N-B	C-B	R-B	G-B	L-I	H-I
RESIDENTIAL USES										
Dwelling, single-family detached, fee-simple		Dwelling, single-family detached, fee-simple: A site-built residential building, or a single-family residential industrialized building designed for occupancy by one family only, where each dwelling it located on its own lot. This term does not include manufactured homes or mobile homes.	9-10-2-6	○	○	X	X	X	X	X
Dwelling, single-family detached, condominium	 Dwelling, Single-Family Detached, Condominium	Dwelling, single-family detached, condominium: A site-built residential building, or residential industrialized building designed for occupancy by one family only, where more than one dwelling is located on a single lot and the land is owned in common. This term does not include manufactured homes or mobile homes.	9-10-2-3	○	○	X	X	X	X	X
Dwelling, single-family attached (town-house)	 Townhouses (Attached Single Family Fee Simple)	Dwelling, single-family attached, fee-simple (townhouse): One (1) of a group of three or more single-family, attached dwelling units under fee simple ownership. Attached single-family dwellings that are not under fee-simple ownership are considered row houses (multi-family dwellings).	9-10-2-5	○	○	X	X	X	X	X

Use	Definition	Specific Regulations	O-I	N-B	C-B	R-B	G-B	L-I	H-I
Dwelling, two-family (duplex)	 Dwelling, two-family (duplex): A building designed or arranged to be occupied by two (2) families living independently of each other. The building contains two dwelling units either on one lot, or, each dwelling is located on its own lot in fee-simple title and the two dwelling units are attached along a common property line.	9-10-2-6	○	○	X	X	X	X	X
Dwelling, multiple-family, including apartments, condominiums, and cooperatives	Dwelling, multi-family: A building other than a duplex, designed for or occupied exclusively by three (3) or more families with separate household facilities for each family. This term includes attached residential condominiums, row houses (not fee-simple ownership) and apartments.	9-10-2-3	○	○	●	X	X	X	X
RECREATIONAL USES			**O-I**	**N-B**	**C-B**	**R-B**	**G-B**	**L-I**	**H-I**
Community recreation facility	Community recreation facility: A private recreational facility for use solely by the residents and guests of a particular residential development and located within the boundaries of such development, which may include any of the following: indoor facilities such as community meeting rooms; and outdoor facilities such as swimming pools, tennis courts, and playgrounds.	9-10-2-1	●	●	X	X	X	X	X
Conservation area	Conservation area: Any land set aside for conservation of the land in its natural state.		●	●	●	●	●	●	●
INSTITUTIONAL USES			**O-I**	**N-B**	**C-B**	**R-B**	**G-B**	**L-I**	**H-I**
Aircraft landing area	Aircraft landing area: Any landing area, runway, or other facility designed, used, or intended to be used for the taking off or landing of aircraft and which may include, aircraft storage, tie-down areas, hangars, and other necessary buildings and appurtenances. Includes private use heliports. May be a principal or accessory use.	9-10-10-1	○	X	X	X	○	○	○
Cemetery	Cemetery: The use of property as a burial place.		X	X	X	X	●	●	●
Church, temple, synagogue, or place of worship	Church: A building or structure, or group of buildings or structures, which by design and construction are primarily intended for conducting organized religious services. Associated accessory uses include but are not limited to: schools, meeting halls, indoor and outdoor recreational facilities, day care, counseling, and kitchens. This term includes synagogues, temples, and other places of worship.	9-10-5-1	●	●	●	●	●	●	●

Use	Definition	Specific Regulations	O-I	N-B	C-B	R-B	G-B	L-I	H-I
Clinic	Clinic: An institution or professional office, other than a hospital or nursing home, where persons are counseled, examined, and/or treated by one or more persons providing any form of healing or medical health service. Persons providing these services may offer any combination of counseling, diagnostic, therapeutic or preventative treatment, instruction, or services, and which may include medical, physical, psychological, or mental services and facilities for primarily ambulatory persons. Patients are not lodged overnight and are admitted for examination or treatment requiring only short (e.g., a matter of a few hours) recovery time.		●	●	●	●	●	●	●
Club or lodge, nonprofit	Club or lodge, nonprofit: A building or premises, used for associations or organizations of an educational, fraternal, or social character, not operated or maintained for profit. Includes places of assembly for organizations like Elks, Veterans of Foreign Wars, and Lions and for youth activities such as boys and girls clubs. The term shall not include casinos, nightclubs, bottle clubs, or other establishments operated or maintained for profit.	9-10-5-2	●	●	●	●	●	●	●
College or university	College or university: An educational use, public or private, that provides training beyond and in addition to that training received in the 12th grade (i.e., undergraduate and graduate), and which has students regularly attending classes, and which confers an associate, bachelor, master, and/or doctoral degree(s). This term may include other ancillary uses including but not limited to housing, campus dormitories, book store, library and cafeteria.		●	●	●	●	●	●	●
Continuing care retirement community	Continuing care retirement community: A residential facility providing multiple, comprehensive services to older adults. Such facility normally contains a combination of independent living units, assisted living, and skilled nursing care units.	9-10-5-3	○	○	●	●	●	X	X
Crisis center	Crisis center: A facility or portion thereof and premises that are used for the purposes of emergency shelter, crisis intervention, including counseling, referral, hotline response, and similar human social service functions. Said facility may include meal preparation, distribution, or service for residents of the center as well as nonresidents, merchandise distribution, or shelter, including boarding, lodging, or residential care. This term includes domestic violence and centers, homeless shelters, and halfway houses.		○	○	○	○	●	●	●
Group home	Group home: A single household of four (4) or more unrelated persons, whether or not they are developmentally disabled, and whether or not they are under the supervision of a resident manager.	9-10-5-5	○	○	○	○	●	X	X
Hospital	Hospital: An institution licensed by the state and providing primary health services and medical or surgical care to persons, primarily in-patients, suffering from illness, disease, injury, deformity or other abnormal physical or mental conditions, and including as an integral part of the institution, such related facilities as laboratories, outpatient facilities, or training facilities.		●	○	○	○	●	●	●

Use	Definition	Specific Regulations	O-I	N-B	C-B	R-B	G-B	L-I	H-I
Institutionalized residential living and care facilities, serving eighteen (18) persons or less	Institutional residential living and care facility: An umbrella term that encompasses the following uses: assisted living facility, convalescent home, personal care home, intermediate care home, nursing home, and skilled nursing care facility.	9-10-5-4	●	●	○	●	●	X	X
Institutionalized residential living and care facilities, serving more than eighteen (18) persons		9-10-5-4	○	○	○	●	●	X	X
Rooming house	Rooming house: A site-built single-family dwelling unit or single-family residential industrialized building within which a resident family or manager offers lodging or lodging and meals to two or more unrelated adults in exchange for monetary compensation or other consideration.	9-10-5-5 9-10-2-6	○	○	○	○	●	X	X
School for the arts	School for the arts: An educational use not operated by the City of Gainesville School System or the Hall County Board of Education that offers or provides instruction to more than two students at a time in dance, singing, music, painting, sculpting, fine arts, or martial arts.		●	●	●	●	●	●	●
School, private, elementary, middle, or high	School, private, elementary, middle, or high: An educational use for students in grades K through twelve or for only certain ranges of grades K through twelve, not operated by the City of Gainesville School System or the Hall County Board of Education, which has a curriculum at least equal to a public school with regard to the branches of learning and study required to be taught in the public schools of the state of Georgia.		●	●	●	●	●	●	●
School, professional	An educational institution with a curriculum and offering instruction in a profession devoted primarily to business, such as but not limited to dancing, acting, barbers and beauticians, broadcasting, bartending, and including medical specialties (e.g., therapeutic massage). This is distinguished from a trade school and other types of schools as defined.		●	●	●	●	●	●	●
School, special	School, special: An educational use not operated by the City of Gainesville School System or Hall County Board of Education that provides special education to more than two students at a time, including but not limited to the training of gifted, learning disabled, and mentally or physically handicapped persons.		●	●	●	●	●	●	●
School, trade	School, trade: An educational use not operated by the City of Gainesville School System or Hall County Board of Education and having a curriculum devoted primarily to business industry, trade, or other vocational-technical instruction.		X	X	●	●	●	●	●

Use	Definition	Specific Regulations	O-I	N-B	C-B	R-B	G-B	L-I	H-I
OFFICE AND COMMERCIAL USES			**O-I**	**N-B**	**C-B**	**R-B**	**G-B**	**L-I**	**H-I**
Automobile sales, service, or repair establishment	Automobile sales or service establishment: New or used car, truck, tractor, trailer, boat, recreational vehicle, camper, motorcycle, and other motorized vehicle sales, leasing, rental, and/or service, agricultural implements and equipment, and similar pieces of equipment of vehicle. This definition includes automotive services such as rental car facilities, top and body, paint, automotive glass, transmission, tire sales and repair shops, car washes, and oil change and lubrication facilities. This term includes boat dealers.	9-10-6-1	X	X	X	○	●	●	●
Automobile fuel service stations	Service and fuel filling station: Any building, structure or land use for the retail sale of motor vehicle fuel and oil accessories, and which may include the servicing of motor vehicle, such as the sale, replacement, or servicing of spark plugs, oil, water hoses, brake fluids, batteries, distributors, tires, carburetors, brakes, fuel pumps, or similar service items. Major repairs, body repairs and painting of motor vehicles shall be considered under Automobile sales, service, or repair establishment. This term does not include a truck stop.	9-10-6-10 9-10-7-3	X	X	●	●	●	●	●
Bank or financial establishment	Financial establishment: A business that accepts money for deposit into accounts from the general public or other financial institutions, and which may include personal or business loans, wire transfers and safe deposit boxes. Such uses include but are not limited to banks, savings and loan institutions and credit unions, and security and commodity exchanges.		●	●	●	●	●	●	●
Bed and breakfast inn	Bed and breakfast inn: A business establishment operated within a dwelling by the owner-occupant, offering temporary lodging and one or more meals to the traveling public while away from their normal places of residence.	9-10-6-2	●	●	●	●	●	●	●
Broadcasting studio	Broadcasting studio: A building or structure operated as a radio or television broadcasting studio or station with local broadcast capability or intended for satellite distribution of programs, and usually including satellite dishes, microwave dishes, and/or other communications equipment.		○	●	●	●	●	●	●
Building materials sales	Building materials sales: An establishment offering lumber or other construction materials used in buildings for sale to contractors or the general public. When operated in whole or part outside the confines of a building, a building materials sales establishment is an open air business.		X	X	○	●	●	●	●
Business service establishment	Business service establishment: The use of a building or premises primarily for rendering a service to other business establishments on a contract or fee basis, such as advertising, credit reporting, computer programming and data processing, photocopying, blueprinting and duplication services, commercial art and graphic design, mailing agencies, employment services, detective, protective, and security system services, accounting, auditing, and bookkeeping services, messenger services and couriers, business consulting firms, interior decorating, locksmiths, and uniform rental and cleaning.		●	●	●	●	●	●	●

Use	Definition	Specific Regulations	O-I	N-B	C-B	R-B	G-B	L-I	H-I
Camp or campground	Camp or campground: Any place established or maintained for two or more individual spaces or sites for temporary living quarters in cabins, structures, or tents for recreation or vacation purposes for a fee.		X	X	X	●	●	●	●
Carnival, circus, or festival	Carnival, circus, or festival: Any use which constitutes a traveling or transportable group or aggregation of rides, shows, gaming booths, and concessions and where the public either pays admission or participation fees.	9-10-8-2	X	X	●	●	●	●	●
Commercial recreational facility, indoor	Commercial recreational facility, indoor: A use that takes place within an enclosed building that involves the provision of sports and leisure activities to the general public for a fee, including but not limited to the following: assembly halls, auditoriums, meeting halls, for-profit art galleries, billiard halls and pool rooms, amusement halls, video arcades, ice and roller skating rinks, bowling alleys, and fully-enclosed theaters.		X	○	●	●	●	●	●
Commercial recreational facility, outdoor	Commercial recreational facility, outdoor: A use of land and/or buildings that involves the provision of sports and leisure activities to the general public for a fee, and which all or part of the activities occur outside of a building or structure, including but not limited to the following: amusement parks, stadiums, amphitheaters, fairgrounds, drive-in theaters, golf driving ranges, miniature golf courses, batting cages, race tracks for animals or motor-driven vehicles, archery ranges, unenclosed firearms shooting ranges, fish ponds, botanical and zoological gardens, ultra-light flight parks, and bungi jumping.	9-10-6-3 9-10-6-5 9-10-6-7 9-10-6-8	X	X	X	○	○	○	○
Consumer fireworks retail sales facility	Shall have the same meaning as provided for by the National Fire Protection Association Standard 1124, *Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles,* 2006 Edition (NFPA 1124).		X	X	X	X	X	●	X
Contractor's establishment	Contractor's establishment: An establishment engaged in the construction of buildings, engaged in heavy construction (such as streets, bridges or utilities), or specialized in such construction trades as building, grading, paving, roofing, carpentry, plumbing, heating and air-conditioning, electrical wiring, masonry, well drilling, landscaping, or house painting. Such establishments usually involve the storage of material and the overnight parking of commercial vehicles.		X	X	X	●	●	●	●
Convenience store without fuel pumps	Convenience store: A building or premises involving the sale of cold drinks, packaged foods, tobacco, and similar household convenience goods. Convenience stores may also be grouped with restaurants and the retail sale of gasoline or diesel fuel, in locations where permitted.		X	●	●	●	●	●	●
Convenience store with fuel pumps		9-10-7-3	X	○	●	●	●	●	●
Country club	Country club: A club with recreational facilities for members, their families, and invited guests. This term is distinguished from community recreation and golf courses within planned residential communities.		X	X	X	●	●	●	●
Custom order shop	Custom order shop: A business establishment that offers handmade or special order merchandize, on of a kind original art work, home furnishings or similar merchandise, but which maintains no inventory on site other than display items.		●	●	●	●	●	●	●

Use	Definition	Specific Regulations	O-I	N-B	C-B	R-B	G-B	L-I	H-I
Day care center serving eighteen (18) persons or less	Day care center: Any place operated by a person, society, agency, corporation, institution or group, and licensed or registered by the State of Georgia as a group day care home or day care center, wherein are received for pay for group supervision and care, for fewer than twenty-four (24) hours per day, seven (7) or more children under eighteen (18) years of age.	9-10-6-4	●	●	●	●	●	●	●
Day care center serving more than eighteen (18) persons		9-10-6-4	○	●	●	●	●	●	●
Exterminator	Exterminator: A business establishment engaged in pest control.		X	●	●	●	●	●	●
Funeral home, mortuary, or mausoleum	Funeral home: A building used for human funeral services. Such building contains a chapel and may include space and facilities for embalming and the performance of other services used in the preparation of the dead for burial or cremation, the performance of autopsies and other surgical procedures, the indoor storage of caskets, funeral urns, and other related funeral supplies, and/or the indoor storage of funeral vehicles.		X	○	○	○	●	●	●
Health spa	Health spa: An establishment which for profit or gain provides as one of its primary purposes, services or facilities which are purported to assist patrons improve their physical condition or appearance through change in weight, weight control, treatment, dieting, or exercise, through facilities for exercise including but not limited to running and jogging tracks, exercise equipment, game courts, gymnasium, or swimming facilities. The term includes establishments designated as “reducing salons,” “exercise gyms,” “health studios,” “health clubs,” “fitness studios,” ”day spa,” and other terms of similar import. This term may include other ancillary uses within the establishment such as massage therapy, tanning salons, nail salons, fitness apparel and prepackaged food.		X	●	●	●	●	●	●
Kennel	Kennel: Any facility used for the purpose of commercial boarding of domestic animals or pets such as dogs and cats, and any other customarily incidental treatment of the animals such as grooming, cleaning, selling of pet supplies, or otherwise. This term includes animal grooming services and pet psychologists.		X	X	X	●	●	●	●
Lodging services	Lodging service: A facility that offers temporary (15 days or less in one room) shelter accommodations, or place for such shelter, open to the public for a fee. Includes hotels and motels.		X	X	●	●	●	●	●
Lodging services, extended stay	Lodging services, extended stay: A facility that offers shelter accommodations, or place for such shelter, open to the public for a fee for more than 15 days but not to exceed one month in one room.		X	X	●	●	●	●	●
Marina	Marina: A facility for the mooring, berthing, storing, or securing of watercraft, and which may include boat sales, boat fuel sales, boat construction, boat repair, marine equipment sales, boat and jet ski rental, and other uses clearly incidental to watercraft activities.		X	X	X	X	○	●	●

Use	Definition	Specific Regulations	O-I	N-B	C-B	R-B	G-B	L-I	H-I
Museum	Museum: A building having public significance by reason of its architecture or former use or occupancy, or a building serving as a repository for a collection of natural, scientific, literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be viewed by members of the public with or without an admission fee, and which may include as an accessory use the sale of snacks and goods to the public as gifts or for their own use.		●	●	●	●	●	●	●
Office	Office: A building or portion thereof wherein services are performed involving predominantly administrative, professional or clerical operations and not involving retail sales or other sales of any kind on the premises. Includes medical, dental, clinical, CPA, attorney, and real estate offices among others. This term includes freight agency or shipping coordinators involved in the remote arrangement of freight or cargo transportation.		●	●	●	●	●	●	●
Open-air business	Open air business: Any commercial establishment with the principal use of displaying products in an area exposed to open air on three or more sides, including but not limited to rock yards, nurseries and garden centers and garden supply stores, landscaping companies, lumber and building materials yards, outdoor flea markets, statuaries and monument sales establishments, petroleum dealers and tank sales.		X	X	X	●	●	●	●
Parking lot, off-site	Parking lot, off-site: A parcel of land or portion thereof principally used for the parking or storage of motor vehicles as a commercial enterprise, where a fee is paid for parking.	9-10-1-4	○	○	●	●	●	●	●
Parking structure	Parking structure: A structure or portion thereof composed of one or more levels or floors used exclusively for the parking or storage of motor vehicles. A parking structure may be totally below grade (as in an underground parking garage) or either partially or totally above grade with those levels being either open or enclosed. This permitted use restructure applies whether the parking structure is a principal or accessory use.	9-10-1-4	○	○	●	●	●	●	●
Pawn shop	Pawn shop: A type of used merchandise store in which merchandise is offered as collateral for obtaining loans and wherein such merchandise is offered for sale in recompense for default of loan repayment.		X	X	X	X	●	●	●
Personal service establishment	Personal service establishment: A facility engaged in the provision of services to persons and their apparel, including but not limited to barber and beauty shops, coin-operated laundromats, full-service laundries, dry cleaners, photographic studios, massage therapy, shoe repair and shoeshine shops, tattoo parlor, and travel agencies.		○	●	●	●	●	●	●

Use	Definition	Specific Regulations	O-I	N-B	C-B	R-B	G-B	L-I	H-I
Private Club, for-profit	Private Club, for-profit: Buildings and facilities owned or operated by a corporation, association, person, or persons, for a social, educational, or recreational purpose, to which membership is required and where use of premises are restricted to members and their guests. The definition, "Private club" shall also include, in the appropriate context where an alcohol license, a "bona fide private club" as that term is defined in O.C.G.A. 3-7-1.		○	○	●	●	●	●	●
Psychics, fortune tellers, clairvoyants, and the like	Any establishment involving the practice of foretelling events or having insight into people's lives.		X	X	X	X	●	●	●
Recreational vehicle park	Recreational vehicle park: Any lot of land upon which two or more recreational vehicle sites are located, established or maintained for occupancy on a temporary basis by recreational vehicles of the general public as temporary living quarters by campers, vacationers or travelers. This definition also includes developed campgrounds, governed by a set of public or private management rules, that accommodate recreational vehicles on camping spaces for paying guests and which may include park-owned recreational vehicle(s) for rent. A recreational vehicle park is distinguished from a campground in that all or some of the camping sites provide recreational vehicle utility connection assemblies to enable the camping unit to connect with water, sewage disposal, electric power, and/or other utilities and services.		X	X	X	X	○	○	○
Restaurant	Restaurant: Any establishment in which the principal business is the sale of foods and beverages to customers in a ready-to-consume state, and in which customers are served their food and/or beverages by a restaurant employee at the same table or counter at which the items are consumed, or customers are served their food and/or beverages by means of a cafeteria-type operation where the food or beverages are consumed within the restaurant building. This term includes bars, taverns, pubs, and sidewalk cafés.		X	●	●	●	●	●	●
Restaurant, drive-through	Restaurant, drive-through: Any establishment in which the principal business is the sale of foods and beverages to customers in a ready-to-consume state and in which the principal or accessory method of operation of all or any portion of the business is to allow food or beverages to be served directly to the customer in a motor vehicle either in a parked state or in vehicle aisles, without the need for the customer to exit the motor vehicle.		X	○	○	●	●	●	●

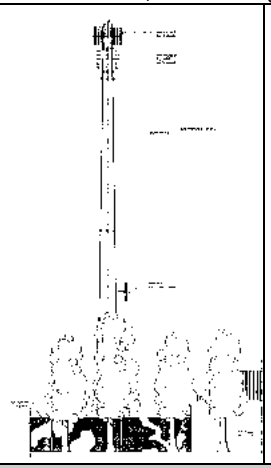
Use	Definition	Specific Regulations	O-I	N-B	C-B	R-B	G-B	L-I	H-I
Retail trade establishment, enclosed	Retail trade establishment, enclosed: Any business offering goods and products for sale to the public, which may include the incidental repair of such goods and products, that operates entirely within a structure containing a roof and walls on all sides, except for outdoor display or other use during business hours and accessory storage in enclosed, subordinate buildings. These include but are not limited to the following: hardware, paint, glass and wallpaper stores, grocery and miscellaneous food stores including retail bakeries, apparel, shoe, and accessory clothing stores, furniture, upholstery, floor covering, household appliance and home furnishing stores, musical instrument stores, radio, television, and computer stores, record, tape, and compact disc stores, eating and drinking places not involving drive-in or drive-through facilities, drug stores, apothecaries and proprietary stores, liquor stores and bottle shops, sporting goods stores and bicycle shops, art and stationery stores, hobby, toy, and game shops, jewelry, gift, novelty, souvenir and antique shops, camera and photographic supply stores, luggage and leather goods stores, sewing, needlework, and piece goods stores, catalogue and mail order stores, news stands, florists, tobacco shops, automotive parts stores not involving repair, video rental and sales stores, and watch and clock sales and repair shops.		X	●	●	●	●	●	●
Retreat center	Retreat center: A facility used for professional, educational, or religious meetings, conferences, or seminars and which may provide meals in a single building, lodging, and recreation for participants during the period of the retreat or program only. Such center may not be utilized for the general public for meals or overnight accommodations. Housing is usually in lodges, dormitories, sleeping cabins or other such temporary quarters, which do not contain kitchens.		X	X	●	●	●	●	●
Riding stable	Riding stable: An establishment where horses or other animals that can be ridden by humans are kept for riding and which offers the general public rides for a fee.		X	X	X	X	●	●	●
Self-service storage facility (mini-warehouses)	Self-service storage facility: Mini-warehouse; A structure, building or group of buildings divided into separate compartments, spaces, or stalls, which may be of different sizes and which may or may not be climate controlled, and which are leased or rented on an individual basis to businesses and residents for temporary storage needs, but where no commercial transactions or activities take place other than the rental of the storage units for exclusively storage purposes.	9-10-6-9	X	X	X	X	●	●	●
Sexually-oriented adult	Sexually-oriented adult use: Any establishment or use of land or a	Chapter	X	X	X	X	X	○	○

Use	Definition	Specific Regulations	O-I	N-B	C-B	R-B	G-B	L-I	H-I
use	structure for an Adult Entertainment Establishment as regulated under Chapter 6-10 of the Code of Ordinances of Gainesville, Georgia.	9-10-11							
Special event facility	Special event facility: A facility or assembly hall available for lease by private parties or special events such as weddings.		○	●	●	●	●	●	●
Taxi-cab or limousine service	Taxi-cab or limousine service: Any place used to dispatch motor vehicles with drivers for hire.		X	X	X	X	●	●	●
Truck stop	Truck stop: An establishment engaged primarily in the fueling, servicing, repair, or parking of tractor trucks or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. A truck stop may also include overnight accommodations, showers, or restaurant facilities primarily for the use of truck drivers.	9-10-6-11	X	X	X	X	●	●	●
Vehicle emission testing facility	Vehicle emission testing facility: A building or structure used for testing vehicles for compliance with air quality standards.		X	X	X	●	●	●	●
Veterinarian or animal hospital	Veterinarian: A hospital or clinic providing medical care and treatment for livestock or pets.		○	○	○	●	●	●	●
INDUSTRIAL USES			**O-I**	**N-B**	**C-B**	**R-B**	**G-B**	**L-I**	**H-I**
Borrow site	Borrow site: A site used for the extraction of earthen materials such as sand, gravel, rock, dirt, etc. where the material is removed from the site.		X	X	X	X	X	●	●
Bottling or canning plant			X	X	X	X	X	●	●
Brewery or distillery	Brewery: An industrial use that brews ales, beers, and/or similar beverages on site.		X	X	X	X	X	○	●
Bulk storage	Bulk storage: An establish where commodities, including both liquids and solids, are received by pipelines, tank car, tank vehicle, or other container, and are stored or blended in bulk for the purpose of distribution by pipeline, tank care, tank vehicle, or container.		X	X	X	X	X	●	●
Cold storage plant or frozen food locker			X	X	X	X	X	●	●
Composting facility	Composting facility: A facility where compost or organic matter that is derived primarily from off-site is processed by composting and/or processed for commercial purposes. Activities of a composting facility may include management, collection, transportation, staging, composting, curing, storage, marketing, or use of compost.		X	X	X	X	X	○	○
Co-generation facility	Co-generation facility: An installation that harnesses energy that normally would be wasted to generate electricity, usually through the burning of waste, and which may use, distribute through connection, or sell the energy converted from such process.		X	X	X	X	X	X	○
Distribution center including truck terminals	Distribution center: A use where goods are received and/or stored for delivery to the ultimate customer at remote locations.		X	X	X	X	X	●	●
Dry cleaning plant	Dry cleaning plant: A building, portion of a building, or premises used or intended to be used for cleaning fabrics, textiles, wearing apparel, or articles of any sort by immersion or agitation, or by immersions only, in volatile solvents included, but not limited to, solvents of the petroleum distillate type, and/or the chlorinated hydrocarbon type, and the processes incidental thereto.		X	X	X	X	X	●	●

Use	Definition	Specific Regulations	O-I	N-B	C-B	R-B	G-B	L-I	H-I
Food processing plant, including poultry and fish	Food processing plant: A manufacturing establishment producing or processing foods for human or animal consumption and certain related products or by-products, including but not limited to the following products: sugar, dairy, fruit and vegetable (including canning, preserving and processing), grain mill products and by-products, meat, poultry and seafood (including by-product processing but not including the slaughtering of animals), and miscellaneous food preparation from raw products.		X	X	X	X	X	●	●
Fuel oil distributor			X	X	X	X	X	●	●
Hazardous waste materials or volatile organic liquid handling and/or storage	Hazardous waste materials: Any materials defined or customarily defined as hazardous waste by the Environmental Protection Division of the Georgia Department of Natural Resources; generally, any refuse or discarded material or combination of refuse or discarded materials in solid, semisolid, liquid or gaseous form which cannot be handled by routine waste management techniques because they pose a substantial present or potential hazard to human health or other living organisms because of their chemical, biological or physical properties.		X	X	X	X	X	X	○
Incinerator	Incinerator: A facility with equipment that uses a thermal combustion process to destroy or alter the character or composition of medical waste, sludge, soil, or municipal solid waste, not including animal or human remains.		X	X	X	X	X	X	○
Landfill, construction and demolition	Landfill, construction and demolition: A disposal facility accepting waste building materials and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings, and other structures. Such wastes include, but are not limited to, asbestos containing waste, wood, bricks, metal, concrete, wall board, paper, cardboard, inert waste landfill material and other inert wastes which have a low potential for groundwater contamination.	9-10-10-2	X	X	X	X	X	X	○
Manufacturing, apparel			X	X	X	X	X	●	●
Manufacturing, ceramics			X	X	X	X	X	X	●
Manufacturing, chemicals, floor coverings, glass, or rubber			X	X	X	X	X	X	○
Manufacturing, coating of cans, coils, fabrics, vinyl, metal furniture, appliance surfaces, wire, paper, and flat wood paneling			X	X	X	X	X	X	○
Manufacturing, cosmetics or toiletries			X	X	X	X	X	●	●
Manufacturing, electronics, camera, photographic, or optical good or communication			X	X	X	X	X	●	●

Use	Definition	Specific Regulations	O-I	N-B	C-B	R-B	G-B	L-I	H-I
equipment									
Manufacturing, fiberglass insulation			X	X	X	X	X	X	●
Manufacturing, ice			X	X	X	X	X	●	●
Manufacturing, instrument assembly			X	X	X	X	X	●	●
Manufacturing, machines			X	X	X	X	X	●	●
Manufacturing, metal products			X	X	X	X	X	X	●
Manufacturing, pharmaceuticals and medical supplies			X	X	X	X	X	●	●
Manufacturing, textiles			X	X	X	X	X	X	●
Manufacturing, wood products (including pulp mill)			X	X	X	X	X	X	●
Manufacturing, stone, clay, concrete			X	X	X	X	X	X	○
Office/Warehouse	Office/Warehouse: A building that combines office and warehouse or storage functions, where no more than 60 percent of the building is devoted to warehouse or storage functions, and which does not involve retail sales.		X	X	X	X	○	●	●
Recycling center	Recycling center: Any facility utilized for the purpose of collecting, sorting and processing materials to be recycled, including but not limited to, plastics, glass, paper and aluminum materials.		X	X	X	X	X	●	●
Resource extraction, including mining, quarrying	Resource extraction: Removal or recovery by any means whatsoever of sand, gravel, soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof, exposed or submerged. This term includes gravel pits, mines, quarries, and similar operations.	9-10-10-3	X	X	X	X	X	X	○
Salvage yard	Salvage yard: A place of business primarily engaged in the storage, sale, dismantling or other processing of uses or waste materials which are not intended for reuse in their original forms. Typical uses include paper and metal salvage yards, used tire storage yards, or retail and/or wholesale sales of used automobile parts and supplies. This term includes junk yards.		X	X	X	X	X	X	●
Sawmill	Sawmill: A facility where logs or partially processed wood are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products. This term does not apply to the processing of timber for use on the same lot by the owner or occupant of that lot.		X	X	X	X	X	○	●
Solid waste transfer facility	Solid waste transfer facility: A fixed facility where solid waste from collection vehicles is consolidated and temporarily stored for		X	X	X	X	X	○	●

Use	Definition	Specific Regulations	O-I	N-B	C-B	R-B	G-B	L-I	H-I
	subsequent transport to a permanent disposal site.								
Solvent metal cleaning			X	X	X	X	X	X	○
Tire retreading and recapping facilities			X	X	X	X	X	○	●
Warehouse or storage building	Warehouse: A use involving the storage of products, supplies, and equipment, and which typically involve truck transportation to and from the site.		X	X	X	X	○	●	●
Wastewater treatment plant (private)	Wastewater treatment plant: A facility or group of units used for the treatment of industrial or domestic wastewater for sewer systems and for the reduction and handling of solids and gasses removed from such waste, whether or not such facility is discharging into state waters.		X	X	X	X	X	X	○
Wholesale trade establishment	Wholesale trade establishment: An establishment engaged in the selling or distribution of merchandise to retailers, to industrial, commercial, institutional or professional business users, or to other wholesalers.		X	X	X	X	●	●	●
Wrecked motor vehicle compound	Wrecked motor vehicle compound: An area used to store disabled or impounded motor vehicles until such time as their disposition (either by junk, salvage, repair, etc.) has been determined by the insurance company, the owner of the vehicle, or his legal representative.		X	X	X	X	○	●	●
OTHER USES			**O-I**	**N-B**	**C-B**	**R-B**	**G-B**	**L-I**	**H-I**
Jail/correctional facility	Government or private establishments primarily engaged in the confinement and correction of offenders sentenced by court.		X	X	X	X	○	○	○
Live/work unit	Live-work unit: Buildings or spaces within buildings that are used jointly for commercial and residential purposes where the two uses are physically connected in one unit and residential use of the space is accessory to the primary use as a place of work. This term is distinguished from a home occupation and from a mixed-use building. Live-work units may have larger work spaces than permitted by home occupation, and live/work units design the floor space for both living and working areas. Live-work units are distinguished between mixed-use buildings in that a mixed-use building has residential and nonresidential uses in the same building, but the residential and nonresidential spaces are not necessarily connected or used by the same person.		○	○	●	X	X	X	X
Mixed-use building	Mixed-use building: A building designed, planned and constructed as a unit, used partially for residential use and partially for office, personal service, retail, entertainment or public uses. This term includes live-work units, which are jointly used for commercial and residential purposes but where the residential use of the space is secondary or accessory to the primary use as a place of work.		○	●	●	X	X	X	X
Public use	Public use: Any building, structure, or use owned and/or operated by the federal government, state of Georgia, Hall County or other County, the City of Gainesville, another municipality, or any authority, agency, board, or commission of the above governments, that is necessary to serve a public purpose, such as but not limited to the following: government administrative buildings, post offices, police and fire stations, libraries and publicly operated museums, public health facilities and public hospitals, public works camps, parks and community		●	●	●	●	●	●	●

Use	Definition	Specific Regulations	O-I	N-B	C-B	R-B	G-B	L-I	H-I
	centers, public roads and streets, airports, water and sanitary sewerage intake, collection, pumping, treatment, storage facilities and emergency medical facilities. This term excludes jail or correctional facilities.								
Utility company	Utility company: A private business providing electricity, natural gas, telephone or other services under the regulation of Georgia Public Services Commission. This use includes equipment and vehicle storage.		X	X	○	●	●	●	●
Utility company substation	Utility company substation: A facility used for the transmission or distribution of services provided by a utility company, such as an electrical transformer station, telephone junction box, cable box, television box, or natural gas regulator station.	9-10-10-4	●	●	●	●	●	●	●
Wireless telecommunication facility	 Wireless telecommunication facility: Any freestanding facility, building, pole, tower, or structure used to provide wireless telecommunication services, and which consists of, without limitation, antennae, equipment and storage, ground mounted base station, and other accessory structures used to provide wireless telecommunication services. This term includes cell towers or antennas.	Chapter 9-10-9	X	X	○	○	○	●	●
ACCESSORY USES			**O-I**	**N-B**	**C-B**	**R-B**	**G-B**	**L-I**	**H-I**
Accessory use or structure normally incidental to principal use	Accessory use or structure: A use or structure that is permitted on a property in conjunction with a principal use. An accessory use is incidental to the principal use and would not exist independent of the principal use.	9-10-1-1 9-10-3-2	●	●	●	●	●	●	●
Automated teller machine	Automated teller machine: A mechanized consumer banking device offered by a bank, whether outside or in an access-controlled facility operated by walk-up customers only and not accessible to customers in vehicles.		●	●	●	●	●	●	●
Automated teller machine, drive-through	Automated teller machine: A mechanized consumer banking device offered by a bank, accessible to and operated by customers in vehicles.		X	●	●	●	●	●	●
Caretaker's residence	Caretaker's residence: A dwelling unit within a principal building or any freestanding building or structure that is an accessory use which is used for occupancy as a dwelling by an owner, security agent, or caretaker.	9-10-7-1	X	X	X	X	○	●	●
Construction field office	Construction field office: A building or structure located temporarily on a site under development and/or construction and which houses offices of the construction contractor. Includes the term "construction trailer."	9-10-8-1	●	●	●	●	●	●	●

Use	Definition	Specific Regulations	O-I	N-B	C-B	R-B	G-B	L-I	H-I
Drive-through	Drive-through: An accessory use where a good is sold to customers in vehicles.	9-10-7-2	X	○	●	●	●	●	X
Manufacturing and fabrication accessory to retail use		9-10-7-4	X	X	●	●	●	●	●
Retail and restaurant uses accessory to office, institutional, or lodging		9-10-7-7	○	○	●	●	●	●	●

TABLE 9-6-2
DIMENSIONAL REQUIREMENTS FOR
NONRESIDENTIAL ZONING DISTRICTS

BUILDING AND SITE REQUIREMENTS	**O-I**	**N-B**	**C-B**	**R-B**	**G-B**	**L-I**	**H-I**
Minimum site area to rezone to this district (square feet except as shown)	15,000	15,000	None	4 acres	15,000	15,000	15,000
Maximum building coverage (percent of lot area)	50%	50%**	None	50%	60%	70%	70%
Maximum impervious surface coverage (percent of lot area)	75%	75%	None	80%	80%	85%	85%
Minimum landscaped open space for non-single-family residential use (percent of lot area)	20%	20%	None	15%	10%	5%	5%
Minimum road frontage (feet)	40	40	40	40	40	40	40
Minimum lot width, all uses (feet)	75	75	None	100	100	100	100
Minimum lot size, detached single-family dwelling (square feet)	15,000	15,000	None	NP	NP	NP	NP
Minimum lot size, two-family dwelling (square feet)	30,000	30,000	NP	NP	NP	NP	NP
Minimum lot size, all other permitted uses (square feet)	15,000	15,000	None	15,000	15,000	15,000	15,000
Maximum residential density for permitted residential uses (dwelling units per acre)	12.0	12.0	0.5	NP	NP	NP	NP
HEIGHT REQUIREMENTS	**O-I**	**N-B**	**C-B**	**R-B**	**G-B**	**L-I**	**H-I**
Maximum height (feet)	60	60	120	75	75	75	120
Maximum height (number of stories)	4	4	8	5	5	5	5
PRINCIPAL BUILDING SETBACKS AND BUFFERS	**O-I**	**N-B**	**C-B**	**R-B**	**G-B**	**L-I**	**H-I**
Front setback, all streets, minimum (feet)	30	40	None	40	40	30	40
Side setback, minimum (unless otherwise specified) (feet)	None	None	None	None	None	None	None
Rear setback, minimum (unless otherwise specified) (feet)	None	None	None	None	None	None	None
Side or rear setback abutting RR r/w or alley, minimum (feet)	25	15	None	15	None	None	None
Corps of Engineers property line (unless otherwise specified) (feet)	-	-	-	-	-	-	-

	O-I	**N-B**	**C-B**	**R-B**	**G-B**	**L-I**	**H-I**
Side or rear vegetative/structural buffer* and building setback when abutting R-I-A, R-I, N-C, R-II or R-O districts	25	25	10	25	35	35	35
Side or rear vegetative/structural buffer* and setback when abutting O-I, N-B, R-B, C-B, G-B districts	None	None	None	None	None	10	10
ACCESSORY BUILDING SETBACKS AND BUFFERS	**O-I**	**N-B**	**C-B**	**R-B**	**G-B**	**L-I**	**H-I**
	Shall meet the principal building setback and buffer standards unless otherwise specified within Chapter 9-10-7 of this Unified Land Development Code.						
Corps of Engineers property line (unless otherwise specified) (feet)	-	-	-	-	-	-	-
LANDSCAPE STRIPS	**O-I**	**N-B**	**C-B**	**R-B**	**G-B**	**L-I**	**H-I**
Minimum landscape strip required along right-of-ways for any non-single-family residential use (width in feet)	10	10	None	10	10	10	10
Minimum landscape strip required along side property lines for any non-single-family residential use (width in feet)	10	10	None	None	None	None	None
Minimum landscape strip required along right-of-way of existing street for any residential subdivision involving a new street with more than five lots (along that part of the frontage not used for the new street). Plantings within landscape strips shall not obstruct sight visibility triangle easements.	20	20	N/A	N/A	N/A	N/A	N/A

NP = Not Permitted

* Required zoning buffers may be reduced in width with installation of a structural buffer as provided in Chapter 9-16-2-6 of this Unified Land Development Code.
** Within the N-B zoning district, no individual establishment shall exceed 50,000 square feet of gross floor area total or 18,000 square feet of gross floor area on the ground level floor.

ARTICLE 9-7
FLEXIBLE ZONING DISTRICTS

CHAPTER 9-7-1 PUD PLANNED UNIT DEVELOPMENT 7-1

CHAPTER 9-7-1
PUD PLANNED UNIT DEVELOPMENT

Section 9-7-1-1. Purpose and Intent Generally.
Section 9-7-1-2. Intentions for Planned Unit Developments.
Section 9-7-1-3. Intentions for Mixed-Use Developments.
Section 9-7-1-4. Permitted Uses.
Section 9-7-1-5. Relationship to Specific Use Regulations.
Section 9-7-1-6. Guidelines for Land Use Mixing.
Section 9-7-1-7. Minimum Acreage or Development Size.
Section 9-7-1-8. Dimensional Requirements.
Section 9-7-1-9. Additional Application Requirements.
Section 9-7-1-10. Approval Procedures.

Section 9-7-1-1. Purpose and Intent Generally.

This zoning district is intended to provide for maximum flexibility in the mixture and arrangement of land uses. The PUD zoning district provides for planned unit developments and mixed use developments but provides separate design specifications for both. This district provides for unique and innovative land developments that will meet the objectives of the city's comprehensive plan. Development in this zoning district is characterized by a unified site design for the entire development.

This district is a "floating" (initially unmapped) zone, to be established upon successful application by the property owner/applicant and approval by the Governing Body; provided, however, that certain properties that were zoned P-R-D, P-O-D, P-C-D, or P-I-D Districts on the effective date of this Unified Land Development Code may be designated on the official zoning map as PUD, in which case they shall be subject to all regulations established for the district, development, or site at the time the property received rezoning or development approval. Any changes to such development approvals shall be subject to consideration under the terms of this Chapter.

This zoning district is also established to meet the following objectives:

(a) Encourage and allow the development of tracts of land as planned neighborhoods or communities according to designs that coordinate building forms that are interrelated and architecturally harmonious.

(b) Encourage and allow more unique, flexible, creative, imaginative arrangements and mixes of land use in site planning and development than are permitted through zoning district requirements established in this Unified Land Development Code, but not in conflict with the Comprehensive Plan of the city.

(c) Encourage a broader mix of residential housing types, including detached and attached dwellings, than would normally be constructed in conventional subdivisions, and provide for unique dwelling arrangements not typically provided in conventional subdivisions.

(d) Preserve the natural amenities of the land through maintenance of conservation areas and open spaces within developments, provide amenities, and provide where needed the civic and semi-public uses (e.g., schools, playgrounds, meeting halls, etc.) that help to make up a community.

(e) Provide for the efficient use of land by encouraging smaller networks of utilities and streets which may lower development and housing costs.

(f) Provide an environment of stable character compatible with surrounding residential areas.

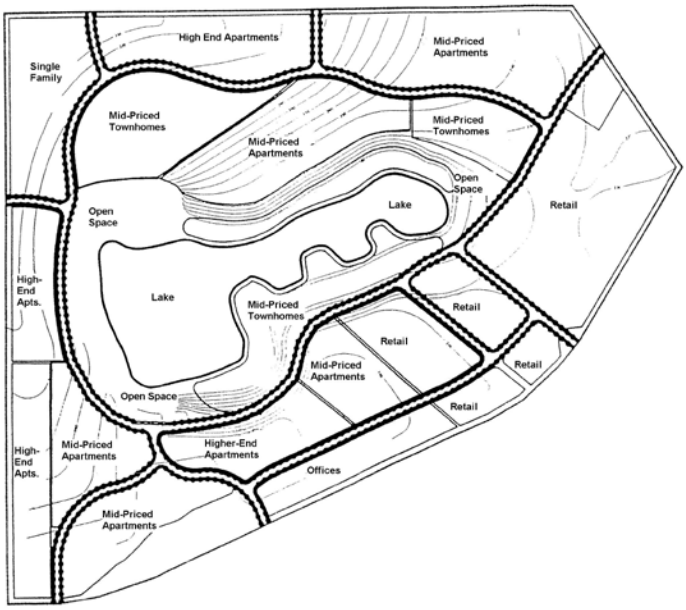
(g) Ensure that applications for PUD zoning have enough information to thoroughly analyze the merits of the proposal.

This zoning district is not intended to be used as an alternative to obtaining variances for developments unable to comply with other zoning district provisions. Rezoning to this district is not intended to be a process of relief to applicants that merely seek one or more variances. Applications for rezoning to the PUD district shall be rejected by the Director if the development proposal does not match clearly the purposes and intentions of this Chapter, or if another remedy is available and would be more appropriate, such as an application for variance. For instance, an application for rezoning to this zoning district which consists of a single-use which cannot meet a particular dimensional requirement of the zoning district in which it is located, such as minimum lot frontage or building setback, shall be summarily rejected by the Director because a variance is the more appropriate remedy. The PUD zoning district is not intended to allow for the intrusion of incompatible land uses into single-family neighborhoods that create negative land use impacts.

Because the PUD zoning district promotes maximum flexibility, the type, mix, and placement of development are virtually unlimited, and examples can help illustrate what is intended by the city in establishing this district. Generally, this district characterizes developments as two types: planned unit development and mixed-use development.

Section 9-7-1-2. Intentions for Planned Unit Developments.

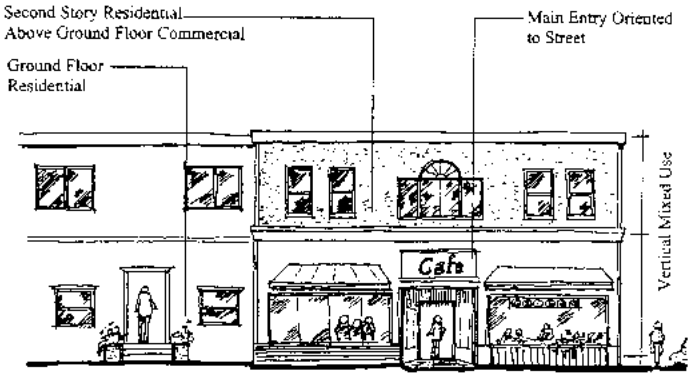
Planned unit developments are intended to provide a variety of dwelling types, including some combination of detached single-family (fee-simple or condominium), duplex, townhouse, and multi-family dwellings. Planned unit developments are predominantly residential but not necessarily exclusively residential. Planned unit developments feature clustered buildings, common open space, and unconventional or unique site designs. Planned unit developments may contain a mix of building types and land uses.



Depending on size, a planned unit development may include offices, retail trade and service establishments, and civic and institutional uses (but see the recommendations for land use mixing provided in this Chapter). When such other uses are part of a planned unit development, they often constitute multi-use (i.e., different land uses situated next to each other) but are not necessarily mixed use (i.e., the different uses do not exist in the same building, but they are designed to be interrelated and interconnected).

Section 9-7-1-3. Intentions for Mixed-Use Developments.

Mixed-Use Development includes development of a single building or single parcel to contain two or more of the following types of uses: residential, office, institutional, or retail or service commercial. Mixed uses may be combined vertically within the same building or placed side by side on the same parcel, provided that they are in close proximity, planned as a unified and complementary whole, and functionally integrated to make use of shared vehicular and pedestrian access and parking areas.



Mixed-use developments typically consist of two or more different land uses in the same building. The term mixed use development specifically includes live/work units and other mixtures of residential use with office, retail, service, or institutional uses. Mixed-use developments have a pedestrian friendly character (e.g., with a storefront or village design).

Section 9-7-1-4. Permitted Uses.

There are no pre-specified permitted or special uses for the PUD district. Within this district, a variety of land uses, and any land use, may be permitted if such use or uses can be shown to provide an orderly relation and function to other uses in the development and to existing land uses on-site and off-site, with due regard to the city's Comprehensive Plan.

The permitted use or uses of property located in this zoning district shall be determined at the time the development is approved via the rezoning process. Unless otherwise specifically noted in the Governing Body's approval of the zoning district and the plan for development, the property within the zoning district shall be limited to those uses requested as part of the application and which are approved by the Governing Body.

Section 9-7-1-5. Relationship to Specific Use Regulations.

An application for rezoning and development plan approval that includes a use for which this Unified Land Development Code specifies certain regulations (see Article 9-10), shall not be required to demonstrate conformance with the specific use regulations of Article 9-10 applicable to such use or uses; provided, however, the Governing Body may condition uses in a manner consistent with the provisions of Article 9-10 as it may determine appropriate. Therefore, applications which include uses governed by Article 9-10 should address the consistency of the development proposal with applicable specific use provisions of Article 9-10. To that end, the Director may require the applicant to address the proposed development's consistency with development specifications for specific uses described in Article 9-10.

Section 9-7-1-6. Guidelines for Land Use Mixing.

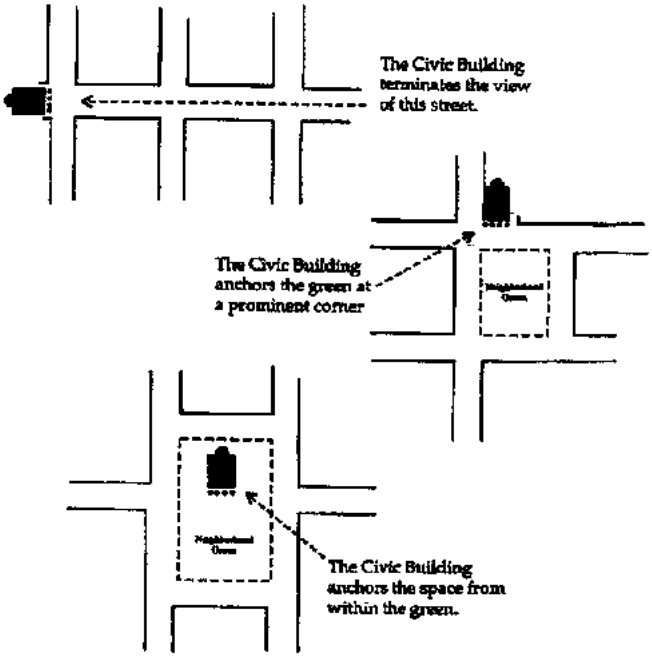
Without limiting the flexibility provided by this Chapter for mixing land uses, some guidance on the desired range of mixing of land uses is necessary. This Section provides guidelines and recommendations which shall guide applicants, staff, the Planning and Appeals Board, and the Governing Body in proposing, considering, and acting upon the merits of development proposals. This Section shall not be construed to prevent an applicant from proposing a development inconsistent with the provisions of this Section, although due adherence to these guidelines and recommendations may in the discretion of the Governing Body be imposed through conditions of zoning and development plan approval.

(a) Residential developments. Where predominantly single-family residential uses are proposed, the gross density should not exceed the recommendations of the comprehensive plan as described for the land use classification in which the property is located, as shown on the city's future land use plan map.

(b) Different dwelling types. Developments that include residential uses should provide for more than just one type of dwelling unit, such as detached, single-family dwellings (fee simple or condominium ownership), townhouses, duplexes, or multi-family (including condominium ownership) dwellings. This does not mean there should be an even or proportional distribution among more than one dwelling type.

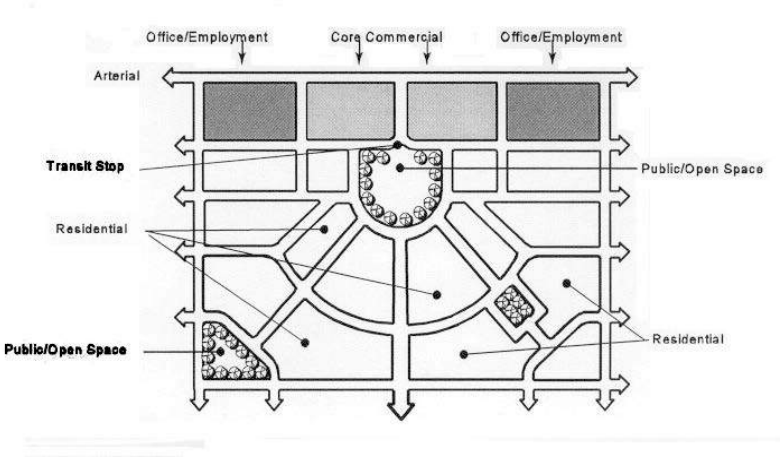
Where detached, single-family dwellings are included, the total number of multi-family dwelling units and the total acreage of development devoted to multi-family dwellings should not typically exceed twenty-five (25) percent.

(c) Civic and institutional uses. Sites for churches, schools, community or club buildings, and similar public or semi-public facilities are encouraged to be provided, where appropriate. Uses such as schools, churches, and other institutions where provided should be part of an integrated site design and located and designed to minimize negative impacts.



(d) Office and commercial uses in predominantly residential developments. Within planned unit developments (i.e., predominantly residential), commercial and offices uses, if proposed, should be located in careful relation to other land uses within and outside of the development, and they should be scaled and oriented so that they primarily serve the occupants of the planned unit development. Neighborhood business uses may be appropriate in areas not designated on the future land use plan map but only when such uses are consistent with the applicable development policies contained in the comprehensive plan. Such uses, where provided, should be part of an integrated site design and located and designed to minimize negative impacts. In predominantly residential developments, the amount of land in the development devoted to commercial and office uses should not exceed fifteen (15) percent of the total land area, unless it can be shown that a greater percentage of land devoted to such uses is more conducive to the mix of uses.

(e) Commercial uses. PUD districts permit commercial uses that are compatible with pedestrian-scale development, but they are not envisioned to include automobile sales or service establishments, outdoor storage, or other auto-oriented commercial uses including drive-through facilities that conflict with a pedestrian-friendly development pattern.



(f) Industrial uses. Industrial uses are not typically considered to be appropriate for inclusion within planned unit developments or mixed use developments; however, such uses are not prohibited and may be considered appropriate in larger (e.g., twenty acres or more) developments where living and working areas need to be close to one another. If industrial uses are proposed, they should avoid nuisances on residential development within or adjacent to the PUD, through buffers. The buffer requirements for light industrial districts as specified in Table 9-6-2 may be required as conditions of approval to avoid nuisances.

(g) Open space, passive or active recreation, landscaped open space, and natural/ conservation areas. Planned Unit Developments should be designed around and connected to any open space corridors or networks that exist or are planned. Developments are expected to devote at least twenty percent (20%) of the total land area to natural areas, conservation areas, open spaces, and active or passive recreational areas, or some combination thereof.

(h) Areas designated for mixed use. Developments which take place on property designed for mixed use on the future land use plan map should consider the following recommended mix of residential, office/institutional, and neighborhood retail, measured in terms of land area devoted to each use: Office/institutional – 40 percent (40%); neighborhood retail – 30 percent (30%); residential – 30 percent (30%). In such areas, predominantly residential development or other developments inconsistent with this recommended land use mix may be considered inappropriate and inconsistent with the future land use plan map.

(i) Neighborhood Plans. Neighborhood planning units provide for more detailed planning than shown on the future land use plan map and may include parcel-specific recommendations for land uses and guidelines for design. Any development within an area designated as a neighborhood planning unit and which has a neighborhood plan adopted by the Governing Body should be substantially in

accordance with the recommendations of such adopted neighborhood plan. No rezoning to this district should be permitted that fails to maintain existing neighborhoods as stable and desirable places to live and raise families.

Section 9-7-1-7. Minimum Acreage or Development Size.

When a Planned Unit Development is proposed to include residential uses only, the minimum acreage to rezone or develop shall be 1.5 acres to ensure prospects for mixture of different types of dwellings; otherwise, there is no established minimum acreage to rezone to this district or to develop within this zoning district.

Section 9-7-1-8. Dimensional Requirements.

To ensure maximum flexibility, there are no pre-specified requirements for minimum lot size, minimum lot width, lot coverage, yards and building setbacks, or height. Proposals for development must be reasonable, however, and shall not deviate to any significant degree from the goals, policies, objectives, and techniques specified in the city's adopted comprehensive plan.

A detailed development plan shall be submitted by the applicant for rezoning to this district. Minimum dimensional requirements for PUD zoning districts are established on the basis of the development, and such requirements are intended to allow for multiple (different) uses within the development. Standards proposed by the developer are legally binding on the development if approved, unless otherwise specified by the Governing Body.

Section 9-7-1-9. Additional Application Requirements.

The requirements for rezoning applications are specified in Chapter 9-22-2 of this Unified Land Development Code, which includes additional application requirements for PUD rezoning/development approval.

Section 9-7-1-10. Approval Procedures.

The process and criteria for considering rezoning applications are specified in Chapter 9-22-2 of this Unified Land Development Code. That chapter includes additional procedural requirements for PUD rezoning/development approval and criteria for acting upon them.

ARTICLE 9-8
OVERLAY ZONES

CHAPTER 9-8-1	AIRPORT OVERLAY ZONE	8-1
CHAPTER 9-8-2	GATEWAY CORRIDOR OVERLAY ZONE	8-8
CHAPTER 9-8-3	LIMESTONE PARKWAY OVERLAY ZONE	8-10
CHAPTER 9-8-4	NORTH OCONEE WATER SUPPLY WATERSHED PROTECTION OVERLAY ZONE	8-13
CHAPTER 9-8-5	GROUNDWATER RECHARGE AREA PROTECTION OVERLAY ZONE	8-19
CHAPTER 9-8-6	WETLAND PROTECTION OVERLAY ZONE	8-23
CHAPTER 9-8-7	MIDTOWN OVERLAY ZONE	8-28
CHAPTER 9-8-8	HISTORIC PRESERVATION OVERLAY ZONE	8-32

CHAPTER 9-8-1
AIRPORT OVERLAY ZONE

Section 9-8-1-1.	Purpose and Intent.
Section 9-8-1-2.	Definitions.
Section 9-8-1-3.	Airport Zones Established.
Section 9-8-1-4.	Airport Overlay Zone Map.
Section 9-8-1-5.	Airport Zone Height Limitations.
Section 9-8-1-6.	Use Restriction.
Section 9-8-1-7.	Hazards Shall Not Be Increased.
Section 9-8-1-8.	Marking and Lighting.
Section 9-8-1-9.	Nonconforming Uses Abandoned or Destroyed.
Section 9-8-1-10.	Variances.
Section 9-8-1-11.	Staff Review of Application for Variance.
Section 9-8-1-12.	Findings Required to Support Variances.
Section 9-8-1-13.	Marking and Lighting a Condition of Variance Approval.

Section 9-8-1-1. Purpose and Intent.

The purpose of the Airport Overlay Zone is to impose height and use restrictions necessary to ensure that structures and natural objects will not impair flight safety or decrease the operational capability of Lee Gilmer Memorial Airport. These zones overlay the various zoning districts and are intended to provide greater restrictions than the zoning districts otherwise provide with regard to heights and aircraft navigation.

Section 9-8-1-2. Definitions.

Airport: Lee Gilmer Memorial Airport.

Airport Elevation: 1,277 feet above mean sea level.

Airport Overlay Zones: Areas located on the ground that are defined in their boundaries by the Airport Surfaces overhead, including:

(1) Primary Surface Zone: That area on the ground that coincides with the Primary Surface for each runway.

(2) Approach Zone: That area on the ground directly beneath an Approach Surface.

(3) Horizontal Zone: That area on the ground directly beneath the Horizontal Surface.

(4) Conical Zone: That area on the ground directly beneath the Conical Surface.

(5) Transitional Zone: That area on the ground directly beneath the Transitional Surfaces.

(6) Navigable Airspace Zone: That area on the ground within 6 nautical miles of the Airport Reference Point, and not included in any of the other Airport Zones.

Airport Reference Point: A horizontal reference point calculated in accordance with Federal Aviation Administration Advisory Circular 150/5300-4B. (For the airport configuration on July 1, 1990, the position is 34°16’22”N, 83°49’47”E.)

Airport Surfaces: Imaginary planes that define the lower limit of aircraft operational areas around an airport, including:

(1) Primary Surface: A surface longitudinally centered on a runway and extending 200 feet beyond each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

(2) Approach Surface: A surface centered on the extended runway centerline, extending outward and upward from the end of the primary surface at a slope designated by the Federal Aviation Administration.

(3) Horizontal Surface: A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs.

(4) Conical Surface: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

(5) Transitional Surfaces: These surfaces extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

Airport Zone Structure: An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

Hazard to Air Navigation: An obstruction determined to have substantial adverse effect on the same and efficient utilization of the navigable airspace.

Height Datum: The vertical distance above mean sea level elevation.

Navigable Airspace Surface: That area of airspace greater than 200 feet above ground level or above the established airport elevation (Lee Gilmer Memorial Airport elevation of 1,277 feet, plus 200 feet equals 1,477 feet), whichever is higher, within 3 nautical miles (18,228 feet) of the established airport reference point, which height increases in the proportion of 100 feet for each

additional nautical mile of distance from the airport to a maximum of 500 feet at 6 nautical miles (36,456 feet).

Obstruction (or Obstruction to Air Navigation): Any structure, growth or other object, including a mobile object, which extends above an Airport Surface as defined in this Section.

Runway: A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Runway Designations: Runways are numbered by the compass heading of approach for landing aircraft. At Lee Gilmer Airport, runways are: 4, at an approach heading of 40°; 22, at an approach heading of 220°; 11, at an approach heading of 110°; and, 29, at an approach heading of 290°.

Tree: A self-supporting woody plant that normally reaches a mature height of at least 15 feet.

Section 9-8-1-3. Airport Zones Established.

In order to carry out the provisions of this Chapter, there are hereby created and established certain zones within the airport overlay zone which include all of the land lying beneath the primary surfaces, approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Lee Gilmer Memorial Airport. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The airport zones are:

(a) Primary Zone.

For runways 11 and 29, the primary surface is centered on the runway, 250 feet wide, and extends 200 feet beyond each end of the runway. For runways 4 and 22, the primary surface is centered on the runway, 500 feet wide, and extends 200 feet beyond each end of the runway.

(b) Approach Zone—Runways 11 and 29.

The inner edge of this approach zone coincides with the width of the primary surface which is 250 feet wide. The approach zone expands outward uniformly to a width of 850 feet at a horizontal distance of 3,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(c) Approach Zone—Runway 22.

The inner edge of this approach zone coincides with the width of the primary surface which is 500 feet wide. The approach zone expands outward uniformly to a width of 1,400 feet at a horizontal distance 3,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(d) Approach Zone—Runway 4.

The inner edge of this approach zone coincides with the width of the primary surface which is 500 feet wide. The approach zone expands outward uniformly to a width of 1,530 feet at a horizontal distance of 5,100 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(e) Transitional Zones.

The transitional zones are the areas beneath the transitional surfaces.

(f) Horizontal Zone.

The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

(g) Conical Zone.

The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward for a horizontal distance of 4,000 feet.

(h) Navigable Airspace Zones.

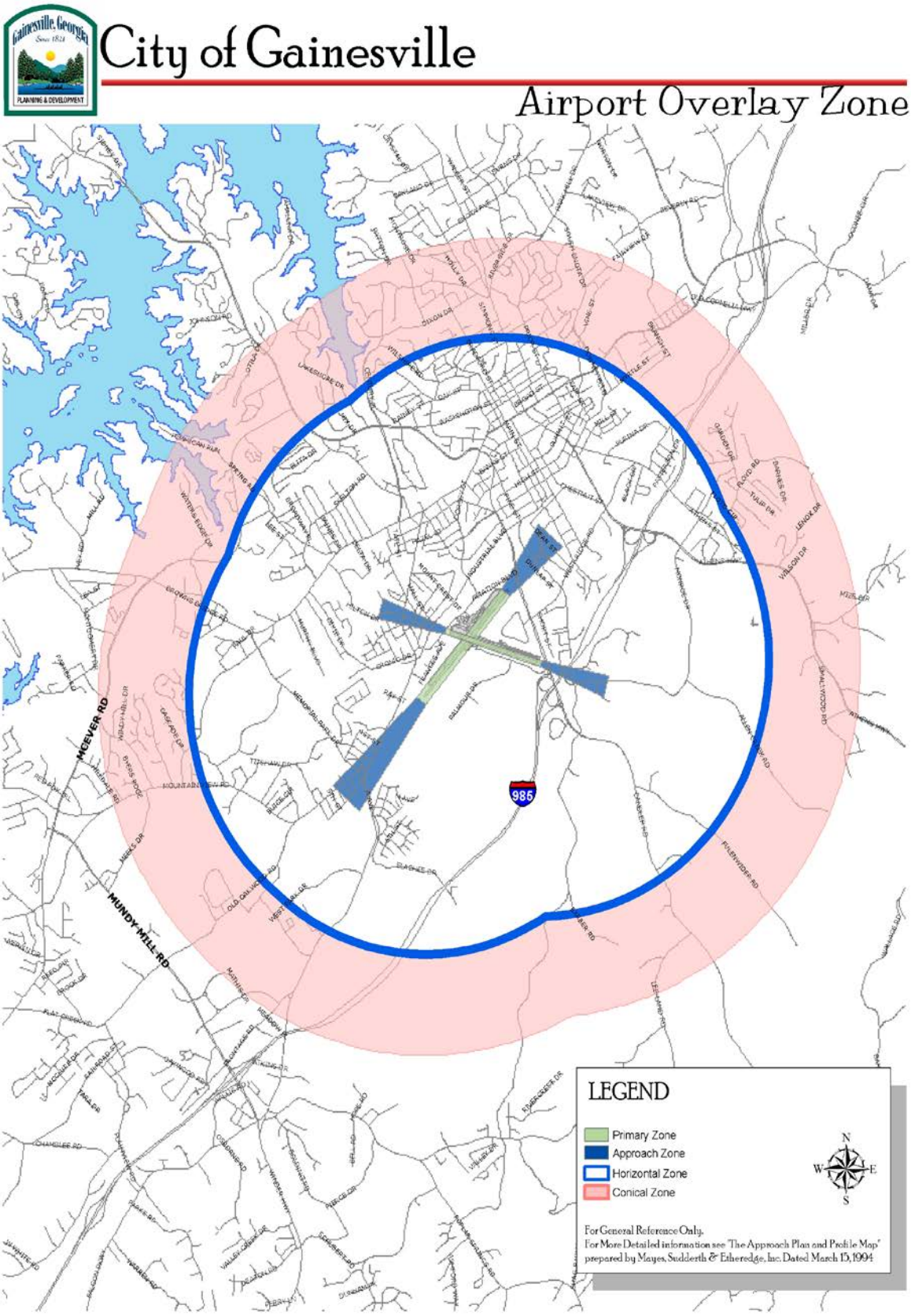
These consist of four zones which are centered on each runway centerline, beginning 11,000 feet from the end of each Primary Zone and expanding outwardly as shown in Table 9-8-1-1 as follows:

TABLE 9-8-1-1
NAVIGABLE AIRSPACE ZONES

	Runway (all figures are in feet)			
	4	**22**	**11**	**29**
Inner Edge Width at 11,000 feet from Primary Zone	3,800	3,800	2,400	2,000
Elevation	1,477	1,477	1,477	1,477
At 3 Nautical Miles:				
Rate of Expansion per 5,000 feet	1,500	1,500	1,000	1,000
Width	5,040	5,260	3,560	3,420
Elevation	1,477	1,477	1,477	1,477
At 6 Nautical Miles:				
Width	10,150	10,730	7,200	7,060
Elevation	1,777	1,777	1,777	1,777

Section 9-8-1-4. Airport Overlay Zone Map.

The various airport zones established by this Chapter are illustrated on the Approach Plan and Profile Map of Lee Gilmer Memorial Airport, prepared by Mayes, Sudderth & Etheredge, Inc., and dated March 15, 1994, which is hereby adopted and made a part of this Chapter.


City of Gainesville
Airport Overlay Zone
MCEVER RD
MUNDY MILL RD
985
LEGEND
Primary Zone
Approach Zone
Horizontal Zone
Conical Zone
N
W
E
S
For General Reference Only.
For More Detailed information see "The Approach Plan and Profile Map"
prepared by Mayes, Sudderth & Etheredge, Inc. Dated March 15, 1994

Section 9-8-1-5. Airport Zone Height Limitations.

No structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any airport zone to a height in excess of the maximum height established for such zone, as shown in Table 9-8-1-2; provided, however, that nothing in this Section shall be construed as prohibiting the construction or maintenance of any structure or growth of any tree to a height up to 50 feet above the surface of land.

TABLE 9-8-1-2
HEIGHT LIMITATIONS BY AIRPORT ZONE

Airport Zone	Height Limitation
Approach Zone—Runways 11, 29 and 22.	Beginning at a maximum height limitation of 0 feet at the Primary Surface, the maximum height increases by 1 foot for every 20 feet of horizontal distance, increasing to a maximum of 150 feet at a distance of 3,000 feet from the Primary Surface.
Approach Zone—Runway 4	Beginning at a maximum height limitation of 0 feet at the Primary Surface, the maximum height increases by 1 foot for every 34 feet of horizontal distance, increasing to a maximum of 150 feet at a distance of 5,100 feet from the Primary Surface.
Transitional Zones	Maximum height increases 1 foot for each 7 feet outward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation. In addition to the foregoing, there are established height limits sloping 7 feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the horizontal surface.
Horizontal Zone	Maximum height is established at 150 feet above the airport elevation.
Conical Zone	Maximum height increases 1 for each 20 feet of horizontal distance, beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
Navigable Airspace Zone	No structure or tree may exceed a height of 200 feet above the airport elevation (1,277 feet plus 200 feet equals 1,477 feet) within 3 nautical miles of the airport reference point. Between 3 and 6 nautical miles, maximum height increases 100 feet per nautical mile to a maximum height limitation of 500 feet above the airport reference point. (1,277 feet plus 500 feet equals 1,777 feet).

Section 9-8-1-6. Use Restriction.

No use shall be located within any Airport Zone that would create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

Section 9-8-1-7. Hazards Shall Not Be Increased.

No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation,

than it was on the effective date of this Chapter or any amendments thereto or a greater hazard than it is when the application for a permit is made.

Section 9-8-1-8. Marking and Lighting.

The owner of any existing nonconforming structure or tree within an Airport Zone must permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Airport Manager to indicate to the operators of aircraft in the vicinity of the airport the presence of such obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the City.

Section 9-8-1-9. Nonconforming Uses Abandoned or Destroyed.

Whenever the Public Works Director determines that a nonconforming tree or structure has been abandoned or more than 50 percent torn down, physically deteriorated, or decayed, such tree or structure shall be removed or modified to the extent necessary to comply with the applicable height limit.

Section 9-8-1-10. Variances.

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this section, may apply to the Planning and Appeals Board for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.

Section 9-8-1-11. Staff Review of Application for Variance.

Variance applications pursuant to this Chapter shall be reviewed by the Director of Public Works and the Airport Manager, and their response or recommendation must be received prior to action on any such variance.

Section 9-8-1-12. Findings Required to Support Variances.

A variance may be allowed only where it is duly found that the requirements of the variance procedures and standards contained in Chapter 9-22-6 of this Ordinance are met; and relief granted will not create a hazard to air navigation as defined by this Chapter or as determined by the Federal Aviation Administration.

Section 9-8-1-13. Marking and Lighting a Condition of Variance Approval.

Any variance granted shall be conditioned to require the owner of the structure or tree in question to install, at the owner's expense, such markings and lights as may be necessary, and to permit the City, at its own expense, to operate and maintain the necessary markings and lights.

CHAPTER 9-8-2
GATEWAY CORRIDOR OVERLAY ZONE

Section 9-8-2-1. Purpose and Intent.
Section 9-8-2-2. Boundaries and Map.
Section 9-8-2-3. Permitted Uses.
Section 9-8-2-4. Dimensional Requirements.

Section 9-8-2-1. Purpose and Intent.

One of the key goals established in the comprehensive plan is the improvement of community quality, especially in the form of improved development quality. The perceived quality of new growth and development is an important element of community character and livability. An important element of quality of growth is the recognition of the importance of community "gateways." Gateways refer to key points of entry into a community. In the case of Gainesville, there are several gateway corridors that are important both from a functional transportation and a symbolic perspective.

Consistent with the recommendations of the comprehensive plan, this Chapter establishes provisions to ensure that the design quality of new development in the city's identified gateway corridors are held to high standards, as applied via the site and architectural design review processes established in Article 9-9 of this Unified Land Development Code.

Section 9-8-2-2. Boundaries and Map.

The boundaries of the Gateway Corridor Overlay Zone shall be as shown on a map titled Gateway Corridor Overlay Zone which is hereby adopted and made a part of this Unified Land Development Code, and which may be amended from time to time in accordance with the procedures established in this Unified Land Development Code.

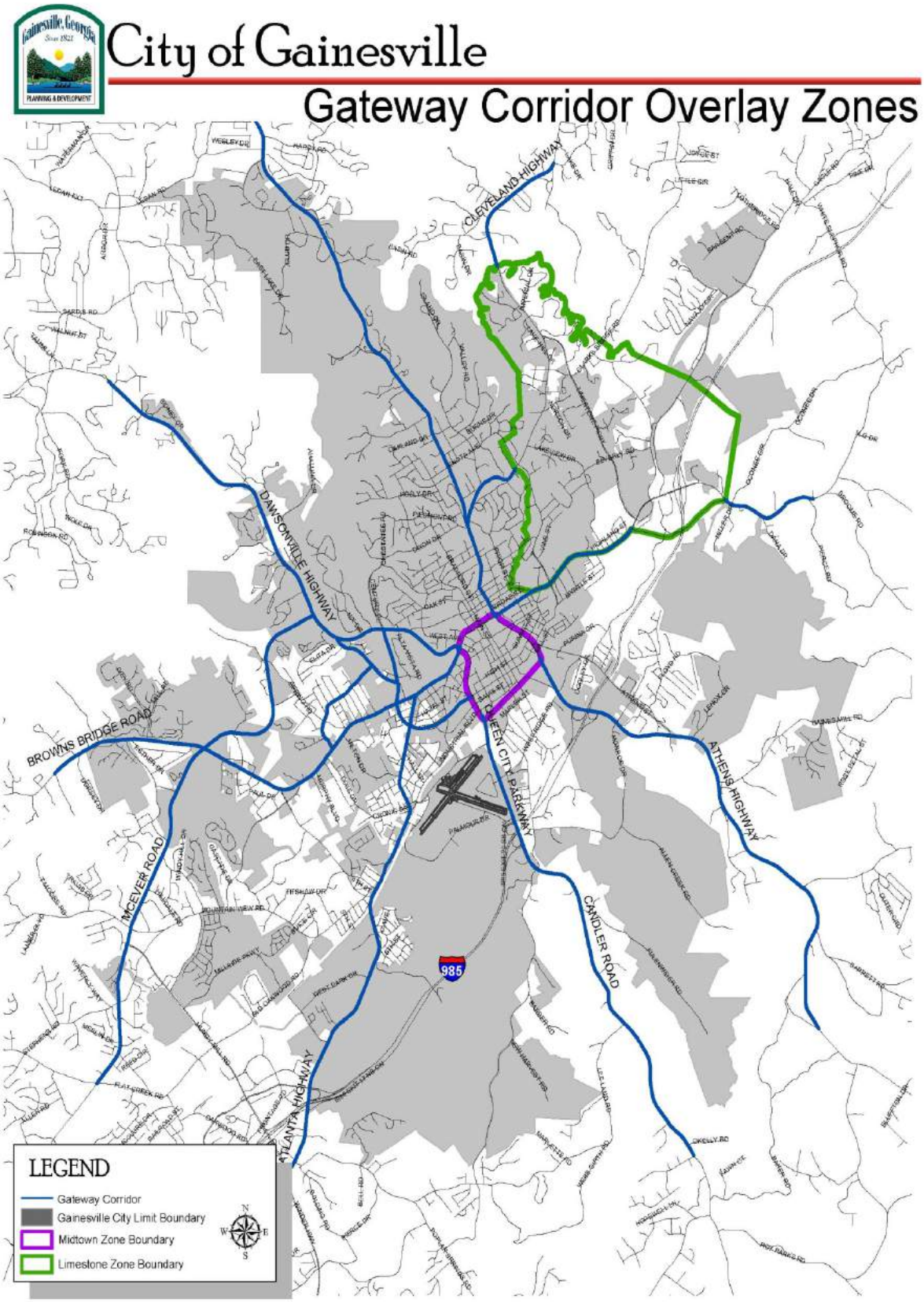
The boundaries of the Gateway Corridor Overlay Zone include all those major roadways entering the city, with the exception of those corridors that are fully included within the Limestone and Midtown overlay zones. The gateway corridor overlay zone shall include all properties fronting on a gateway corridor designated on the overlay zone map.

Section 9-8-2-3. Permitted Uses.

All uses permitted by right or as Special Uses by the underlying zoning district shall be similarly permitted under the Gateway Corridor Overlay Zone. This Chapter does not establish use limitations.

Section 9-8-2-4. Dimensional Requirements.

This overlay zone does not establish dimensional requirements. Uses shall be subject to the applicable dimensional requirements for the underlying zoning district in which said uses are located.


City of Gainesville
Gateway Corridor Overlay Zones
CLEVELAND HIGHWAY
DAWSONVILLE HIGHWAY
BROWNS BRIDGE ROAD
MCEVER ROAD
QUEEN CITY PARKWAY
ATHENS HIGHWAY
CANDLER ROAD
ATLANTA HIGHWAY
985
LEGEND
Gateway Corridor
Gainesville City Limit Boundary
Midtown Zone Boundary
Limestone Zone Boundary
N
W
E
S

CHAPTER 9-8-3
LIMESTONE PARKWAY OVERLAY ZONE

Section 9-8-3-1. Purpose and Intent.
Section 9-8-3-2. Boundaries and Map.
Section 9-8-3-3. Permitted Uses.
Section 9-8-3-4. Dimensional Requirements.
Section 9-8-3-5. Increase in Height.

Section 9-8-3-1. Purpose and Intent.

The purpose of the Limestone Parkway Overlay Zone is to provide special design requirements for those properties located within the zone, regardless of their zoning classification, in order to maintain a consistent appearance along the Parkway and throughout the zone, as applied via the site and architectural design review processes established in Article 9-9 of this Unified Land Development Code. The intent of this zone is to create an identity for the area that will enhance its economic vitality and protect the value of properties within the zone.

It is also the intent of this Chapter, relative to hillside developments, to retain an overall appearance similar to that of the natural terrain, i.e., to limit extreme alteration of the terrain and blend approved alterations into the natural shape of the land; specifically:

(a) To preserve the most visually significant slope banks and ridge lines in their natural state by clustering developments;

(b) To encourage only minimal grading which relates to the natural contour of the land;

(c) To preserve visually significant rock outcropping, native plant materials, natural hydrology, and areas of visual significance;

(d) To encourage variety in building types, padding techniques, grading techniques, lot sizes, site design, density, arrangement, and spacing of buildings in developments;

(e) To encourage innovative architectural, landscaping, circulation, and site design;

(f) To discourage mass grading of large pads and excessive terracing; and,

(g) To provide safe circulation of vehicular and pedestrian traffic to and within the hillside areas and to provide access for emergency vehicles necessary to serve the hillside areas.

Section 9-8-3-2. Boundaries and Map.

The boundaries of the Limestone Parkway Overlay Zone shall be as shown on a map titled Limestone Parkway Overlay Zone which is hereby adopted and made a part of this Ordinance, and which may be amended from time to time in accordance with the procedures established in this Ordinance.

Section 9-8-3-3. Permitted Uses.

All uses permitted by right or as Special Uses by the underlying zoning district shall be similarly permitted in the Limestone Parkway Overlay Zone.

Section 9-8-3-4. Dimensional Requirements.

All properties located within the Limestone Parkway Overlay Zone shall conform to the dimensional requirements of Table 9-8-3-1, where such requirements are more restrictive than the requirements of the underlying zoning district:

TABLE 9-8-3-1
LIMESTONE PARKWAY OVERLAY ZONE DIMENSIONAL REQUIREMENTS

HEIGHT REQUIREMENTS	**Limestone Parkway Overlay Zone**
Maximum height (number of stories), nonresidential buildings only	1 (also see Sec. 9-8-3-5)
PRINCIPAL BUILDING SETBACKS	
Front, arterial street, minimum (feet)	50
Front, all other streets, minimum (feet)	30
Side and Rear	An administrative variance may be granted to rear and side setback requirements through site plan review to achieve the objectives of this Chapter
MAXIMUM FLOOR AREA REQUIREMENTS	
Maximum floor area, building used primarily for residential uses	0.2
Maximum floor area, building used primarily for offices	0.25 for one story or 0.35 for two or more stories
Maximum floor area, building used primarily for retail sales or services	0.35
Maximum impervious surface (percent of lot)	60%

Section 9-8-3-5. Increase in Height.

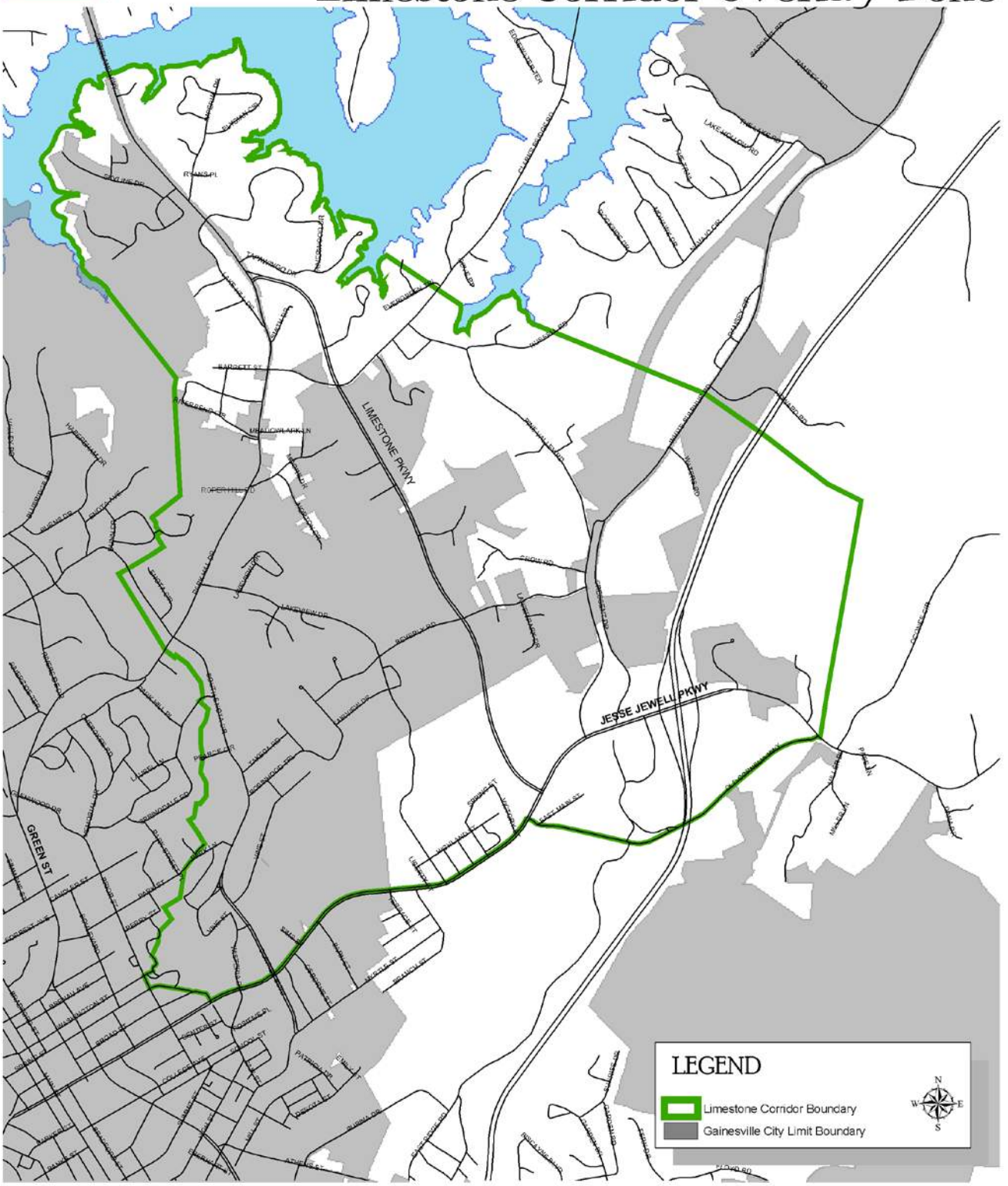
Building height may be increased beyond the maximum to a total height of 2 stories for an additional lower story on the down-slope end of a building which is constructed on a hillside so that only 1 story is above ground on the up-slope end.

Buildings of greater height are also permitted subject to additional setback from arterial roads and from property zoned for residential use. One additional story shall be permitted for each additional 15 feet front building setback provided beyond the minimum front setback requirement or one additional story for each additional 15 feet of side or rear building setback beyond the minimum required setback abutting property zoned for residential use.

As a condition to any such height increase based on the provision of greater setbacks than required, one large-species tree (over 40 feet in height at maturity) for each 30 feet of building perimeter shall be planted or retained between such buildings of greater height and adjoining property lines, in addition to any other trees required under this Ordinance. Alternate height limits may be allowed through conditions of approval of the Limestone Parkway Overlay Zone for a specific development.

City of Gainesville

Limestone Corridor Overlay Zone



CHAPTER 9-8-4
NORTH OCONEE WATER SUPPLY WATERSHED PROTECTION OVERLAY ZONE

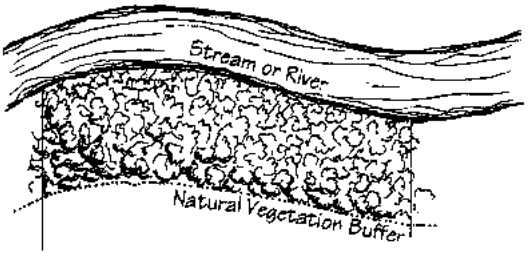
Section 9-8-4-1. Purpose and Intent.
Section 9-8-4-2. Definitions.
Section 9-8-4-3. Boundaries and Map.
Section 9-8-4.4. Permitted Uses and Use Restrictions.
Section 9-8-4-5. Requirements Within Seven Miles of Intake.
Section 9-8-4-6. Requirements Beyond Seven Miles of Intake.
Section 9-8-4-7. Exemptions.
Section 9-8-4-8. Impervious Surface Limitations.
Section 9-8-4-9. Compliance with Reservoir Management Plan.
Section 9-8-4-10. Annexation, Rezoning or Special Use within the Watershed.

Section 9-8-4-1. Purpose and Intent.

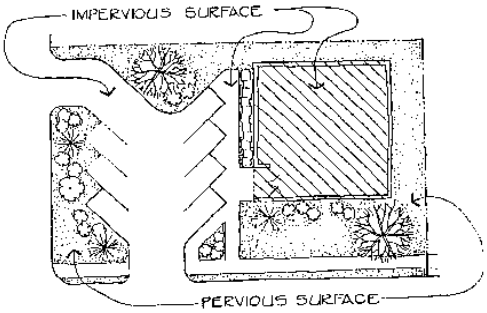
The quality of public drinking water supplies must be assured. Land-disturbing activities associated with development can increase erosion and sedimentation, which threaten the storage capacity of reservoirs and impair the quality of public drinking water supplies. Stormwater runoff, particularly from impervious surfaces, can introduce toxins, nutrients, and sediments into drinking water supplies, making water treatment more complicated and expensive and rendering waters resources unusable for recreation. Industrial land uses that involve the manufacture, use, transport, and storage of hazardous or toxic waste materials result in potential risks of contamination of nearby public drinking water supplies. Therefore, land use activities within water supply watersheds must be regulated to ensure that public water supplies remain clean. This Chapter establishes standards, consistent with the Georgia Department of Natural Resources' Rules for Environmental Planning Criteria for Water Supply Watersheds (Rule 391-3-16-01) to ensure water quality in the watershed system is not compromised by land activities such as grading, septic systems, and accidental release of contaminants. The intent of this Chapter is to minimize the transport of pollutants and sediment to the water supply, to maintain the yield of water supply watersheds, and to ensure water can be treated to meet federal and state drinking water standards, within the North Oconee River small water supply watershed.

Section 9-8-4-2. Definitions.

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



Impervious surface: A man-made structure or surface that prevents the infiltration of stormwater into the ground below the structure or surface. Examples are buildings, roads, driveways, parking lots, decks, swimming pools, and patios.



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

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

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

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

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

Section 9-8-4-3. Boundaries and Map.

The North Oconee River Water Supply Watershed Protection Overlay Zone is hereby designated and shall consist of the land areas that drain to the proposed North Oconee River public water supply intake and water supply reservoir. The boundaries of the overlay zone are defined by the ridgelines of the watershed. The overlay zone boundaries are further delineated and defined on the North Oconee River Water Supply Watershed Protection Overlay Zone Map, which is hereby incorporated and made a part of this Chapter by reference.

Section 9-8-4-4. Permitted Uses and Use Restrictions.

All uses allowed in the underlying zoning districts as established by this Ordinance are permitted in this overlay zone, subject to standards established in this Chapter, except for those listed or qualified below:

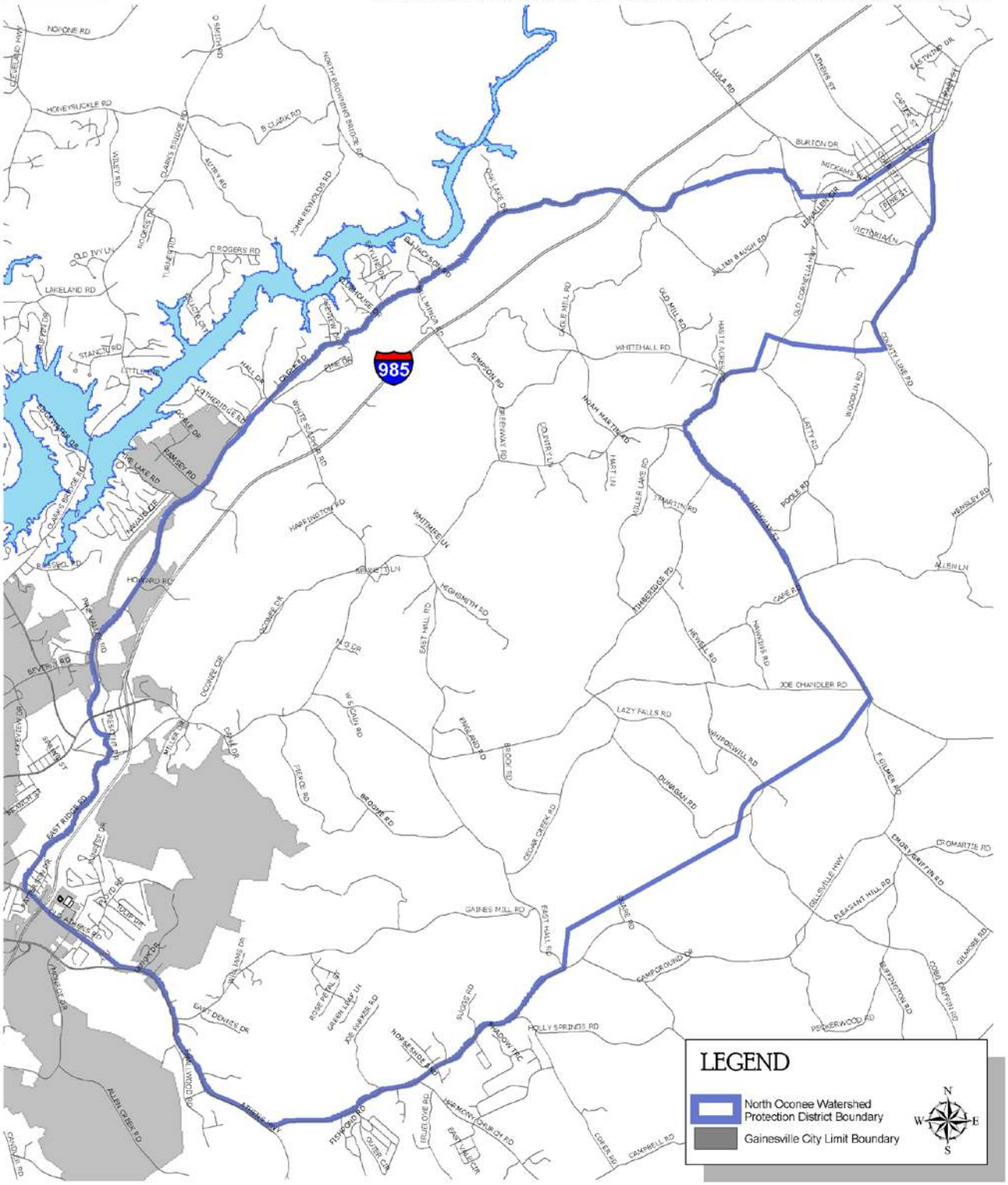
(a) New hazardous waste treatment or disposal facilities are prohibited.

(b) New sanitary landfills are allowed only if they have synthetic liners and leachate collection systems.

(c) New facilities, located within seven (7) miles of a water supply intake or water supply reservoir, which handle hazardous material of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and amounts of 10,000 pounds or more on any one day, shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements or the requirements of the Standard Fire Prevention Code.

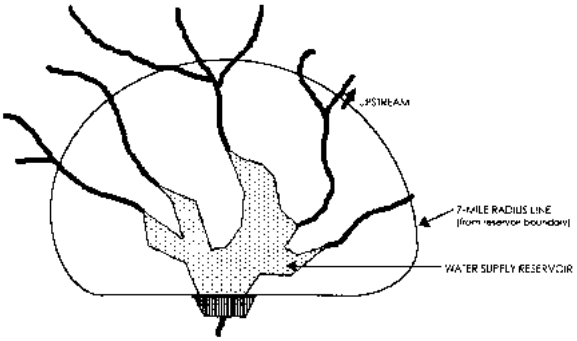
City of Gainesville

North Oconee Watershed Protection Zone

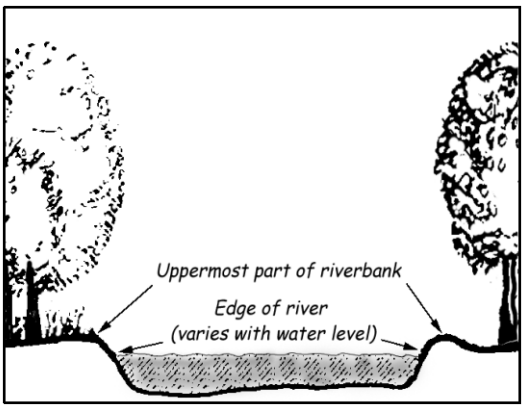


Section 9-8-4-5. Requirements Within Seven Miles of Intake.

Within a seven-mile radius upstream of the North Oconee River public drinking water supply intake, the following requirements shall apply to perennial stream corridors:

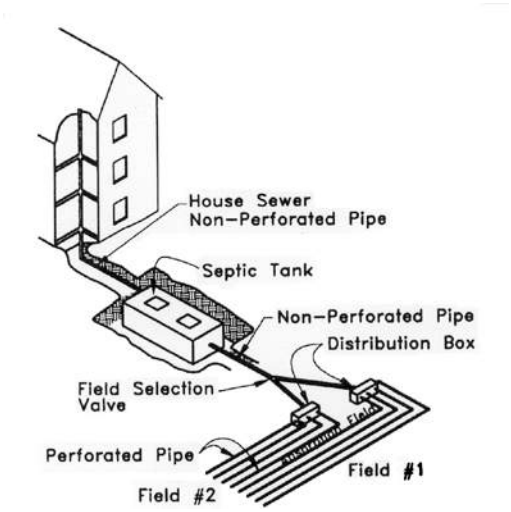


(a) A buffer shall be maintained for a distance of 100 feet on both sides of the perennial stream as measured from the stream banks.



(b) No impervious surface shall be constructed within a 150-foot setback area on both sides of the perennial stream as measured from the stream banks.

(c) Septic tanks and septic tank drainfields are prohibited in the impervious surface setback.



Section 9-8-4-6. Requirements Beyond Seven Miles of Intake.

Within the water supply watershed but outside a seven mile radius upstream of the North Oconee River public drinking water supply intake, the following requirements shall apply to perennial stream corridors:

(a) A buffer shall be maintained for a distance of 50 feet on both sides of the perennial stream as measured from the stream banks.

(b) No impervious surface shall be constructed within a 75-foot setback area on both sides of the perennial stream as measured from the stream banks.

(c) Septic tanks and septic tank drainfields are prohibited in the impervious surface setback.

Section 9-8-4-7. Exemptions.

The following land uses and activities are exempted from compliance with this Chapter:

(a) Previously existing land uses. Land uses existing prior to the adoption of watershed protection regulations by the City of Gainesville (February 8, 2001). Any structure existing at that time which does not conform to the setback, buffer and/or impervious surface requirements of this Chapter may be re-established if damaged or destroyed, provided the degree of non-conformity is not increased with the construction of the replacement structure.

(b) Forestry and agriculture. Specific forestry and agricultural activities in the stream corridor buffer and setback areas, provided that activities shall be consistent with best management practices established by the Georgia Forestry Commission or the Georgia Department of Agriculture, and provided further that the activity shall not impair the quality of the drinking water stream.

(c) Utility encroachment. If utilities cannot feasibly be located outside the buffer or setback areas required by this Chapter, such utility locations can be exempted with permission of the Director from the stream corridor buffer and setback area provisions subject to the following conditions:

1. The utilities shall be located as far from the stream bank as reasonably possible.

2. The installation and maintenance of the utilities shall be such to protect the integrity of the buffer and setback areas as best as reasonably possible.

3. The utilities shall not impair the quality of the drinking water stream.

Section 9-8-4-8. Impervious Surface Limitations.

The impervious surface area, including all public and private structures, utilities, or facilities, of the entire small water supply watershed shall be limited to twenty-five percent (25%), or existing use, whichever is greater.

Section 9-8-4-9. Compliance with Reservoir Management Plan.

All development within the 150-foot buffer from any water supply reservoir boundary, and any uses of the reservoir itself including docks, shall, as may be applicable, comply with any reservoir management plan adopted by the local government with jurisdiction and approved by the Georgia Department of Natural Resources.

Section 9-8-4-10. Annexation, Rezoning or Special Use Within the Watershed.

When an application for annexation, rezoning or special use for land subject to this Chapter is proposed, the Director, Planning and Appeals Board, and Governing Body shall consider the potential impacts of development resulting from the annexation, rezoning or special use if approved would have on the purposes of watershed protection established in this Chapter. Any finding that development pursuant to the annexation, rezoning or special use if approved would result in excessive impervious surface or adverse impacts on water quality in the watershed shall be a sufficient basis for denial of the annexation, rezoning or special use application by the Governing Body.

CHAPTER 9-8-5
GROUNDWATER RECHARGE AREA PROTECTION OVERLAY ZONE

Section 9-8-5-1. Purpose and Intent.
Section 9-8-5-2 Definitions.
Section 9-8-5-3. Boundaries and Map.
Section 9-8-5.4. Minimum Lot Size.
Section 9-8-5-5. Manufactured Home Parks.
Section 9-8-5-6. Agricultural Waste Impoundment Sites.
Section 9-8-5-7. Above Ground Chemical or Petroleum Storage Tanks.
Section 9-8-5-8. Hazardous Materials Handling Facilities.
Section 9-8-5-9. County Environmental Health Department Approval Required.

Section 9-8-5-1. Purpose and Intent.

Groundwater is among the Nation's most important natural resources. It provides drinking water to urban and rural communities, supports irrigation and industry, sustains the flow of streams and rivers, and maintains riparian and wetland ecosystems. In many areas of the Nation, the future sustainability of ground-water resources is at risk from contamination. Because groundwater systems typically respond slowly to human actions, a long-term perspective is needed to manage this valuable resource. This Chapter is intended to implement rules of the Georgia Department of Natural Resources Environmental Protection Division known as the "Rules for Environmental Planning Criteria" as they specifically relate to groundwater recharge areas (Rule 391-3-16-.02).

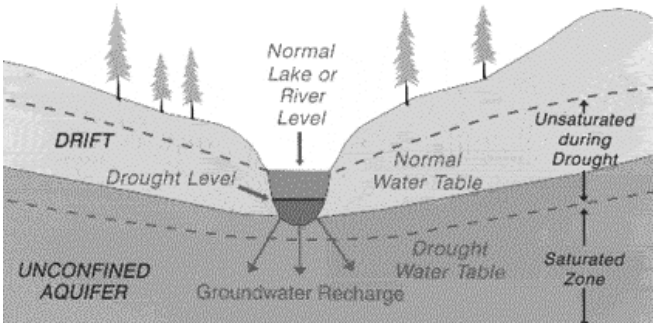
It is essential to the health, safety, and welfare of the public that the quality of subsurface public drinking water supplies be maintained. Groundwater resources exist in underground reservoirs known as aquifers. These aquifers are zones of rock beneath the earth's surface that are capable of producing water through a well. They occupy vast regions of the subsurface and are replenished by infiltration of surface water runoff in zones of the surface known as groundwater recharge areas. Groundwater is susceptible to contamination when unrestricted development occurs within significant groundwater recharge areas.

Certain land use activities, such as septic tanks, underground tanks, and chemical spills, pose a threat to the quality of groundwater supplies. Therefore, it is necessary to manage land uses within groundwater recharge areas in order to ensure that pollution threats are minimized. To this end, this Chapter establishes minimum lot sizes to provide for the orderly and safe development of property utilizing on-site sewage management systems.

Section 9-8-5-2. Definitions.

Acre-foot: The volume (as of irrigation water) that would cover one acre to a depth of one foot.

Aquifer: Any stratum or zone of rock beneath the surface of the earth capable of containing or producing water for a well.



Recharge of Groundwater from Surface Water During Normal and Drought Conditions

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

Hydrologic Atlas 18: A map prepared by the Georgia Department of Natural Resources and published by the Georgia Geologic Survey in 1989, which identifies the most significant groundwater recharge areas of Georgia as spotted areas labeled as “areas of thick soils.”

Hydrologic Atlas 20: A multicolored map of Georgia at a scale of 1:500,000, prepared by the Georgia Department of Natural Resources using the DRASTIC methodology and published by the Georgia Geologic Survey in 1992, which shows areas of higher, average (or medium), and lower susceptibility of groundwater to pollution in Georgia. This map is also commonly known as the Groundwater Pollution Susceptibility Map of Georgia. Note: This map shows all areas in Hall County as “lower” pollution susceptibility.

Pollution susceptibility: The relative vulnerability of an aquifer to being polluted from spills, discharges, leaks, impoundments, applications of chemicals, injections and other human activities in the recharge area. Each significant recharge area shown on Hydrologic Atlas 18 is classified on Hydrologic Atlas 20 as higher, average, or lower pollution susceptibility.

Recharge area: Any portion of the earth’s surface where water infiltrates into the ground to replenish an aquifer.

Significant Recharge Areas: Those recharge areas mapped by the Georgia Department of Natural Resources in Hydrologic Atlas 18 (1989 edition) within the relevant portion of Hall County. Each significant recharge area shall be determined to have a pollution susceptibility of high, medium, or low based on Hyrdologic Atlas 20. Note: All areas in Hall County are “lower” pollution susceptibility.

Section 9-8-5-3. Boundaries and Map.

The Groundwater Recharge Area Protection Overlay Zone is hereby designated and shall consist of the land areas within the jurisdiction of the City of Gainesville that are mapped as significant recharge areas by the Georgia Department of Natural Resources in Hydrologic Atlas 18, 1989 edition. The boundaries of the overlay zone are defined by on the Groundwater Recharge Area Protection Overlay Zone Map, which is hereby incorporated and made a part of this Chapter by reference.

Groundwater Recharge Area Protection Overlay Zone

Section 9-8-5-4. Minimum Lot Size.

Within an area governed by this Chapter, new homes or land uses served by a septic tank/drain field system shall be on lots having minimum lot sizes of at least 110% of the subdivision minimum lot size calculated based on application of DHR Table MT-1 within a low pollution susceptibility area, based on application of Table MT-1 of the DHR Manual (hereinafter DHR Table MT-1). The minimums set forth in DHR Table MT-1 may be increased further based on consideration of other factors set forth in Sections A-F of the DHR Manual, as determined by the Hall County Environmental Health Department.

Any lot of record approved prior to the adoption of groundwater recharge area regulations (February 8, 2001) shall be exempt from the minimum lot size requirements of this Section.

Within an area governed by this Chapter, no subdivision plat shall be recorded until and unless said plat has been reviewed and approved by the Director as being in compliance with the minimum lot sizes established by this Section.

Section 9-8-5-5. Manufactured Home Parks.

Manufactured home parks are prohibited within this overlay zone.

Section 9-8-5-6. Agricultural Waste Impoundment Sites.

New agricultural waste impoundment sites which exceed 50 acre-feet in a significant recharge area shall contain a liner consisting of compacted clay having a thickness of one-foot and a vertical hydraulic conductivity of less than 5×10^{-7}cm/sec or other criteria established by the Natural Resource and Conservation Service:

Section 9-8-5-7. Above Ground Chemical or Petroleum Storage Tanks.

Within an area governed by this Chapter, new above-ground chemical or petroleum storage tanks having a minimum volume of 660 gallons shall have secondary containment for 110% of the volume of such tanks or 110% of the volume of the largest tank in a cluster of tanks. Such tanks used for agricultural purposes are exempt, provided they comply with all federal requirements.

Section 9-8-5-8. Hazardous Materials Handling Facilities.

Within an area governed by this Chapter, new facilities that handle hazardous materials of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and in amounts of 10,000 pounds or more on any one day, shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements or the requirements of the Standard Fire Prevention Code.

Section 9-8-5-9. County Environmental Health Department Approval Required.

No development permit or building permit shall be issued by the Planning Department or the Building Official for a building, structure, or manufactured home to be served by a septic tank, unless the Hall County Environmental Health Department first approves the proposed septic tank installation as meeting the requirements of the Georgia Department of Human Resources Manual.

CHAPTER 9-8-6
WETLAND PROTECTION OVERLAY ZONE

Section 9-8-6-1. Purpose and Intent.
Section 9-8-6-2. Definitions.
Section 9-8-6-3. Boundaries and Map.
Section 9-8-6-4. Prohibited Uses.
Section 9-8-6-5. Permitted Uses.
Section 9-8-6-6. Land Development Permits.

Section 9-8-6-1. Purpose and Intent.

Wetlands are indispensable and fragile natural resources with significant development constraints due to flooding, erosion, and soils limitations. In their natural state, wetlands serve man and nature. They provide habitat areas for fish, wildlife and vegetation; water quality maintenance and pollution control; flood control; erosion control; natural resource education; scientific study; and open space and recreational opportunities. In addition, the wise management of forested wetlands is essential to the well being of communities in the State of Georgia. Nationally, a considerable number of wetlands have been lost or impaired by draining, dredging, filling, excavating, building, pollution and other activities. Without additional regulation, piecemeal or cumulative losses of wetlands will continue to occur over time. Therefore, it is in the interest of public safety and the general welfare to avoid damage or destruction to wetlands. The purpose of this Chapter is to promote wetlands protection by providing for the withholding of land use and building permits in areas designated as wetlands until a jurisdictional wetland determination is completed, and establishing permitted and prohibited land uses within wetlands.

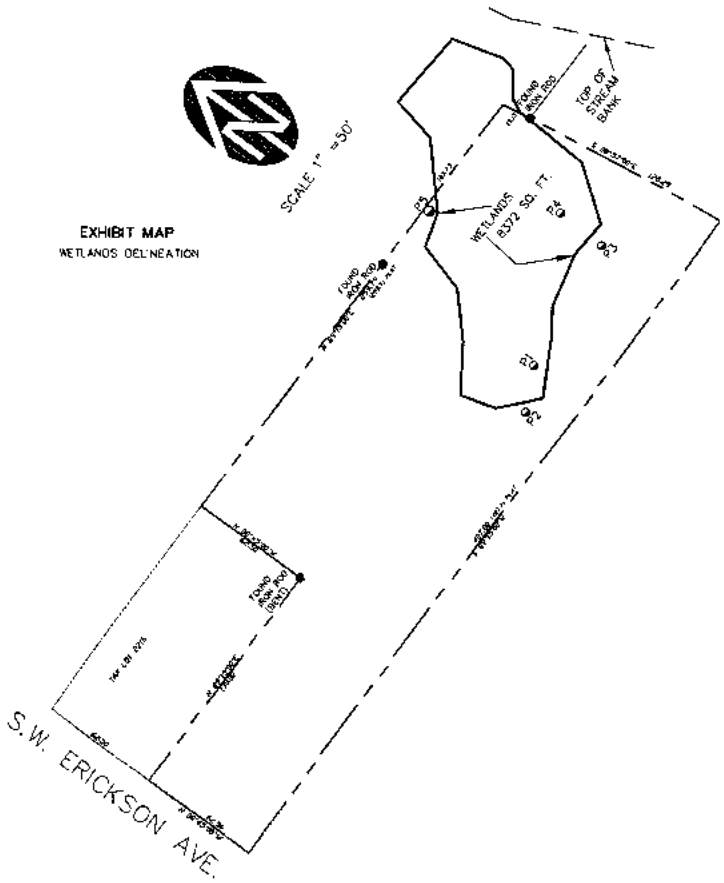
Section 9-8-6-2. Definitions.

Generalized wetlands map: A map of wetlands provided in the city's comprehensive plan and/or any U.S. Fish and Wildlife Service National Wetlands Inventory (NWI) map showing wetlands within the local jurisdiction.

Jurisdictional wetland: An area that meets the definitional requirements for wetlands as determined by the U.S. Army Corps of Engineers.

Jurisdictional wetland determination: A delineation of jurisdictional wetland boundaries by the U.S. Army Corps of Engineers, as required by Section 404 of the Clean Water Act, 33 U.S.C. § 1344, as amended.

Wetlands: Those areas that are inundated or saturated by surface or groundwater 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 shall include any area delineated as a wetland by the United States Army Corps of Engineers under its jurisdiction pursuant to Section 404 of the Federal Clean Water Act as amended; or any area shown on a 1:24,000 scale, United States Fish and Wildlife Service National Wetland Inventory Map as being a wetland; or any area shown on a 1:24,000 scale, Georgia Department of Natural Resources land cover database map as being a wetland; or any area shown on the Generalized Wetland Map as a wetland.



Illustrative Jurisdictional Wetland Determination

Section 9-8-6-3. Boundaries and Map.

The Generalized Wetlands Map, as defined by this Chapter, together with all explanatory matter thereon, is hereby adopted by reference hereby made a part of this ordinance as if fully set forth herein.

The Generalized Wetland Map is a general reference document and wetland boundaries indicated on the map are approximations. The purpose of the Generalized Wetland Map is to alert developers/landowners if they are within proximity to a wetland, which means that there is a high likelihood of the presence of a jurisdictional wetland and a need for the developer/landowner to seek U.S. Army Corps of Engineers guidance as to whether a Section 404 Permit will be required prior to any activity. The Generalized Wetland Map does not necessarily represent the exact boundaries of jurisdictional wetlands within the City of Gainesville and cannot serve as a substitute for a delineation of wetland boundaries by the U.S. Army Corps of Engineers, as required by Section 404 of the Clean Water Act, as amended. Any local government action under this Ordinance does not relieve the landowner from federal and state permitting requirements.

[Insert Generalized Wetlands Map]

Section 9-8-6-4. Prohibited Uses.

All activities which are not exempted shall be prohibited without prior issuance of a local development permit. The following uses are prohibited within wetlands shown on the Generalized Wetlands Map:

(a) Receiving areas for toxic or hazardous waste or other contaminants.

(b) Hazardous or sanitary waste landfills.

Section 9-8-6-5. Permitted Uses.

The following uses shall be allowed within an area shown as a wetland on the Generalized Wetlands Map, to the extent that they are not prohibited by any other ordinance or law, including laws of trespass, and provided they do not require structures, grading, fill, draining, or dredging except as provided herein.

(a) Conservation or preservation of soil, water, vegetation, fish and other wildlife, provided it does not affect waters of Georgia or of the Unites States in such a way that would require an individual 404 Permit.

(b) Outdoor passive recreational activities, including fishing, bird watching, hiking, boating, horseback riding, and canoeing.

(c) Forestry practices applied in accordance with best management practices approved by the Georgia Forestry Commission and as specified in Section 404 of the Clean Water Act.

(d) The cultivation of agricultural crops. Agricultural activities shall be subject to best management practices approved by the Georgia Department of Agriculture.

(e) The pasturing of livestock, provided that riparian wetlands are protected, that soil profiles are not disturbed and that approved agricultural Best Management Practices are followed.

(f) Education, scientific research, and nature trails.

(g) Other uses permitted under Section 404 of the Clean Water Act.

Section 9-8-6-6. Land Development Permits.

(a) Compliance required. No regulated activity will be permitted within the Wetland Protection Overlay Zone without prior approval by the City of Gainesville in the form of a local development permit. Issuance of a local development permit is contingent upon full compliance with the terms of this Ordinance and other applicable regulations.

(b) Assessment. Prior to issuance of a local development permit, the Director shall assess whether the proposed activity is of a type that could result in a disturbance of wetlands and, if so, shall also assess whether the proposed activity is located within the Wetland Protection Overlay Zone or within fifty feet (50') of the district.

(c) Issuance. If the Director determines that the proposed activity is of a type that could not result in a disturbance of wetlands, or if the proposed activity is not located within the Wetland Protection Overlay Zone or within fifty feet (50') of the Overlay Zone, the Director shall follow normal procedures for issuing a development permit.

(d) Jurisdictional wetland determination. If the Director determines that the proposed activity is of a type that could result in a disturbance of wetlands and that the proposed activity is located within the wetland protection district, or within fifty feet (50') of the wetland protection district, a U.S. Army Corps of Engineers jurisdictional wetland determination shall be required prior to issuance of a local development permit.

(e) Issuance after determination. If the U.S. Army Corps of Engineers determines that the proposed activity would not require a Department of Army permit, the Director shall proceed with normal procedures for issuing a local development permit. If a permit or permission is required by the Corps, the local development permit shall not be issued until compliance with Corps requirements is achieved or future compliance demonstrated.

CHAPTER 9-8-7
MIDTOWN OVERLAY ZONE

Section 9-8-7-1. Purpose and Intent.
Section 9-8-7-2. Definitions.
Section 9-8-7-3. Boundaries and Map.
Section 9-8-7-4. Effect of Overlay Zone Provisions.
Section 9-8-7-5. Administrative Variances.
Section 9-8-7-6. Permitted Uses.
Section 9-8-7-7. Property Design Standards.

Section 9-8-7-1. Purpose and Intent.

The purpose of the Midtown Overlay Zone is to protect the health, safety, and general welfare of the public and promote economic prosperity in Gainesville Midtown in a manner consistent with the *Redevelopment Plan – The Renaissance of Midtown Gainesville*, and the City's Comprehensive Plan. The intent of the overlay zone is to set higher standards for the appearance and functionality of the land uses, as applied via the site and architectural design review processes established in Article 9-9 of this Unified Land Development Code. It is also intended to encourage mixed use development and the creation of more housing, employment, and recreational opportunities in Midtown. Please refer to the *Redevelopment Plan – The Renaissance of Midtown Gainesville* for further information on the redevelopment of Midtown.

Section 9-8-7-2. Definitions.

Mixed-Use Development: Development of a single building or single parcel to contain two or more of the following types of uses: residential, retail/commercial, office, or institutional. Mixed uses may be combined vertically within the same building or placed side by side on the same parcel, provided that they are in close proximity, planned as a unified and complementary whole, and functionally integrated to make use of shared vehicular and pedestrian access and parking areas.

Open Space: Areas that are set aside for common use and protected through a legal instrument approved by the City of Gainesville. The purpose of open space is to provide separation, resource protection, scenic enjoyment, recreation, or amenity to abutting developed property. Areas designated as open space shall not be included in minimum lot areas required by this ordinance.

Parking, Bicycle: An area in a parking lot or along a sidewalk that is designed and marked for the purpose of securing bicycles in an upright fashion, using a locker or open framework that is permanently attached to the ground and providing secure anchorage for three or more bicycles. Bicycle parking spaces should be in one or more convenient locations within 100 feet of the uses or principal entrances of buildings which they are intended to serve.

Pervious Paving: Materials used to surface parking lots and driveways that are designed to meet the requirements of materials described in Volume 2 – Technical Handbook of the Georgia Stormwater Management Manual (First Edition, August 2001) as the Porous Concrete or Modular Porous Paver Systems under the Limited Application Stormwater Structural Controls.

(1) Porous concrete: a mixture of coarse aggregate, portland cement and water that allows for rapid infiltration of water and overlays a stone aggregate reservoir.

(2) Modular porous paver systems: A pavement surface composed of structural units with void areas that are filled with pervious materials such as sand or grass turf. Porous pavers are installed over a gravel base course that provides storage as runoff infiltrates through the porous paver system into underlying permeable soils.

Use, Supportive Commercial: A use of land or a building, or portion thereof, other than the principal use that may be located on the same parcel with such principal use in order to provide a convenient source of commercial goods or services for the occupants of the principal use of the land or building. Supportive commercial uses are intended and designed to reduce traffic and the need for occupants of surrounding buildings to make automobile trips for daily needs.

Section 9-8-7-3. Boundaries and Map.

The Midtown Overlay Zone is hereby designated and shall consist of the land areas further delineated and defined on the Midtown Overlay Zone Map, which is hereby incorporated and made a part of this Chapter by reference, and which may be amended from time to time. The Midtown Overlay Zone shall include that area bounded by the Norfolk Southern rail line on the southeast, E. E. Butler Parkway on the northeast, Jesse Jewell Parkway on the northwest, and Queen City Parkway on the southwest. Also included is a 200-foot buffer surrounding the Midtown boundaries, where all of the requirements of this Overlay Zone apply as well.

Section 9-8-7-4. Effect of Overlay Zone Provisions.

The Midtown Overlay Zone is supplemental to the zoning district classifications and any locally designated historic landmark or district established in the City of Gainesville Unified Land Development Code. The provisions of this overlay zone apply to all applications for zoning matters, land disturbance permits, plat approval, and building permits for all property and rights-of-way within the boundaries of the Midtown Overlay Zone; except locally designated historic landmarks and districts which must comply with Design Guidelines for that historic landmark and/or district. All plan reviews, plat approval, and permits for parcels located within this overlay zone shall meet all the requirements of the base zoning district in which it is located and, in addition, shall meet the requirements of the overlay zone applicable to the parcel. In any case where the standards and requirements of the overlay zone conflict with those of the base zoning district, the standards and requirements of the overlay zone shall govern.

Section 9-8-7-5. Administrative Variances.

Administrative variances are governed by Chapter 9-24-3 of this Unified Land Development Code.

Section 9-8-7-6. Permitted Uses.

All uses permitted by right or as Special Uses by the underlying zoning district shall be similarly permitted under the overlay zone, except sexually-oriented adult uses, mini-warehouses, automotive sales and service, and motor vehicle sales and service shall not be permitted on any property in the overlay zone. In addition, loft dwellings, apartments, and townhouses shall be permitted by right in any non-residential district in the overlay zone.

Supportive Commercial Uses: The following uses may be permitted on the ground floor of buildings in a mixed-use development where the upper floors are occupied by residential or office uses, provided that the development site consists of at least 2 acres and the supportive commercial uses comprise no more than 30 percent of the total gross floor area of the mixed-use development:

1. Apparel Stores.
2. Art Studios and Art Supplies.
3. Barber Shops and Beauty Salons.
4. Book Stores.
5. Clothing Accessories Stores.
6. Convenience Stores (no gasoline sales).
7. Day Care, Child.
8. Day Care, Adult (Non-residential).
9. Drug Stores and Pharmacies.
10. Drinking Places.
11. Fitness and Recreational Sport Centers.
12. Florists.
13. Food and Beverage Stores.
14. Custom Service Restaurants.
15. Gift, Novelty and Souvenir Stores.
16. Hardware Stores.
17. Health and Personal Care Stores.
18. Ice Cream Parlors.
19. Jewelry Stores.
20. Laundromats.
21. News Dealers and Newsstands.
22. Recreation Center and Club, Private.
23. Video /Electronics Rentals.
24. Other similar uses approved by the Director.

Section 9-8-7-7. Property Design Standards.

(a) Minimum Open Space: 15 percent of gross acreage of tract that is 2 acres or larger before subdivision. Buffers can be included in the open space up to the discretion of the Director.

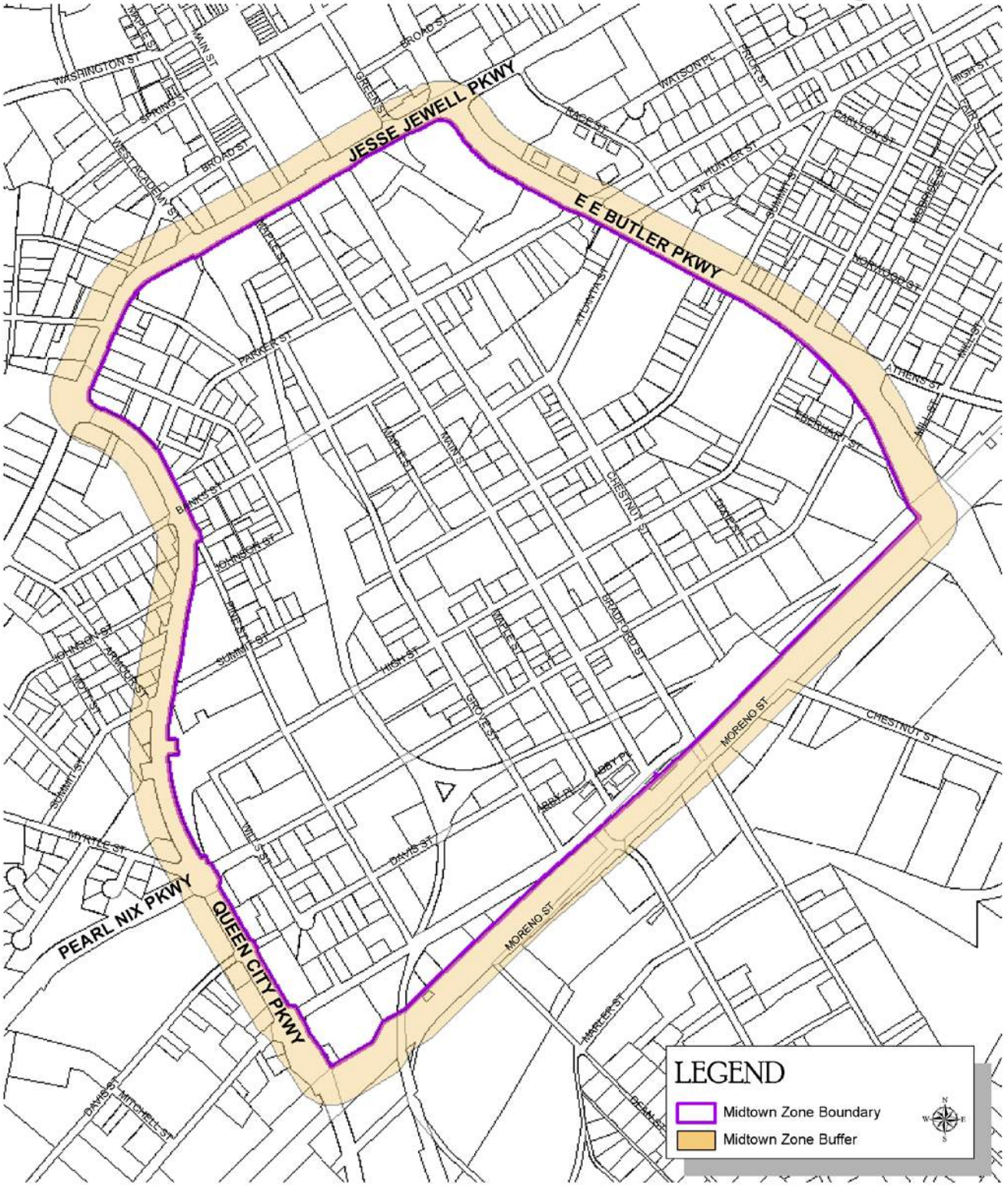
(b) Maximum Impervious Cover: 75 percent of parcel; not including portions of the parcel that are in floodplain or wetlands.

(c) Maximum Building Height: 75 feet.

(d) Maximum Front Yard Setback: 50 feet.

City of Gainesville

Midtown Overlay Zone



CHAPTER 9-8-8
HISTORIC PRESERVATION OVERLAY ZONE

Section 9-8-8-1. Purpose and Intent.
Section 9-8-8-2. Definitions.
Section 9-8-8-3. Significance, Boundaries and Maps.
Section 9-8-8-4. Amendments to the Historic Preservation Overlay Zone.
Section 9-8-8-5. Use Restrictions.
Section 9-8-8-6. Affirmation of Building Regulations and Design Guidelines.
Section 9-8-8-7. Requirement for a Certificate of Appropriateness.
Section 9-8-8-8. Maintenance of Historic Properties
Section 9-8-8-9. Undue Hardship.

Section 9-8-8-1. Purpose and Intent.

The purpose of this Chapter is to establish a uniform procedure for use in providing for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, landscape features and works of art having a special historical, architectural, cultural or aesthetic interest or value; and is intended:

(a) To stimulate revitalization and preservation of the business districts and historic neighborhoods;

(b) To promote economic progress through heritage tourism;

(c) To provide for the designation, protection, preservation, rehabilitation and restoration of historic districts and properties; and to participate in federal or state programs to accomplish the same.

Section 9-8-8-2. Definitions.

Designation: A decision by the Governing Body pursuant to Chapter 9-23-2 of this Unified Land Development Code to designate a district or property as "historic" and thereafter prohibit all material changes in appearance prior to the issuance of a Certificate of Appropriateness pursuant to Chapter 9-23-3 of this Unified Land Development Code.

Historic district: A geographically definable area, which contains structures, sites, works of art or a combination thereof which is designated as historic pursuant to this Chapter and Chapter 9-23-2 of this Unified Land Development Code, and which:

(a) Exhibits a significant historical, architectural, cultural or environmental character or value;

(b) Represents one or more periods, styles or types of architecture typical of one or more eras in the history; and

(c) Constitutes a visibly perceptible section of the municipality or county by reason of above.

Historic landmark: An individual structure, site or work of art, including the adjacent area necessary for the proper appreciation or use thereof, which is designated as historic pursuant to

this Chapter and Chapter 9-23-2 of this Unified Land Development Code, and which is deemed worthy of preservation for one or more of the reasons listed below:

(a) It is an outstanding example of a structure representative of an era;

(b) It is one of the few remaining examples of a past architectural style;

(c) It is a site or structure associated with an event or person of historic or cultural significance; or

(d) It is a site of natural or aesthetic value that is continuing to contribute to the historical or cultural development and heritage.

Site: The location of a significant event; a prehistoric or historical activity; or a structure, whether standing, ruined, or vanished; where the location itself maintains historical, cultural or archaeological value regardless of the value of any existing structure.

Section 9-8-8-3. Significance, Boundaries and Maps.

The Historic Preservation Overlay Zone is hereby designated. It shall consist of the land areas further delineated and defined on the Historic Preservation Overlay Zone Maps for each designated district and individual landmark as adopted as part of the official designation ordinance on file with the City Clerk. The Historic Preservation Overlay Zone maps are hereby considered to be a part of the Official Zoning Map of the City of Gainesville and this Chapter by reference. In addition, the properties within the boundaries of the Historic Preservation Overlay Zone shall be clearly defined for individual properties on tax maps.

The following subsections include a description of the physical boundaries and a statement of significance for all designated local historic districts and individual landmarks falling within the Historic Preservation Overlay Zone. Furthermore, in accordance with O.C.G.A. 44-10-26, a list of all property owners, a legal description and map, and the provision for requiring a Certificate of Appropriateness be obtained prior to making a material change in the exterior appearance – whether regarding a district or an individual landmark – shall be made a part of the official designation ordinance which is kept on file in the office of the Gainesville City Clerk.

(a) Big Bear Café Individual Landmark.

1. Significance.

The subject property, which contains three historic buildings, is located on Main Street within the Midtown area of Gainesville, which is one of the oldest sections of Gainesville and has long since been a transitional area. The Big Bear Café landmark contains one of the first permanent commercial buildings constructed along Main Street in the Midtown area, and as such, contributed to Gainesville's community planning efforts.

The building (which is the current home of Jayne's Flower Shop) was constructed around the turn of the twentieth century, between 1900 and 1930. This building was constructed of local brick of poor quality and shaped as a parallelogram to face Main Street at an angle, and thereby, creating an architectural effect that is distinctive. The building has housed various cafes and barber shops over time; such uses were particularly vibrant during World Wars I and II. The adjacent building, which houses *The Big Bear Café*, is an identical brick building that was

constructed in 1936, a few months after the devastating tornado of April 6, 1936. As with the first building, the parallelogram shape of the building creates an optical illusion that makes Main Street appear to angle toward the right, and like the first, this second building consisted of two sides – the upper side held a café while the lower side next to the alleyway contained a butcher shop. The café was operated by Mr. G. C. Barron as one of the most colorful and exciting establishments on the main line of the Southern Railroad, which connected through major cities between New York and New Orleans. Because Mr. Barron had a black bear in a cage behind the café, local folks referred to the café as *The Big Bear*, and although Mr. Barron did not like the name he used it since it apparently was good for business. The third building, a large metal warehouse of approximately 4,900 square feet in size, was built by the Chambers Lumber Company in 1950; to store mantles, doors, windows, and fine millwork. In 1997, a small group of local artists worked with the owner to create an art studio within the building – movement which is hoped will bring about change in Midtown.

In summary, the one-story brick, parallelogram buildings are typical commercial buildings from the turn of the twentieth century that are plain with commercial hardware characteristic of the period. The obtuse angles, creating the parallelogram shape, required custom fit for practically all of the structural elements and most of the interior finish as well.

2. Boundaries.

The subject property is bounded by Main Street, Bradford Street, a spur track of the CSX Railroad (formerly Gainesville-Midland Railroad) which is no longer in use and property of the Norfolk Southern Railroad. More specifically, the boundary of the local historic landmark follows the property lines of the subject tract as described in the recorded deed and as shown on a recorded plat.

City of Gainesville
Historic Preservation Overlay Zone
Big Bear Cafe Local Historic Landmark
MARTIN LUTHER KING JR BLVD
BRADFORD ST
CHESTNUT ST
MAPLE ST
ABBY PL
MAIN ST
BRADFORD STREET EXT
MORENO ST
ABBY PL
Legend
Historic
Parcel Boundary

(b) Ridgewood Neighborhood Local Historic District.

1. Significance.

The Ridgewood Neighborhood Local Historic District serves as a bridge between the Green Street historic area and the Rock Creek, Ivey Terrace and the Wilshire parks. This area, which is a traditional residential neighborhood with sidewalks on either side of the street, is located within one of the oldest residential neighborhoods in Gainesville. Forty-six (46) of the forty-seven (47) structures located in the district were built between 1910 and 1954, most of which were constructed in the 1930s with brick, asbestos siding or wood exteriors; the remaining structure was built in 1987. The forty-eighth (48th) property located within the historic district is a small park, which is called the H. H. Dean Memorial Park in memory of the developer who originally owned much of the property within this neighborhood. The park/ garden area is land that was given by H. H. Dean to the Northside Garden Club in the 1930s – at a time when much of the H. H. Dean Estate was subdivided to create the Ridgewood neighborhood area.

The structures located within the district are representative of the type of historic residential architecture found in many of Georgia's towns and cities as well as reflect the prevailing national principles and practices of architecture of this time. Architecturally speaking, the district contains an outstanding group of examples of Craftsman and Victorian homes and English Tudor cottages; including one-story and two-story designs. Many of the structures contain much of their original fabric – including plaster walls, windows and exterior building materials – but many have been renovated and altered since their original construction.

The Ridgewood Neighborhood Local Historic District contains within its confines a high concentration of intact, historic residential structures that reflect architectural styles and building types found throughout the early and mid-twentieth century. The structures located within the proposed historic district together depict an era of architectural and historical character and are reflective of the social and cultural development of Gainesville. Moreover, the proposed historic district represents a major period in the development of Gainesville

2. Boundaries.

The Ridgewood Neighborhood Local Historic District, which consists of residential structures that are predominantly owner-occupied, single-family homes; is located north of the Central Business District within the Neighborhood Conservation (N-C) zoning district along Ridgewood Avenue and includes forty-eight (48) contiguous properties situated along Ridgewood Avenue, Denton Drive and Bradford Street.

City of Gainesville
Historic Preservation Overlay Zone
Ridgewood Neighborhood Local Historic District
DIXON DR
First Baptist Church
BRADFORD ST
SIMMONS ST
DYER ST
NORTH AVE
RIDGEWOOD AVE
CRESTVIEW TER
FORREST AVE
CIRCLE DR
Legend
Historic Boundary
Historic
Intrusive
Vacant

(c) Green Street Local Historic District.

1. Significance.

This area of Green Street (a.k.a. North Green Street), which is comprised of various office and light retail commercial uses, originally was an Indian trail and wagon road to North Georgia. Around 1828 with the discovery of gold in North Georgia, Gainesville became a trading center for gold mines, taverns, and agricultural products; and stores and offices were erected downtown. Gainesville experienced little growth after the gold rush. After 1870, following the extension of the railroad to Gainesville, North Green Street became the prime residential district – as the more affluent and leading business families began constructing residential dwellings along North Green Street. A streetcar track with horse-drawn cars was constructed in the late 1880s, extending from the railroad depot to various parts of the city – including North Green Street. In 1903, the streetcar was electrified.

Green Street, which was an important transportation route to the mining regions, is a four-lane state highway that bisects the *Green Street Local Historic District* and is lined on both sides with some of Gainesville's largest, oldest and most architecturally-distinctive homes situated on large lots. Structures in the district date from the 1880s to the 1930s, although some were constructed later and are non-historic in nature. Many are one and one-half to stories in height with a few having two and one-half stories. A majority of the structures are wood-framed with clapboard siding; while a few are constructed of brick veneer or consist of synthetic siding added in recent times. Many of the structures, which were built by locally prominent architects and builders including John Cherry and E. Levi Prater, served as residences for some of Gainesville's important professionals and businessmen, educators and politicians. Historically speaking, the *Green Street Local Historic District* reflects prosperity of the agricultural and mining industries in the Gainesville area; and for over fifty years, this area was known to visitors as one of the outstanding residential neighborhoods in northeast Georgia.

The *Green Street Local Historic District* contains within its confines a high concentration of intact, historic residential structures that reflect architectural styles and building types found throughout the late nineteenth and early twentieth centuries. Moreover, the structures located within the district together depict an era of architectural and historical character – and are reflective of the social and cultural development of Gainesville. Architecturally speaking the *Green Street Local Historic District* contains an outstanding group of examples of Victorian and Neoclassical Revival homes date from the turn of the nineteenth century. The various architectural styles found in the district include Colonial Revival, Folk Victorian, English Vernacular Revival, early Classic Revival and Italian Renaissance. There are several late-Victorian structures located in the district, including the Smith-Palmer-Estes House which has Queen Anne massing and intricate Eastlake porch detailing. Also in the district, there is an excellent collection of high-style Neoclassical structures with a variety of monumental one- and two-story porticos.

2. Boundaries.

The boundaries of the *Green Street Local Historic District* closely follow the boundary of the Green Street Historic District as listed in the National Register of

Historic Places in 1975, and predominantly encompass properties fronting Green Street. This area also was included in an updated National Register nomination listed in 1985. Such nomination combined the existing 1975 Green Street and 1978 Brenau College National Register Historic Districts as well as encompassed adjacent historic neighborhoods to create one comprehensive district: the Green Street-Brenau-Green Street Circle Historic District.

City of Gainesville
Historic Preservation Overlay Zone
Green Street Local Historic District
First Baptist Church
Candler Park
Girl Scouts Cabin
GLENWOOD DR
MEMORIAL DR
GLENWOOD DR
RIDGEWOOD AVE
SIMMONS ST
NORTH AVE
CANDLER ST
PRIOR ST
DYER ST
PARK ST
FORREST AVE
GREEN STREET PL
BOULEVARD
FORREST DR
BRADFORD ST
The Times
US Post Office
Legend
Historic Boundary
Historic
Non-Historic
Intrusive
Vacant

Section 9-8-8-4. Amendments to the Historic Preservation Overlay Zone.

Local designations for either districts or individual landmarks may be proposed to be established or proposed to be rescinded by the Governing Body, the Historic Preservation Commission, or property owner. Local designations shall be considered as amendments to the Historic Preservation Overlay Zone.

The Historic Preservation Overlay Zone and Historic Preservation Overlay Zone Maps may be amended from time to time to include new or separate, noncontiguous designated historic districts, to modify existing local historic districts, to designate historic landmarks, or for other reason, provided that such amendment conforms to the provisions of Chapter 9-23-2 and O.C.G.A. Section 44-10-26 as applicable. The process, procedural requirements and criteria for considering an application for Designation are specified in Chapter 9-23-2 of this Unified Land Development Code.

In order to amend the Historic Preservation Overlay Zone, the description of the physical boundaries, the statement of significance, and boundary map pertaining to a designation ordinance shall be incorporated into this Ordinance under Section 9-8-8-3, along with a reference to the designation ordinance.

Section 9-8-8-5. Use Restrictions.

All uses permitted by right or as a Special Use by the underlying zoning district shall be similarly permitted under the Historic Preservation Overlay Zone, and the underlying zoning district use provisions of this Unified Land Development Code shall remain in effect until modified.

Section 9-8-8-6. Affirmation of Building Regulations and Design Guidelines.

Nothing in this chapter shall be construed as to exempt property owners or occupants from complying with applicable building codes, nor to prevent any property owner or occupant from making any use of the property not prohibited by other statutes, ordinances, or regulations.

Design and Construction Guidelines, which are standards for evaluating proposed material changes to structures located within the Historic Preservation Overlay Zone, are intended to offer guidance to owners and occupants, architects, developers and other individuals contemplating restoration, remodeling or new construction on how to maintain the architectural integrity of the structure and district as a whole. The design and construction guidelines adopted by the Historic Preservation Commission shall remain in effect and may be amended by the Historic Preservation Commission without the need to amend this Chapter. Nothing in this Chapter shall be construed as to exempt property owners and occupants from complying with applicable design and construction guidelines even though such guidelines are not law.

Section 9-8-8-7. Requirement for a Certificate of Appropriateness.

This Chapter and other Chapters of this Unified Land Development Code related to historic preservation shall pertain to the exterior material appearance of a building, structure, work of art, and site as a whole, or a combination thereof. Upon designation and inclusion of a district or individual landmark within the Historic Preservation Overlay Zone, a Certificate of Appropriateness shall be obtained from the Gainesville Historic Preservation Commission, or from the Planning Department for minor work projects, prior to any material change in the exterior appearance of a structure or site.

The process and criteria for considering an application for a Certificate of Appropriateness are specified in Chapter 9-23-3 of this Unified Land Development Code. That Chapter includes procedural requirements for obtaining a Certificate of Appropriateness.

Section 9-8-8-8. Maintenance of Historic Properties.

(a) Ordinary Maintenance and Repair. Ordinary maintenance or repair of any exterior architectural feature in or on a historic property to correct deterioration, decay or damage; or to sustain the existing form; and that does not involve a material change in design, material or exterior appearance, does not require a Certificate of Appropriateness. However, this provision does not exclude ordinary maintenance and repair work from the requirement of obtaining any necessary applicable building permits.

(b) Failure to provide ordinary maintenance. Property owners of individual properties within a designated historic district or of designated historic landmarks shall not allow their buildings to deteriorate by failing to provide ordinary maintenance or repair. The Historic Preservation Commission shall be charged with the following responsibilities regarding deterioration by neglect:

(1) Notice to owner to remedy. If the Historic Preservation Commission determines a property owner has failed to provide ordinary maintenance or repair (including but not limited to damaged windows, doors, siding, foundation or roof structure) the Historic Preservation Commission shall notify the property owner and set forth the steps which need to be taken to remedy the situation. The property owner shall have 180 days in which to resolve the situation.

(2) Failure by owner to remedy. If the condition is not remedied within 180 days, the owner shall be subject to the enforcement provisions as specified in Chapter 9-24-2 of this Unified Land Development Code, or

1. Upon authorization and at the direction of the Governing Body, the Historic Preservation Commission may perform such maintenance or repair as is necessary to prevent deterioration by neglect.

    a. The property owner shall be liable for the cost of such maintenance or repair.

    b. The cost of such maintenance or repair shall be a lien against the real property. The lien shall attach to the real property at the time of payment of all costs of maintenance or repair by the City.

2. Nothing in this section shall be construed to impair or limit in any way the power of the Governing Body to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

Section 9-8-8-9. Undue Hardship.

Where, by reason of unusual circumstances, the strict application of any provision of this Chapter would result in the exceptional practical difficulty or undue hardship upon any owner of a specific property, the Historic Preservation Commission shall have the power to vary strict adherence to said provisions, or to interpret the meaning of said provisions, so as to relieve such difficulty or hardship; provided that such variances or interpretations do not compromise

the architectural or historical integrity of the property. In granting variances, the Historic Preservation Commission may impose such reasonable and additional stipulations and conditions as deemed necessary. An undue hardship shall not be a situation of the person's own making.

The process, procedural requirements, and criteria for considering an application for an Undue Hardship variance are specified in Chapter 9-23-4 of this Unified Land Development Code.

ARTICLE 9-9
SITE AND ARCHITECTURAL DESIGN REVIEW

CHAPTER 9-9-1	GENERAL PROVISIONS	9-1
CHAPTER 9-9-2	SITE AND ARCHITECTURAL DESIGN REVIEW	9-10
CHAPTER 9-9-3	SITE DESIGN GUIDELINES	9-16
CHAPTER 9-9-4	GUIDELINES FOR STEEP SLOPES	9-26
CHAPTER 9-9-5	ARCHITECTURAL DESIGN GUIDELINES	9-29
CHAPTER 9-9-6	PEDESTRIAN RETAIL DESIGN GUIDELINES	9-39
CHAPTER 9-9-7	DESIGN GUIDELINES FOR SPECIFIC USES	9-48
CHAPTER 9-9-8	SUBURBAN COMMERCIAL DESIGN GUIDELINES	9-51
CHAPTER 9-9-9	SIGN DESIGN GUIDELINES	9-53

CHAPTER 9-9-1
GENERAL PROVISIONS

Section 9-9-1-1.	Findings.
Section 9-9-1-2.	Purposes.
Section 9-9-1-3.	Definitions.
Section 9-9-1-4.	General Requirements.
Section 9-9-1-5.	Exemptions.
Section 9-9-1-6.	Character Areas Recognized.

Section 9-9-1-1. Findings.

(a) The Governing Authority of the City of Gainesville finds that its citizens have widely shared human values related to the visual environment. The desire to protect certain features of the visual environment reflects a widespread pattern of community preference. That finding is supported by community visioning and character area delineation completed as a part of the city's comprehensive planning process. Regulations for design review and aesthetics are therefore based on the visual sensibilities of the average person in the community.

(b) The Governing Authority of the City of Gainesville finds further that visual harm to a widespread pattern of community preference can occur without the imposition of the site design and architectural review provisions adopted in this article. The requirements contained in this article are related to legitimate public purposes, and they are the minimum necessary to prevent substantial harm to existing features of the visual environment of the city.

(c) Without guidance, future developments will likely be self-contained, compartmentalized, and without coherence and relationship with other developments. Without guidance, developers are unlikely to interrelate streets, buildings, human uses, and natural systems in a manner that results in a coordinated, pleasing, and sustainable built environment across property lines.

Section 9-9-1-2. Purposes.

(a) Establishing the appropriate character of the city requires attention to the aesthetics of development, buildings, and sites. It is in the public interest to direct and control the visual appearance of buildings, structures, landscapes, and development in the city, to prevent patently offensive harm to the existing visual character of the city, and to safeguard the happiness, comfort, and general well-being of citizens.

(b) Careful attention to the architectural design of buildings and the layout of land development sites is in the best interests of the city, its citizens, and business owners. Attractive and integrated architectural and site design features tend to improve an area's image, raise overall property values, attract new businesses and residents, and improve the quality of life.

(c) Design guidelines provide criteria to evaluate the appropriateness of proposed changes to individual buildings, properties, and land use activities. The design guidelines provided in this article are intended to provide clear guidance to property owners and their engineers, landscape architects, site designers, and architects on best practices for site design, land development, and architecture of buildings. Criteria in this article allow for a wide range of architectural and site design solutions but also articulate strong preferences for certain designs. These guidelines are not intended to force a level of sameness; instead, a richness of character and expression is desired.

(d) This article is intended to establish a predictable and clear process for review and approval of the site design of land developments and architectural features of buildings.

Section 9-9-1-3. Definitions.

Appearance: The outward aspect of a building or site development that is visible to the public.

Architectural appearance, exterior: The architectural character and general composition of the exterior of a building or structure, including but not limited to the kind, color, and texture of the building material and the type, design, and character of all windows, doors, light fixtures, signs attached to the building or structure, and any appurtenant elements.

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

Architectural recesses: Portions of a building wall at street level which are set back from the street line so as to create articulation of the building wall and/or to provide space for windows or doors.

Asymmetrical: Not symmetrical, as in a building façade that is not identical on either side of an imaginary line drawn down its center.

Attractive: Having qualities that arouse satisfaction and pleasure in numerous, but not necessarily all, observers.

Awning, internally illuminated: A fixed awning covered with a translucent membrane that is, in whole or part, illuminated by light passing through the membrane from within the structure.

Bollard: A luminaire having the appearance of a short, thick post, used for walkway and grounds lighting. The optical components are usually top mounted.

Build-to line: An alignment establishing a certain distance from the curb or right-of-way line to a line along which a building or buildings shall be built.

Building footprint: The outline of a building's ground plan from a top view.

Character: Special physical characteristics of an area, building, structure, or site that set it apart from its surroundings and contribute to its individuality.

Character area: Any of the specific areas delineated as character areas in the city's comprehensive plan.

Clapboard: A wood exterior siding material that is applied horizontally and overlapped with the lower edge thicker than the upper edge.

Cohesiveness: Unity of composition among elements of a building or among buildings and/or structures, and their landscape development.

Column: A vertical, cylindrical or square sup-porting member.

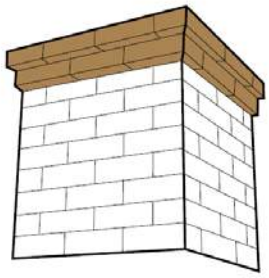
Compatibility: With regard to development, the characteristics of different land uses or activities that permit them to be located near each other in harmony and without conflict; with regard to buildings, harmony in appearance of architectural features in the same vicinity.

Continuity: The flow of elements or characteristics in a non-interrupted manner.

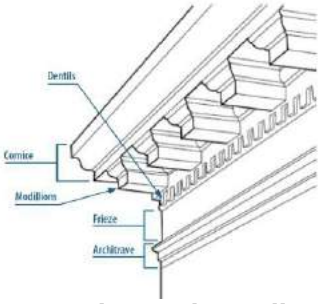
Coping: The capping member of a wall that covers and protects the wall from the effects of weather.

Cornice: Any horizontal member, structural or non-structural, of any building, projecting outward from the exterior walls at the roof line.

Dentil: Any of a series of closely spaced, small, rectangular blocks forming a molding or protecting beneath the cornice.



Coping



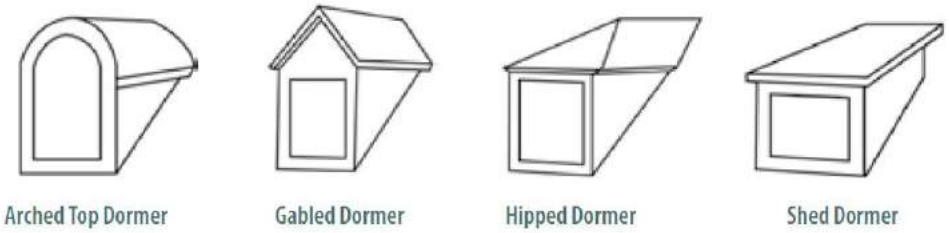
Cornice and Dentil

Source: City of Gainesville Preservation Manual and Design Guidelines

Design guideline: A standard of appropriate activity that will establish, preserve, or enhance the architectural character and site design and function of a building, structure, or land development.

Direct light: Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminary.

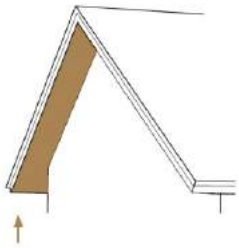
Dormer: A small window with its own roof projecting from a sloping roof. Dormers are projections that provide ventilation, light, and additional space for attic areas.



Types of Dormers
Source: City of Gainesville Preservation Manual and Design Guidelines.

Downspout: A pipe for directing rainwater from the roof to the ground.

Eave: The edge of the roof that extends past the walls of a building.



Eave

Exterior Insulating and Finish System (EIFS): Exterior wall cladding system consisting primarily of polystyrene foam board with a textured acrylic finish that resembles plaster or stucco.

Elevation drawing: An architectural drawing of a building or building façade, intended to illustrate its design, characteristics, and major features.

Illustrative Elevation Drawing

Facade: The face (exterior elevation) of a building, especially the face parallel to or most nearly parallel to a public street.

Fenestration: The organization of windows on a building wall.

Glazing Patterns
Source: City of Gainesville Preservation Manual and Design Guidelines.

Fixture: The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

Flashing: Thin pieces of metal used for water-proofing roof joints.

Footcandle: A unit of illuminance on a surface that is everywhere one foot from a uniform point source of light of one candle and equal to one lumen per square foot. One footcandle (FC) is the equivalent of 10.76 Lux (1 Lux = 0.0929 FC).

Fronting on the Downtown Square: Any building block face fronting on Gainesville's downtown square, which is bounded by Main Street, Spring Street, Bradford Street, and Washington Street.

Full cutoff luminary: Outdoor light fixtures shielded or constructed so that no direct light rays are emitted by the installed fixture at angles above the horizontal plane.

Gable: The triangular upper portion of an end wall, underneath a peaked roof.

Glare: Light emitting from a luminary with intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness, or that causes annoyance or discomfort.

Harmony: A quality that represents an attractive arrangement and agreement of parts of a composition, as in architectural elements.

Illuminance: The area density of the luminous flux incident at a point on the surface. It is a measure of light incident on a surface, expressed in lux or footcandles.

Isofootcandle plan: A site plan of a proposed development showing proposed outdoor illuminance with a series of isofootcandle lines that join points on a surface where the illuminance is the same.

Light trespass: The shining of light produced by a luminary beyond the boundaries of the property on which it is located.

Luminary: A complete lighting system, including a lamp or lamps and a fixture. This term shall be interpreted broadly as applying to all outdoor electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement.

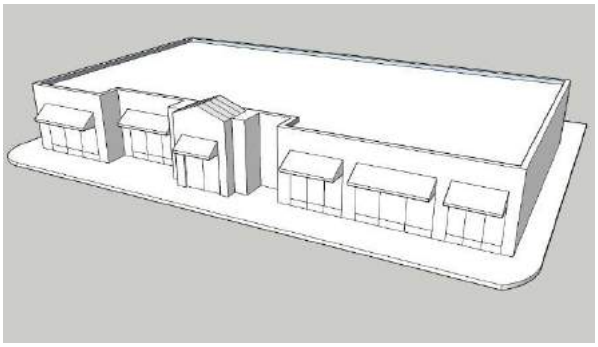
Massing: The overall visual impact of a structure's volume; a combination of height and width and the relationship of the heights and widths of the building's components.

Modularity: Design composition comprised of a rhythmic organization of parts.

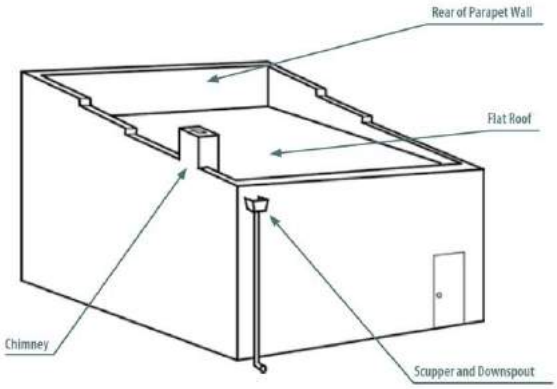
Modulation: A measured setback or offset.

Outdoor lighting: The night-time illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

Parapet: That portion of a wall which extends above the roof line.



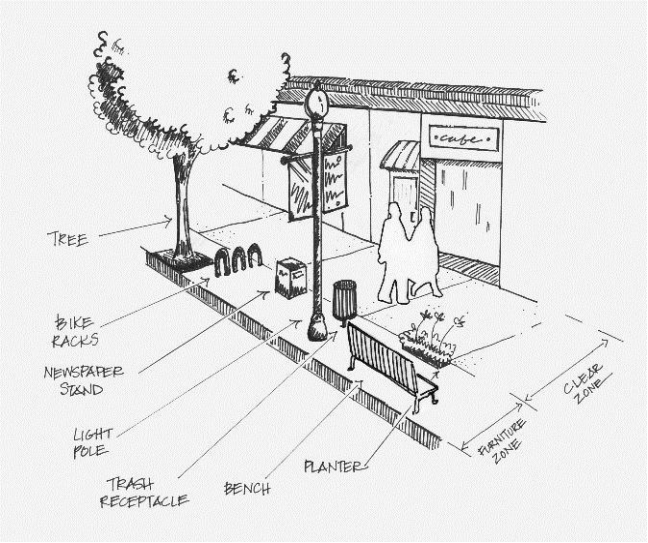
Modulation



Parapet Wall
Source: City of Gainesville Preservation Manual and Design Guidelines

Pedestrian-scale development: Development designed with an emphasis primarily on the street sidewalk and on pedestrian access to the site and building, rather than auto access and parking areas. The building is generally placed close to the street and the main entrance is oriented to the street sidewalk. There are generally windows or display cases along building facades which face the street.

Plaza: An open area adjacent to a building that functions as a gathering place and may incorporate a variety of non-permanent activities.



Pedestrian Scale Development

Porch: A projection from a building wall which is covered but enclosed on no more than one side by a vertical wall.

Portico: An exterior appendage to a building, normally at the entry, usually roofed.

Proportion: Balanced relationship of parts of a building, signs and other structures, and landscape to each other and to the whole.

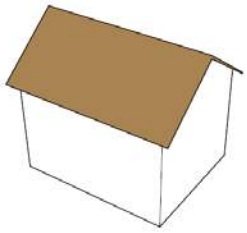
Retail display window: A window or opening in the exterior wall of any portion of a building used for business purposes, through which merchandise, services, or businesses are displayed or advertised and visible from the ground or sidewalk level.

Roof: The cover of a building, including the eaves and similar projections.

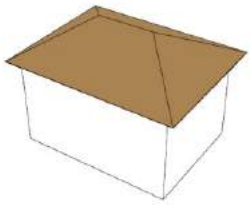
Roof, flat: A roof having no pitch or a pitch of not more than 2:12.

Roof, gable: A roof sloping downward in two parts from a central ridge, so as to form a gable at each end.

Roof, hipped: A roof with slopes on all four sides meeting at a ridge or at a single point.



Gable Roof



Hipped Roof

Roof, pitched: A shed, gabled, or hipped roof having a slope or pitch of at least one foot rise for each four feet of horizontal distance.

Safety lighting: Exterior lighting that involves ensuring proper levels of illumination to provide safe working conditions, safe passage, and the identification of outdoor hazards.

Scale: Proportional relationships of the size of parts to one another and to humans.

Security lighting. Exterior lighting installed solely to enhance the security of people and property.

Shop front: A business or retail use where the façade is aligned directly on the frontage line with the entrance at grade; typical of sidewalk retail. Shop fronts often have awnings.

Street furniture: Those features associated with a street that are intended to enhance the street's physical character and use by pedestrians, such as benches, trash receptacles, planting containers, pedestrian lighting, kiosks, etc.

Street hardware: Objects other than buildings or street furniture that are part of the streetscape. Examples are: non-pedestrian street light fixtures, utility poles, traffic lights and their fixtures, fire hydrants, etc.

Streetscape: The appearance and organization along a street of buildings, paving, plantings, street hardware, street furniture, and miscellaneous structures.

Undergrounding: The placement of utility lines below ground, with the removal of above-ground poles, wires and structures as applicable.

Wallpack: A wall-mounted luminary.

Section 9-9-1-4. General Requirements.

(a) Land development shall be required to comply with the site design review requirements of this article, unless specifically exempted from compliance with this article.

(b) Buildings and structures shall be required to comply with the architectural design review requirements of this article, unless specifically exempted from compliance with this article.

(c) No, grading, or alteration or improvement of land shall take place prior to approval of site design in accordance with the requirements of this article, if required.

(d) The Community Development Department shall not issue a minor land development permit or a land development permit if required by this unified land development code until and unless site design review, if required, has been accomplished in accordance with this article.

(e) No construction of building(s) or structure shall commence, and no building permit shall be issued by the Community Development Department, prior to the approval of the architectural design of said building(s) or structure in accordance with the requirements of this article, if required.

Section 9-9-1-5. Exemptions.

The following are exempt from the provisions of this article:

(a) Previously approved. Development consistent with previously approved site and architectural design plans, or their equivalent, as determined by the Community Development Director.

(b) One- and two-family dwellings. Per Section 9-13-7-1 of this unified land development code, detached, fee-simple single-family dwellings and their customary accessory uses and structures, as well as two-family dwellings (duplexes), are exempt from the requirement to obtain a land development permit; however, certain activities such as parking lots, patios, walkways, and retaining wall additions on lots developed for single-family detached and two-family dwellings (duplexes) may require a minor land development permit per Section 9-13-6-1 of this unified land development code. Therefore, the development of detached, single-family dwellings and two-family dwellings shall be exempt from the site plan review requirements of this Article unless the Director determines that a minor land development permit is required. One- and two- family dwellings shall also be exempt from the architectural review process established in this article.

(c) Activities in historic districts**.** Any development, building, or material change in appearance within the Historic District Overlay Zone, as established in Chapter 9-8-8 of this code. In lieu of compliance with this article, site and architectural design review within the Historic District Overlay Zone shall be accomplished by way of a certificate of appropriateness from the Gainesville Historic Preservation Commission or approval of a minor work by the Community Development Department as specified in Section 9-8-8-7 of this code. Notwithstanding this exemption, nothing shall prevent the Historic Preservation Commission or the Community Development Department from considering and applying various design guidelines of this article, if appropriate, to development and buildings within the historic district overlay zone during the process of considering the issuance of certificates of appropriateness.

(d) Re-occupancy**.** Re-occupancy of a building for which design review has already been approved.

(e) Interior renovations**.** Alterations and repairs to the interior of existing buildings.

(f) Other**.** Other instances as may be determined appropriate by The Community Development Director, including but not limited to the approval of temporary uses and structures. To this end the Community Development Director is authorized to and may exempt a project or activity from compliance with this article for good cause shown. Any such decision to exempt an activity from compliance with this article and the reason for such exemption decision, shall be documented in writing by the Community Development Director and shall be public record. Exemption decisions by the Community Development Director are subject to appeal in accordance with Chapter 9-22-7 of this code.

Section 9-9-1-6. Character Areas Recognized.

The following character areas are established in the Gainesville comprehensive plan and are hereby recognized for purposes of applying the site and architectural design requirements of this chapter. The boundaries of the various character areas shall be as delineated in the Gainesville comprehensive plan, as may be amended from time to time:

Central Core
Traditional Neighborhoods
City Park Neighborhood Center
Lake District
Longwood Cove
Browns Bridge Corridor
West Side
Limestone Medical Corridor
Historic Mill Villages
Suburban Residential
Suburban Commercial
Economic Development Gateways
Regional Recreation/Conservation

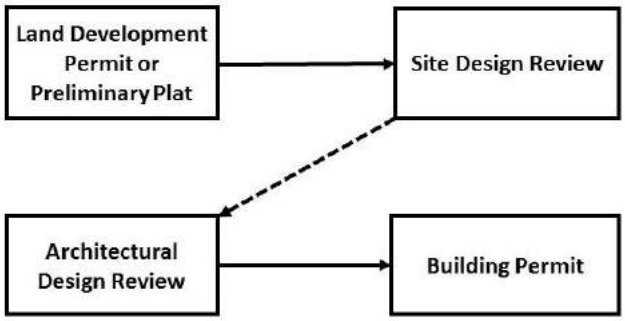
CHAPTER 9-9-2
SITE AND ARCHITECTURAL DESIGN REVIEW

Section 9-9-2-1. Design Review Required.
Section 9-9-2-2. Division of Design Review.
Section 9-9-2-3. Application Requirements for Site Design Review.
Section 9-9-2-4. Process of Site Design Approval.
Section 9-9-2-5. Architectural Design Approval.
Section 9-9-2-6. Application Requirements for Architectural Design Review.
Section 9-9-2-7. Criteria for Decisions on Architectural Design Applications.
Section 9-9-2-8. Decision with Regard to Architectural Design Applications.
Section 9-9-2-9. Notice of Decision.
Section 9-9-2-10. Reapplication and Appeal.
Section 9-9-2-11. Compliance with Approved Applications.

Section 9-9-2-1. Design Review Required.

For all lands, developments, buildings, and structures subject to compliance with this article, an application or applications shall be made by the property owner or agent for the property owner to the Community Development Department for site and architectural design review approval, as required by and in accordance with this article.

Section 9-9-2-2. Division of Design Review.



Division of Site and Design Review

(a) An application for site and architectural design review may be submitted as a single application or it may be divided into two applications and approval processes, one for the development site, and one for the building or structure(s). Typically the civil review is completed prior to starting architectural review.

(b) The division of design review applications and approval processes into two distinct (i.e., site and building architecture) components is appropriate and permissible when a property owner or land developer desires to proceed with land development approval but elects at that time to defer application for the architectural review and approval of the building or buildings until a subsequent stage of the permitting process.

(c) The division of design review applications and approval processes into two distinct (i.e., site and building architecture) components is also appropriate in cases where the Community Development Director determines that site design review, as would be required by this article, is unnecessary given the existing developed state of the lot. In such or similar instances the Community Development Director may exempt a given building proposal from the site design requirements of this article and require only that the architectural design review process be completed.

Section 9-9-2-3. Application Requirements for Site Design Review.

(a) When a preliminary plat, minor land development permit, or land development permit is required, the application requirements for site design review shall at minimum be those plans and information required for applications for a preliminary plat, minor land development permit, or land development permit, whichever is applicable, as specified in Article 9-13 of this code. In addition, an application for site design review shall include all information necessary to demonstrate compliance with the site design requirements of this article.

(b) The Community Development Director or designee may refuse to act on an incomplete application or an application for site design review that fails to contain submission materials with respect to design that it finds necessary to make a decision on said application.

(c) The Community Development Director or designee may waive submission requirements where in his or her opinion such information is not necessary to ensure compliance with this article.

Section 9-9-2-4. Process of Site Design Approval.

(a) The process of site design approval is administrative. It shall be the responsibility of the Community Development Department to review development permit applications for compliance with the site design requirements of this article. The Community Development Director or designee is authorized to review, approve, conditionally approve, or deny applications for site design approval, in accordance with this article.

(b) When an application for a preliminary plat or land development permit is made, the applicant shall be required to comply with the site design requirements of this article, as well as all other applicable development regulations of this code. Plans and information submitted as a part of an application for a preliminary plat, minor land development permit, or land development permit, as the case may be, shall constitute an application for site design approval as required by this article, if said application includes all the information required or necessary to ensure compliance with the provisions of this article for site design.

(c) When site design review is applied for and accomplished in conjunction with a preliminary plat, minor land development permit, or land development permit application, a decision on site design review shall be made in accordance with procedural requirements for considering preliminary plats or the land development permit, as the case may be.

(d) If a preliminary plat or land development permit is not required by this code for a particular subdivision, development, or building, then compliance of said development or building with the requirements of this article relative to site design, as applicable, shall be reviewed by the Community Development Director or designee in conjunction with a building permit application or prior to issuance of a building permit for a building on the property.

(e) When site design review is applied for and accomplished in conjunction with an architectural design application, a decision on site design review shall be made in accordance with the procedures applicable for architectural design review as specified in this article.

Section 9-9-2-5. Architectural Design Approval.

(a) The Community Development Director or designee is authorized to review, approve, conditionally approve, or deny applications for architectural design review, in accordance with this article, except as specifically provided in this section.

(b) Where the record of application approval clearly indicates, demonstration of compliance with the architectural review requirements of this article at the time of rezoning or special use application approval, or as part of a planned unit development, shall be construed as satisfying the architectural design review requirements of this article.

(c) No later than when an application for a building permit is made, the applicant seeking design approval shall be required to comply with the architectural design requirements of this article, as applicable. Compliance will typically be gained during the process of the applicant applying for building permit review (see Section 9-20-14-6, “Application Requirements for Building Permits,” of this unified land development code). Architectural design review applications may be coordinated with existing administrative processes established by the Inspections Services Division of the Community Development Department for building plan reviews and the issuance of building permits. It shall be the responsibility of the Community Development Department to review building permit applications for compliance with the architectural design requirements of this article and the unified land development code.

(d) The Community Development Director shall not authorize the issuance of a building permit or certificate of occupancy as required by this code and/or the building code applicable in the city until and unless an application for architectural design review of the building or buildings proposed, if required, has been submitted and approved in accordance with this article.

Section 9-9-2-6. Application Requirements for Architectural Design Review.

Applications for architectural design review shall include the following, and no architectural design review application shall be processed by the Community Development Department unless it is found to be complete with regard to the requirements of this section:

(a) Application fee (included in other review fees);

(b) Application form furnished by the Community Development Director, including signature of property owner or authorized agent;

(c) Legal description of the property and survey plat of the property;

(d) Letter of intent describing the proposed building(s) on the property, which may include a description of any special conditions voluntarily made a part of the request;

(e) Site plan of the property at an appropriate engineering scale showing the proposed use and relevant information regarding proposed improvements;

(f) Exterior elevation drawings drawn to scale and signed by an architect, engineer or other appropriate professional and submitted in sufficient number of copies as required by the Community Development Director. Said exterior elevation drawings shall clearly show in sufficient detail the exterior appearance and architectural design of proposed buildings and structures or change(s) thereto;

(g) Material and colors samples. The Community Development Director may accept written descriptions, product summary sheets, photographs, or other information in lieu of actual color and material samples.

(h) Other information as may be essential to demonstrate compliance with this article. An applicant for architectural design review may be also be required to submit information in the form of photographs or sketches of adjoining uses and indicate how the architectural design of the proposed project or improvement is compatible with the surrounding context.

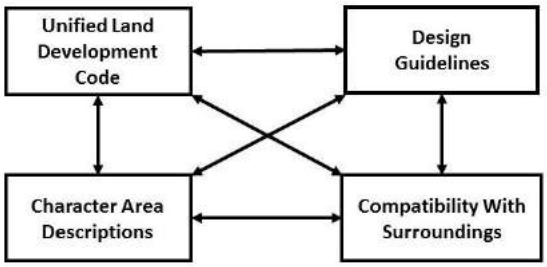
Section 9-9-2-7. Criteria for Decisions on Architectural Design Applications.

In acting upon applications for architectural design approval, the Community Development Director or designee shall consider whether the proposal meets the following criteria:

(a) Whether the proposal complies with the requirements of this article and other applicable provisions of this unified land development code;

(b) Whether the proposal is consistent with the design guidelines of this article, as may be applicable;

(c) Whether the proposal is consistent with the descriptions, intentions, and purposes of the character area in which the property is located, as described in the comprehensive plan, as may be applicable.



Criteria for Architectural Design Review Decisions

(d) Whether the design, scale, arrangement, materials, and colors of the proposed building(s) or structure(s) is compatible with buildings and structures in the immediate surrounding area or the same zoning district.

Section 9-9-2-8. Decision with Regard to Architectural Design Applications.

(a) The Community Development Director shall render a decision on the architectural design application as expediently as possible but within no more than 15 calendar days from the date a complete application is received.

(b) If the Community Development Director finds that the proposal meets the criteria for architectural design as specified in this article, the director shall approve the application.

(c) If the Director finds that the proposal is mostly acceptable but requires modifications, the Director may approve the application with conditions or the Director may request changes and require modifications to the proposed design for consideration as a modified application at a future date.

(d) If the Director finds that the proposal fails to meet the criteria for architectural design specified by this article, or does not comply with the requirements of the unified land development code, the application shall be denied. Among other grounds for considering a design inappropriate are the following defects: character foreign to the area, arresting and spectacular effects, violent contrasts of material or color, intense or lurid colors, a multiplicity or incongruity of details resulting in a restless and disturbing appearance, and the absence of unity and coherence in composition not in agreement with the density and character of the present structure or surrounding area.

Section 9-9-2-9. Notice of Decision.

(a) The Community Development Director shall notify the applicant in writing of the action taken on design review applications promptly after the date action was taken on said application.

(b) If the application was denied, the reasons for the denial shall be stated in the written notice of decision.

Section 9-9-2-10. Reapplication and Appeal.

(a) An applicant for architectural design approval may revise plans and reapply for architectural design approval.

(b) Any decision by the Community Development Director with respect to a design review application required by this article may be appealed as an administrative decision, in accordance with the requirements of Chapter 9-22-7 of this code, with the following exception: The Governing Authority of the City of Gainesville shall be the body to hear and decide on any appeal of an administrative decision pursuant to Article 9-9. Where Chapter 9-22-7 refers to the Planning and Appeals Board, for purposes of any such appeal per this Article, the Governing Authority of the City of Gainesville shall be substituted.

Section 9-9-2-11. Compliance with Approved Applications.

(a) Approval of site and architectural design applications is conditioned on compliance with the approved application(s).

(b) After the development and building are constructed and completed, but before issuance of a certificate of occupancy, the Community Development Director or designee shall inspect the site and building for compliance with the approved design plans for the site or building.

(c) The Community Development Director shall direct the building inspector not to issue a certificate of occupancy if the site or building is not in compliance with approved design plans.

CHAPTER 9-9-3
SITE DESIGN GUIDELINES

Section 9-9-3-1. Purpose and Intent.
Section 9-9-3-2. Applicability.
Section 9-9-3-3. Interpretation.
Section 9-9-3-4. Cross-References to Existing Code Requirements.
Section 9-9-3-5. Existing Site Analysis.
Section 9-9-3-6. Grading.
Section 9-9-3-7. Stormwater Management Generally.
Section 9-9-3-8. Stormwater Detention.
Section 9-9-3-9. Parking.
Section 9-9-3-10. Loading.
Section 9-9-3-11. Utilities.
Section 9-9-3-12. Pedestrian Circulation.
Section 9-9-3-13. Interparcel Access.
Section 9-9-3-14. Outdoor Lighting.

Section 9-9-3-1. Purpose and Intent.

This chapter provides guidelines for the design of land developments on individual sites and will be applied by the Community Development Department during the process of site design review as required by Chapter 9-9-2 of this unified land development code.

Section 9-9-3-2. Applicability.

Unless the context of a particular section clearly indicates otherwise, the site design guidelines of this chapter may be considered by the Community Development Department to apply to all land developments and minor land developments.

Section 9-9-3-3. Interpretation.

(a) The provisions in this chapter which use the term “shall” are regulations and must be followed.

(b) When the terms “should” and “are encouraged” are used in this chapter, the language shall be considered a guideline, and flexibility toward compliance may be exercised if it is determined by the Community Development Director that the spirit and intent of the guideline is being followed or an alternative to the guideline is acceptable. However, successive departures from the guidelines is grounds for denial of an application for site design review.

Section 9-9-3-4. Cross-References to Existing Code Requirements.

At the time an application for preliminary plat is submitted, a proposed subdivision will be reviewed for compliance with existing code requirements, including but not limited to: Article 9-13, “Subdivisions and Land Development,” including specifically Chapter 9-13-3, “Design Requirements for Blocks and Lots;” and Chapter 9-13-9, “Design Requirements for Streets.” Designers should consult with Community Development Department staff early in the process to identify key chapters and sections of this code that impact site design.

Section 9-9-3-5. Existing Site Analysis.

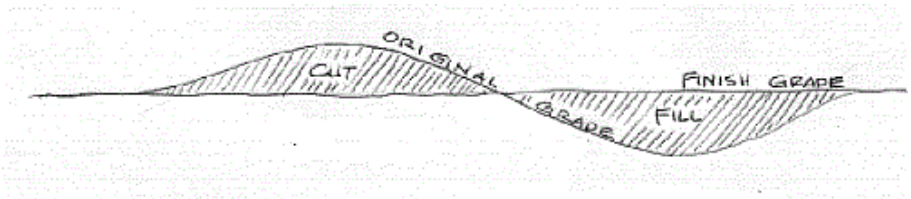
(a) Significant natural features of the site proposed to be developed, should be identified on an existing conditions map and to the extent practicable incorporated into the site plan or plans for land development.

(b) The Community Development Director may exempt development proposals on properties with one acre or less in area, or minor land developments, from this requirement if through a site visit or other information presented the requirement for a site conditions analysis can be satisfied with other data and enforcing this requirement would be onerous given the development proposed.

Section 9-9-3-6. Grading.

(a) Developments should be designed to fit the existing contours and landform of the site, to minimize the amount of earthwork, and to reduce visual impacts and erosion.

(b) Where cut and fill is required, balancing the cut and fill is highly encouraged.



Illustrative Cut and Fill

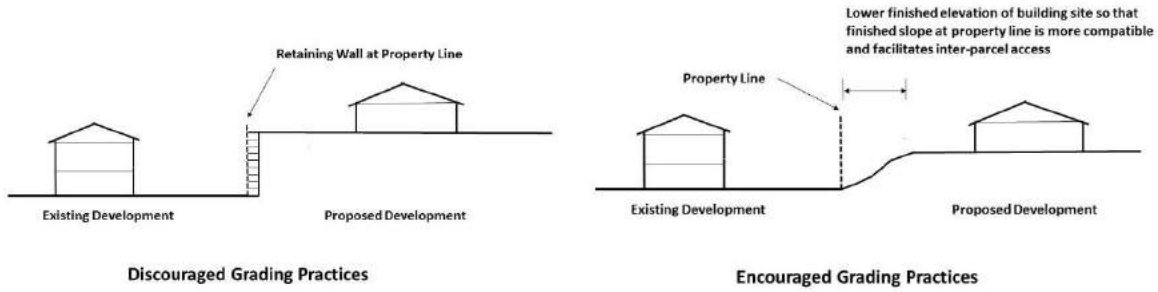
(c) Abrupt or unnatural-appearing grading should not be proposed and will not be allowed.

(d) Grading should blend with the contours of adjacent properties with minimum alteration of the natural topography necessary to accomplish the development.

(e) Where retaining walls must be used, the height and length of retaining walls should be minimized and screened with appropriate landscaping. Tall, smooth-faced concrete retaining walls should be avoided in highly visible areas. Terracing should be considered as an alternative to the use of tall or prominent retaining walls, particularly in highly visible areas on hillsides.

(f) When cut or fill is involved in the grading of an individual building pad or development site, the finished grade of the parking lot or driveway should be terminated far enough inside the property to allow for the slope to return to that of the natural grade or finished ground elevation at the property line. When inter-parcel access is provided or required, the slope at such a property line shall not exceed 10 percent. The purposes of this design guideline is to both facilitate inter-parcel access at reasonable grades between compatible land uses and to avoid harsh differences in grade between abutting properties. This practice also provides for a blending of the finished site elevations in a manner so that stark contrasts in the landscape will not occur. Where inter-parcel access is not required due to incompatible land uses, grade differentiation at a property line may

be permitted but should be mitigated or softened as much as possible (see illustration below).



Discouraged and Encouraged Grading Practices

9-9-3-7. Stormwater Management Generally.

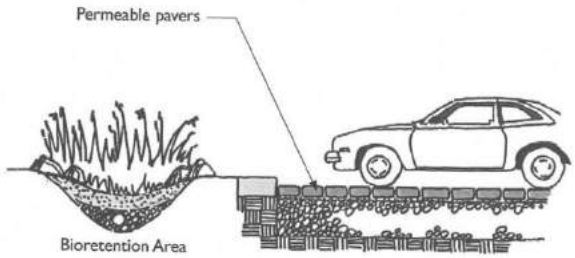
(a) Stormwater management is governed by Chapter 9-13-12 of this Unified Land Development Code. One- and two-family dwellings are exempt as specified in Section 9-13-12-6 of this code.

(b) Land developers should utilize, to the maximum extent practicable, stormwater better site design practices as described in the Georgia Stormwater Management Manual (GSMM).

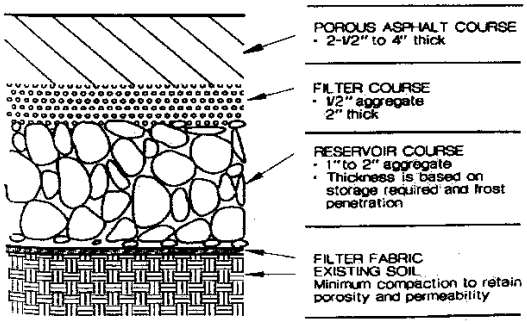
(c) During the land development permitting process, a stormwater management plan is required (see Chapter 9-13-12 of this code). The city will require the land development applicant to examine and where feasible implement stormwater management methods broadly referred to as “low-impact development” and as specifically referred to in the Georgia Stormwater Management Manual as stormwater better site design practices and limited application structural stormwater controls (i.e., filter strips, grassed channels, and porous concrete, among others) (reference: GSMM, Vol. 2, Sec. 3.3).

(d) To improve infiltration, porous paving materials are encouraged, including porous concrete, porous asphalt, porous unit paver systems, and gravel paving systems.

(e) Grassy swales and bio-retention areas are acceptable and encouraged alternatives to curbing, piping, and detention of water. Where curb is necessary, utilize where possible a pierced or broken curb option to direct runoff to swales or bio-retention areas. Rain gardens and constructed wetlands are also encouraged to handle surface drainage of parking lots providing 10 or more parking spaces.



Bioretention Area and Permeable Pavers

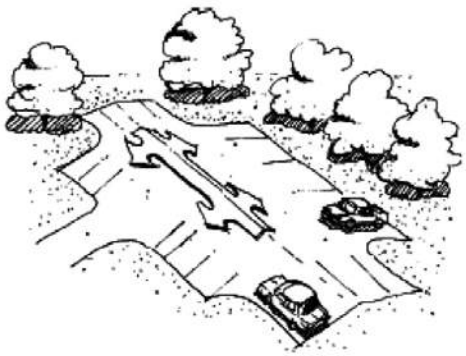


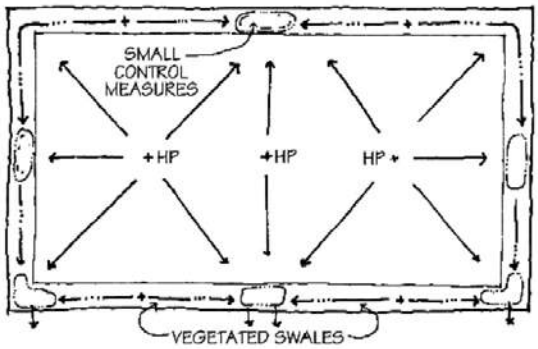
Porous Asphalt Paving Section

Source: Parker, Dave, et al. 2002. "Design of Stormwater Management Facilities." In The Dewberry Companies, *Land Development Handbook* (2nd ed.). Figure 22.37, p. 525. New York: McGraw-Hill.

(f) Mimic the predevelopment site hydrology by using site design techniques that store, infiltrate, evaporate, and detain runoff. Natural drainage patterns that exist on the site will need to be identified (as part of the stormwater planning process) to plan around these critical areas where water will concentrate. Where possible, natural drainage ways should be used to convey runoff over and off the site to avoid the expense and problems of constructing an artificial drainage system.

(g) Minimize and then mitigate the hydrologic impacts of land use activities closer to the source of generation. This can be done by implementing the principle of "microstorage," or breaking up drainage areas into small manageable subcatchment areas. Break up flow directions from large paved surfaces, and direct stormwater where appropriate to drain to natural systems, vegetated buffers, natural resource areas, or infiltratable zones/soils.





Design Paved Surfaces to Disperse Flow to Vegetated Areas

Source: NC DENR in GSMM

9-9-3-8. Stormwater Detention.

(a) Man-made lakes and stormwater ponds should be designed for maximum habitat value and/or to serve as amenity features.

(b) Stormwater ponds and facilities that are located in a front yard adjacent to a public right-of-way should be landscaped around the perimeter. Any fencing surrounding a

stormwater pond that is visible from the public right-of-way shall be decorative in nature, or if chain link fencing is permitted it shall be black vinyl coated.

(c) Because detention ponds that impound water are hazardous, the following precautions should be taken: Avoid steep slopes; slopes around the detention pond should be 2.5:1 or flatter; 3:1 where maintained by tractor or other equipment. Fence the area if slopes require and post with warning signs.

(d) In the Gateway Corridor and Limestone Parkway Overlay Zones, stormwater detention ponds or areas should be located to the rear or side of buildings. If such a location is not feasible from an engineering standpoint, the detention area may be placed underground with the approval of the Department of Water Resources Director, or it may be approved in front of a building at surface level if it is designed as an amenity feature with shallow slopes, does not contain fencing, and is surrounded by landscaping approved by the Director of Community Development and also subject to the approval of the Department of Water Resources Director.

Section 9-9-3-9. Parking.

(a) Location**.** For uses other than single-family and two-family residential, parking should be located to the side or rear of the building (or where there is more than one building, to the side or rear of the building closest to the right-of-way line). In the Gateway Corridor and Midtown Overlay Zones, the Community Development Director may limit parking in the front yard (between the building and the street right-of-way) to no more than fifty percent (50%) of the total spaces provided.

(b) Surfacing**.** See Article 9-17 relative to surfacing of parking lots.

(c) Screening/landscaping**.** Parking lots shall be landscaped according to the requirements of Chapter 9-16-4 of this Unified Land Development Code. Parking areas adjacent to any public or private street must be screened from view by low masonry walls, fences, berms and/ or landscaping.

Section 9-9-3-10. Loading.

For uses other than single-family and two-family residential, loading zones as may be required by this development code shall be to the side or rear of the building (or where there is more than one building, to the side or rear of the building closest to the right-of-way line).

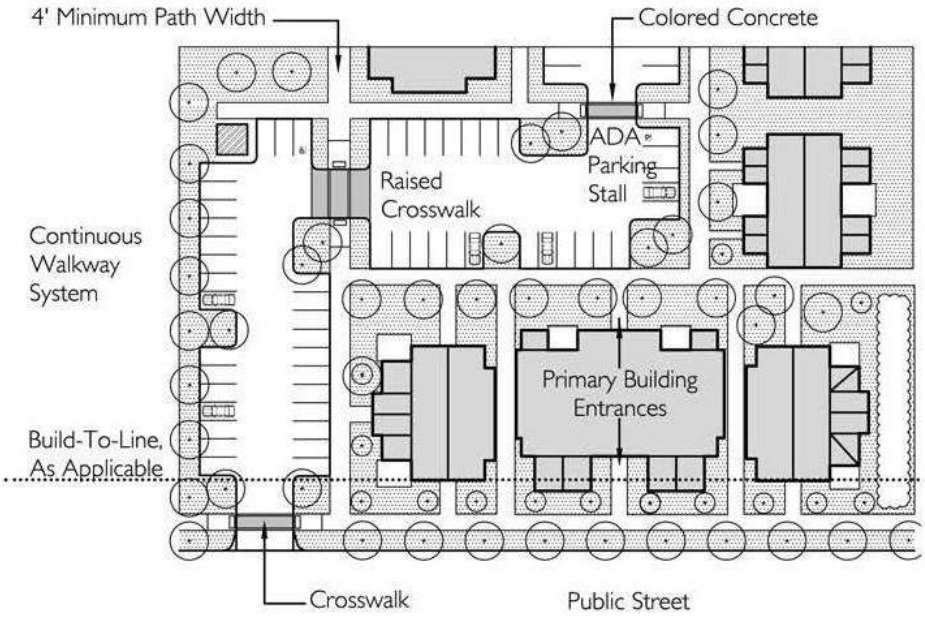
Section 9-9-3-11. Utilities.

(a) For all new construction and redevelopment, utilities along public streets (electrical, cable, telephone, other) must be placed underground. The Director of Public Works may approve an exception, if subsurface rock or other unique hardships make such installation unfeasible.

(b) All transformers and other facilities and utility boxes and equipment shall be screened through the use of architectural materials compatible with the architectural materials present on the site or, alternatively, through landscape screening. Such screening shall be adequate to completely screen such facilities from view from the right-of-way.

Section 9-9-3-12. Pedestrian Circulation.

(a) Except in industrial zoning districts, pedestrian circulation should take precedence over vehicular circulation. Pedestrian ways shall be well defined, should take as direct a path as possible, and they should be separated where practical from automobile access ways. Parking aisle dividers are appropriate locations for pedestrian access facilities. Relocate landscape areas that may interfere with pedestrian "short cuts."



Illustrative Provision of Pedestrian Access
Source: Oregon Transportation and Growth Management Program, 2012
Model Development Code & User's Guide for Small Cities, 3rd Ed.

(b) Sidewalks on individual properties shall connect to the sidewalk system within public road right-of-way, where such system exists or is planned.

(c) All principal entries to a building shall provide direct pedestrian access to the sidewalk within a public right-of-way or along a dedicated street.

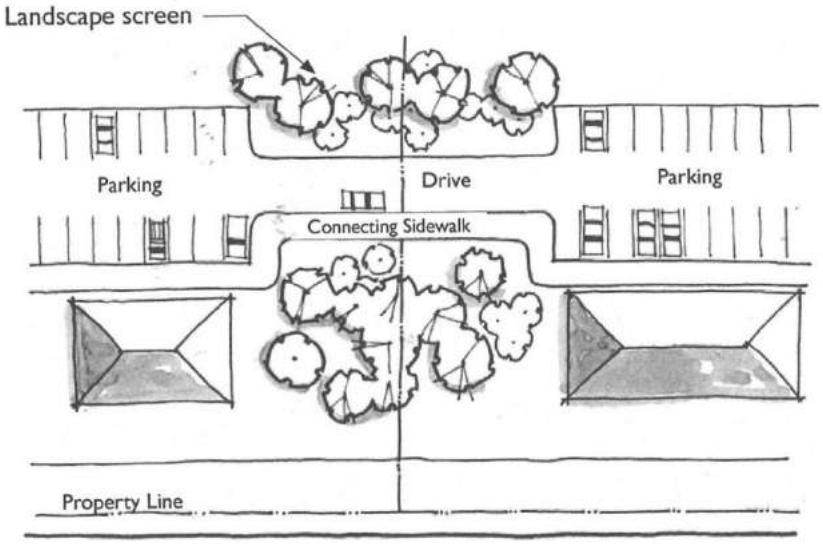
(d) When multiple buildings are proposed on a single development site, they shall be linked with on-site pedestrian walkways.

(e) Where pedestrian circulation crosses vehicular routes, a change in grade, paving material, or texture, or paving color should be provided to emphasize the conflict point and improve its visibility and safety. Accent strips of brick or textured paving may also be appropriate for defining pedestrian walkways.

Section 9-9-3-13. Interparcel Access.

(a) Interparcel access easements required**.** For any office or retail sales or services use, the property owner shall grant an access easement as described in this Section to each adjoining property that is zoned or used for an office or retail sales or services use. The

purpose of the easement is to facilitate movement of customers and their vehicles from establishment to establishment (lot to lot) without generating additional turning movements on a public street. When required by this Section, interparcel access easements shall be recorded in the office of the Clerk of Superior Court, Hall County, and reference to deed book and copy of such recorded easement provided to the Community Development Director.



Illustrative Interparcel Access

(b) Access Easement Provisions.

1. The interparcel access easement shall permit automobile access from the adjoining property to driveways and parking areas intended for customer or tenant use; but parking spaces may be restricted to use by the owner's customers and tenants only.

2. The granting of such easement shall be effective upon the granting of a reciprocal easement by the adjoining property owner.

3. Upon the availability of access to driveways and parking areas of the adjoining lot, the pavement or other surfacing of the owner's driveways and parking areas shall be extended to the point of access on the property line.

(c) Location of interparcel connections. The location of vehicular connections across a property line should be mutually determined and constructed by both property owners. Connection of parking areas for vehicular access may be provided in the front portion of the site. In cases where it is not possible to provide the connection in front, it may be provided in the rear portion of the site. In the case of coordination problems or any factors preventing construction of an inter-parcel connection, the Community Development Director shall determine the location of connection to be constructed by property owners.

(d) Relief. Where the proposed land use is such that adverse impact of the required easement on the use of the property would outweigh the reduced impact on the public

street provided by the reciprocal easements, the Community Development Director may waive the requirement for access easements, in whole or in part, administratively.

Section 9-9-3-14. Outdoor Lighting.

(a) Applicability. This section applies to existing uses, not just those required to complete design review. All public and private outdoor lighting shall be in conformance with the requirements established by this Section.

(b) Exemptions. The following are exempt from the provisions of this Section:

1. All temporary emergency lighting needed by police or fire departments or other emergency services.

2. All hazard warning luminaries required by federal regulatory agencies.

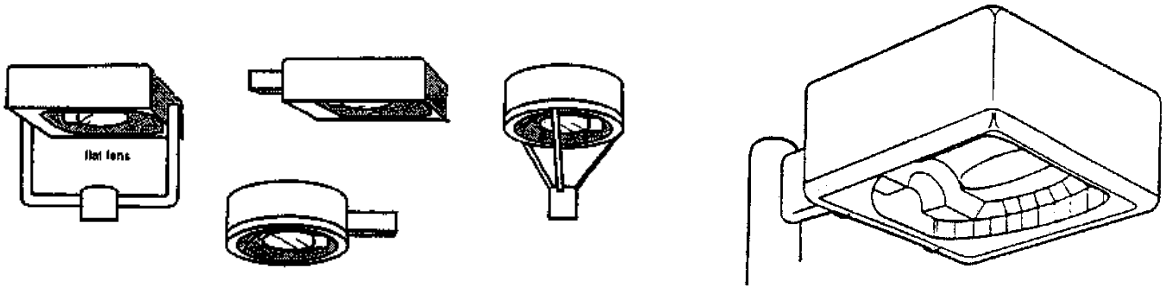
3. Any vehicular luminary.

4. Safety lighting, as defined in this Article.

5. All outdoor light fixtures producing light directly by the combustion of natural gas or other fossil fuels.

6. Holiday lights and decorations using typical unshielded low-wattage incandescent lamps, provided that they are removed within fifteen (15) days following the holiday season to which they pertain.

(c) Full Cut-off Fixtures Required. All luminaries not exempted from this Section hereafter installed for parking lots, buildings, and grounds shall be full cutoff luminaries, as defined by this Article, or another luminary which does not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the luminary, unless otherwise part of a lighting plan approved by the Community Development Director.

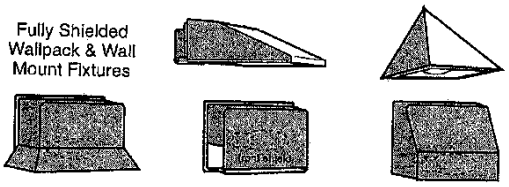


Full Cut-Off Fixtures

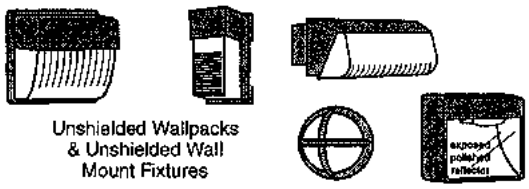
Security lighting, as defined in this Article, shall also meet this requirement unless activated by motion sensor devices.

Security Lighting

(d) Wallpacks. Wallpacks, as defined in this Article, are not permitted unless fully shielded.



Shielded Wallpacks Permitted



Unshielded Wallpacks Prohibited

(e) Glare. Any luminary that is aimed, directed, or focused so that the lamp is visible, or in a way that causes direct light from the luminary to be directed toward residential buildings on adjacent or nearby land, or that creates glare perceptible to persons operating motor vehicles on public ways, shall be redirected or its light output controlled as necessary to eliminate such conditions.

(f) Intensity Specifications. Illuminance levels for outdoor lighting fixtures serving parking lots, buildings and grounds shall comply in design and upon installation with the standards in the Table below, measured at three feet above the ground or finished grade. Lighting for athletic fields and tennis courts shall be exempt from this Section. In addition, the Community Development Director may also exempt or modify the requirements of this Paragraph as a part of an approved lighting plan.

OUTDOOR LIGHTING REGULATIONS

At Property Lines Including Rights-of-Way	**Minimum Footcandles**		**Maximum Footcandles**
At property line abutting a residential use	None		0.5
At property line abutting an office or institutional use	None		1.0
At property line abutting a commercial or light industrial use	None		1.5
Off-Street Parking Lots	**Minimum Footcandles**	**Average Footcandles**	**Maximum Footcandles**
Residential areas	0.5	2	4
Office-institutional areas	1.0	3	6
Commercial areas	2.0	6	12
Light industrial areas	1.0	4	8

(g) Prohibitions. The following types of outdoor lighting are prohibited:

1. Strobe lights, except as may be required for towers pursuant to Section 9-10-9-3 of this Unified Land Development Code, or other state or federal lighting requirement.

2. Laser lights or searchlight beams projected into the sky.

3. Neon-lit signs, neon outdoor lights, and neon or any other lighting outlining of windows or doors.

(h) Lighting Plans. When a lighting plan is required for a specific use, as specified in Article 9-10 which includes but is not limited to community recreation, athletic fields accessory to churches, automobile sales establishments, and outdoor recreation facilities, or, when a lighting plan is submitted as an alternative to compliance with the full cut-off fixture requirements or intensity specifications of this Section, the lighting plan shall be submitted with the application required for the issuance of a land development permit as specified in Chapter 9-13-7 of this Unified Land Development Code.

CHAPTER 9-9-4
GUIDELINES FOR STEEP SLOPES

Section 9-9-4-1. Applicability.
Section 9-9-4-2. Building Placement.
Section 9-9-4-3. Cut and Fill Slopes.
Section 9-9-4-4. Guidelines for Adaptation of Developments to Hillsides.

Section 9-9-4-1. Applicability.

This Chapter shall apply within the Limestone Parkway Overlay zone as well as to any development on slopes containing 25 percent or more. These guidelines supplement general site design guidelines for grading provided in this Article.

Section 9-9-4-2. Building Placement.

On hillsides or slopes with 25 percent or more, buildings should be placed to blend with and avoid dominating the natural terrain; e.g., not on the crest of hills or ridges but below the crest. Buildings, even on separate but adjoining lots, should be grouped to complement the natural terrain and each other.

Section 9-9-4-3. Cut and Fill Slopes.

(a) Steepness of slope. Cut and fill slopes shall be no more than 1½ times natural grade (e.g., increased from 10 percent to 15 percent) and shall be no steeper than 2:1 (50 percent).

(b) Planting. Cut or fill slopes more than ten (10) feet in height or twenty (20) feet in depth (in plan view) shall be planted with trees. Trees shall be spaced in accordance with the species planted so that the crowns will touch at maturity, but not farther apart than on 30-foot centers (approximately one tree per 600 square feet). These trees shall be in addition to other requirements for trees. Landscaping shall be used around buildings to blend cuts and fills into the natural terrain.

(c) Location of cut and fill slopes. Except for driveways, cut and fill slopes shall be entirely contained within a lot; i.e., natural grade at the lot lines shall be maintained.

(d) Angles of cuts and fills. Sharp angles shall be rounded off, in a natural manner, at the top and ends of cut and fill slopes (within approximately five feet of the sharp angle). Where this would damage tree root systems at the top of the slope, the amount of rounding off may be reduced and shrubs used instead to hide the transition.

(e) Retaining walls. Retaining walls may be used to minimize cut and fill. Generally, a retaining wall shall be no higher than 8 feet except that a retaining wall may average 12 feet for a distance of 100 feet or less. A higher wall is permitted; where used internally at the split between one- and two-story portions of a building; and, where substantially hidden from public view at the rear of a building, where it may not exceed the eave height of the building. Retaining walls shall not be stepped in height but shall be sloped from one height to another to match the terrain behind it.

Section 9-9-4-4. Guidelines for Adaptation of Developments to Hillsides.

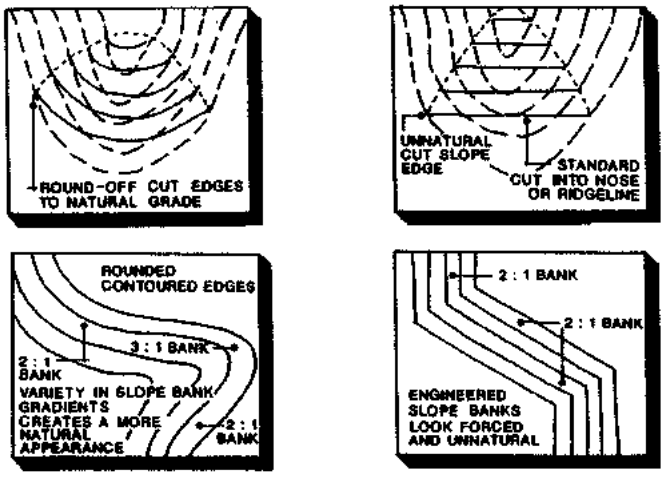
The following guidelines are established for adapting developments to hillsides and steep slopes:

(a) Orient roads and building sites to minimize grading.

(b) Orientation of buildings should consider views from the site as well as the aesthetic impact of views of the site from surrounding properties.

(c) Hilltops, if graded, shall be rounded to blend with natural slopes rather than leveled.

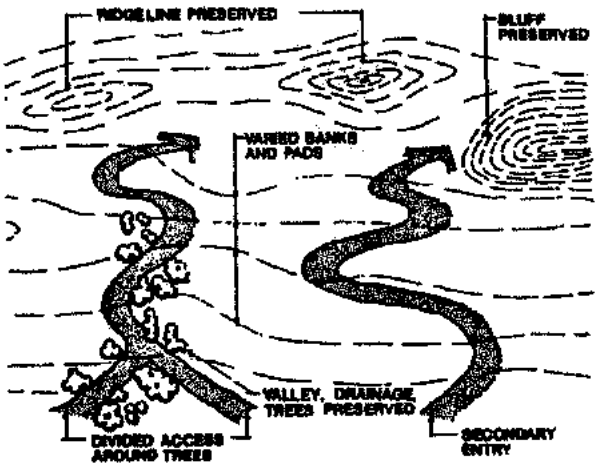
(d) Slopes providing a transition from graded areas into natural areas shall be varied in percent grade both up-slope and across the slope, in the undulating pattern of surrounding natural slopes; so that the top or the toe (or both) of the cut or fill slope will vary from a straight line in plan view.



Appropriate Example of Grading Practices

(e) Parking areas shall be constructed on multiple levels and follow natural contours as necessary to minimize cut and fill.

(f) Roads shall follow natural topography to the extent feasible, to minimize cut and fill. Necessary grading shall be constant half-cut and half-fill along the length of the road (versus all cut or all fill at points) unless other arrangements would result in less severe alteration of natural terrain.



Appropriate Example of Locating Roads on Hillsides

(g) Repetitive padding or terracing of a series of lots ("stair-stepping" up a slope) shall not be permitted. Creation of a single large pad or terrace (especially creating a single pad or terrace of an entire lot) shall be an exception to typical design, to deal with circumstances that can't be managed with other techniques. Typical design shall utilize full split pads (separate level for a down-slope lower story), a split foundation (adapting a single story to a slope), setting the building into a cut in the hillside, or a combination of techniques.

CHAPTER 9-9-5
ARCHITECTURAL DESIGN GUIDELINES

Section 9-9-5-1. Purpose and Intent.
Section 9-9-5-2. Applicability.
Section 9-9-5-3. Interpretation.
Section 9-9-5-4. Architectural Design Compatibility.
Section 9-9-5-5. Building Style and Design.
Section 9-9-5-6. Classification of Building Materials.
Section 9-9-5-7. Exterior Building Materials and Finishes.
Section 9-9-5-8. Roofs.
Section 9-9-5-9. Buildings on Corner Lots or at Street Corners.
Section 9-9-5-10. Modulation.
Section 9-9-5-11. Awnings and Canopies.
Section 9-9-5-12. Colors.
Section 9-9-5-13. Architectural Lighting.
Section 9-9-5-14. Accessory Buildings.
Section 9-9-5-15. Fences and Walls.
Section 9-9-5-16. Trash and Recycling Collection Areas.
Section 9-9-5-17. HVAC and Mechanical and Utility Equipment.

Section 9-9-5-1. Purpose and Intent.

This chapter provides guidelines for the architectural design of buildings and structures on individual sites which are generally appropriate on a citywide basis and will be applied by the Community Development Department during the process of architectural design review as required by Chapter 9-9-2 of this unified land development code.

Section 9-9-5-2. Applicability.

(a) Unless the context of a particular section clearly indicates otherwise, the architectural design guidelines of this chapter may be considered by the Community Development Department to apply to all buildings and structures.

(b) A detached, single-family dwelling or two-family dwelling shall be exempt from the requirements of this Chapter.

Section 9-9-5-3. Interpretation.

(a) The provisions in this chapter which use the term “shall” are regulations and must be followed.

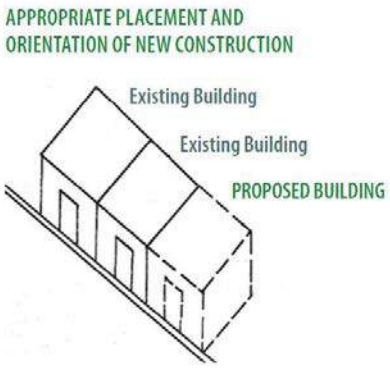
(b) When the terms “should” and “are encouraged” are used in this chapter, the language shall be considered a guideline, and flexibility toward compliance may be exercised if it is determined by the Community Development Director that the spirit and intent of the guideline is being followed or an alternative to the guideline is acceptable. However, successive departure from the guidelines is grounds for denial of an application for architectural design review.

Section 9-9-5-4. Architectural Design Compatibility.

Buildings or other improvements should be compatible with the orientation, directional emphasis, shape, volume, massing, proportion, rhythm, scale and materials of the context, setting and streetscape of the site. Architectural design should be compatible with the developing character of the neighboring area. Design compatibility includes complementary building style, form, size, color, materials, and detailing. Determinations of compatibility will consider each of the following factors as appropriate:

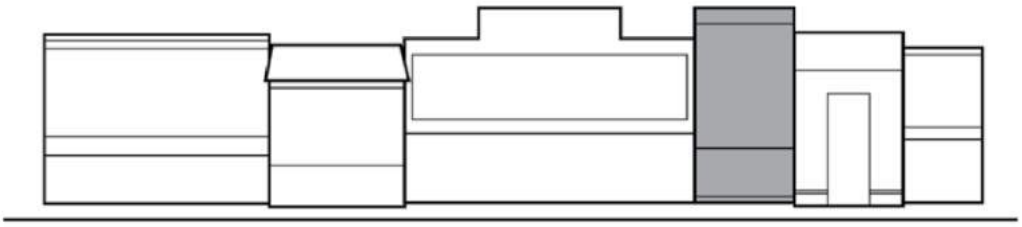
(a) Size: The relationship of the project to its site.

(b) Orientation: The relationship of buildings to streets. Buildings should front directly onto public sidewalks unless site features prohibit such building configuration.



Source: City of Gainesville Preservation Manual and Design Guidelines

(c) Scale: The relationship of the building to those around it. Efforts to coordinate the height of buildings and adjacent structures are encouraged. This is especially applicable where buildings are located very close to each other. It is often possible to adjust the height of a wall, cornice or parapet line to match that of an adjacent building.



Scale and continuity of building addition is appropriate; however, cornice line could be better coordinated.

Source: City of Gainesville Preservation Manual and Design Guidelines

(d) Massing: The relationship of the building's various parts to each other, and the consistency of roof characteristics to adjacent buildings.

(e) Fenestration: The placement of windows and doors. The building may incorporate design that is similar to or links with designs of neighboring buildings. For instance, window lines should be placed in a pattern that reflects the same elements on neighboring buildings.

Source: City of Gainesville Preservation Manual and Design Guidelines

(f) Rhythm: The relationship of fenestration, recesses and projections.

(g) Setback: Placement of the building in relation to setback of immediate surroundings.

(h) Materials: The compatibility of building materials with those used in the zoning district.

(i) Context: The overall relationship of the project to its surroundings.

Section 9-9-5-5. Building Style and Design.

(a) When more than one building is constructed on a development site or within a planned development, all buildings shall reflect a compatible architectural style and create a cohesive visual relationship between the buildings.

(b) “Theme” or stylized architecture which is characteristic of a particular historic period or trend is not encouraged, unless the existing building or site is historically important to the district or necessary for architectural harmony.

(c) Franchise architecture will be reviewed for compatibility with surroundings and may require adjustments to be compatible with surrounding buildings in the district.

(d) Building design should include a minimum of one-foot high cornices extending along the entire frontage and sides of buildings.

(e) Building design should include a minimum of 18-inch high contrasting base extending along the entire frontage and sides of buildings.

(f) Building design should incorporate and feature awnings, canopies, porches, porticos, patios, decks, or other covered entries to portions of the façade at the ground level.

Section 9-9-5-6. Classification of Building Materials.

Building material can be classified based on its application as:

(a) Primary Material: The dominant material of a building’s exterior walls. A primary material will typically comprise 75% to 90% of each exterior building face excluding windows and doors; however, architectural style and detailing of the building should dictate the appropriate composition of primary material.

(b) Accent Material: A material utilized to provide architectural interest and variety on a building. Accent materials will typically comprise 10% to 25% of each building face excluding windows and doors, depending on architectural style and context. Accent materials are not to be utilized as a primary building material.

Section 9-9-5-7. Exterior Building Materials and Finishes.

(a) Finding. The choice of materials and texture applied to the exterior of buildings has great visual significance and can affect the long-term appearance and maintenance of the built environment. Exterior building material is directly related to the durability of the building against weathering and damage from natural forces.

(b) Building material prohibitions. The following types of external building materials (siding and window and door frames) are prohibited: highly reflective, shiny, or mirror-like materials; mill-finish (non-colored) aluminum metal windows or door frames; exposed, unfinished walls; exposed plywood or particle board; and unplastered, exposed concrete masonry blocks. Exterior metal siding may be used as an accent material as defined in this chapter. This provision applies also to accessory buildings and structures, including signs.

(c) Similar Finishes on All Sides. All sides of a building may impact on its surroundings and should be considered for treatment with an architectural finish of primary materials (i.e., brick and stone), unless other materials demonstrating equal or greater quality are used. All buildings should be designed so that all sides contain similar architectural finishes and detailing.

(d) Durability. The durability of building materials should be considered; materials that do not need high maintenance or frequent placement are preferred.

(e) Brick and Stone. Brick and stone convey permanence and are preferred primary and accent building materials for all building types.

(f) Wood. Wood may be appropriate in specific contexts.

(g) Siding. Horizontal aluminum and vinyl sidings should not be utilized for non-residential applications.

(h) Exterior Insulating and Finish System (EIFS). EIFS or Dryvit material should not be used as a primary material. Where used, EIFS should be justified based upon the design intent of the building and limited to accent applications above the pedestrian level (approximately 10 feet above ground).

(i) Fiber Cement. The use of fiber cement materials should be limited to accent applications only, except where utilized in a downtown or historic context as a substitute for wood. Fiber cement product is not considered an acceptable substitute for masonry.

(j) Glass. The use of glass as a primary exterior building material may be appropriate within its surrounding context such as in office parks or pedestrian retail streets. Where used, transparent types of glass are preferred and mirror/dark tinted glass is discouraged. Mirrored glass with a reflection greater than 20% is strongly discouraged and should not be used in lieu of exterior windows for the facade.

(k) Stucco. The use of stucco is acceptable for accent applications. Stucco can be applied directly to blocks or bricks, or onto metal laths (sheets of wire mesh that help adhesion) to provide a decorative, weatherproofing coat that protects a wall's structure. Finishing options include smooth stucco with some slight texture, stucco that can be tooled to produce various patterns; a uniform rough stucco finish that is applied over smooth stucco; and pebbles added onto damp stucco ("pebbledash").

(l) Cast-in-place Concrete. Cast-in-place concrete may be appropriate for industrial buildings or secondary facades if sufficient articulation and detail is provided to diminish the appearance of a large, blank wall and provide a high-quality architectural finish. Cast-in-place concrete may be acceptable as an accent material; its appropriateness for primary material applications will be reviewed within the context of the design intent and surrounding character of development.

(m) Pre-cast Concrete. Pre-cast concrete is acknowledged as a durable and quality material. Concrete panels should be limited to industrial and selected institutional buildings and in any case should incorporate articulation and additional architectural detailing finishes when visible from a right of way or abutting property. The appearance of panel joints should be minimized.

(n) Concrete Masonry Units. Concrete masonry units, including split face, may be acceptable as an accent.

(o) Architectural Metal Cladding. Smooth metal panels, with sufficient metal thickness to prevent deterioration of the surface and promote durability, may be acceptable. The use of metal should account for the design intent of the building and surrounding character of development. Buildings with all-metal siding (i.e., primary and secondary finish) shall not be permitted except in industrial zoning districts. Within the Gateway Corridor overlay district/ character area, metal or tin roofs are not permitted except for standing seam metal, and then only if they have a reflectance similar to (or less than) that of the siding material.

(p) Gateway Corridor Overlay Zone. Within the Gateway Corridor Overlay Zone, front facades and other building sides visible from a public right-of-way shall be at least fifty percent (50%) composed of brick masonry, stone masonry, split-face block masonry, or combination thereof. If used, split-face masonry shall be limited to a maximum of twenty percent (20%) of the façade.

(q) Limestone Parkway Overlay Zone. Within the Limestone Corridor Overlay Zone, exterior wall materials shall be brick masonry, stone masonry, or split-face block masonry; or wood clapboards or weather boarding. If used, split-face masonry shall be limited to a maximum of twenty percent (20%) of the façade. Architectural treatment shall be consistent on all sides of the building. Standing-seam or corrugated metal walls are not permitted.

(r) Midtown Overlay Zone. Within the Midtown Overlay Zone, building materials for front facades oriented to public streets shall be constructed of brick, stone, textured concrete masonry units, or glass. Metal siding is permitted as an architectural treatment on facades not oriented to public streets.

Section 9-9-5-8. Roofs.

(a) All roof surfaces on nonresidential buildings oriented to or facing a street should have a minimum pitch of 3:12 (3 inches of rise for every 12 inches of run); provided, however, that flat roof surfaces may be required or approved by the Community Development Director if compatible with surroundings, and if rooftop equipment is screened from view by building elements that are designed as an integral part of the building architecture, or by a parapet wall.

(b) If metal is authorized as a roofing material, the metal shall not reflect light any more than the siding material used on the same building.

Section 9-9-5-9. Buildings on Corner Lots or at Street Corners.

Buildings on street corners should be designed to address the street corner – that is, to engage the interest of drivers, pedestrians and bicyclists at the intersection. These buildings should provide a building entry or distinctive architectural elements facing the corner.

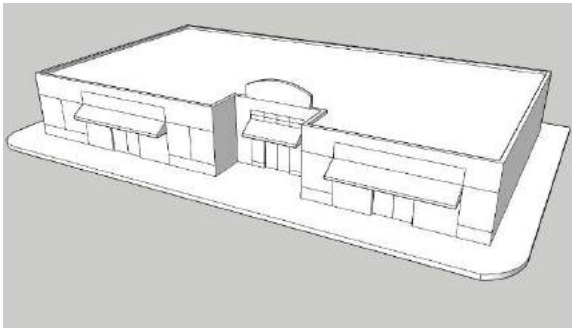
Section 9-9-5-10. Modulation.

Avoid constructing buildings with blank or unmodulated facades parallel to public rights-of-ways. In the Gateway Corridor and Midtown Overlay Zones, the walls of building façades for office, institutional, commercial, and industrial use shall not extend more than 100 linear feet unless the front façade of the building (including roof) is designed in a way that modulates the building face into discrete architectural elements as more fully described in this Section. For all other areas, the maximum building length without modulation shall be 200 feet. Modulation may be accomplished with one or a combination of the techniques described below:

(a) Recesses and projections should be used along the front façade to break up long expanses of wall planes.

(b) Rooflines can be modulated by alternating dormers, or using stepped roofs, gables, or other roof elements.

(c) Windows with awnings above the windows can be provided in a repeating pattern or at regular intervals, or bay windows can be used to achieve some modulation.



Section 9-9-5-11. Awnings and Canopies.

(a) Finding. Awnings and canopies should be applied to storefront commercial buildings for three reasons: to minimize interior heat gain; shield merchandise in the display windows from the sun; and to provide some protection to pedestrians on the sidewalk from the elements.

(b) Encouraged. Awnings are encouraged for first floor uses to provide architectural interest.

(c) Coordination. Where awnings are used, they should be designed to coordinate with the design of the building and any other awnings along the same block face.

(d) Frame and Material. Awnings should be constructed with a durable metal internal structural frame covered by a fabric or canvas material. Flameproof vinyl or metal awnings and canopies may be appropriate. Aluminum and other metal canopies may be acceptable, particularly when integrated into shopping center designs.

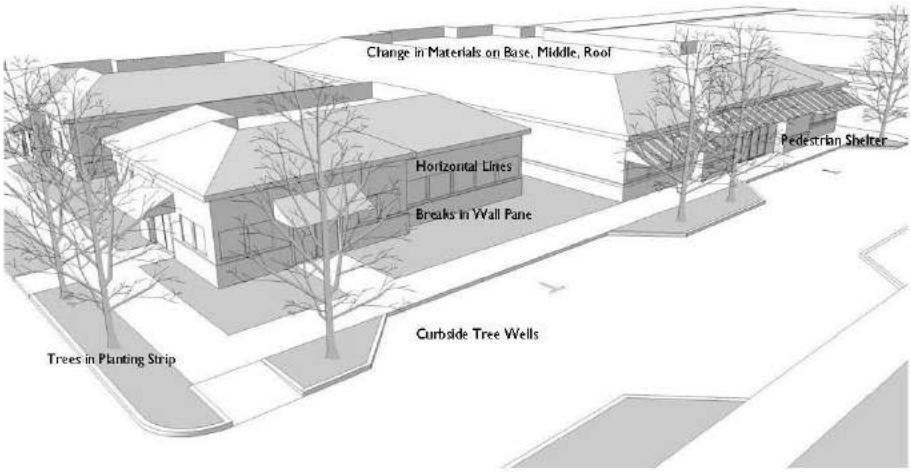
(e) Colors. Awning colors should be neutral or compatible with the overall color palate of the building to which they are being affixed. Solid colors are preferred over striped awnings, but striping may be permitted if colors compliment the character of the structure or group of buildings.

(f) Shape. The shape of an awning should be dictated by (consistent with) the shape of the window opening to which it will be applied.

(g) Vertical Clearance. No portion of an awning shall be less than 8 feet clearance from the ground surface.

(h) Depth and Width**.** Awnings shall be a minimum of four (4) feet in depth. Awnings shall not extend beyond the width of the building or tenant space, nor encroach above the roof line or the story above.

(i) Lighting. Awnings that are internally or backlit through translucent materials are discouraged if not prohibited altogether.



Illustrative Use of Awnings
Source: Oregon Transportation and Growth Management Program, 2012
Model Development Code & User's Guide for Small Cities, 3rd Ed.

Section 9-9-5-12. Colors.

(a) The primary material color (used on the majority of the building surface) of buildings and accessory buildings and structures should be harmonious and compatible with the primary material colors of other buildings within the character district in which the building or structure is located.

(b) High-intensity or fluorescent colors shall not be used.

(c) Façade primary material colors should be low reflectance, subtle, neutral, or earth tone colors.

(d) Trim color (used on the window trim, fascia, balustrades, and posts) may be brighter than primary material color.

(e) All vents, gutters, downspouts, flashing, electrical conduits, etc., should be painted to match the color of the adjacent surface primary material, unless they are being used expressly as a trim or accent element.

(f) Accent color may be used with discretion on the building's exterior. An accent stripe may be appropriate to add interest to larger, (typically) industrial buildings.

Section 9-9-5-13. Architectural Lighting.

(a) Finding. Well-designed and distinctive lighting of building facades is one of the best ways to attract attention and make a favorable impression with a minimal investment. Building façade lighting can help enhance the intrinsic charm, beauty, and utility of any given setting. Architectural lighting may include outlining, floodlighting, spotlighting, or any applicable combination of these techniques.

(b) Selectivity. The discrete lighting of a few key architectural features or details is preferred over uniform floodlighting of the entire building façade. Focal points can also be

established through careful floodlighting of major buildings, with the lighting of secondary buildings keyed in turn to these focal points.

(c) Reflectivity. Highly polished surfaces such as glass, marble, glazed tile, glazed brick, porcelain enamel, and various metals can reflect the image of the light source. Designers should avoid lighting these reflective surfaces directly. Glass buildings usually cannot be lighted for nighttime viewing.

Section 9-9-5-14. Accessory Buildings.

Accessory buildings should be substantially similar to the principal building(s), in terms of material finish, color, and architectural detailing.

Section 9-9-5-15. Fences and Walls.

(a) The design of fences and walls should be compatible with the architecture of the principal building(s) and should use similar materials.

(b) All walls or fences fifty feet in length or longer, and four feet or more in height, should be designed to minimize visual monotony though changes in plane, height, material, material texture, or significant landscape massing.

(c) All fences visible from the public right-of-way shall have their appearance softened with landscaping as approved by the Community Development Director.

(d) Chain-link fences visible from the public right-of-way shall be coated with vinyl with a black color.

(e) In the Gateway Corridor Overlay Zone, smooth-faced concrete walls visible from the right-of-way are prohibited; walls visible from the right-of-way shall be faced with brick or stone masonry or shall be architecturally compatible in terms of design/style and color, as approved by the Community Development Director.

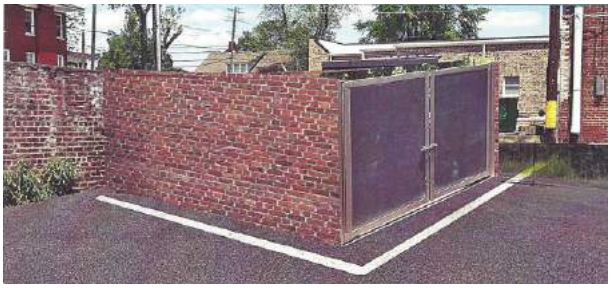
(f) In the Limestone Parkway Overly Zone, walls shall be of brick masonry, stone masonry, concrete masonry, or concrete which is architecturally compatible with the principal building. Walls and fences in any required front yard shall be no more than three and one-half (3½) feet in height. Walls and fences on or within all rear and side property lines, up to the required front yard setback line, shall be no more than six (6) feet in height; except that within a yard abutting a street, such height shall be no more than three and one-half (3½) feet. See also Section 9-8-3-15(e) for retaining wall requirements.

Section 9-9-5-16. Trash and Recycling Collection Areas.

(a) All institutional, commercial, industrial, multi-family residential sites must provide appropriate refuse dumpsters and areas devoted to the storage of waste materials (including grease or oil containers where used).

(b) All garbage dumpsters and other similar areas devoted to the storage of waste materials and grease or oil containers should be screened on 3 sides of said dumpster or area with a minimum six (6) foot high (8 feet preferred) wall constructed of materials

substantially similar in appearance to the building on site. Dumpster areas must be gated on the fourth side with a material that provides opaque screening, such as a solid wooden fence or metal gate compatible matching the height of the surrounding wall and compatible in material and appearance.



Source: Carl Vinson Institute of Government, The University of Georgia. 2015 Downtown Gainesville Renaissance Strategic Vision and Plan, p. 53.

Recommended Practices for Dumpsters

(c) Access to all service areas, including dumpster pads, shall be limited to the hours of between 6:00 a.m. and 9:00 p.m., unless an emergency situation warrants access to these areas.

Section 9-9-5-17. HVAC and Mechanical and Utility Equipment.

(a) Heating, ventilation, air conditioning (HVAC) or other mechanical equipment should not be located on the street side of developments or adjacent to open spaces. HVAC and other mechanical and utility equipment, which is located on, beside or adjacent to any building or development, shall be fully screened from view of streets and adjoining property.

(b) The screen should exceed the height of the equipment and should utilize building materials and design which are compatible with these used for the exterior of the building.

(c) Where mechanical and utility equipment are located on the roof of a structure, all devices should be fully screened from view of streets or adjacent property. A parapet wall or rooftop enclosure compatible in material and appearance with the building's exterior materials may be used to accomplish this screening requirement.

(d) All building-mounted utility meters and service equipment should be located to the side or rear of the building and painted to match the exterior color of the building.

(e) At-grade utility equipment and facilities associated with on-site electric, cable, telephone, gas or other similar utility should be screened with evergreen plantings or other acceptable alternatives.

CHAPTER 9-9-6
PEDESTRIAN RETAIL DESIGN GUIDELINES

Section 9-9-6-1. Purpose and Intent.
Section 9-9-6-2. Applicability.
Section 9-9-6-3. Interpretation.
Section 9-9-6-4. Pedestrian-scale Development.
Section 9-9-6-5. Building Placement.
Section 9-9-6-6. Building Width.
Section 9-9-6-7. Building Height.
Section 9-9-6-8. Cornices, Windows, and Entrances.
Section 9-9-6-9. Off-street Parking.

Section 9-9-6-1. Purpose and Intent.

This chapter provides guidelines for the architectural design of buildings and structures on individual sites which are appropriate in the more urban parts of the city and will be applied by the Community Development Department during the process of architectural design review as required by Chapter 9-9-2 of this unified land development code. The guidelines of Chapter 9-9-4 of this article also apply in addition to those provided in this Chapter.

Section 9-9-6-2. Applicability.

The architectural design guidelines of this chapter shall apply to all buildings and structures located within:

(a) The CB, Central Business Zoning District;

(b) Midtown Overlay Zone.

(c) The central core character area.

(d) As may be appropriate in any other character areas as determined by the Community Development Director; these design guidelines are encouraged but not required in the suburban commercial character area.

Existing Conditions at the Square

Section 9-9-6-3. Interpretation.

(a) The provisions in this chapter which use the term “shall” are regulations and must be followed.

(b) When the terms “should” and “are encouraged” are used in this chapter, the language shall be considered a guideline, and flexibility toward compliance may be exercised if it is determined by the Community Development Director that the spirit and intent of the guideline is being followed or an alternative to the guideline is acceptable. However, successive departure from the guidelines is grounds for denial of an application for architectural design review.

Source: Gainesville 2030 Community Agenda

Images Ranked Highly as Appropriate for Downtown/Midtown

Section 9-9-6-4. Pedestrian-scale Development.

(a) Development should be designed with an emphasis primarily on the street sidewalk and on pedestrian access to the site and building, rather than auto access and parking areas.

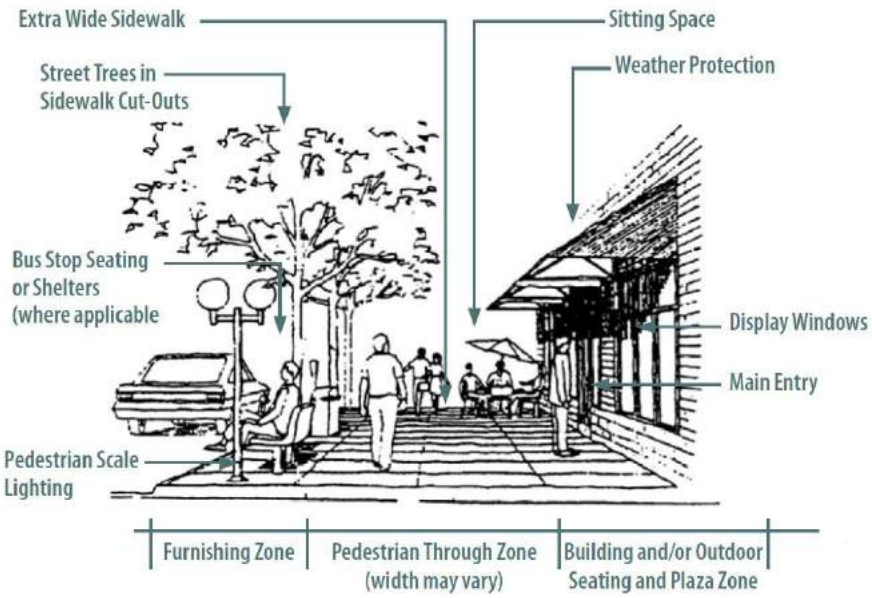
(b) Ground-floor uses should be reserved for retail and should be limited to non-residential uses. Ground floor residential uses should not be permitted in buildings fronting the downtown square; provided, however, residential use of a ground floor may be authorized if it is not readily visible from the front of the building.

(c) Sidewalks in storefront commercial areas are pedestrian corridors where one wall is created by the unbroken line of commercial buildings abutting the sidewalk, and a second “perceived wall” is created by sidewalk fixtures such as benches, planting boxes, and street trees. In addition, a “perceived corridor ceiling“ is created by storefront

awnings and the canopies of street trees. While the sidewalk is technically part of the public right-of-way, many business owners whose properties abut the sidewalk utilize portions of the sidewalk for business purposes. Others desire to improve the appearance of the sidewalk area in front of their individual building.

(d) In areas with business storefronts, extra-wide sidewalks should be provided, along with a furnishing zone where street furniture may be placed and street trees planted.

(e) In the downtown core character area, sidewalk requirements shall consist of brick edging to match the Square's sidewalk design.



Source: City of Gainesville Preservation Manual and Design Guidelines.

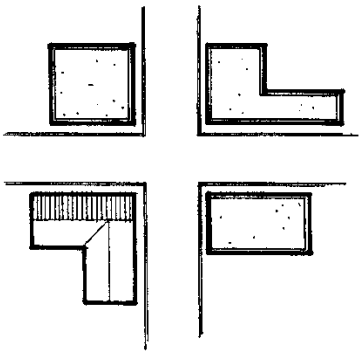
Source: Carl Vinson Institute of Government, The University of Georgia.
2015 Downtown Gainesville Renaissance Strategic Vision and Plan, p. 31.

Source: Carl Vinson Institute of Government, The University of Georgia.
2015 Downtown Gainesville Renaissance Strategic Vision and Plan, p. 53.

Recommended Practice; Downtown Parklet (Bradford Street SW shown): Two on-street parking spaces are transformed into a public parklet with wider sidewalk, plantings, and space for a range of activities like reading, relaxation, and lunch breaks outdoors. Applicable in many areas of downtown.

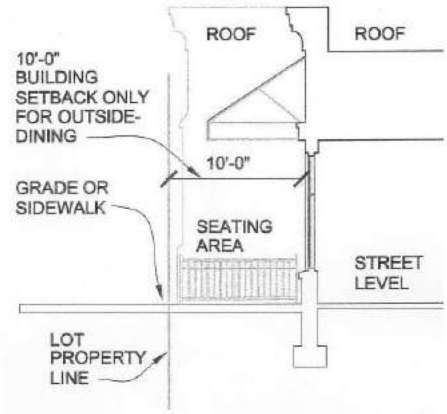
Section 9-9-6-5. Building Placement.

Buildings should be placed close to (with little if any setback from) streets internal to the development, or along public streets abutting the development area, as determined in the review and approval process. The buildings should be generally placed so that the main entrance is oriented to the street sidewalk. The Community Development Director may establish a build-to line for the placement of the building to ensure compatibility and consistency with other buildings on the block face.



Outdoor private seating is encouraged for pedestrian retail areas. If outdoor seating is contemplated prior to building, the building should be setback an additional 10 feet to provide appropriate seating area along the building frontage.

While the sidewalk may be enhanced or used for commercial purposes such as outdoor café seating, it is important that the sidewalk's functionality as a means of transportation is not limited.



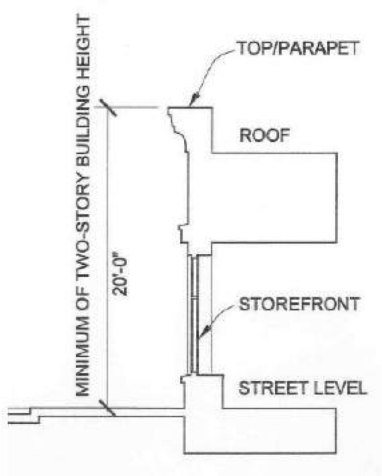
Section 9-9-6-6. Building Width.

In pedestrian retail areas, buildings should provide storefronts at sidewalk level along the entire width of their property frontages. Exceptions to this guideline may be appropriate for designated alleyways or other service access ways, subject to the approval of the Community Development Director.

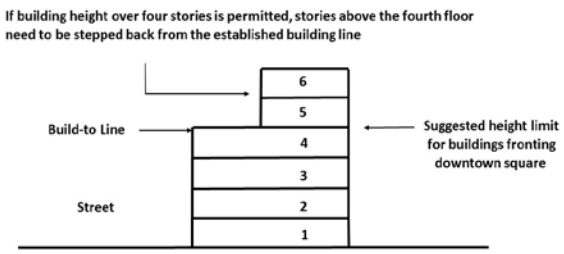
Section 9-9-6-7. Building Height.

(a) A building designed for one story only should have the appearance of a two-story building; hence a single-story building shall have minimum of 20 feet height measured from the street level or top of curb, with a maximum of 25 feet.

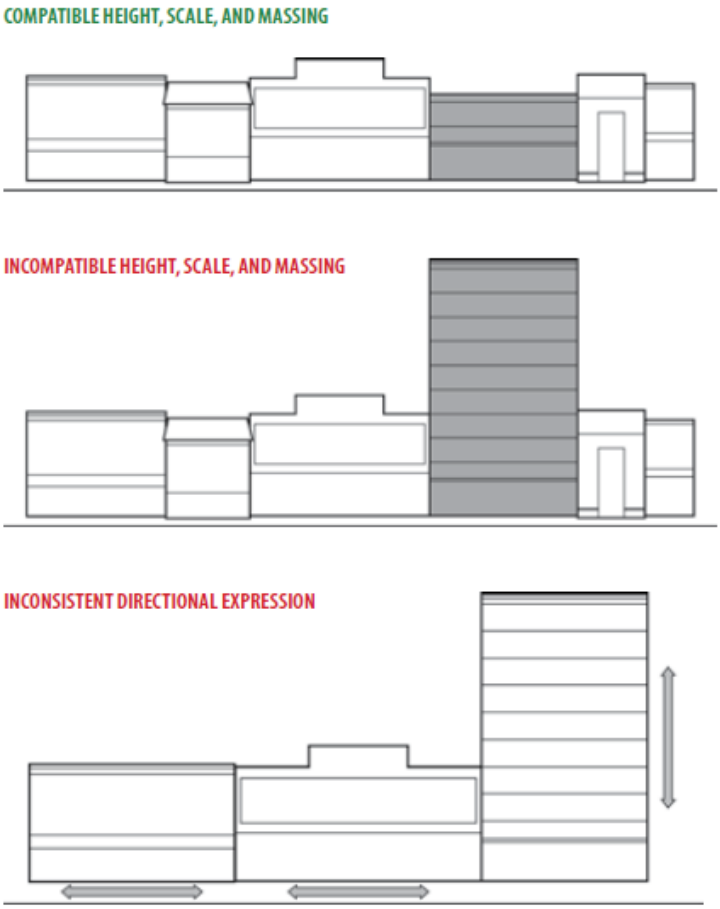
(b) The height of a new building should be similar to or compatible with existing buildings on lots abutting the property on the block face.



(c) Buildings fronting the downtown square should be limited to four stories in height; this guideline may be exceeded only if the fifth story and higher stories is/are stepped back from the established building line.



Building Step-Back (Side Elevation View)



Scale, Proportion, and Height

Source: City of Gainesville Preservation Manual and Design Guidelines.

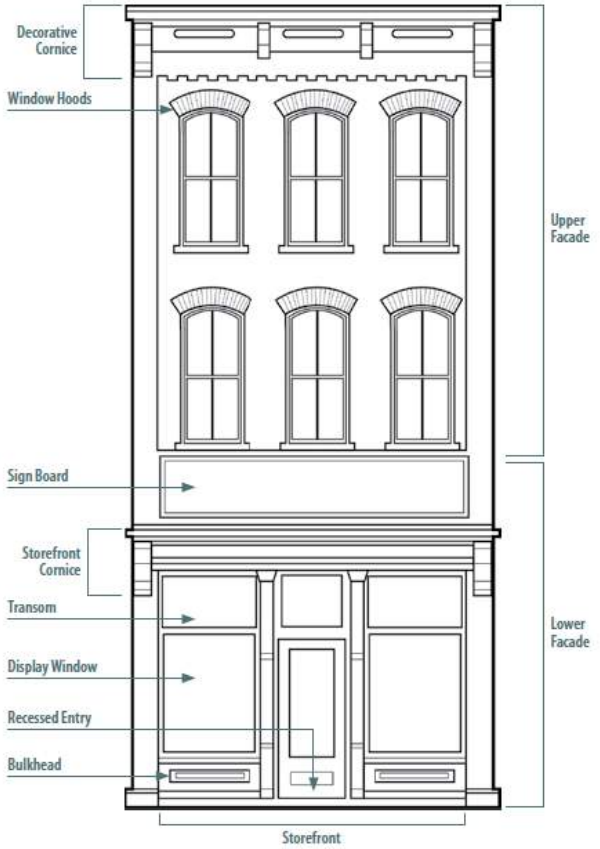
Source: Carl Vinson Institute of Government, The University of Georgia.
2015 Downtown Gainesville Renaissance Strategic Vision and Plan, p. 87.

Recommended Practice, Infill at the Square (three-story concept shown): Immediately adjacent to the Downtown Square, most buildings fit within the two- to four-story range. Infill building shown is traditional brick with taller center parapet, but with modern elements such as a glass and steel first story used as retail space. Top floor space used for residents and/or offices. A rooftop garden patio is incorporated.

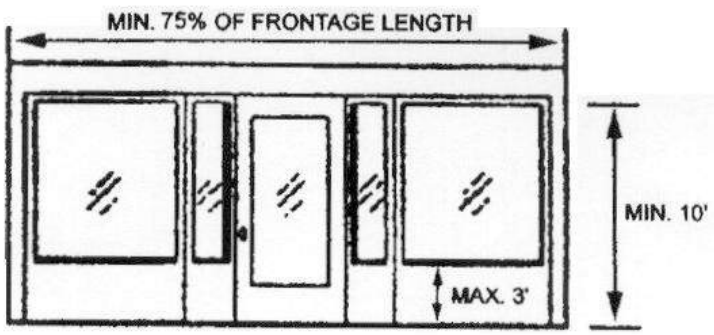
Section 9-9-6-8. Cornices, Windows, and Entrances.

(a) Storefront Cornices. Storefront cornices should be provided as horizontal decorative elements that extend across the width of the building and visually separate the storefront from the upper stories of the two-part commercial block.

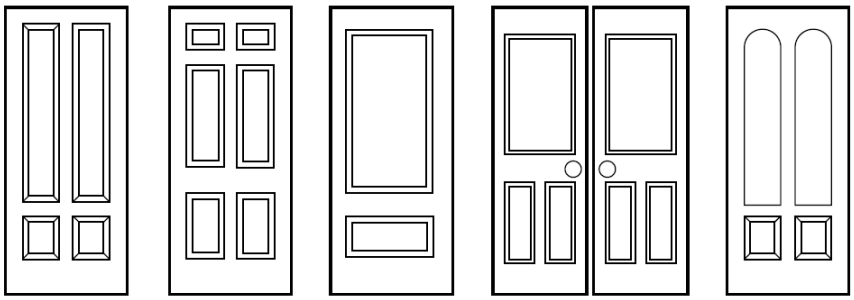
(b) Storefront Display Windows. Storefront display windows are large areas of plate glass at the street level that provide an opportunity for pedestrians on the sidewalk to view the merchandise and activity taking place inside retail establishments. No less than 75 percent of the building frontage should be provided with glass windows and building entrance. Ground-story windows should not exceed ten feet (10') in height and should be no less than three feet (3') above the sidewalk.



Source: City of Gainesville Preservation Manual and Design Guidelines.



(c) Storefront Entryways and Doors. Commercial storefronts should feature recessed entryways that welcome provide shelter for pedestrians during inclement weather. Storefront doors should be glazed (glass) to allow light into retail areas and provide a means for pedestrians to view commercial activities taking place inside the building.

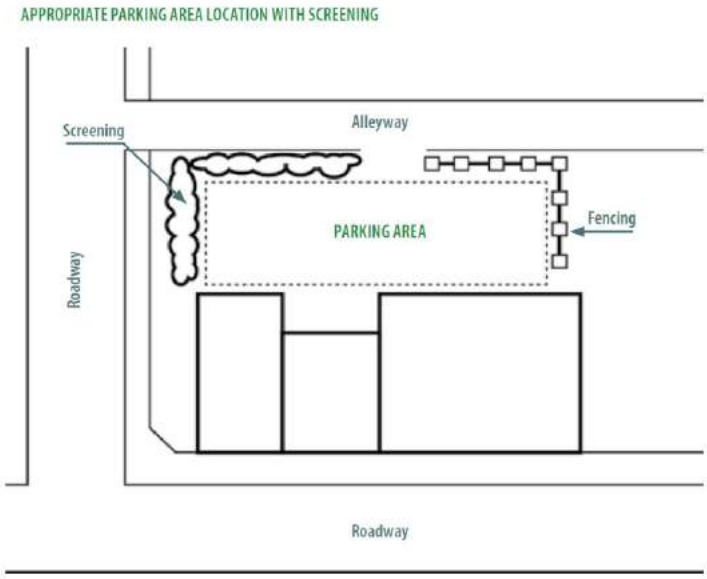


Recommended Practices for Doors (Commercial Storefront)
Source: City of Gainesville Preservation Manual and Design Guidelines.

Section 9-9-6-9. Off-street Parking.

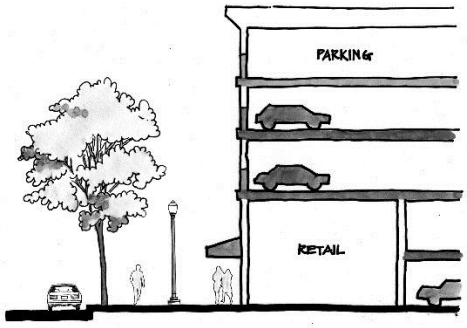
(a) The physical and visual impact of new off-street parking areas and new off-street parking facilities within commercial storefront areas should be mitigated as much as possible.

(b) Evergreen landscape buffers and hedges should be located around the perimeter of parking lots with shade trees interspersed throughout the interior of the parking lot.



Source: City of Gainesville Preservation Manual and Design Guidelines.

(c) Parking decks should adhere to all of the guidelines for new construction in a commercial storefront area in terms of building placement, massing, scale, and façade articulation. If possible, the street level façade of a new parking deck should provide retail storefront space to help it blend into the existing commercial environment.



PARKING DECK

CHAPTER 9-9-7
DESIGN GUIDELINES FOR SPECIFIC USES

Section 9-9-7-1. Live-Work Unit.
Section 9-9-7-2. Mixed-use Building.
Section 9-9-7-3. Open Spaces.

Section 9-9-7-1. Live-Work Unit.

Live-work units are buildings or spaces within buildings that are used jointly for commercial and residential purposes, where the two uses are physically connected in one unit and residential use of the space is accessory to the primary use as a place of work. This use is distinguished from a home occupation and from a mixed-use building. Live-work units may have larger work spaces than permitted by home occupations, and the floor space for live/work units is specifically designed for both living and working areas. Live-work units are distinguished from mixed-use buildings in that a mixed-use building has residential and nonresidential uses in the same building, but the residential and nonresidential spaces are not necessarily connected or used by the same person.

Illustrative Live-Work Units

Live-work units should meet the following requirements, which are intended to minimize the potential negative impacts on residential use within a live-work unit and on other dwelling units in the same development or near the live-work unit:

(a) Occupancy. Only persons living in the dwelling unit should be engaged in the occupation.

(b) Use Restriction. Sales or customers should be limited or not permitted. There should be no external storage of products or materials. Use of the work space should be limited to general office and similar uses, including investors and those who perform trades via computer or by phone, but not involving the physical exchange of merchandise on the premises.

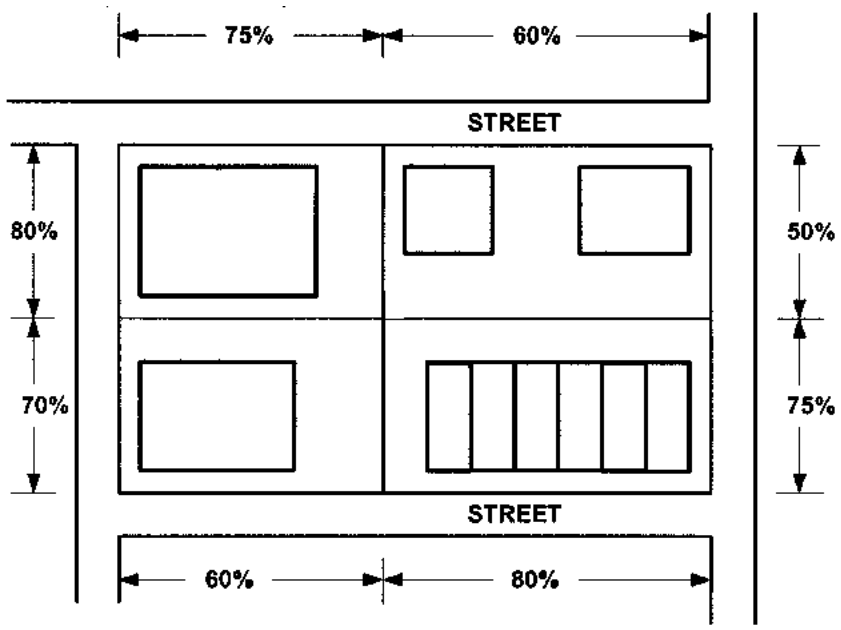
(c) Signs. There should be no exterior signs including window signs except as may be permitted for the rental, lease, or sale of the property.

(d) Floor Area. A minimum of 1,000 square feet should be provided within each live-work unit. The work component of a live-work unit should be not be smaller than 150 square feet and no larger than 40 percent of the total floor space in the live-work unit.

(e) Connection of Live-Work Areas. There needs to be a physical connection between the work floor area and the residential floor area of the unit.

(f) Pedestrian Access to Street. There should be direct pedestrian access at the fronting street at or near grade level to each individual live-work unit.

(g) New Building in Relation to Street. When a new building is constructed containing one or more live-work units, the building should face (parallel) the fronting street in a manner that occupies at least fifty (50) percent of the property frontage of the lot on which it is constructed.



Illustrative Building Frontages

(h) Location of Living Areas. Residential areas should normally not be provided on the main (ground/street) floor and are not permitted fronting the downtown square.

Section 9-9-7-2. Mixed-use Building.

The intent of this Section is to guide the design of residential uses mixed with commercial and other land uses. In districts where permitted, mixed-use buildings and mixed-use development should meet the following guidelines:

(a) Access to residential units. Residential uses above the first-floor retail or other nonresidential uses should have an entryway to each unit or a hallway serving one or more units which should connect to a stairway opening directly to the outside at street level. Every dwelling unit with a front façade facing a street should to the maximum extent possible have its primary or shared entrance face the street. All stairways should be enclosed.

(b) Private exterior area. All dwelling units above the first-floor retail or other nonresidential uses should have an exterior area (balcony) with a minimum of eighty (80) square feet, and which affords maximum privacy to occupants.

(c) Signs. Windows above first-floor retail or other nonresidential uses should have no signs, except as they may pertain to the rental, lease or sale of property per the sign regulations contained in this Unified Land Development Code.

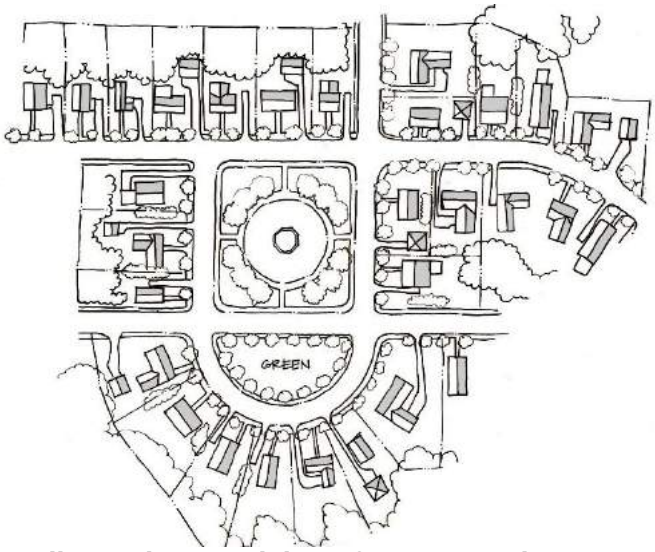
(d) Mailboxes. Residential uses above the first-floor retail or other nonresidential uses should not have outside mail boxes; inside mail boxes or mail slots should be used.

(e) Occupancy limits. Residential uses above the first-floor retail or other nonresidential uses should not be rented on a daily or weekly basis and cannot be operated as boarding or rooming houses.

Section 9-9-7-3. Open Spaces.

(a) Open spaces, such as town greens and public squares, should be located and designed to add to the visual amenities of mixed-use developments, planned unit developments, suburban commercial, and office campus/office park developments.

(b) Greens and squares should be spatially defined and distributed throughout the development so that no principal building is more than a walking distance of 1,350 feet from a green, square, or park.



Illustrative Provision of Square and Green in a Traditional Neighborhood Development

(c) In large developments with multiple buildings or lots, a mix of peripheral as well as internal green space should be provided.

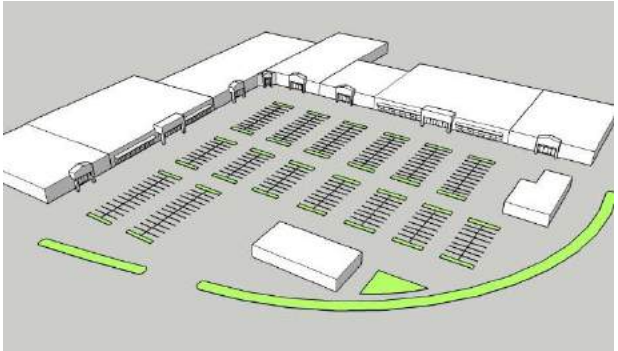
(d) Residential development should be designed around active or passive neighborhood open spaces, which in turn should connect to adjacent open space networks or regional systems, where they exist or are planned.

CHAPTER 9-9-8
SUBURBAN COMMERCIAL DESIGN GUIDELINES

Section 9-9-8-1. Purpose and Intent.
Section 9-9-8-2. Design Guidelines.

Section 9-9-8-1. Purpose and Intent.

Conventional, suburban-style layout of shopping centers result in auto-oriented development with expansive surface parking areas that are not pedestrian-friendly, lack open spaces, and should no longer be pursued for larger shopping centers in Gainesville. Instead, the city envisions more functionally appropriate shopping centers utilizing designs that resemble mixed-use developments, incorporate “main street” -type pedestrian retail character, cluster buildings to create activity centers, and integrate plazas and pedestrian places as central points of activity. Commercial site design should focus on “placemaking,” or creating a unique sense of place, as its primary design goal.



Conventional Shopping Center Layout Not Preferred in Gainesville

Section 9-9-8-2. Design Guidelines.

Compliance with this section is encouraged for all suburban commercial developments and is considered mandatory for suburban commercial sites with four or more acres of land designed to include 75,000 or more square feet of retail space (including outlots).

(a) Gathering places provide area for activities that promote safe community interaction, exchange, and congregation. Designers are encouraged to provide plazas or gathering places, especially where building breaks occur, by including design elements such as play areas, landscaping, street furniture, public art, and/or other attractive features that improve functionality and introduce a pedestrian orientation.

Source: Gainesville Comprehensive Plan 2030

Illustrative Plaza or Gathering Place

(b) Benches should be provided near drop off areas and entryways to major buildings and at key locations along pedestrian ways and within plazas. Consideration should be given to the location of benches with respect to the ability to provide shelter from summer sun and winds and be open to direct sunlight in the winter.

(c) One or more buildings should be arranged to create a primary “main street” or internal street grid pattern. Building designs should frame and accentuate public spaces with pedestrian-scale elements and details. Pedestrian ways should be embellished with special design features such as towers, arcades, porticos, pedestrian light fixtures, bollards, planter walls, and other architectural elements that define circulation ways and outdoor spaces.

(d) Buildings should orient, frame, and/or direct pedestrian views to parks and plazas. Buildings along roadways should provide a building scale of two stories or if single-story should be no less than 20-feet in height. Buildings, including those on outlots, should be massed against the primary arterial or collector roadways to create a “street wall” effect, with shared, interior surface parking. No more than 40 percent of any parcel frontage should be open to a view of surface parking.

(e) Building lengths should not exceed three-hundred (300) linear feet without a physical break or pedestrian access way connecting to surface parking to the rear of buildings “Big box” stores should be articulated at a smaller pedestrian scale to disguise their mass.

(f) Incorporate architectural features on all sides of a building façade facing: the primary entrance(s) of an adjacent building, public roadways, interior site amenities, and façades that are visible from public spaces.

(g) Drive-through windows and drive-through lanes should not be utilized and may be permitted only if the access drives are designed in a way that minimizes conflict with pedestrian travel which shall take precedence.

(h) Unique architectural components such as entryway structures and clock towers are encouraged to be integrated into the design.

Best practices: This long-term vision for Lakeshore Mall redevelopment illustrates several desirable design principles: incorporation of a central green and interior courtyard space; buildings close to and framing the streets and driveways; and parking lots that are partially shielded from view from abutting public streets.	Source: Gainesville Comprehensive Plan 2035

CHAPTER 9-9-9
SIGN DESIGN GUIDELINES

Section 9-9-9-1. Purpose and Intent.
Section 9-9-9-2. Applicability.
Section 9-9-9-3. Generally.
Section 9-9-9-4. Sign Materials.
Section 9-9-9-5. Colors.
Section 9-9-9-6. Placement of Wall Signs.

Section 9-9-9-1. Purpose and Intent.

This chapter provides guidelines for signage.

Section 9-9-9-2. Applicability.

The sign design guidelines of this chapter shall apply to all buildings and structures located within:

(a) The CB, Central Business Zoning District;

(b) Midtown Overlay Zone.

(c) In the central core character area, and any other character area, as may be determined appropriate by the Community Development Director.

Section 9-9-9-3. Generally.

(a) All signs should be of a design and include materials that are in keeping with the architectural design and exterior materials of the principal structure.

(b) Signs shall be sized in proportion to the building. Notwithstanding the maximum areas allowed under the terms of the sign ordinance, an individual sign may be disapproved if it is found to be excessive or non-proportional in relation to the building on which it is placed or which it serves.

(a) Uniformity of size and lettering among properties in the same district or character area is desirable, to create a pleasing visual consistency.

Section 9-9-9-4. Sign Materials.

(a) Exposed surfaces of signs must be constructed of or appear to be constructed of metal, glass, stone, concrete, brick, cloth, or wood, or similar approved material. If synthetic materials are authorized, they shall have the same finished appearance as the materials specified here.

(b) Sandblasted wood signs are not prohibited but may or may not be considered appropriate.

(c) Plywood or unfinished wood is not an appropriate material for signs and shall not be permitted.

Section 9-9-9-5. Colors.

(a) No individual sign should have more than three colors.

(b) Colors of signs should be coordinated with overall building colors.

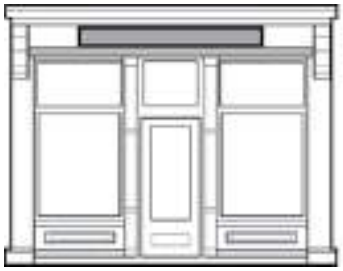
(c) White or other light-colored backgrounds for signs should not utilized.

Section 9-9-9-6. Placement of Wall Signs.

(a) Wall signs shall be mounted flush against the facade of the building adjacent to the front entryway of the unit.

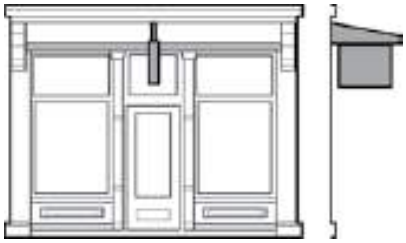
(b) Wall signs should be located on flat, unadorned parts of the building façade, somewhere above storefront display windows (where they exist) and below second-story windows (where they exist).

(c) If the building façade or storefront has a lintel strip or signboard, the wall sign should be placed directly on it. Wall signs should be located centrally on the façade. Sign boards should not exceed two and one half (2.5) feet in height.



Sign Board

(d) Projecting signs and signs suspended from canopies and awnings oriented to pedestrians (i.e., perpendicular to the wall surface of a building) should be permitted and are encouraged, provided that they are constructed to be compatible in material and appearance with the building.



Projecting Sign

(e) Projecting and suspended signs shall not be illuminated.

ARTICLE 9-10
SPECIFIC USE PROVISIONS

CHAPTER 9-10-1	GENERAL ACCESSORY USE REGULATIONS	10-1
CHAPTER 9-10-2	PRINCIPAL RESIDENTIAL USES	10-4
CHAPTER 9-10-3	ACCESSORY RESIDENTIAL USES	10-9
CHAPTER 9-10-4	HOME OCCUPATIONS	10-13
CHAPTER 9-10-5	INSTITUTIONAL USES	10-16
CHAPTER 9-10-6	PRINCIPAL NONRESIDENTIAL USES	10-20
CHAPTER 9-10-7	ACCESSORY NONRESIDENTIAL USES	10-24
CHAPTER 9-10-8	TEMPORARY USES	10-26
CHAPTER 9-10-9	TOWERS AND WIRELESS TELECOMMUNICATION FACILITIES	10-28
CHAPTER 9-10-10	OTHER USES	10-33
CHAPTER 9-10-11	SEXUALLY-ORIENTED ADULT BUSINESSES	10-36
CHAPTER 9-10-12	INFILL RESIDENTIAL DEVELOPMENT PROJECTS	10-37

CHAPTER 9-10-1
GENERAL ACCESSORY USE REGULATIONS

Section 9-10-1-1. Accessory Use or Structure.
Section 9-10-1-2. Fences and Walls.
Section 9-10-1-3. Junked Vehicle or Material.
Section 9-10-1-4. Accessory Uses of Parking Lots and Loading Areas.

Section 9-10-1-1. Accessory Use or Structure.

(a) Location. Buildings accessory to residential uses in residential zoning districts shall be located in a rear yard or side yard. In other zoning districts, accessory buildings, structures, and uses shall be located in a rear yard or side yard, except for well houses, decorative landscape structures, or guard buildings serving residential neighborhoods.

(b) Relationship to Principal Use. No accessory building, structure, or use shall be erected on a lot until construction of the principal building or establishment of principal use has commenced. Accessory buildings and structures must be constructed in conjunction with, or after, a building permit for the principal building is lawfully approved and use is established.

(c) Interpretation. When an accessory building is attached to a principal building by a breezeway, passageway, or similar means, the accessory building shall be considered part of the principal building and shall comply with the yard requirements for a principal building.

Section 9-10-1-2. Fences and Walls.

(a) Height. If a fence or freestanding wall, other than a retaining wall or necessary fencing encompassing a tennis court is to be placed in a required yard, it shall be no more than eight (8) feet in height. Fences or freestanding walls constructed in a front yard of a residential lot shall not exceed three and one-half (3.5) feet (42 inches) in

height; provided, however, that this shall not apply to subdivision or project identification monuments at the entrance to a subdivision or development and wall or fence extensions thereof, where permitted, which shall not exceed eight (8) feet in height and columns shall not exceed ten (10) feet in height. Fences or walls on properties with nonresidential uses shall not exceed eight (8) feet in height and columns shall not exceed ten (10) feet in height in a front, side or rear yard.

(b) Setback and Location. Fences and walls must be set back three (3) feet from any side or rear property line for purposes of maintenance; provided, however, that a fence may be established along a side or rear property line if there is a written and signed agreement between the property owners to permit the fence at or along a common property line. In such cases, the Director may require a letter, plat or deed as evidence of such agreement. No fence or freestanding wall shall be erected in a manner that obstructs visibility at street intersections (see also Chapter 9-17-4, "Site Visibility Triangle Easements"). Retaining walls and subdivision entrance monuments shall not be placed within the right-of-way of a local street.

(c) Composition. Walls and fences shall present a finished and attractive surface to the exterior of the property. Walls or fences composed or constructed of exposed concrete block, tires, junk, or other discarded materials shall not be permitted. In all residential zoning districts, fences or walls erected within the required front yard shall be constructed of brick, stone, wood, stucco, wrought iron, or split rail; provided, however, that this shall not preclude wire fences (e.g., chain link, or barbed wire) within a required front yard, when a residential property contains a minimum of two (2) acres and such fencing is needed for permitted livestock. Chain-link fences installed in commercial and industrial zoning districts and visible from the public right-of-way shall be coated with vinyl with a black color and the appearance softened with landscaping as approved by the Director. An additional two (2) feet of security wire may be placed on fences in commercial and industrial zoning districts, unless prevented by overlay zone regulations.

(d) Gates. When gates for vehicular access are provided, said gates shall not be located closer than twenty-five (25) feet to a public street or road right-of-way, to ensure safe ingress and egress. See also Section 9-13-10-9, "Gated Communities," of this Unified Land Development Code

These requirements shall not apply to temporary fencing erected around a lot during construction of a building for security and safety or code compliance reasons. All such temporary fencing shall be approved by the Building Official upon issuance of a building permit and shall be removed upon completion of construction.

Section 9-10-1-3. Junked Vehicle or Material.

Except for junk/salvage yards and wrecked motor vehicle compounds, it shall be unlawful to park or continuously store abandoned, wrecked, junked or inoperable vehicles, power-driven construction equipment, used lumber or metal, used appliances, or any other miscellaneous scrap material that is visible from a public street or adjacent or abutting property. Such use shall be enclosed with a minimum six (6) foot high opaque fence and screened with vegetation. No such storage shall be allowed in front yards. Additional screening as determined by the Director of Planning and Development, based upon the elevations and uses of surrounding properties, may be required to comply with this provision in side and rear yards.

Section 9-10-1-4. Accessory Uses of Parking Lots and Loading Areas.

(a) Repair or dismantling. Parking and loading areas shall not be used for the repair or dismantling of any vehicle, equipment, materials, or supplies.

(b) Offer for Sale. Parking and loading areas shall not be used to store vehicles for sale, except in cases where the property owner holds title or lease to the vehicle(s), provided auto sales is a permitted use in the district in which the property is located. This provision shall not apply to the placing of a "For Sale" sign on or in one licensed vehicle, located in a private residential driveway and which licensed vehicle, boat, or other vehicle is owned by an occupant of said private residence.

(c) Attendant's shelter. An attendant's shelter building may be permitted for parking lots in nonresidential zoning districts, provided that such structure or building does not contain more than fifty (50) square feet of gross floor area and is set a distance of not less than twenty-five (25) feet from the public right-of-way.

CHAPTER 9-10-2
PRINCIPAL RESIDENTIAL USES

Section 9-10-2-1. Community Recreation Facility.
Section 9-10-2-2. Model Home.
Section 9-10-2-3. Multi-Family Development.
Section 9-10-2-4. Relocated Residential Structure.
Section 9-10-2-5. Single-Family Attached Dwelling (Fee-Simple Townhouse).
Section 9-10-2-6. Single-Family and Two-Family Dwellings.

Section 9-10-2-1. Community Recreation Facility.

Within a residential subdivision or multiple-family residential development, community recreation facilities as defined by this Unified Land Development Code must be platted when a part of a subdivision or part of the development plan approval for a multiple-family residential development. Community recreation facilities shall be subject to the following:

(a) Exterior lighting. If lighted, exterior lighting shall require a lighting plan to be submitted and approved prior to installation. See Chapter 9-3-4 of this Unified Land Development Code.

(b) Swimming pools and tennis courts. Swimming pools and tennis courts shall be setback a minimum of twenty-five (25) feet from all property lines of the tract of land devoted to community recreation, with a minimum ten (10) foot wide landscape strip along all property lines of said tract. See Article 9-16 of this Unified Land Development Code for landscape strip specifications.

(c) Buildings. Buildings (excluding accessory structures) shall be setback a minimum of twenty-five (25) feet from the property line of the tract. If outdoor patio or decks are provided, they shall be located no closer than twenty-five (25) feet from the property line of the tract and a minimum ten (10) foot wide landscape strip shall be provided between said outdoor patio or deck and the property line or boundary of said tract. See Article 9-16 of this Unified Land Development Code for landscape strip specifications.

(d) Parking. Parking shall be provided per the requirements of Article 9-17 of this Unified Land Development Code.

Section 9-10-2-2. Model Home.

A dwelling unit may be constructed and used as a model home or temporary office for the sale of lots under the following conditions:

(a) The model home is typically constructed before approval of a final plat, and hence the model home is the principal use of the entire unsubdivided parcel until the final plat is approved. The model home shall be placed on a lot designated on the approved preliminary plat and shall be placed in a manner that meets the applicable zoning district dimensional requirements so that it complies at the time it is erected and when it is sold and/or converted for single-family residential use.

(b) Sales shall be limited to the lots and buildings within the subdivision where the model home is located.

(c) A manufactured home or portable building shall not be used as a model home or temporary sales office.

(d) The use of the model home for a sales office shall be discontinued within 30 days after Certificates of Occupancy have been issued on 90 percent of the lots in the subdivision.

(e) The model home shall comply with parking and applicable accessibility standards.

Section 9-10-2-3. Multi-Family Development.

(a) Condominiums. If a condominium form of ownership is proposed, the development shall meet all current applicable state laws including the Georgia Condominium Act (O.C.G.A. 44-3-70 et. seq.). Proposed bylaws and the articles of incorporation for the condominium association shall be submitted with the application for development approval.

(b) Amenities. All developments containing fifty (50) or more dwelling units shall have a clubhouse, swimming pool, and tennis court(s). The size of the swimming pool shall be a minimum of 800 square feet of water surface. These facilities are subject to Section 9-10-2-1 of this Chapter.

(c) Laundry facilities. On-site accessory laundry facilities are permitted accessory uses for developments with 25 or more units.

(d) Setbacks. Buildings within multi-family developments shall be subject to the setbacks for the entire lot as established in applicable zoning district dimensional requirements. There shall be no requirements for setbacks from private driveways within the multi-family development. This does not include single-family attached dwelling (fee-simple townhouse) developments.

Section 9-10-2-4. Relocated Residential Structure.

A relocation permit is required to relocate a residential structure established in the city limits. The relocation permit is not a building permit for the placement of the structure at a new location. The applicant shall include the following with the application for the relocation permit:

(a) A photograph of the structure at its present location.

(b) The current location (address and tax parcel number) where the structure is now located.

(c) If the structure is to be relocated inside the city limits, the proposed location (address and tax parcel number) of the structure. To ensure compliance with the applicable zoning district dimensional requirements, when the relocated residential structure is proposed to be located within the city limits, the Director of Planning and Development shall require submission of the proposed location (address and tax parcel number) and a copy of the recorded plat of the lot on which the structure will

be placed (if none exists the applicant shall be required to comply with subdivision requirements of Article 9-13 of this Unified Land Development Code).

(d) The total heated floor area of the existing structure and, if to be located within the city, the renovated structure.

(e) If it is to be relocated within the city, an agreement that a building permit will be required and that all exterior improvements to the structure once relocated shall be completed within six months of relocation.

(f) If located or proposed to be located within the Historic Preservation Overlay Zone, there must be a copy of the approved Certificate of Appropriateness from the Historic Preservation Commission in accordance with Chapter 9-23-3 of this Unified Land Development Code.

The Building Official shall inspect or arrange to inspect the structure for compliance with the minimum standards of the zoning district proposed for location and other applicable regulations.

Section 9-10-2-5. Single-Family Attached Dwelling (Fee-Simple Townhouse).

In zoning districts where permitted, fee-simple townhouses shall meet the following requirements:

(a) Lot Frontage and Lot Width. Each platted lot shall have a minimum of twenty (20) feet of frontage on a public street or private road that meets public street standards, and each lot shall have a minimum lot width of twenty (20) feet.

(b) Lot Size. The minimum size of a lot for each fee-simple townhouse lot (i.e., the extent of land owned by the owner of the unit) shall be 2,000 square feet in lot area.

(c) Building Setbacks. There shall be a minimum twenty (20) foot side or rear setback from any perimeter boundary of the fee-simple townhouse subdivision and a 30 foot front setback from any public street exterior to or within the subdivision. There shall be a minimum twenty (20) foot rear setback from townhouse lot boundaries for all buildings and structures. In the case of any public street the front building setback shall be measured from the right-of-way line of the public street. In the case of a private street the front building setback shall be fifteen (15) feet and shall be measured from the private street right-of-way line or, if none is established, the curb of the private street nearest the building. Zero lot line between units within the same building shall be permitted, subject to applicable fire and building codes.

(d) Building Separation. There shall be a minimum building separation of twenty (20) feet between townhouse buildings.

(e) Building Unit Offsets. To avoid a monotonous appearance, for any given building, no more than six (6) units may have common walls. Any building containing more than three (3) units with common walls must have the front façade and the roof of each attached unit distinct from the other through separation, staggering, or offsets in design by a minimum of 3-feet.

(f) Rear Access for Fire Protection. Townhouse developments shall be designed to provide proper access to all dwelling units for fire fighting purposes, as may be determined by city personnel administering relevant codes. Rear access, if required for fire fighting purposes may be accomplished by alleys.

(g) Subdivision Plat Approval. Each townhouse development or phase thereof shall require preliminary and final subdivision plat approval in accordance with Chapter 9-13-4 and 9-13-14, respectively, of this Unified Land Development Code.

Section 9-10-2-6. Single-Family And Two-Family Dwellings.

All single-family and two-family detached dwellings shall meet or exceed the following requirements:

(a) Administrative relief: The Community Development Department Director may approve deviations from the requirements of this section on the basis of finding that the materials to be utilized or the architectural style proposed for the dwelling unit will be compatible with and harmonious or superior to existing structures in the vicinity, and that such deviation shall be consistent with the intent of these regulations.

(b) Building code standards: The dwelling shall be constructed in accordance with all applicable requirements of the Building Code as adopted by the City, or in accordance with the standards of State law and regulations for residential industrialized buildings, whichever apply.

(c) Exterior siding: Exterior siding materials shall consist of wood, brick, stone, concrete, stucco, EIFS or similar materials, or lap siding of masonite, vinyl or similar materials, or any combination of the above except where otherwise identified as a prohibited material within an infill residential development project or overlay zone as identified within the Gainesville Unified Land Development Code.

The exterior siding shall extend the full height of the exterior walls, from the surrounding grade to the bottom eves or other juncture with the roof.

(d) Foundation: The structure shall be attached to a permanent foundation constructed in accordance with the Building Code or State regulations as applicable.

(e) Minimum structure width: The minimum width of a structure shall be 20 feet.

(f) Porch: A porch or hard surfaced landing shall be provided at each exterior door and stairway top and bottom, which shall be at least as wide as the door it serves, but no less than 36 inches in width and 36 inches in depth.

(g) Roofs: All roof surfaces shall have a minimum pitch of 3:12 (3 inches of rise for every 12 inches of run), except that mansard and gambrel roofs must meet this requirement only for those surfaces that rise from the eaves.

All roof surfaces exposed to view shall be covered with asphalt or fiberglass shingles, wood shakes or shingles, clay tiles, slate, standing seam metal or similar materials.

(h) Minimum roof overhang shall be 12 inches, including gutters.

(i) Water and sewage: Each dwelling shall be connected to potable water supply and sanitary sewage disposal system approved by the Gainesville Public Utilities Department or Hall County Environmental Health Department.

CHAPTER 9-10-3
ACCESSORY RESIDENTIAL USES

Section 9-10-3-1. Customary Residential Accessory Uses and Structures.
Section 9-10-3-2. Generally.
Section 9-10-3-3. Guest House.
Section 9-10-3-4. Accessory Apartment.
Section 9-10-3-5. Private Swimming Pool.
Section 9-10-3-6. Yard Sales.
Section 9-10-3-7. Vehicle Parking in Residential Zoning Districts.
Section 9-10-3-8. Livestock.

Section 9-10-3-1. Customary Residential Accessory Uses and Structures.

Each of the following uses is considered to be a customary accessory use to a dwelling and shall be situated on the same lot with the principal use to which it serves as an accessory. This list is not necessarily exhaustive of possible permitted accessory uses and structures on a residential lot.

(a) Garage or carport for storing vehicles, subject to the requirements of this Chapter.

(b) Shed or tool room for the storage of equipment used in grounds or building maintenance.

(c) Children's playhouse and play equipment.

(d) Quarters for the keeping of pets owned by occupants for non-commercial purposes provided that such use does not generate a nuisance to adjoining properties.

(e) Private recreational facility, such as a swimming pool and bathhouse or cabana, tennis court, subject to applicable requirements of this Article.

(f) Deck or patio, whether on water or over land.

(g) Fences and walls, subject to the requirements of Section 9-10-1-2 of this Article.

(h) Guest houses, subject to the requirements of Section 9-10-3-3 of this Chapter.

(i) Structures designed and used for purposes of shelter in the event of man-made or natural catastrophes.

(j) Vehicle parking, subject to the requirements of Section 9-10-3-7 of this Chapter.

(k) Personal horse stable, in R-I-A zoning districts only, subject to the requirements of Section 9-10-3-8 of this Chapter.

Section 9-10-3-2. Generally.

Customary residential accessory buildings are permitted in residential zoning districts, subject to permitted use provisions for the zoning district in which the property is located, and provided they meet the following requirements:

(a) Location. Accessory uses, buildings, and structures shall be located in a rear yard or side yard, except for well houses which may be located in front yards.

(b) Height. Accessory buildings shall not exceed two stories. Accessory buildings shall not exceed a height of twenty-four (24) feet, or the height of the principal residential building, whichever is less.

(c) Setback. Accessory buildings shall meet setbacks specified for the zoning district in which it is located, as specified in Table 9-5-2 or 9-6-2, whichever is applicable. For setbacks applicable to fences and walls, see Section 9-10-1-2 of this Article.

(d) Area. In no case shall the total area square footage of a single accessory building or structure exceed 50% of the square footage of the principal building/structure footprint to which it is accessory. Where more than one accessory building/structure is permitted and provided on a given lot, the total area of accessory buildings/structures shall not exceed the square footage of the principal building/structure footprint to which they are accessory.

(e) Building materials. Any accessory building or structure exceeding two-hundred (200) square feet should contain similar exterior materials as the primary structure. The following types of external building materials (siding and window and door frames) are prohibited for buildings over two-hundred (200) square feet: highly reflective, shiny, or mirror-like materials; mill-finish (non-colored) aluminum metal windows or door frames; metal siding; exposed, unfinished walls; exposed plywood or particle board; and unplastered or exposed concrete masonry blocks.

(f) Roof material and pitch. If metal roofs are used, they shall not reflect light any more than the siding material used on the same building. All new roof surfaces on buildings shall have a minimum pitch of 3:12.

Section 9-10-3-3. Guest House.

Guest houses, where permitted, shall comply with the following

(a) Accessory Use. The guest house must be an accessory use to a single-family detached dwelling already existing on the lot.

(b) Architecture and building codes. The guest house shall have an architectural design and exterior building materials that are compatible with the principal building (single-family dwelling). The guest house shall meet all building code requirements.

(c) Lot Area Requirement. A guest house shall be permitted only on a lot having at least 20,000 square feet in area.

(d) Location. The guest house must be placed to the rear of the main house (principal building) separated by a distance of at least 20 feet. No more than one guest house may be located on any lot.

(e) Maximum Floor Area. The gross building floor area of the guest house may not exceed 50 percent of the floor area of the main house (principal building).

(f) Use. Guest houses shall not be rented or otherwise occupied separately from the main residence, except for non-paying guests or domestic employees residing on the premises and sharing meals in the principal dwelling.

Section 9-10-3-4. Accessory Apartment.

In zoning districts where permitted, accessory apartments (detached or attached) shall meet the following requirements:

(a) Number limited. Only one accessory apartment shall be permitted on a lot. An accessory apartment shall not be permitted on the same lot as a home occupation.

(b) Parking. One additional off-street parking space is required and shall be provided, which shall be located in a side or rear yard.

(c) Minimum floor area. At least three hundred (300) square feet of heated floor area shall be provided per adult occupant. The heated floor area for an accessory apartment shall be at least 300 square feet and shall not exceed 900 square feet or the size of the principal dwelling, whichever is less.

(d) Entrance to Unit. The entrance to an accessory apartment shall be from a rear or side yard and shall not face the street to which the principal dwelling is oriented.

(e) Exterior Finish. Accessory apartments, whether attached or detached, shall have exterior finishes or architectural treatments (e.g., brick, wood, stucco, etc.) of an appearance substantially similar to those on the principal dwelling.

(f) Water and Sewer. The Hall County Environmental Health Department must certify that the septic tank facilities meet applicable countywide health rules; or if served by public water and/or sanitary sewer, the Gainesville Public Utilities Department must certify those utilities are adequate to serve both the principal dwelling and the accessory apartment.

(g) Occupancy. Either the accessory apartment or the principal dwelling unit shall be owner-occupied.

Section 9-10-3-5. Private Swimming Pool.

Swimming pools accessory to single-family dwellings shall be located in rear or side yards. All swimming pools shall be located at least ten (10) feet from all property lines. Swimming pools must be enclosed by a fence or wall at least five (5) feet in height (or as otherwise specified in an adopted swimming pool code or building code) and maintained in good condition with a lockable gate.

Section 9-10-3-6. Yard Sales.

Yard sales, where permitted, shall not exceed seventy-two (72) hours for each yard sale. A yard sale on a particular property shall not occur more frequently than four (4) times annually. All merchandise must be the property of those holding the sale and not be purchased for the purpose of resale.

Section 9-10-3-7. Vehicle Parking in Residential Zoning Districts.

(a) Location and number of vehicles limited. In single-family residential zoning districts, the parking of automobiles is permitted in garages, carports, or outdoors. Unenclosed parking shall not exceed four outdoor automobiles per single-family or two-family dwelling unit in any front yard of a lot. Parking shall be permitted only in designated hard surfaced areas with concrete or asphalt surfacing and shall not be permitted outside such surfaced areas (i.e., no parking in yards). Administrative relief may be given by the Public Works Director to use alternative pervious materials due to environmental impacts.

(b) Recreational vehicles. Parking or storage of such recreational equipment or vehicles shall not take place on any vacant residential lot. In residential zoning districts, recreational equipment such as boats, boat trailers, travel trailers, recreational vehicles, pick-up campers or coaches, motorized dwellings, motor coaches, tent trailers and other similar vehicles may be parked or stored only in side yards, rear yards, carports, or in an enclosed building. If stored regularly in a side or rear yard, the vehicle and vehicle storage area shall be screened from view from abutting properties. Recreational vehicles may be parked or stored anywhere on residential premises except within a required front yard for a period not to exceed seventy-two (72) hours.

(c) Commercial vehicles. Parking or storage of commercial vehicles shall not take place on any vacant residential lot. It shall be unlawful to park or store commercial vehicles (including but not limited to dump trucks and delivery trucks) or school buses in front yards of residential zoning districts. One commercial vehicle may be parked or stored in a side or rear yard of a lot in a residential zoning district, but if stored regularly in a side or rear yard, the vehicle and vehicle storage area shall be screened from view from abutting properties and parked on a hard-surfaced area. Administrative relief may be given by the Public Works Director to use alternative pervious materials due to environmental impacts.

Section 9-10-3-8. Livestock.

The keeping of livestock shall not be permitted in the City of Gainesville; provided, however, that in the R-I-A zoning district a personal horse stable may be permitted as a principal use, or an accessory use to a residence, provided that at least two acres of lot area is provided for each horse stabled on the property. No building or structure for shelter of horses shall be located within 200 feet of any property line.

CHAPTER 9-10-4
HOME OCCUPATIONS

Section 9-10-4-1. General Provisions.
Section 9-10-4-2. Physical Limitations.
Section 9-10-4-3. Alterations to the Dwelling.
Section 9-10-4-4. Parking of Vehicles.
Section 9-10-4-5. Visits by Patrons Limited.
Section 9-10-4-6. Transportation of Goods and Deliveries.
Section 9-10-4-7. Equipment, Off-site Impacts, and Nuisances.
Section 9-10-4-8. Signs Prohibited.
Section 9-10-4-9. Employees and Licenses.
Section 9-10-4-10. Display, Stock-in-Trade, Sales, and Storage.
Section 9-10-4-11. Uses Specifically Prohibited.
Section 9-10-4-12. Approval.
Section 9-10-4-13. Modifications by Special Use.

Section 9-10-4-1. General Provisions.

Home occupations may be established in a portion of a dwelling as provided in permitted uses requirements for the zoning districts established by this Unified Land Development Code. No more than one home occupation may be established in a single dwelling. In districts where permitted, the following regulations shall apply to home occupations. Failure to meet one or more of these regulations at any time shall be unlawful and grounds for immediate revocation of business registration.

Section 9-10-4-2. Physical Limitations.

The gross floor area of a dwelling unit devoted to a home occupation shall not exceed 1,000 square feet, or 30 percent of the gross floor area of the dwelling, whichever is less. An accessory building may be used for the home occupation, but in no case shall the total area within the accessory building devoted to such use be greater than 500 square feet. If part of the dwelling unit and an accessory building are devoted to a home occupation, no more than 1,000 square feet of combined gross floor area shall be used for such activity.

Section 9-10-4-3. Alterations to the Dwelling.

The exterior appearance of the dwelling and any accessory building used for such activity must remain that of a dwelling, or accessory use to a dwelling. No external alterations inconsistent with the residential use of the dwelling or accessory building are permitted.

Section 9-10-4-4. Parking of Vehicles.

Vehicles kept on site in association with the home occupation shall be used by residents only. Only vehicles used primarily as passenger vehicles shall be permitted in connection with the conduct of the home occupation. Incoming vehicles related to the home occupation, if any, shall at all times be parked off-street within the confines of the residential driveway or other on-site permitted parking.

Section 9-10-4-5. Visits by Patrons Limited.

There shall be no nonresident persons on the premises in conjunction with the home occupation, except for family day care homes. Home occupations including medical, professional or personal services uses involving visits by patrons shall require special use approval from the governing body and shall be limited to no more than two (2) nonresident persons on the premises at the same time in conjunction with the home occupation whether they are students, clients, patients, or customers.

Section 9-10-4-6. Transportation of Goods and Deliveries.

The transporting of goods by truck in connection with a home occupation is prohibited. There shall be no goods, products or commodities received on the premises; provided, however, that this provision shall not prevent the non-routine delivery of packages by Federal Express, United Parcel Service, or other commercial carrier.

Section 9-10-4-7. Equipment, Off-site Impacts, and Nuisances.

No home occupation shall generate traffic, sound, smell, vibration, light, or dust that is offensive or that creates a nuisance. There shall be no exterior lighting of the building or property that is not in character with a residential neighborhood. No equipment that interferes with radio and/or television reception shall be allowed. Home occupations must exclude the use of machinery or equipment that emits sound (e.g., saws, drills, musical instruments, etc.) that is detectable beyond the property. Chemical, electrical, or mechanical equipment that is not normally a part of domestic or household equipment and which is used primarily for commercial purposes shall not be permitted.

Section 9-10-4-8. Signs Prohibited.

There shall be no signs permitted in conjunction with a home occupation, whether placed on the premises or on a vehicle parked on the premises. This Section shall not be construed as limiting a property owner from erecting signs permitted on the lot pursuant to Article 9-18 of this Unified Land Development Code.

Section 9-10-4-9. Employees and Licenses.

Only occupants of the dwelling shall be authorized to work on the premises in connection with a home occupation. Any occupational licenses, including business registrations, required by state and/or city regulations must be obtained. Proof of state registration, if required for the home occupation, shall be submitted prior to the issuance of a business registration.

Section 9-10-4-10. Display, Stock-in-Trade, Sales, and Storage.

There shall be no display, and no stock-in-trade nor commodity sold on the premises, in connection with a home occupation, nor shall there be any activity associated with the home occupation visible outside the dwelling. There shall be no exchange of merchandise of any kind on the premises. Incidental storage of products which must be mailed/shipped to the customer/ recipient is permitted, within the physical limits of the home occupation as established in this Chapter.

Section 9-10-4-11. Uses Specifically Prohibited.

The following uses are specifically prohibited as home occupations: auto sales or auto repair; restaurants; animal hospitals, veterinary clinics, kennels, or the keeping of animals; funeral homes; retail or wholesale shops; machine shops; special event facilities; and lodging services.

Section 9-10-4-12. Approval.

All home occupations shall be subject to the Director of Planning and Development's approval. The applicant for a home occupation shall file for approval from the Director on forms provided by the Director. Information required by the Director to approve a home occupation shall be as established in a home occupation application and may include but shall not be limited to the following:

(a) Address and reference to recorded plat.

(b) A site plan of the lot on which a home occupation is proposed, showing the location of the principal building, accessory building if proposed to be used in conjunction with the home occupation, and parking areas. The Director may require the site plan to be based on a boundary survey or on an engineering scaled plat.

(c) Written narrative which shall at minimum describe the home occupation (use), hours of operation, and generally how the home occupation complies with this Chapter.

Section 9-10-4-13. Modifications by Special Use.

The provisions of this Chapter may be modified or varied pursuant to application by the property owner for a special use, according to procedures specified in Chapter 9-22-2 of this Unified Land Development Code. The Director may provide a recommendation whether or not to approve said modifications.

CHAPTER 9-10-5
INSTITUTIONAL USES

Section 9-10-5-1. Church, Temple, Synagogue, or Place of Worship.
Section 9-10-5-2. Club or Lodge, Nonprofit.
Section 9-10-5-3. Continuing Care Retirement Community.
Section 9-10-5-4. Institutional Residential Living and Care Facilities.
Section 9-10-5-5. Rooming House and Group Home.

Section 9-10-5-1. Church, Temples, Synagogue, or Place of Worship.

(a) Setbacks and Buffers. When located on a lot abutting a R-I-A, R-I, NC, or R-II zoning district, or abutting an existing residential use, churches and their customary accessory buildings shall be set back a minimum of fifty (50) feet from any property line, and within the fifty foot setback, a minimum twenty-five (25) foot wide natural buffer shall be provided. See Chapter 9-16-2 of this Unified Land Development Code for zoning buffer specifications.

(b) Accessory uses. Acceptable accessory uses include but are not limited to, a residence for the housing of the pastor, priest, minister, rabbi, etc., school buildings and temporary classrooms, gymnasiums and other indoor recreational facilities, community meeting rooms, and unlighted outdoor recreational facilities. In commercial districts, a community food or housing shelter may be operated as an accessory use to a church.

(c) Special Uses in Residential Zoning Districts. When located in a residential zoning district, no church shall be permitted to establish a day care center, house more than one household or family on-site, or provide lighted outdoor recreation facilities, without a special use permit approved by the Governing Body. See Chapter 9-22-2 of this Unified Land Development Code.

Section 9-10-5-2. Club or Lodge, Nonprofit.

(a) Setbacks and Buffers. When located on a lot abutting a R-I-A, R-I, NC, or R-II zoning district, or abutting an existing residential use, nonprofit clubs or lodges shall be set back a minimum of fifty (50) feet from any property line, and within the fifty (50) foot setback, a minimum twenty-five (25) foot wide natural buffer shall be provided. See Chapter 9-16-2 of this Unified Land Development Code for zoning buffer specifications.

(b) Special Uses in Residential Zoning Districts. When located in a residential zoning district, no nonprofit club or lodge shall be permitted to establish lighted outdoor recreation facilities, without a special use permit approved by the Governing Body.

Section 9-10-5-3. Continuing-Care Retirement Community.

(a) Accessory Uses. The facility may have on site as a part of its development the following accessory uses for use of residents and their guests only: full-service kitchen for meals, exercise facilities, swimming pools, tubs and spas, administrative offices, nursing stations, treatment rooms, emergency paging systems, indoor and

outdoor recreational facilities, restrooms, hair salons, computer facilities, game and card rooms, chapel, movie theaters, wellness centers, billiard rooms, restaurant facilities, common areas, libraries, dining rooms, mail rooms, housekeeping and storage areas, laundry facilities, and gift shops.

(b) Minimum Floor Area Per Unit. Independent living units shall contain a minimum of 650 square feet of area.

(c) Maximum Building Coverage. Maximum building coverage shall be limited to forty (40) percent.

(d) Minimum Lot Size. The minimum lot size for a development shall be five (5) acres.

(e) Setbacks and Buffers. All principal and accessory buildings shall be setback a minimum of fifty (50) feet from all side and rear property lines. There shall be a minimum twenty-five (25) foot wide buffer along side and rear property lines.

(f) Occupancy. At least 80 percent of the units must be occupied by residents 62 years old or older, and the remaining units must be occupied by at least one resident 55 years old or older.

Section 9-10-5-4. Institutional Residential Living and Care Facilities.

In districts where permitted, institutional residential living and care facilities shall meet the requirements of the State Board of Health and applicable rules of the State Department of Human Resources. Proof of compliance with such requirements shall be required to be on file with the Director prior to business registration approval.

Section 9-10-5-5. Rooming House and Group Home.

(a) Purpose and Intent. This section is intended to address concerns about dormitory-style housing in existing single-family residential neighborhoods. It is adopted in response to concerns that when a large number of people rent rooms in one home, there are sometimes negative impacts such as overcrowding, unsanitary conditions, illicit activities, cars parked in the yard, frequent parties, and other disturbances and threats to public safety. This section is designed to help protect the character and stability of the city's neighborhoods while also respecting individual property rights.

(b) Applicability. No person shall establish or operate a rooming house or group home, or let a person occupy any rooming unit in any rooming house or group home, except in compliance with the provisions of this Section.

(c) Business Registration of Existing Rooming Houses or Group Homes. No person shall operate a rooming house or group home unless he holds a valid business registration issued in the name of the operator and for the specific dwelling. Property owners operating a rooming house or group home shall register the rooming house or group home as an existing business within 120 days from the effective date of this Section. It shall be unlawful to continue to use or operate a rooming house or group home in the city after 120 days from the effective date of this section, unless the rooming house or group home has been registered with the city. The city shall compile and maintain a list of registered rooming houses and group homes.

(d) Appointment of Agent and Agent Responsibilities. As part of the registration process, property owners of existing and new rooming houses or group home shall appoint an agent, who lives in Hall County, as the person responsible for the property. The designated agent shall be available to be contacted 24 hours a day, 7 days a week. The agent is the party designated to receive all notices from the city concerning the use of the property. The name and telephone number of the agent responsible for the rooming house or group home will be provided by the city to any neighbors who contact the city with complaints about the rooming house or group home. The designated agent for the property shall be responsible for responding expeditiously to any complaints received by the city and problems if they occur.

(e) Registration Application Requirements. The application for registration shall include the agent of the property and the resident manager. The applicant for a registration required by this Section shall file with the application the following:

(1) A copy of the recorded plat for the property;
(2) A site plan, if no current as-built survey exists;
(3) A floor plan of each floor of the building. Said floor plan shall be drawn to an acceptable architectural scale and shall show all stairs, halls, the location and size of all windows, the location and size of habitable rooms and the exits of each floor to be occupied. The intended use of every room in the building must be indicated on the floor plans submitted; and
(4) A written statement indicating the number of persons proposed to be accommodated or allowed on each floor, and services to be provided, if any.

(f) Resident Management and Occupancy Registry. A resident manager shall reside on the licensed premises. A telephone shall be located in the resident manager's living quarters. The manager of every rooming house or group home shall keep in the office, or other place therein, a register in which shall be entered the name and residence of every person who becomes a lodger, boarder or guest therein. Such register shall also show the number or location of the room or bed occupied by such person, the date of his arrival, and the period for which he will stay. The register shall also be accessible, without charge, to the Director, any police officer, or other duly authorized agent of the city. An up-to-date floor plan and current list of occupants shall be maintained by the resident manager and posted in a conspicuous location.

(g) Occupancy Limitations. No basement, attic, or accessory building shall be used for rooming house or group home purposes. No registration required by this Section shall be issued to any person proposing to use a basement, attic, or accessory building or any part thereof as habitable rooms for rooming house or group home purposes.

(h) Air Space. No room in any rooming house or group home shall be occupied as a sleeping room by any person unless there are at least six hundred (600) cubic feet of air space, exclusive of wardrobe and closet space, for each and every person occupying any such room. All sleeping quarters shall be served by working heating and cooling facilities and a bed with a mattress for each registered occupant.

(i) Minimum Basic Facilities. At least one (1) flush water closet, lavatory basin, and bathtub or shower, connected to a water and sewerage system and in good working

condition, shall be supplied for each eight (8) persons or fraction thereof residing within a rooming house or group home. All such facilities shall be so located within the dwelling as to be accessible from a common hall or passageway to all persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times.

(j) Food Preparation and Meals. Any rooming house or group home where food is served shall comply with all requirements of the Hall County Environmental Health Department.

(k) Responsibility for Maintenance. The property owner, property agent, and resident manager of each rooming house or group home shall be individually responsible for the maintenance of safe and sanitary conditions in every part of the rooming house or group home.

CHAPTER 9-10-6
PRINCIPAL NONRESIDENTIAL USES

Section 9-10-6-1. Automobile Sales Establishment.
Section 9-10-6-2. Bed and Breakfast Inn.
Section 9-10-6-3. Commercial Recreational Facility, Outdoor.
Section 9-10-6-4. Day Care Center.
Section 9-10-6-5. Golf Driving Range.
Section 9-10-6-6. Junk Yard.
Section 9-10-6-7. Outdoor Shooting Range.
Section 9-10-6-8. Race Track.
Section 9-10-6-9. Self-Service Storage Facility (Mini-Warehouses).
Section 9-10-6-10. Service and Fuel Filling Station.
Section 9-10-6-11. Truck Stop.

Section 9-10-6-1. Automobile Sales Establishment.

Establishments that sell, rent, or lease automobiles must provide parking specifically identified and devoted to customers. Adequate space must be allocated, specifically identified, and reserved on the site for the unloading of vehicles brought to the site by car carriers. It shall be a violation to park vehicles for sale, rent, or lease in customer parking areas, unloading zones, within landscape strips, or in any other grass or unpaved area. Outside loudspeakers shall not be permitted when abutting residential zoning districts and uses.

When abutting a residential zoning district or use, automobile sales establishments require submittal and approval by the Director of a photometric plan for lighting demonstrating compliance with the requirements of Chapter 9-3-4, “Outdoor Lighting” of this Unified Land Development Code. Establishments that will not operate during darkness shall not be required to submit a photometric plan.

Section 9-10-6-2. Bed and Breakfast Inn.

In districts where permitted, bed and breakfast inns shall have a minimum of two guest rooms and a maximum of five guest rooms.

Section 9-10-6-3. Commercial Recreation Facility, Outdoor.

(a) Lot Area. Such uses require a minimum lot area of two acres.

(b) Access. Vehicular access shall be derived only from a collector or arterial street.

(c) Setback and Buffer. A minimum building setback of one hundred (100) feet, and a natural undisturbed buffer replanted where sparsely vegetated of at least fifty (50) feet adjacent to side and rear property lines, shall be required.

(d) Exterior Lighting. Uses that propose night lighting other than incidental security lighting shall be required to submit a photometric plan to enable the evaluation of impacts from illumination. See Chapter 9-3-4 of this Unified Land Development Code for additional requirements.

(e) Evaluation. A written evaluation of noise impacts is required at the time the following special uses are proposed to be established as principal uses: stadiums, amphitheaters, outdoor firearms shooting ranges, and race tracks for animals and motor driven vehicles; such projects may be required to construct noise attenuation walls or otherwise address off-site noise impacts. A traffic impact analysis (see Chapter 9-22-4 of this Unified Land Development Code) shall be required for amphitheaters, stadiums, racetracks for animals or motor-driven vehicles, and recreational vehicle parks.

Section 9-10-6-4. Day Care Center.

In districts where permitted, day care centers shall have at least one hundred and fifty (150) square feet of outdoor play area and at least thirty-five (35) square feet of indoor space provided for each child or other person served. The outdoor play area shall be enclosed by a solid wooden fence or masonry wall, with a minimum height of five (5) feet, or by a building or combination wall or fence and building. Adequate and safe areas for the drop-off and pick-up of patrons shall be provided.

Section 9-10-6-5. Golf Driving Range.

(a) Lot Area. The minimum lot area shall be ten acres or one acre per tee, whichever is greater.

(b) Lot Depth and Width. The width of a driving range shall be not less than 200 yards at a distance of 350 yards from the tees. The depth along the driving area shall be at least 350 yards measured from the location of the tees.

(c) Access. Vehicular access shall be derived only from a collector or arterial street.

(d) Loudspeakers. Loudspeakers/paging systems are prohibited when residential use or a residential zoning district abuts a driving range.

(e) Hours of operation. The hours of operation shall be limited to 8:00 a.m. to 11:00 p.m.

(f) Lighting. If the driving range is proposed to be lit, a lighting plan shall be required to be submitted to the Director of Planning and Development for approval. See also Chapter 9-3-4, “Outdoor Lighting” of this Unified Land Development Code.

Section 9-10-6-6. Junk Yard.

Junk yards shall be at least 500 feet from any single-family or multi-family residential zoning district boundary and shall be completely enclosed by a solid wooden fence or masonry wall having a height of eight (8) feet, which shall be installed along all property lines to effectively screen all stored contents and operations from view. See also Chapter 9-16-2 of this Unified Land Development Code. A minimum ten (10) foot wide landscape strip shall be provided along the rear and side property lines, and a minimum twenty (20) foot wide landscape strip shall be required along the front property line. The solid wooden fence or masonry wall, where required, shall be located interior to any required landscape strips.

Section 9-10-6-7. Outdoor Shooting Range.

The minimum site size for a skeet or trap shooting range shall be 15 acres. The minimum site size for a rifle range shall be 20 acres. The range-portion of an outdoor shooting range shall be located no closer than 500 feet to a residential zoning district boundary or existing residential use. Rifle ranges shall have an earth embankment not less than twenty-five (25) feet in height and not less than ten (10) feet in depth along the entire width at the end of the range to serve as a back stop. Hours of operation shall be restricted to 9:00 a.m. to 11:00 p.m.

Section 9-10-6-8 Race Track.

(a) Distance from Residential Zoning District. Race tracks for vehicles or animals shall be located a minimum of 500 feet from a residential zoning district or existing residential use.

(b) Access. Vehicular access shall be derived only from an arterial or collector road.

(c) Buffer. A minimum 75-foot buffer shall be provided adjacent to any property containing a residential use or a residential zoning district. A minimum 50-foot wide buffer shall be provided adjacent to all other property lines.

(d) Security Fencing. Security fencing shall be provided when the facility abuts a residential use or a residential zoning district.

(e) Sound Levels. A maximum constant sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at adjacent residential property lines. Sound levels shall be measured with a sound level meter. Noises capable of being measured shall be those that cause rapid fluctuations of the needle of the sound level meter with a variation of no more than plus or minus two decibels. Noise measurements of a few minutes only will suffice to define any given noise level.

(f) Hours of Operation. Hours of operation shall be limited to 9:00 a.m. to 11:00 p.m.

Section 9-10-6-9. Self-Service Storage Facilities (Mini-Warehouse).

(a) Access. Vehicular access shall be derived only from an arterial or collector road.

(b) Minimum and maximum development size. The minimum lot size for a mini-warehouse development shall be two (2) acres, and the maximum developed area for a mini-warehouse shall be four (4) acres.

(c) Size and use of storage units. Individual storage units shall not exceed eight hundred (800) square feet in area and shall not be used for the storage of hazardous materials or toxic substances. The use of individual storage units for living, sales, or hobbies is prohibited.

(d) Maximum building length. No individual mini-warehouse building shall be more than two hundred (200) feet long.

(e) Fencing. Fencing adjacent to a public right-of-way shall be required in the form of an architecturally finished wall or solid, opaque wooden fence. Fences placed on the remainder of the site may be black, vinyl-coated chain-link.

(f) Hours of operation. Mini-warehouse developments shall not be accessible to the general public (excluding on-site managers) between the hours of midnight and 5:00 a.m.

Section 9-10-6-10. Service and Fuel Filling Station.

(a) All buildings and accessory structures must be located at least one hundred (100) feet from any residential zoning district boundary. All fuel must be stored underground outside of any public right-of-way.

(b) Pumps that dispense gasoline, kerosene, propane, natural gas or diesel fuels shall be set back at least twenty-five (25) feet from any street right-of-way line.

(c) Uses permissible at a service and fuel filling station shall not include major mechanical and body work, straightening of body parts, painting, welding, or storage of automobiles not in mechanically operable condition. No emissions of noxious odors, dust, fumes, gas, noise, or vibration shall be allowed outside of any building.

Section 9-10-6-11. Truck Stop.

In zoning districts where permitted, establishments that provide refueling of trucks and cater to the needs of truck drivers are subject to the following requirements: All uses other than the dispensing of fuel or other accessory vehicle services must be contained within a single principal building. Such building may contain convenience shopping space, a restaurant, television viewing and recreation lounges, restroom facilities, and showers.

CHAPTER 9-10-7
ACCESSORY NONRESIDENTIAL USES

Section 9-10-7-1. Caretaker Residence.
Section 9-10-7-2. Drive-Through Facilities.
Section 9-10-7-3. Gasoline or Fuel Pumps.
Section 9-10-7-4. Manufacturing and Fabrication
Section 9-10-7-5. Outdoor Storage.
Section 9-10-7-6. Outdoor Display Areas.
Section 9-10-7-7. Retail and Restaurant Uses Accessory to Office, Institution, or Lodging.

Section 9-10-7-1. Caretaker Residence.

A residence for a night watchman, accessory to a business or industrial operation, may be established in a single-family detached dwelling or as a unit located within a commercial or industrial building. The Director of Planning and Development may approve one residence or dwelling with a minimum gross floor area of 600 square feet, within a principal building or in an accessory housing unit, on the site of a commercial or industrial establishment as an accessory use, provided that the applicant supplies evidence to the Director of need for full-time security or 24-hour on-site management.

Section 9-10-7-2. Drive-Through Facilities.

When a drive-through operation is located adjacent to a residential zoning district or existing residential use and it involves an exterior loud speaker, volumes must be monitored and controlled so as to minimize audible sound from the loud speaker at the property line. Prior to operation, or to mitigate unwanted noise after commencement of a drive-through operation, the Director may require noise attenuation to be installed on the site with the exterior loudspeaker, if volumes cannot be reduced below those audible at the property line, or if buffers (see Chapter 9-16-2 of this Unified Land Development Code) are inadequate to mitigate noise from the exterior loud speaker.

Section 9-10-7-3. Gasoline or Fuel Pumps.

Pumps that dispense gasoline, kerosene, propane, natural gas or diesel fuels shall be set back at least twenty-five (25) feet from any street right-of-way line.

Section 9-10-7-4. Manufacturing and Fabrication.

If approved as an accessory use to a retail use permitted by right, a manufacturing or fabrication activity must occupy no more than 1,000 square feet of floor area, and all products made on the premises must be sold on the premises as a retail activity.

Section 9-10-7-5. Outdoor Storage.

Except for open air business establishments, outdoor storage, where permitted, shall be screened from view by an opaque fence or freestanding wall no less than eight (8) feet in height and shall also meet the requirements of Section 9-10-1-2(c) of this Chapter. The outside storage of products in conjunction with an enclosed retail trade establishment shall be limited to a maximum of ten (10) percent of the lot.

Section 9-10-7-6. Outdoor Display Areas.

Except for open air business establishments, outdoor display areas, where permitted, shall be confined to a specific designated area which must not be within designated parking areas. In conjunction with an enclosed retail trade establishment, outdoor display shall be limited to a maximum of ten (10) percent of the lot. Any area outside of a building where merchandise or goods are located but which is permanently screened by a fence or freestanding wall at least six (6) feet in height shall be considered storage and not outdoor display area (see also Chapter 9-16-2 of this Unified Land Development Code).

Section 9-10-7-7. Retail and Restaurant Uses Accessory to Office, Institution, or Lodging.

It is the intent of this Section to permit small-scale, accessory retail uses in office complexes and other uses with gross floor areas of 10,000 square feet or more, including without limitation, barber shops, beauty shops, dry cleaning, drug stores, book stores, florists, gift shops, convenience food stores, news stands, and cafeterias, sandwich shops, and restaurants, subject to the requirements of this Section. Retail sales and services accessory to the operation of an office complex, institutional use, or lodging facility with 10,000 or more gross square feet of floor area are permitted where otherwise not listed as a permitted use, subject to the requirements of this Section:

(a) The activity must be conducted wholly within the building in which the principal use is located and shall be limited to 15 percent of total gross floor area of the building. No merchandise shall be stored or displayed outside the structure in which the principal use is located.

(b) The public entrance or entrances to the activity shall be from a lobby, hallway, or other interior portion of the structure in which the principal use is located, except for restaurants located within an office building or hotel which shall be permitted one exterior public entrance.

CHAPTER 9-10-8
TEMPORARY USES

Section 9-10-8-1. Construction Field Office.
Section 9-10-8-2. Special Temporary Outdoor Event.
Section 9-10-8-3. Temporary Classroom.

Section 9-10-8-1. Construction Field Office.

Manufactured homes or other temporary buildings or structures shall not be occupied as a permanent office or for any other use in any district; provided, however that such manufactured homes or other temporary buildings or structures may be used for a temporary office on a site where a development is under construction, subject to the following:

(a) Approval and Permit. Approval by the Director and issuance of a permit by the Building Official. Said permit shall be temporary but renewable once after a period of six (6) months. Said permit shall only be issued if plans and permit(s) have been approved for one or more permanent buildings on the subject property.

(b) Water and Sewer. Adequate water and sewage disposal for the structure(s) is approved by the Hall County Environmental Health Department or the Gainesville Public Utilities Department, whichever has jurisdiction.

(c) Additional Installation Provisions. The Director is authorized to require additional installation standards to ensure compatibility of appearance and functional safety of the construction field office and the site on which it is located.

(d) Removal Upon Occupancy. Said manufactured home(s) or temporary building or structure(s) shall be removed from the site no later than upon the occupancy of the appropriate permanent building(s) or structure(s) intended for such use.

(e) Compliance with Overlay Zone Requirements. When this use is established in an overlay zone, the requirements of the overlay zone shall apply to this use.

Section 9-10-8-2. Special Temporary Outdoor Event.

A special temporary outdoor event is an activity accessory to a business or organization that is not part of its normal daily activities, such as a grand opening or closeout sale, or any temporary event conducted by a civic, philanthropic, educational or religious institution, such as a fund-raising or membership drive. A special temporary outdoor event may be authorized subject to permit approved by the Director of Planning and Development and in compliance with the following:

(a) Duration. The duration of the event shall not last longer than 15 consecutive days.

(b) Frequency. Special temporary outdoor events shall not take place more frequently than four (4) times in any calendar year for the same business or organization. Any four such events must be separated by at least 30 consecutive days.

(c) Parking. Adequate parking and traffic maneuvering space must be located on the same property as the event.

(d) Application. A special temporary outdoor event shall be considered and approved only on the basis of a site plan and letter of intent reflecting conformance to the above requirements. The application shall address the dates of the event, hours of operation, placement of bathroom and other public facilities, parking, and security. The application shall also address whether amplifying equipment will be used and if so Police Department review and approval shall be required.

Carnivals, circuses or festivals are considered special temporary outdoor events but are only permitted within the C-B, R-B, G-B, L-I and H-I zoning districts. Carnivals, circuses or festivals shall not take place more frequently four (4) times in any calendar year on the same property. Any four such events on the same property must be separated by at least 30 consecutive days. In addition to the special temporary outdoor event requirements, carnivals, circuses or festivals shall provide:

(a) Property owner authorization in the form of a notarized letter signed by the property owner.

(b) Evidence of liability insurance in an amount acceptable to the City Attorney.

Section 9-10-8-3. Temporary Classroom.

On sites where educational or religious facilities are permitted, one or more temporary classrooms, which may be modular structures but not manufactured homes, may be permitted as temporary uses by the Director of Planning and Development, upon application and after the issuance of a building permit, for a school or church. The Director may attach reasonable conditions on the issuance of such permit to ensure compatibility and public safety. The duration of such temporary use and building permit shall not exceed one (1) year, unless an extension is granted by the Planning and Appeals Board.

When this use is established in an overlay zone, the requirements of the overlay zone shall apply to this use.

CHAPTER 9-10-9
TOWERS AND WIRELESS TELECOMMUNICATION FACILITIES

Section 9-10-9-1. Purpose and Intent.
Section 9-10-9-2. Applicability.
Section 9-10-9-3. Performance and Construction Standards.
Section 9-10-9-4. Application Requirements.
Section 9-10-9-5. Application Processing.
Section 9-10-9-6. Criteria to Consider in Acting Upon Applications.

Section 9-10-9-1. Purpose and Intent.

The purpose of this chapter is to establish guidelines for the siting of all wireless telecommunication equipment and facilities, microwave towers, common carrier towers, cellular, television and radio telecommunications towers and antennae. The regulations and requirements of this Chapter are adopted for the following purposes:

(a) To provide for the location of communication towers and communication antennas; and to protect residential areas and land uses from potential adverse impacts of communication towers, poles, and antennas by restricting them in accordance with the restrictions of this Chapter.

(b) To minimize adverse visual impacts of communication towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.

(c) To accommodate the growing need for communication towers and antennas while minimizing the total number of towers within the community necessary to provide adequate personal wireless services to residents.

(d) To promote and encourage shared use/co-location of existing and new communication towers (i.e., the use of multiple antennae operated by different providers on a single tower) as a primary option rather than construction of additional single-use towers or poles.

(e) To promote and encourage placement of antennae on existing towers, where such siting options exist, and on buildings, where such siting options exist.

(f) To consider public health, safety, and welfare in the siting of new towers, and to avoid potential damage to adjacent properties from tower or pole failure through engineering and careful siting of tower structures.

It is also the intent of this ordinance to limit the siting of telecommunications facilities and towers where they will have the least adverse impact on the community and still comply with the requirements of the Telecommunications Act of 1996 (Public Law No. 104-104, 47 U.S. C. Section 332(c)(7)). These intentions are accomplished with restriction of locations and by enacting controls on height, setbacks, screening, color, and materials in order to minimize visibility and promote public safety and welfare. The regulations in this Chapter are reasonably related to the valid public purposes described in this Section.

It is not the intent of the Governing Body to discriminate among providers of functionally equivalent services or to prohibit or have the effect of prohibiting the provision of wireless services in the City of Gainesville. It is also the intent of the city that applications to place, construct, or modify personal wireless service facilities will be acted upon within a reasonable period of time.

Section 9-10-9-2. Applicability.

All new communication towers, poles, and communication antennas shall be subject to this Chapter, except that this Chapter shall not govern the following:

(a) Any tower, or the installation of any antenna, that is seventy (70) feet or less in height and is owned and operated by a federally-licensed amateur radio station operator or ham radio operator from the operator's residence.

(b) Antennae or towers located on property owned, leased, or otherwise controlled the City of Gainesville, Hall County, or Gainesville or Hall County School Board, provided that a license or lease authorizing such antenna or tower has been approved by the government or agency with jurisdiction.

(c) Monopole towers 100 feet or less in height located within electrical substations and antennae attached to existing transmission towers.

Section 9-10-9-3. Performance and Construction Standards.

(a) Structural Design. New communication towers or poles and antennae, and modifications to existing structures including, without limitation, the addition of height, antennae or providers, shall be constructed in accordance with applicable federal, state and local regulations.

(b) Placement Restrictions. Towers occupying a lot as a principal use shall at minimum meet the minimum lot size and setback requirements for the zoning district in which the lot is located. Towers shall be a minimum of three-hundred (300) feet from any residential zoning district and a minimum of five-hundred (500) feet from any single-family residence. The tower shall also be set back from property lines a distance equal to or greater than the tower height. All towers shall be located at least one-third (1/3) of their height in feet from any public right-of-way. All accessory structures will meet the normal setbacks for the districts in which they are located. When the tower is on property leased, the setbacks shall apply to the lot of record, not the lease boundaries.

(c) Screening. The visual impacts of a communication tower at the ground level shall be mitigated by landscaping. All towers and accessory structures shall be surrounded on the ground by a minimum ten (10) foot wide landscape strip or buffer that forms a hardy screen dense enough to interrupt vision and shield the base and accessory structures from public view and view from the surrounding properties. The buffer shall consist of evergreens that will reach a minimum height of at least eight (8) feet within three (3) years.

(d) Fencing. A black vinyl-coated chain link fence or wall not less than six (6) feet in height from finished grade shall be provided around each communication tower or

pole. Access to the tower or pole shall be through a locked gate. The tower or pole shall be equipped with an appropriate anti-climbing device, unless the Director of Planning and Development waives this requirement for alternative tower structures.

(e) Height. Through approval of a special use application, when one is required, the height of the tower may exceed the maximum height limit of the zoning district in which it is located, up to a height of two hundred (200) feet, subject to the limitations of this paragraph. If a special use application is not required for erection of the tower, and the tower is to be placed in an L-I or H-I zoning district in a manner that exceeds the maximum height for said zoning district, then the applicant may exceed the height limitation of the applicable zoning district only through a zoning variance process. Towers shall be the minimum height necessary to provide parity with existing similar tower-supported antenna. No tower, pole, or antenna, whether freestanding or attached to a building or structure, shall exceed two-hundred (200) feet in height from ground level unless a zoning variance is obtained. To prevail in any variance application to exceed established maximum height limitations of this paragraph or the zoning district in which it is located, the applicant must successfully demonstrate why the prescribed maximum height is insufficient to provide adequate service, or that a taller tower will be in the community's interest by avoiding the construction of one or more additional towers at a new location.

(f) Illumination. Communication towers, poles, or antennae shall not be lighted except to assure human safety or as required by the Federal Aviation Administration, Federal Communications Commission, or other federal agency with jurisdiction. Lighting shall be restricted to dual lighting, medium intensity white strobe lights (daylight mode), and red obstruction lights (nighttime mode), unless the FAA or state aeronautics division requires another type of lighting.

(g) Color and Material. Towers clustered at the same site shall be of similar height and design. Communication towers not required to be painted or marked by the Federal Aviation Administration shall have either galvanized steel finish or be painted a non-contrasting color approved by the Governing Body to minimize the equipment's visibility. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical or closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(h) Signs and advertising. No advertising is permitted on a tower or antenna. However, towers shall have mounted in a conspicuous place a sign of not more than one (1) square foot in area, identifying the facility's owner and providing a means of contact in the event of an emergency.

(i) Co-location. Proposed communication antennas may and are encouraged to co-locate onto existing communication towers. New or additional special use approval is not required for the addition of an antenna to an existing approved tower or pole. All towers over one-hundred (100) feet in height shall have structural capacity and ground or interior space to accommodate multiple users. Towers up to one-hundred sixty (160) feet shall accommodate at least three users, and towers over one-hundred sixty (160) feet shall accommodate at least five users.

(j) Noninterference. No communication tower or antenna shall interfere with public safety communication. Frequency coordination is required to ensure noninterference with public safety system and/or public safety entities.

Section 9-10-9-4. Application Requirements.

Each application shall include the following, which are in addition to the information required for special use applications generally, if required:

(a) A recorded plat or boundary survey.

(b) A site plan, based on with topographical information.

(c) An elevation view, perspective drawing, or simulated photograph of how the proposed telecommunication tower will look from public rights-of-way and surrounding residential streets from which it will be visible once constructed.

(d) Supporting engineering calculations and information which provide evidence of need and document radio frequency range, coverage area, and tower height requirements. The application must specifically address whether there is a technically suitable space available on an existing tower or other location within the search area (i.e., the grid for the placement of the antenna), and such information shall specifically include the location of all existing towers within a one-mile radius of the site proposed.

Section 9-10-9-5. Application Processing.

Decisions on applications for wireless service facilities shall be made within a reasonable period of time, which shall mean generally that such decisions shall be processed in roughly the same amount of time required for other special use applications; provided, however, that the Planning and Appeals Board and Governing Body shall each table an application for special use for a wireless service facility no more than once before making a recommendation and decision, respectively, unless the applicant does not object to additional continuances. Applications that do not require a special use permit shall be acted upon by the Director within thirty (30) days of the date the application is considered by the Director to be complete.

Section 9-10-9-6. Criteria to Consider in Acting Upon Applications.

In addition to the criteria for determining whether to approve or deny special uses, as specified in Chapter 9-22-2 of this Unified Land Development Code, when an application for wireless telecommunication facilities or equipment is considered, the Planning and Appeals Board and the Governing Body (if special use application is required), or the Director in the case no special use is required, shall consider the following without limitation:

(a) Impacts on surrounding properties with regard to aesthetics and fit with the context of its surroundings, considering the location, height, type of facility, color and materials proposed.

(b) Whether impacts on surrounding properties on aesthetics can be mitigated by a monopole tower, or by a camouflaged tower (e.g., disguised as a pine tree), or by using stealth technology (i.e., making the tower resemble common features such as

church steeples, bell towers, clock towers, grain silos, gateway elements, and monuments), or by requiring greater setback from impacted properties.

(c) Whether the tower or wireless facility would pose an unreasonable risk to adjoining properties, including consideration of a fall area where ice or other debris may fall off the tower without harm.

(d) The appropriateness of the location of existing towers, poles, and buildings, including electric transmission towers, that might serve as alternative locations to construction of a new tower or pole or placement on a building in a new location. It is the intent that new antennae where possible shall be co-located on existing towers and poles, placed on existing buildings, or be within a concealed support structure (e.g., camouflaged as an artificial pine tree, church steeple, clock tower, grain silo, flagpole, etc.), prior to authorizing the installation of a new non-camouflaged pole or tower. The failure to consider or unwillingness to accept viable options as described in this paragraph may be grounds for denial of a special use application for a new tower or pole.

(e) Whether the application demonstrates compliance with the regulations established in this Chapter.

(f) Whether the tower would be engineered and constructed to accommodate additional communication service providers (i.e., whether the application provides for co-location as required by this Chapter).

(g) Whether a denial of the application would have the effect of prohibiting wireless services in the jurisdiction or area or would unduly restrict competition among wireless providers.

In addition, the Governing Body or Director of Planning and Development shall make a decision on the application based on substantial evidence to allow a reviewing court to understand the reasoning behind the decision and whether that reason comports with the evidence presented. To this end, for each application for wireless service facilities, the Governing Body or Director, whichever has jurisdiction, shall rely on findings of fact in making a decision on said application. Such findings may be part of the recommendation and report of the Director, the recommendation of the Planning and Appeals Board, the application and supporting materials submitted by the applicant, testimony from interested individuals, professionals, and the applicant, and any additional findings of fact the Governing Body may itself determine. Generalized community concerns, unaccompanied by supporting documentation, do not constitute substantial evidence under Section 704 of the Telecommunication Act of 1996 or this Chapter.

CHAPTER 9-10-10
OTHER USES

Section 9-10-10-1. Aircraft Landing Area.
Section 9-10-10-2. Landfill.
Section 9-10-10-3. Mining and Quarrying.
Section 9-10-10-4. Utility Company Substation.

Section 9-10-10-1. Aircraft Landing Area.

No person shall construct or use or authorize the construction or use of an aircraft landing area (including private use heliport) on any property owned, leased, or controlled by such person, unless and until the following requirements are met:

(a) No person shall use or authorize the use of an aircraft landing area on any property owned, leased, or controlled by such person until such person has obtained liability insurance coverage on the operation and use of such area. Such coverage shall be obtained from an insurer authorized or licensed to transact insurance business in Georgia and shall provide a minimum liability coverage of at least $500,000 per claim.

(b) The proposed aircraft landing area shall be of sufficient size to meet the Federal Aviation Administration requirements for the class of airport or aircraft landing proposed, and it must be approved by the Federal Aviation Administration or other agency of the federal government with jurisdiction. There shall be sufficient distance between the end of each landing strip and the property boundary to satisfy the requirements of the Federal Aviation Administration.

(c) There shall be no existing or proposed flight obstructions such as towers, chimneys or natural obstructions outside the proposed aircraft landing area which would be in the approach zone to any of the proposed runways, landing strips, or landing areas. In cases where air rights or easements have been acquired from the owners of abutting properties to protect approach zones, satisfactory evidence thereof shall be submitted with the application.

(d) The owner of the aircraft landing area shall erect a safety barrier around the peripheral area surrounding the takeoff and landing area. The safety barrier shall be a fence, wall or hedge no less than three (3) feet in height and fully enclosed with a self-locking gate.

(e) An environmental impact report shall be submitted, addressing whether the facility is consistent with the comprehensive plan; whether the use will have an adverse impact on the surrounding area; and whether the noise level will impact the surrounding area. Additionally, the applicant shall submit a plan with any mitigation techniques that may be required. The Director of Planning and Development shall review the environmental impact report, evaluate proposed mitigating techniques, and determine the sufficiency thereof, require any additional information relevant to the application, and make a recommendation to the Governing Body regarding approval or denial of the special use application.

(f) In approving an aircraft landing area, the Governing Body may provide that the approval is conditioned on measures or restrictions designed to mitigate any negative impacts of the use. The proposed location of an aircraft landing area within six-hundred (600) feet of a residential zoning district or existing residential use may form the basis for denial of the application.

Section 9-10-10-2. Landfill.

(a) Access. Access from a paved collector or arterial street shall be required. Access shall not be allowed through any residential subdivision or residential development.

(b) Screening and Buffers. The entire landfill shall be screened from view from all property lines (see also Chapter 9-16-2 of this Unified Land Development Code). To accomplish this, a minimum one-hundred (100) foot wide undisturbed buffer is required adjacent to all property lines. Areas within the one-hundred (100) foot undisturbed buffer that do not provide an opaque screen throughout the year shall be planted with additional vegetation.

(c) Fencing. A minimum six (6) foot high solid fence/wall shall be required inside buffers adjacent to any property line containing a residential use or abutting any residential zoning district.

(d) State Permit. The owner shall provide the Director of Planning and Development with a current copy of a Georgia solid waste handling permit, or pending application thereof, prior to applying for a land disturbance permit.

(e) Covering of Loads. Vehicles shall be allowed into a landfill site only if waste is covered, to prevent blowing of material from the vehicle.

Section 9-10-10-3. Mining and Quarrying.

Application Requirements. In addition to the requirements for special use applications as specified in Chapter 9-22-2 of this Unified Land Development Code, all applicants for mining or quarrying shall submit to the Director of Planning and Development the following information for review by the Planning and Appeals Board and the Governing Body:

(a) A copy of the recorded plat for the subject property.

(b) The site plan required by this Unified Land Development Code, which must show areas proposed for the handling and storage of overburden, by-products, and/or excavated materials including the estimated type and volume of extraction.

(c) An operations plan, which shall include: the date of commencement of operation and its expected duration; proposed hours of operation, which shall not be permitted to include the hours of 7:00 p.m. to 7:00 a.m., nor shall operations be allowed on Sundays and national holidays.

(d) A copy of all documents submitted or prepared for submission to the Georgia Department of Natural Resources for the purpose of obtaining a state mining permit.

(e) A statement from the Georgia Department of Transportation which shall identify any state-maintained road within or adjacent to the subject property, and which shall identify any repaving, repairs, alterations, turning lanes, or other additions necessary to accommodate the potential increase in traffic volume or weight occasioned by the proposed operations.

(f) A statement from the Director of Public Works or other qualified professional which identifies all city roads within or adjacent to the property and which shall identify any repaving, repairs, alterations, turning lanes, or other additions necessary to accommodate the potential increase in traffic volume or weight occasioned by the proposed operations.

(g) A statement as to the intended use or production of explosives or other hazardous materials and the methods and procedures proposed for the handling, use, storage, and disposal of such materials.

(h) A reclamation and rehabilitation plan, which shall include a detailed procedure for the rehabilitation of excavated land, the future use or uses of the land, the type of ground cover, fill, and landscaping, methods for disposing of all equipment and structures, and an estimate of the timing of phases of rehabilitation including estimated time of completion.

Additional Regulations. Any facility engaged in the extraction of earth products, such as sand, soil, gravel, rock, stone, clay, or other mining operations, etc. shall comply with the following:

(a) Permanent roads, defined as those to be used in excess of one year, within the excavation site shall be surfaced with a dust-free material.

(b) Roads other than permanent roads shall be treated with dust inhibitors which will reduce the generation of dust from the road surfaces as a result of wind or vehicular action.

(c) The proposed extraction shall not take place within one-hundred (100) feet of a property line.

(d) Product piles, spoil piles, and other accumulations of by-products shall not be created to a height more than thirty-five (35) feet above the original contour.

(e) All blasting operations shall occur between 8:00 a.m. to 7:00 p.m.

Section 9-10-10-4. Utility Company Substation.

Such use must be enclosed within opaque fence at least six (6) feet high, and shall be surrounded by a ten (10) foot wide landscape strip that provides an opaque screen to a height of six (6) feet around the substation, penetrated only by required vehicular access (see also Chapter 9-16-2 of this Unified Land Development Code). No storage of vehicles or portable equipment will be allowed.

CHAPTER 9-10-11
SEXUALLY-ORIENTED ADULT USES

Section 9-10-11-1. Reference to Regulations.
Section 9-10-11-2. Location Restrictions.
Section 9-10-11-3. Obscene Material.
Section 9-10-11-4. Unlawful Acts.

Section 9-10-11-1. Reference to Regulations.

Sexually-oriented adult uses shall comply with all requirements of Chapter 6-10 of the Code of Ordinances of the City of Gainesville.

Section 9-10-11-2. Location Restrictions.

No sexually-oriented adult use shall be located as follows:

(a) Within three-hundred (300) feet of a lot zoned to allow single-family, two-family or multi-family residential uses.

(b) Within three-hundred (300) feet of the lot line of any library, school, park, playground, governmental building, civic center, church or place of worship.

(c) Within one-thousand (1,000) feet of the lot line of any other adult entertainment use.

The Governing Body may deny a Special Use request when there is evidence that the type and number of schools, churches or other places of worship, libraries, public or private recreation facilities, public businesses and residential developments in the vicinity of the location of the proposed adult use causes minors to frequent the immediate area, even though there is compliance with the minimum distances as provided herein.

The distance restrictions set out above shall apply in any and all directions from the lot line of the proposed adult use at the point closest to the lot line of the other property, as measured in a straight line to the point on the lot line of the other property that is located closest to the lot line of the proposed adult use property. This distance shall be verified by plat showing distances furnished by the applicant, prepared by a land surveyor registered in the State of Georgia. This plat shall accompany and be made part of the application for a Special Use approval.

Section 9-10-11-3. Obscene Material.

Nothing contained herein shall be construed to authorize or legalize the selling, lending, renting, leasing, giving, advertising, publishing or other dissemination to any person, any book, magazine, movie film, still picture or any other written material, pornographic matter, novelty, device or related sundry item which is obscene material under the law of the State of Georgia.

Section 9-10-11-4. Unlawful Acts.

Nothing contained herein shall be construed to authorize or legalize any act of prostitution, sodomy, solicitation for sodomy, masturbation for hire or distribution of obscene materials, as those acts are defined by the laws of the State of Georgia.

CHAPTER 9-10-12
INFILL RESIDENTIAL DEVELOPMENT PROJECTS

Section 9-10-12-1. Purpose and Intent.
Section 9-10-12-2. Definitions.
Section 9-10-12-3. Applicability.
Section 9-10-12.4. Permitted Uses.
Section 9-10-12-5. Minimum Lot Size.
Section 9-10-12-6. Minimum Lot Width.
Section 9-10-12-7. Floor Area Per Dwelling.
Section 9-10-12-8. Height of Dwelling.
Section 9-10-12-9. "Build to" Lines.
Section 9-10-12-10. Building Orientation
Section 9-10-12-11. Garages.
Section 9-10-12-12. Screening of Rear Yards of Lots Fronting an Interior Street.
Section 9-10-12-13. Entrance Landscaping.
Section 9-10-12-14. Entrance Monuments.
Section 9-10-12-15. Architectural Building Materials.
Section 9-10-12-16. Front Yards.
Section 9-10-12-17. Detention Ponds.
Section 9-10-12-18. Process for Review.
Section 9-10-12-19. Administrative Variances.

Section 9-10-12-1. Purpose and Intent.

The comprehensive plan for the City of Gainesville finds that many residential neighborhoods are experiencing pressures for new development, either in the form of infill development on formerly vacant or underutilized lots, or the redevelopment of low-density residential uses into higher-density residential developments. The comprehensive plan calls for land use regulations to prevent incompatible residential infill development, protect the integrity of neighborhoods, and balance the desire to preserve neighborhood character with the importance of good, quality reinvestment.

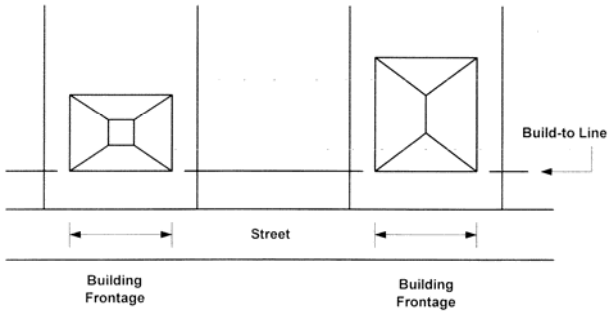
Prior to adoption of this revised Unified Land Development Code, the R-I and N-C zoning districts permitted lot sizes of 10,000 square feet, which raised concerns during the comprehensive planning process since many of Gainesville's neighborhoods zoned R-I contain lots that are approximately twice the minimum lot size. It was determined during the comprehensive planning process that residential infill development without restriction on such smaller lots would be incompatible with existing neighborhood character. Accordingly, the comprehensive plan calls for suburban residential development at a medium density (not to exceed two dwelling units per acre).

It was determined that, notwithstanding the overall density limitation of two dwelling units per acre, subdividers in R-I and N-C zoning districts should be permitted to subdivide with 10,000 square foot minimum lots, if quality and compatibility can be assured. Accordingly, this Chapter provides for by-right development of infill residential development projects that have higher densities than otherwise permitted in R-I and N-C zoning districts (i.e., the prior rights to subdivided 10,000 square foot minimum lots in these residential zoning districts are maintained), in exchange for assurances that residential infill and redevelopment will be of high quality and compatibility.

The process for acting on infill residential development projects is accomplished by filing additional requirements along with an application for preliminary plat approval, as more fully specified in this Chapter.

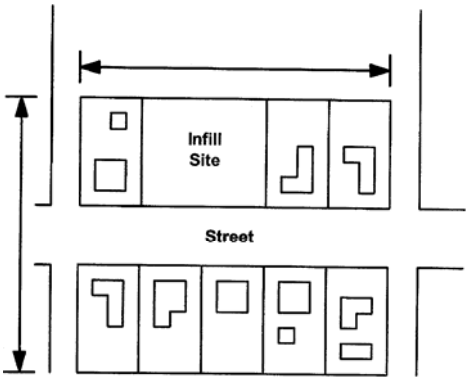
Section 9-10-12-2. Definitions.

Build-to line: A front building setback line established as a benchmark for a principal building on a particular property so that a more-or-less continuous and consistent building setback will be achieved considering the front building setbacks of dwellings on abutting lots on the same side of the street or right-of-way. When a build-to line applies pursuant to this article, it supersedes the front building setback requirement for the zoning district in which the property is located.



Building Frontage and Build-To Line

Established residential area: That portion of a block facing the same street as the land proposed for infill residential development, and that portion of the block of land across the street from the proposed development facing the same street as the land proposed for infill residential development.



Infill Site and Established Residential Area

Section 9-10-12-3. Applicability.

This Chapter shall apply to the subdivision of property within R-I and N-C zoning districts as specified in Chapters 9-5-2 and 9-5-3 of this Unified Land Development Code. Notwithstanding the density limitations or lot size minimums established in Table 9-5-2, "Dimensional Requirements for Residential Zoning Districts" pertaining to the R-I and N-C zoning districts, each property owner shall have the right to subdivide property in a manner that does not meet such dimensional requirements, subject to the development requirements and procedures of this Chapter. Where this Chapter establishes different dimensional requirements than for the district in which the infill residential development project is located, as provided in Table 9-5-2, "Dimensional Requirements for Residential Districts," the permissions of this Chapter shall supersede such zoning district dimensional requirements but only for an infill residential development pursuant to this Chapter.

Section 9-10-12-4. Permitted Uses.

Detached, single-family residences, fee-simple, shall be the only dwelling type permitted in a residential infill development project. This Section shall not be construed to prevent structures and uses accessory to such residences as permitted in the zoning district in which the project is located.

Section 9-10-12-5. Minimum Lot Size.

The minimum lot size of lots within a residential infill development project shall be 10,000 square feet.

Section 9-10-12-6. Minimum Lot Width.

When the average width of lots in the established residential area is 100 feet or more, the lots within the infill residential development project shall be no less than 85 feet wide at the regulatory front building setback line when fronting on an existing street. This Section helps to ensure that the widths of lots in the infill residential development project are reasonably similar to the established residential area.

Section 9-10-12-7. Floor Area Per Dwelling.

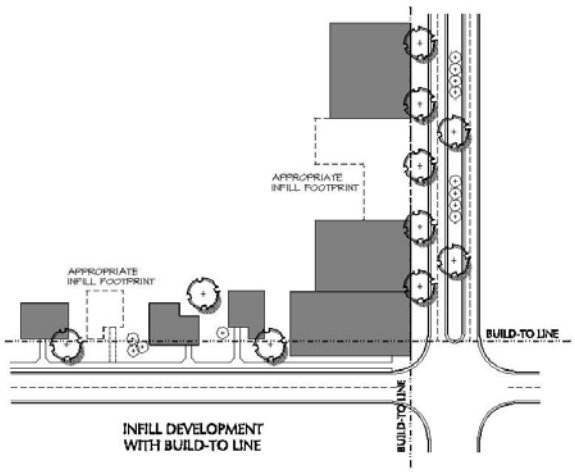
The minimum gross heated floor area of each dwelling in an infill residential development project shall be 1,800 square feet.

Section 9-10-12-8. Height of Dwelling.

When the heights of dwellings in the established residential area are predominantly two stories, the height of dwellings constructed in the infill residential development project shall be no more than two stories excluding basement or daylight basement.

Section 9-10-12-9. "Build to" Lines.

This section shall apply to the erection of dwellings on lots within an infill residential development project that front on an existing street. The intent of this Section is to ensure that dwellings are placed on the lot in a manner compatible with dwellings abutting to the side of the lot within the infill residential development project. Substantial deviations from the repetitive or prevailing pattern of building placement on the same existing street can result in an incompatible condition.



Dwellings within an infill residential development project on lots that front on an existing street shall not deviate from the average build-to line for those properties located within the established residential area (as defined in this Chapter) by more than fifteen feet (15'). Where the established residential area may be difficult to determine, the Director of Planning and Development shall have the authority to determine the average build-to line for the infill residential development project. When a build-to line applies pursuant to this Section, it supersedes the front building setback requirement for the zoning district in which the property is located.

Section 9-10-12-10. Building Orientation.

Any lot located adjacent to an existing street shall require the front of the proposed dwelling to be orientated toward the existing street. The Director of Planning and Development shall have the authority to wave this requirement when entrance landscaping and entrance monuments are provided as described in this chapter.

Section 9-10-12-11. Garages.

Each lot upon its development for a single-family dwelling shall have a garage, either attached to the dwelling or detached but placed to the rear of the principal dwelling, for the storage of two vehicles. Garage space capable of storing more than four vehicles shall not be permitted. Where detached, the height of the detached garage shall not exceed a height of twenty (20) feet. Where lots abut an existing street, garages shall not be allowed to dominate the architecture of the dwellings in the infill residential development project.

Section 9-10-12-12. Screening of Rear Yards of Lots Fronting an Interior Street.

When a new subdivision street is proposed, the project often will result in the orientation of dwellings such that they form a line of rear yards abutting the side yard of a lot in the established residential area. To protect existing dwellings in the established residential area for exposure to multiple residences, rear yards of the lots in the new subdivision shall be separated and screened along common lot lines of the established residential area with a solid wooden fence or masonry wall of six feet (6') in height and a minimum ten foot (10') wide vegetative buffer, or comparable screening approved by the Director of Planning and Development.

Section 9-10-12-13. Entrance Landscaping.

When a new subdivision street is proposed and the infill residential development project contains six (6) or more lots, the entrance to the project (where the new road intersects with the existing street) shall be landscaped with a minimum twenty foot wide (20') landscape strip along the property frontage. If the landscape strip is platted as a part of a lot within the infill residential development project, a landscaping easement shall be provided over such lot or lots, and a landscape maintenance bond shall be required for a period of two years. The landscape strip shall provide street trees approved by the Director of Planning and Development that are indigenous to or compatible with trees in the established residential area.

Section 9-10-12-14. Entrance Monuments.

When a new subdivision street is proposed, the entrance to the infill residential development project (where the new road intersects with the existing street) may include erection of a subdivision entrance monument. If provided, it shall be composed of stacked stone or brick and

shall be located to the rear of the required front landscape strip required for the entrance per this Chapter.

Section 9-10-12-15. Architectural Building Materials.

At least fifty percent (50%) of the front façade of each dwelling within an infill residential development project shall be brick masonry, stone masonry, or split-face block masonry. All other exterior wall materials of dwellings within infill residential development projects shall consist of brick masonry, stone masonry, or split-face block masonry; or wood clapboards or weather boarding, and appropriate architectural accents. Standing-seam or corrugated metal walls or vinyl siding shall not be permitted unless specifically approved as a secondary or accent material by the Director of Planning and Development. Architectural treatments on all sides of the building other than the front façade shall be consistent. Roof materials shall be asphalt composition, wood shake, tile, or standing seam metal.

Section 9-10-12-16. Front Yards.

Front yards of all lots within infill residential development projects shall be sodded.

Section 9-10-12-17. Detention Ponds.

When a detention pond is required by the Director of Public Works to serve the infill residential development project, it shall be sited underground.

Section 9-10-12-18. Process for Review and Approval.

This Chapter shall be administered at the time the applicant files a preliminary plat application. No action shall be taken on the final plat for an infill residential development project unless compliance with this Chapter is met. The applicant shall be required to submit maps and data for the established residential area for approval by the Director of Planning and Development to ensure the provisions of this Chapter are met. The Director may require that the final plat for an infill residential development project contain restrictions on one or more lots as may be required to be imposed on dwellings or lot activities within the project. No final plat shall be approved unless it contains the plat notes and restrictions imposed by the Director for the project.

Section 9-10-12-19. Administrative Variances.

Administrative variances may be granted to the building site and yard requirements after an application has been submitted by the property owner and reviewed and approved by the Director of Planning and Development. No administrative variance shall be granted that reduces a building setback dimension pertaining to property bordering the boundaries of the infill residential development project.

ARTICLE 9-11
NONCONFORMITIES

CHAPTER 9-11-1	NONCONFORMING LOTS	11-1
CHAPTER 9-11-2	NONCONFORMING BUILDINGS	11-3
CHAPTER 9-11-3	NONCONFORMING USES	11-5
CHAPTER 9-11-4	NONCONFORMING SIGNS	11-8
CHAPTER 9-11-5	CORRECTION OF NONCONFORMING SITUATIONS	11-9

CHAPTER 9-11-1
NONCONFORMING LOTS

Section 9-11-1-1. Nonconforming Lot Defined.
Section 9-11-1-2. Development on Nonconforming Lots.

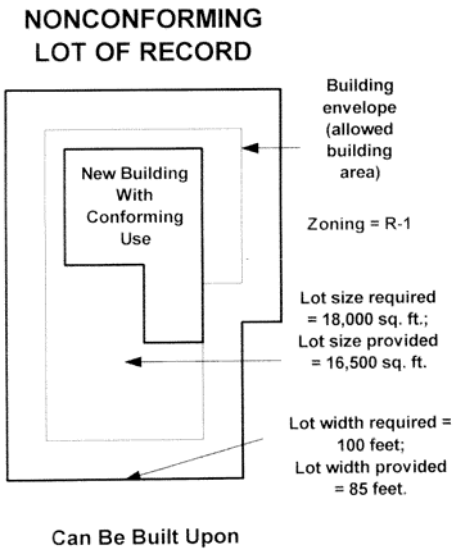
Section 9-11-1-1. Nonconforming Lot Defined.

"Nonconforming lot" is hereby defined as a lot of record which legally existed prior to the adoption of this Unified Land Development Code but which, due to the adoption of this Ordinance, does not conform to the minimum access, frontage, lot size, lot width, or other lot requirements of the zoning district or overlay zone in which the lot is located as established by this Ordinance; or a lot of record lawfully established after the effective date of this Unified Land Development Code which, due to an amendment to this Unified Land Development Code, does not conform to the minimum access, frontage, lot size, lot width, or other lot requirements of the zoning district or overlay zone in which the lot is located.

Three examples of nonconforming lots illustrate this definition. First, a lot that has an area of 18,000 square feet when a lot area of 20,000 square feet is required by the zoning district in which it is located is a nonconforming lot with regard to lot area. Second, a lot that has a width of sixty-five (65) feet when the minimum established for the zoning district in which it is located is one-hundred (100) feet is a nonconforming lot with regard to lot width. Third, a lot that has only thirty (30) feet of frontage when forty (40) feet is required is a nonconforming lot with regard to minimum required lot frontage.

Section 9-11-1-2. Development on Nonconforming Lots.

A nonconforming lot may be used as a building site, or a lawful use may be established thereupon, provided that the access, height, buffer, setback, and other dimensional requirements of the zoning district or overlay zone in which the nonconforming lot is located are complied with or a variance is obtained, and, provided further, that the lot meets all the current standards and requirements of the Hall County Environmental Health Department unless connected to sanitary sewer.



For example, a lot that does not the minimum lot size or minimum lot width for the zoning district in which it is located can still be built upon but the minimum required zoning setbacks still apply. The variance process is a possible remedy, if this creates hardship.

Lots which do not conform to the access or frontage requirements of this Unified Land Development Code shall not be developed unless required access to a public street or an approved private street is provided directly or through a recorded easement.

CHAPTER 9-11-2
NONCONFORMING BUILDINGS

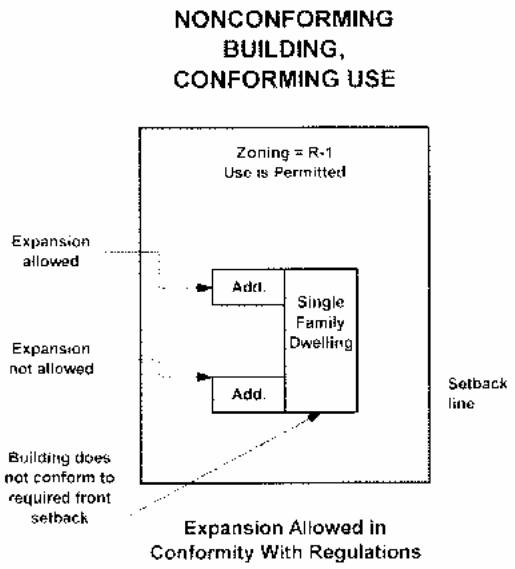
Section 9-11-2-1. Definitions.
Section 9-11-2-2. Expansion.
Section 9-11-2-3. Replacement or Repair After Damage.

Section 9-11-2-1. Definitions.

Nonconforming building or structure: A building or structure that does not meet one or more height, setback, building coverage, or other dimensional requirements for the zoning district in which said building or structure is located (or if within an overlay zone that establishes dimensional requirements for buildings and such overlay zone provisions are controlling, does not meet one or more of such dimensional requirements for the overlay zone in which said building or structure is located); or a building or structure occupied by a use subject to the provisions of Article 9-10 of this Ordinance ("Supplementary Regulations for Specific Uses"), and which does not meet one or more height, setback, building coverage, or other dimensional requirements of Article 9-10 of this Ordinance ("Supplementary Regulations for Specific Uses") for said specific use.

Section 9-11-2-2. Expansion.

A nonconforming building or structure, as defined in this Chapter, may be expanded, enlarged, or extended if such expansion, enlargement, or extension is for a use that conforms to the use requirements for the zoning district in which the building or structure is located (or if within an overlay zone that establishes use restrictions and such overlay zone uses are controlling, conforms to the use requirements for a the overlay zone in which said use is located). Any such expansion, enlargement, or extension of a nonconforming building or structure shall meet the minimum yard, setback, buffer, height, bulk, and other dimensional requirements for the zoning district (or, if applicable and controlling, the overlay zone) in which said non-conforming building or structure is located, and all other requirements of this Unified Land Development Code.



To illustrate with examples, a building that has a front building setback of fifteen (15) feet, when a thirty (30) foot front building setback is required, is a nonconforming building. It may still be expanded, but the building addition must meet the required front building setback of thirty (30)

feet. A building with a height of forty (40) feet may be expanded, but if the height limit for the zoning district in which it is located is thirty-five (35) feet, it is a nonconforming building, and any building addition must observe that regulatory height limit. A building that exceeds the permitted maximum building coverage for the zoning district in which it is located is a nonconforming building that cannot be expanded, since any addition would increase the nonconformity.

Section 9-11-2-3. Replacement or Repair After Damage.

Any portion of a building that meets the definition of a nonconforming building, shall not be rebuilt, altered, or repaired after destruction or damage exceeding sixty (60) percent of its replacement cost or square footage at the time of damage as determined by the Building Official, except in conformity with the dimensional requirements for the zoning district in which it is located and all other applicable regulations of this Unified Land Development Code.

CHAPTER 9-11-3
NONCONFORMING USES

Section 9-11-3-1. Definitions.
Section 9-11-3-2. Owner Responsibilities.
Section 9-11-3-3. Continuation.
Section 9-11-3-4. Discontinuance.
Section 9-11-3-5. Abandonment.
Section 9-11-3-6. Change of Use.
Section 9-11-3-7. Expansion.
Section 9-11-3-8. Damage and Repair or Re-establishment.
Section 9-11-3-9. Unsafe Buildings.

Section 9-11-3-1. Definitions.

Abandon: To stop the use of property or the occupancy of a building for twelve (12) months or more.

Abandonment: A condition where the use of property has stopped or the building has been vacant for twelve (12) months or more.

Discontinuance: A lapse in the activity or operation of a nonconforming use for a period of six (6) months but less than twelve (12) months. When a business registration is required for said nonconforming use and the business registration pertaining to said use has lapsed in excess of six (6) months, said lapse of business registration shall constitute discontinuance. Discontinuance for twelve (12) months or more shall be considered “abandonment.”

Nonconforming use: A use or activity that: was lawfully established prior to the adoption of this Unified Land Development Code, but which, by reason of such adoption or amendment, is no longer a use or activity permitted by right in the zoning district in which said use or activity is located (or if within an overlay zone that establishes use restrictions and such overlay zone uses are controlling, is no longer a use or activity permitted in the overlay zone in which said use is located) as established in this Unified Land Development Code; or a use or activity that was lawfully established prior to the amendment of this Unified Land Development Code, but which, by reason of such amendment, is no longer a use or activity permitted by right in the zoning district in which said use or activity is located (or if within an overlay zone that establishes use restrictions and such overlay zone uses are controlling, is no longer a use or activity permitted in the overlay zone in which said use is located) as established in this Unified Land Development Code or an amendment thereto.

Section 9-11-3-2. Owner Responsibilities.

When questions arise as to whether a use constitutes a nonconforming use, it shall be the responsibility of the owner of a nonconforming use to prove to the Director of Planning and Development that such use was lawfully established and existed on the effective date of adoption or amendment of this Unified Land Development Code.

Section 9-11-3-3. Continuation.

A nonconforming use may be continued except as otherwise provided in this Chapter. For example, a convenience store in an R-I-A zoning district is a nonconforming use, because it is not listed as a permitted use in that zoning district, and may be continued subject to the limitations of this Chapter.

Section 9-11-3-4. Discontinuance.

A nonconforming use shall not be re-established after discontinuance, as defined in this Chapter, unless the property owner proves to the Director of Planning and Development that a diligent effort has been made to sell, rent, or use the property for the nonconforming use. If the Director determines that such diligent effort has been made, the owner may re-establish said nonconforming use or seek to re-establish said nonconforming use until the expiration of twelve (12) months following initial discontinuance. If the nonconforming use is re-established under the provisions of this Section after discontinuance but prior to expiration of twelve (12) months following initial discontinuance, said re-established nonconforming use may be lawfully continued.

For example, an auto body shop in a residential zoning district is a nonconforming use. It loses its privileges as a nonconforming use under the terms of this Chapter, if it is discontinued, but an applicant who can show he or she diligently tried to sell, rent, or use the property for the nonconforming use during that time period can petition the Director for relief (i.e., to retain privileges afforded said nonconforming use).

Section 9-11-3-5. Abandonment.

A nonconforming use shall not be re-established after abandonment, as defined in this Chapter. This means that, after a twelve (12) month period, the property owner loses the privileges to reestablish a nonconforming use.

Section 9-11-3-6. Change of Use.

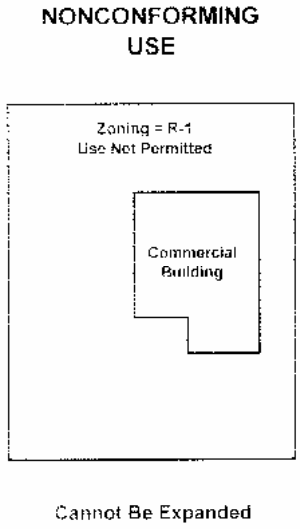
A nonconforming use shall not be changed to another nonconforming use. A change in tenancy or ownership shall not be considered a change to another nonconforming use, provided that the use itself remains unchanged.

For example, an auto body shop cannot be changed to an auto sales lot in an R-I-A zoning district because that would be a change from one nonconforming use to another. The auto body shop could, however, be sold to another individual or company and retain privileges as a nonconforming use, so long as the use was the same (auto body shop) and not expanded or changed.

Section 9-11-3-7. Expansion.

A nonconforming use shall not be expanded, enlarged or extended, in land area or in floor space or volume of space in a building or structure.

For instance, if an office building is located in an R-I-A zoning district, it is a nonconforming use since it is not permitted outright in that zoning district. The building cannot be expanded under the terms of this chapter. As another example, a for-profit mini-storage building in an R-I zoning district is a nonconforming use. The storage operation cannot be increased in volume beyond what lawfully existed when the storage building became a nonconforming use. No additional building or building addition can be used for such use.



Section 9-11-3-8. Damage and Repair or Re-establishment.

A nonconforming use shall not be re-established or repaired if the activity is destroyed or sustains damage exceeding sixty (60) percent of its assessed value or square footage as determined by the Director of Planning and Development.

A building containing a nonconforming use shall not be rebuilt, altered, or repaired after destruction or damage exceeding sixty (60) percent of its replacement cost or square footage at the time of damage as determined by the Building Official, except for a use which conforms with the zoning district in which said use is located (or if within an overlay zone that establishes use restrictions and such overlay zone uses are controlling, for a use permitted in the overlay zone in which said use is located), and provided such rebuilding, alteration or repair is completed within one (1) year of such destruction or damage.

Notwithstanding the foregoing provisions of this Section, a residential or office use that is a nonconforming use that operated within a conforming or nonconforming building may be re-established in such building sustaining damage exceeding sixty (60) percent of its replacement cost or square footage at the time of damage as determined by the Building Official, provided the damaged nonconforming or conforming building containing such nonconforming use is repaired or rebuilt within eighteen (18) months following the date of damage.

Section 9-11-3-9. Unsafe Buildings.

If a building, structure or part thereof is occupied by a nonconforming use or contained a nonconforming use which has been discontinued or abandoned, and such building, structure, or part thereof is declared to be unsafe by the Building Official, then upon order of the Building Official, the strengthening or restoration to a safe condition of such building, structure, or part thereof shall be allowed and shall be made by the property owner in accordance with such order.

CHAPTER 9-11-4
NONCONFORMING SIGNS

Regulations for nonconforming signs are provided in Article 9-18 of this Unified Land Development Code.

CHAPTER 9-11-5
CORRECTION OF NONCONFORMING SITUATIONS

Section 9-11-5-1. Definitions.
Section 9-11-5-2. Intent.
Section 9-11-5-3. Notice to Correct Nonconforming Situations
Section 9-11-5-4. Standards of Review for Compliance
Section 9-11-5-5. Appeal.

Section 9-11-5-1. Definitions.

Nonconforming situation: Any development, land improvement, or activity, not otherwise included within the definition of nonconforming lot, nonconforming building or structure, nonconforming use, or nonconforming sign, which does not meet the provisions of this Unified Land Development Code at the time of its adoption or amendment. Examples of nonconforming situations include but are not limited to, noncompliance with off-street parking regulations, access requirements, failure to adhere to landscape strip requirements, tree protection, and landscaping requirements.

Section 9-11-5-2. Intent.

It is the intent of this Chapter to require the complete correction of nonconforming situations at the time of any building addition or significant modification of a use or development on a given parcel of land, if such nonconforming situation can physically be made to comply with the requirements of this Unified Land Development Code.

It is the intent of this Chapter to require the reduction in the extent of nonconforming situations at the time of any building addition or significant modification of a use or development on a given parcel of land, if such nonconforming situation cannot be physically be made to comply entirely with the requirements of this Unified Land Development Code.

It is the intent of this Chapter to provide authority to the Director of Planning and Development to administer the provisions of this Chapter in a manner that meets these intentions stated in this Section, and that the Director exercise that authority, subject to more specific guidance as provided in this Chapter.

Section 9-11-5-3. Determination of Nonconforming Situations.

For any proposed building or development, or modification of a building or development, it shall be the duty of the Director of Planning and Development to identify the extent to which the improvements on land on which the building or development is proposed constitutes a nonconforming situation, as defined in this Chapter. The Director shall conduct a review and identify such nonconforming situation(s), at the time plans for such proposed building or development are submitted for review, and at any earlier opportunity, if presented.

In the event that one or more nonconforming situations are found to exist by the Director, they shall be documented and notice of the need to correct or reduce said nonconforming situations shall be provided by the Director to the building or development applicant.

Section 9-11-5-4. Standards of Review for Compliance.

In determining the need to completely correct or reduce the noncompliance of nonconforming situations, the Director of Planning and Development shall be guided by the following standards:

(a) Strict compliance. A standard of "strict compliance" (complete correction of all nonconforming situations) shall be applied by the Director where physical standards can clearly be made in the subject development proposal without significant alteration of the development as proposed.

(b) Reasonable progress toward compliance. In lieu of strict compliance, a standard of "reasonable progress toward compliance" shall be applied by the Director in cases where complete correction or compliance with the nonconforming situation would require undue hardship, practical difficulty, or might unreasonably reduce the size, scale, or other significant aspect of the development proposal to a point where strict compliance would jeopardize the building or development proposal. In applying a standard of reasonable progress toward compliance, the Director shall have authority to approve the building, development, or improvement even though it does not meet a standard of strict compliance, if the relief granted is the minimum necessary to effectuate the building, development, or improvement.

(c) Proportionality. Whenever something less than strict compliance is authorized by the Director, the Director in determining the amount or extent of compliance required, shall apply a standard of "proportionality," meaning that the scope, scale, extent and cost of requirements to correct nonconforming situations are more or less the same as the scope, scale, extent and cost of the improvement or development proposed.

Section 9-11-5.5. Appeal.

Any decision of the Director of Planning and Development in administering and interpreting the provisions of this Chapter may be appealed by the applicant to the Planning and Appeals Board, within a period of fifteen (15) days following such decision, in accordance with the provisions of Chapter 9-22-7 of this Unified Land Development Code for appeals of administrative decisions.

ARTICLE 9-12
[RESERVED FOR FUTURE USE]

ARTICLE 9-13
SUBDIVISIONS AND LAND DEVELOPMENT

CHAPTER 9-13-1	GENERAL PROVISIONS	13-1
CHAPTER 9-13-2	DEFINITIONS	13-6
CHAPTER 9-13-3	DESIGN REQUIREMENTS FOR BLOCKS AND LOTS	13-13
CHAPTER 9-13-4	PRELIMINARY PLATS	13-16
CHAPTER 9-13-5	[RESERVED FOR FUTURE USE]	13-21
CHAPTER 9-13-6	MINOR LAND DEVELOPMENT PERMITS	13-22
CHAPTER 9-13-7	LAND DEVELOPMENT PERMITS	13-24
CHAPTER 9-13-8	IMPROVEMENT REQUIREMENTS GENERALLY	13-35
CHAPTER 9-13-9	DESIGN REQUIREMENTS FOR STREETS	13-37
CHAPTER 9-13-10	PRIVATE STREETS	13-51
CHAPTER 9-13-11	UTILITIES	13-54
CHAPTER 9-13-12	STORMWATER MANAGEMENT	13-55
CHAPTER 9-13-13	LAND DEVELOPMENT INSPECTIONS	13-75
CHAPTER 9-13-14	FINAL PLATS	13-78
CHAPTER 9-13-15	CONSERVATION SUBDIVISIONS	13-85
CHAPTER 9-13-16	CORRIDOR MAP	13-90

CHAPTER 9-13-1
GENERAL PROVISIONS

Section 9-13-1-1.	Purpose and Intent.
Section 9-13-1-2.	Delegation of Authority to Administrative Officers.
Section 9-13-1-3.	Land is One Lot Until Subdivided.
Section 9-13-1-4.	Subdivision of Land.
Section 9-13-1-5.	Reference to State and Federal Land Subdivision Laws.
Section 9-13-1-6.	Special Review of Subdivisions Along State Routes.
Section 9-13-1-7.	Lots Must Comply with Zoning Requirements.
Section 9-13-1-8.	Improvements Required for Final Platting.
Section 9-13-1-9.	Lot Combinations and Boundary Line Adjustments.
Section 9-13-1-10.	Recordation and Transfer of Land.
Section 9-13-1-11.	Exemptions from Plat Approval.
Section 9-13-1-12.	Development of Land.

Section 9-13-1-1. Purpose and Intent.

This Article is intended to serve the following purposes, among others:

1. To protect and promote the health, safety and general welfare of the residents of the City;
2. To encourage economically sound and stable land development;
3. To assure the provision of required streets, utilities, and other facilities and services to new land developments in conformance with public improvement plans of the City;
4. To assure adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in new land developments, especially for the purposes of assuring that all building lots will be accessible to fire fighting equipment and other emergency and service vehicles;

5. To assure the provision of needed open spaces and building sites in new land developments through conservation subdivision design and the dedication or reservation of land for recreational, educational, and other public purposes;
6. To assure the adequate provision of water supply, sewage disposal, stormwater drainage, and other necessary improvements;
7. To assure equitable handling of all subdivision plats and land development plans by providing uniform procedures and standards for the subdivider and land developer;
8. To assure, in general, the wise development of new land areas, in harmony with the comprehensive plan of the City;
9. To assure the accurate description of property and adequate and proper identification of property in public records;
10. To help conserve and protect the natural, economic and scenic resources of the City;
11. To help eliminate the costly maintenance problems which develop when streets and lots are laid out without proper consideration given to various public purposes;
12. To protect lot purchasers who generally lack the specialized knowledge to evaluate subdivision improvements and design.

Section 9-13-1-2. Delegation of Authority to Administrative Officers.

The Governing Body hereby delegates to the appropriate administrative officers the authority to administratively approve, conditionally approve, or disapprove preliminary plats, final plats, lot combination plats, boundary line adjustments, and dedication plats; provided, however, such delegation does not authorize appropriate administrative officers to accept public improvements for the Governing Body. The City of Gainesville Director of Planning and Development, the City of Gainesville Director of Public Works, and the City of Gainesville Director of Public Utilities are vested with the authority, as more fully described in this Section and Article, to review, approve, conditionally approve, or disapprove subdivisions and land development plans and permits.

(a) Director of Planning and Development. This administrative officer shall have final authority with regard to the review and approval of land development plans and permits, preliminary plats and final plats.

(b) Director of Public Works. This administrative officer shall review land development plans and permits and review of streets and non-utility related public improvements and recommendations for acceptance of public improvements by the Governing Body. The Director of Public Works is further authorized to promulgate additional technical standards and construction specifications for land development improvements not already specified by this Unified Land Development Code, including but not limited to streets, storm drainage systems, driveways, curb cuts, and parking lots.

(c) Director of Public Utilities. This administrative officer shall have final authority with regard to the design of public utilities for subdivisions and land developments. The Director of Public Utilities is further authorized to promulgate additional technical standards and construction specifications for land development improvements not already specified by this Unified Land Development Code, including but not limited to water and sanitary sewer systems and utilities.

Section 9-13-1-3. Land is One Lot Until Subdivided.

Until property proposed for subdivision has received final plat approval and been properly recorded, the land involving the subdivision shall be considered as one lot, or as otherwise legally recorded.

Section 9-13-1-4. Subdivision of Land.

No person shall subdivide land except in accordance with this Article and Unified Land Development Code. It shall be unlawful for any person, firm, corporation, owner, agent or subdivider, by deed or map, to sell, transfer, agree to sell, offer at public auction, negotiate to sell or subdivide any land until a preliminary plat, if required, and final plat have been approved by the Director of Planning and Development and final plat recorded in accordance with this Article. Said restriction applies to lands subdivided for nonresidential as well as residential uses. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transfer shall not exempt the transaction from this Article or from the penalties established for violations of this Unified Land Development Code. The City through its attorney or other designated official may enjoin such transfer of, sale, or agreement by appropriate action.

The Planning Department may require that a final plat for multiple (5 or more) lots being subdivided off an existing road be validated by stamp from the Public Works Department. The Planning Department may also require that any final plat be validated by stamp from the Public Utilities Department and/or Hall County Environmental Health Department.

Section 9-13-1-5. Reference To State and Federal Land Subdivision Laws.

The subdivision of land shall comply, as applicable, with the federal and state full disclosure requirements for land sales. All subdivision plats shall also comply with applicable state law regarding accuracy and content of all such subdivision plats.

Section 9-13-1-6. Special Review of Subdivisions Along State Routes.

No subdivision plat containing land which abuts a state route shall be approved until such plat has been submitted for review and comment by the Georgia Department of Transportation, in accordance with the provisions of O.C.G.A. 32-6-151.

Upon receiving such a plat, the city shall submit two copies of the proposed subdivision plat to the Georgia Department of Transportation if such proposed subdivision includes or abuts on any part of the state highway system. The Georgia Department of Transportation, within 30 days of receipt of the plat, shall recommend approval and note its recommendation on the copy to be returned to the Director of Planning and Development or recommend rejection. Failure of the Georgia Department of Transportation to act within this 30 day period shall constitute approval. If the plat is recommended for rejection, the reasons for rejection and requirements for approval shall be given the Director of Planning and Development in writing; but such recommendation shall be advisory only and shall not be binding on the Director or Planning and Appeals Board.

Section 9-13-1-7. Lots Must Comply with Zoning Requirements.

No person shall subdivide land, and the Director of Planning and Development shall not approve any subdivision of land, unless the lots created pursuant to said subdivision meet or exceed all applicable requirements of the zoning district and/or overlay zone, as applicable, and as may be amended from time to time.

Section 9-13-1-8. Improvements Required for Final Platting.

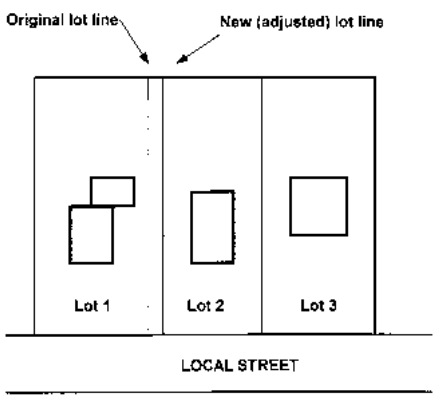
No final subdivision plat shall be approved by the Director of Planning and Development or accepted for recordation by the Clerk of Superior Court until all improvements required by this

Article have been constructed in a satisfactory manner and approved by the Director of Public Works or, in the case of utilities, the Director of Public Utilities.

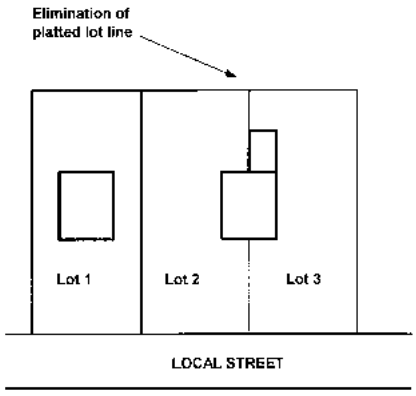
Section 9-13-1-9. Lot Combinations and Boundary Line Adjustments.

An existing lot line forming the boundary between two conforming platted lots located within the same subdivision or a lot line between lots or parcels that have merged to form one building lot may be removed or eliminated through a final plat revision process which conforms to the final plat requirements of Chapter 9-13-14 of this Article. Where separate lots of land are proposed to be combined, they shall be submitted to the Director of Planning and Development as a final plat for review, approval and recording. In the case no final plat applies to the subject lots or parcels, a boundary survey and plat depicting all lots involved in the lot combination shall be required to be approved by the Director of Planning and Development and recorded as a final plat. Such combination plat shall be titled with the same name as that of the original subdivision, if applicable, and shall indicate thereon that the replat is for the purpose of removing the lot lines between specific lots.

One or more existing lot lines forming boundaries between conforming platted lots located within the same subdivision, or one or more lot lines between abutting lots or parcels may be adjusted through a final plat revision process that requires the approval of the Director of Planning and Development and recording of a plat meeting the specifications of a final plat. In the case no final plat applies to the subject lots or parcels, a boundary survey and plat of the entire lots involved in the boundary line adjustment shall be required to be approved by the Director of Planning and Development and recorded. Such plat showing said boundary line adjustment shall be titled with the same name as that of the original subdivision and shall include thereon that the replat is for the purpose of adjusting the lot lines between specific lots.



Boundary Line Adjustment



Lot Combination

Section 9-13-1-10. Recordation and Transfer of Land.

The Clerk of Superior Court of Hall County shall not file or record a plat that would result in the division of a property into two or more lots that does not have the approval of the City as required by this Article. The Clerk of the Superior Court of Hall County shall not file or record a plat of a subdivision, whether evidenced as a plat or as an attachment to a deed, unless such

plat is a final plat approved for recording by the Director of Planning and Development or designated representative and contains said officer's signature thereon.

Any deed or other instrument of conveyance, including a security deed, bond for title, or any other document purporting to convey, then or in the future, title to real estate, filed for record with the Clerk of the Superior Court, wherein the property to be conveyed is described in some manner other than by reference to a recorded plat, shall be accompanied by a certificate signed by the party filing such deed or other instrument, which certificate shall be in the following form:

I, _____, do hereby certify that the instrument herewith filed for record in the Office of the Clerk of the Superior Court of Hall County, Georgia, does not involve the subdivision of property and does not subdivide a tract of land into two or more tracts or lots.

This ____ day of _____, 20___.

_____ (Signature)

Section 9-13-1-11. Exemptions from Plat Approval.

The following types of land subdivisions, transfers, and sales are specifically exempted from the plat approval requirements of this Article; provided, however, that such exemptions shall not apply to land development requirements and improvement requirements of this Article or compliance with other applicable requirements of this Unified Land Development Code:

(a) The creation and sale of cemetery plots.
(b) The sale of lots consistent with previously approved and recorded plats or deeds.
(c) The creation of leaseholds for space within a multiple-occupancy building or the division of property into leaseholds (but not for sale) for commercial, industrial, or institutional use.
(d) The creation of leaseholds (but not for sale) for the agricultural use of property where the use does not involve the construction of a building to be used as a residence or for other purposes not directly related to agricultural use of the land or crops or livestock raised thereon.
(e) Any division of land to heirs through a judicial estate proceeding, or any division of land pursuant to a judicial partition, or any division of land occurring from the foreclosure of a deed of trust; provided, however, that such exemption shall not require the city to issue permits if the resulting lots or parcels fail to meet any applicable zoning provisions regarding lot size, lot width, or other dimensional requirements.

Section 9-13-1-12. Development of Land.

No person shall disturb or develop land except in accordance with this Article and the Unified Land Development Code. It shall be unlawful for any person, firm, corporation, owner, agent or subdivider to disturb or develop any land until land development plans have been approved by the City and a land development permit issued, if required, in accordance with this Article and the Unified Land Development Code. No person shall commence construction of any improvements on any lot, prior to the approval of a preliminary plat if required by this Article, nor prior to approval of submission of civil drawings and construction plans and issuance of a land development permit for said improvements as required by this Article and Unified Land Development Code.

CHAPTER 9-13-2
DEFINITIONS

Section 9-13-2-1. Terms Related to Streets.
Section 9-13-2-2. Terms Related to Subdivisions.

Section 9-13-2-1. Terms Related to Streets.

Access: A way or means of approach to provide physical entrance to a property.

Arterial street: See under "Street Classifications."

Center line: That line connecting the succession of midpoints between the identifiable limits of any improvements on the ground or of any easement.

Collector street: See under "Street Classifications."

Cul-de-sac: A dead-end street of limited length having a primary function of serving adjoining land, and constructed with a turnaround at its end.

Cul-de-sac, temporary: A non-permanent vehicular turn around located at the termination of a street or alley, created for construction and not accepted as a public improvement.

Curb cut: The providing of vehicular ingress and/or egress between property and an abutting street; the physical improvement designed to provide such ingress/egress.

Dead-end street: A street connected to another street at only one end.

Deceleration lane: An added roadway lane, of a specified distance and width and which may include a taper, as approved by the City Engineer, which permits vehicles to slow down and leave the main vehicle stream.

Deflection angle: The angle between a deviation in the direction of the center line of a street and the extension of the center line along a straight course from the point from which the center line changed direction.

Design variance: An alteration or relaxation of the terms of this Article where such alteration will not be contrary to the public interest, convenience and welfare, and where, owing to conditions peculiar to the property over which the applicant for a variance has no control, a literal enforcement of these regulations would create unnecessary and undue hardship on the applicant in the use of the property.

Development: (1) A land development project involving the construction of streets, utilities, buildings, or other improvements required for the habitation or use of property, such as a residential neighborhood, an apartment complex, a store, or a shopping center; (2) any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials; (3) the act of constructing or carrying out a land development project, including the alteration of land or vegetation in preparation for construction activity.

Development site: Any and all areas within which "development" takes place.

Driveway: A constructed vehicular access serving one (1) or more properties and connecting to a public or private street, as distinguished from a platted, public or private street.

Half street: A portion of the ultimate width of a road or street where the remaining portion of the road or street shall be provided at a future date.

Major street or major thoroughfare: An arterial or collector street (see under "Street Classifications.")

Pedestrian way: A public right-of-way or private easement across a block or within a block to provide access for pedestrians and which, in addition to providing pedestrian access, may be used for the installation of utility lines.

Reserve strip: A strip or tract of land reserved for the purpose of controlling or limiting access from properties to abutting streets.

Right-of-way: Land reserved for and immediately available for public use as a street or other purpose.

Roadbed: That portion of a street improved for vehicular travel, including the curbs and shoulders.

Roadway: The paved portion of a street improved for vehicular travel, measured from back of curb to back of curb.

Sidewalk: A hard-surfaced pedestrian access area adjacent to or within the right-of-way of a street.

Street: An improved way for the conveyance of motor driven, rubber-tired vehicles, such as automobiles and trucks.

Street classifications: Streets are classified according to the function that they are to serve, the type, speed, and volume of traffic they will carry and the required standards of design. The classifications and locations of major thoroughfares are shown in the Comprehensive Plan. The classifications of streets and roads are generally as follows:

1. Expressways: Limited access Interstate highways.

2. Arterial streets: State and U.S, numbered highways.

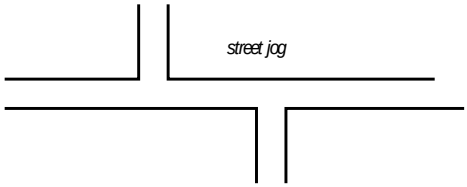
3. Marginal-access streets: Streets that are placed parallel and adjacent to expressways or arterials to provide direct access to abutting properties.

4. Collector Streets: Major streets that carry traffic between neighborhoods and arterial streets, serve nonresidential or multi-family areas or developments, and streets within a residential subdivision that collect traffic from 100 dwelling units or more.

5. Local Streets: Streets in residential subdivisions and some nonresidential areas that primarily provide access to individual lots, do not carry through traffic, and serve fewer than 100 dwelling units.

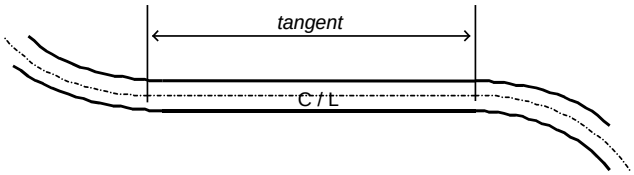
6. Alleys: Public or private ways, whether unopened or opened for use, which afford only a secondary means of access to abutting property.

Street jog: The incidence where two streets or two portions of a single street are separated by a relatively short distance, usually at their intersection with another street. (See illustration)



Street, private: A road or street that has not been accepted for maintenance by the Governing Body and that is not owned and maintained by a state, county, city, or another public entity.

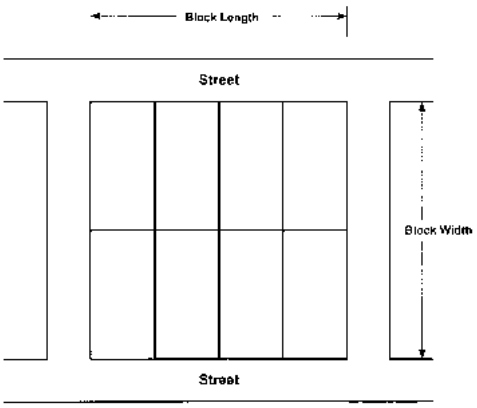
Tangent: The straight-line distance between the ending of one curve of a line (center line of a street) and the beginning of another curve of the same line (center line).



Section 9-13-2-2. Terms Related to Subdivisions.

Block: An area of land that is entirely surrounded by streets, public lands, railroad rights-of-way, watercourses, or other well defined and fixed boundaries.

Conservation subdivision: A subdivision, where open space is the central organizing element of the subdivision design, that identifies and permanently protects all primary and all or some of the secondary conservation areas within the boundaries of the subdivision, and that clusters housing together on smaller lots than in conventional subdivisions.

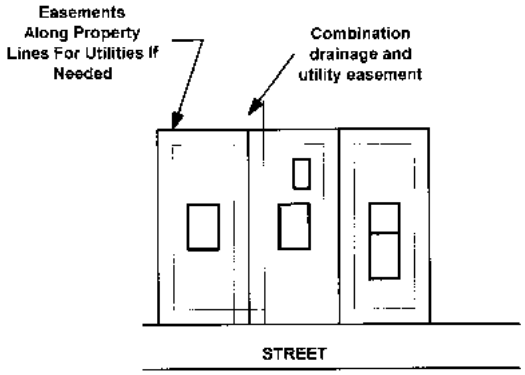


Block, Block Length, and Block Width

Dedication: The deliberate appropriation of land by an owner for any general and public use or purpose, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

Dedication plat: A plat that indicates property to be dedicated for public right-of-way or land for public use, drawn to final plat specifications and following procedures for final plat approval.

Easement: A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.



Easements

Easement, perpetual: An easement held in perpetuity.

Escrow account: A type of subdivision improvement guarantee where the subdivider deposits either cash, a note, a bond, or some other instrument readily convertible to cash for specific face value specified by the Director of Public Works or designated official of the City to cover the costs of required improvements.

Final plat: The final drawing of a subdivision and, as applicable, dedication, prepared for filing for record with the Clerk of the Hall County Superior Court, and containing all elements and requirements set forth in this Article.

Homeowners association: An organization formed for the maintenance and operation of the common areas of a development, where membership in the association is automatic with the purchase of a dwelling unit or lot within the development, with the ability to legally assess each owner of a dwelling unit or lot and which has authority to place a lien against all dwelling units and lots within the development.

Letter of credit: A type of subdivision improvement guarantee whereby a subdivider secures an instrument from a bank or other institution or from a person with resources sufficient to cover the cost of improvements required by the Governing Body. The instrument pledges the creditor to pay the cost of improvements in case of default by the subdivider.

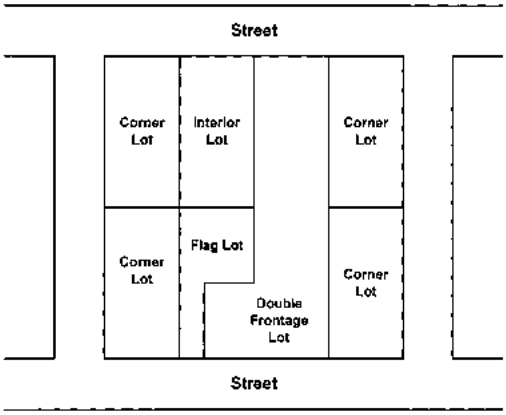
Lot of record: A lot which is part of a subdivision, a plat of which has been lawfully recorded in the records of the Clerk of Superior Court of Hall County; or a lot described by metes and bounds, the description of which has been lawfully recorded in the same office prior to the adoption of zoning in the City of Gainesville (June 20, 1955).

Lot: A parcel of land held in single ownership.

(1) Corner lot: A lot abutting upon two or more streets at their intersection.

(2) Double frontage lot: Any lot, other than a corner lot, which has frontage on two (2) streets.

(3) Flag lot: A tract or lot of land of uneven dimensions in which the portion fronting on a street is less than the required minimum width required for construction of a building or structure on that lot. Also called a panhandle lot.



TYPES OF LOTS

(4) Interior lot: A lot having frontage on only one street.

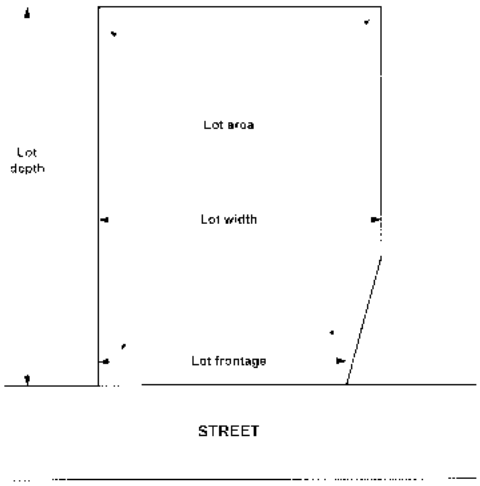
Lot area: The total horizontal area included within lot lines

Lot area, minimum: The smallest permitted total horizontal area within the lot lines of a lot, exclusive of street right-of-ways but inclusive of easements.

Lot depth: The mean horizontal distance between front and rear lot lines.

Lot frontage: The width in linear feet of a lot where it abuts the right-of-way of any street.

Lot width: The distance between side lot lines measured along the front principal building setback line.



Lot Definitions

Metes and bounds: A system of describing and identifying land by a series of lines around the perimeter of an area; “metes” means bearings and distances and “bounds” refers to physical monuments.

Performance bond: A type of improvement guarantee in the form of a bond, secured by the subdivider or land developer from a bonding company, in an amount specified by the Director of Public Works or designated official of the City to cover the costs of required improvements, and payable to the Governing Body. The Governing Body may call in the performance bond in the event the subdivider or land developer defaults on required improvements.

Preliminary plat: A drawing which shows the proposed layout of a subdivision in sufficient detail to indicate its general design.

Protective covenants: Contracts made between private parties as to the manner in which land may be used, with the view toward protecting and preserving the physical and economic integrity of any given area.

Public improvement: The construction, enlargement, extension or other construction of a facility intended for dedication to the City, including but not limited to a street, curb and gutter, sidewalk, cross drain, catch basin, traffic control and street name sign, or other roadway appurtenance other than a driveway apron connection; domestic water supply system main, fire hydrant, valve or other appurtenance other than a supply line to a building; or sanitary sewerage main or outfall, lift station, force main, manhole or other appurtenance other than a drain line from a building.

Professional Engineer: An engineer licensed and registered to perform the duties of a professional engineer (P.E.) by the State of Georgia.

Public utility: A utility owned and operated by a public agency or authority.

(1) Public sewerage system: A sanitary sewerage system for the collection of water-borne wastes complete with a sewage treatment plant that is owned and operated by a public agency or authority.

(2) Public water system: A system for the intake, treatment and distribution of potable water that is owned and operated by a public agency or authority.

Publicly dedicated: Land or improvements that has or have been transferred by plat or deeded to and accepted by the City for public use and maintenance.

Registered Land Surveyor: A land surveyor licensed and registered to perform the duties of a registered land surveyor (R.L.S.) by the State of Georgia.

Reservation: A method of holding land for future public use or dedication to the public by showing proposed public areas on a subdivision plat or a corridor map.

Septic tank: An approved watertight tank designed or used to receive sewage from a building sewer and to affect separation and organic decomposition of sewerage solids, and discharging sewage effluent to an absorption field or other management system.

Subdivider: Any person, as defined by this Unified Land Development Code, who undertakes the subdivision of land, and any person having such a proprietary interest in land to be subdivided as will authorize the maintenance of proceedings to subdivide such land under this Unified Land Development Code, or the authorized agent of such person.

Subdivision: The division of a property or tract of land into two or more tracts or lots; or a land development project in which two or more lots are created, along with the streets and utilities needed to support construction of buildings on the lots. The word “subdivision” includes re-subdivision and, when appropriate to the context, relates either to the process of subdividing or to the actual land or area which is subdivided.

(1) Subdivision with public improvements: The division of land into two (2) or more lots that will require the construction or extension of public streets, water or sanitary sewerage (other than the direct connection of buildings to existing facilities).

(2) Minor subdivision: The division of land into two (2) or more lots, each of which will be adequately served by existing public streets, water and sanitary sewerage and that does not involve a public dedication.

CHAPTER 9-13-3
DESIGN REQUIREMENTS FOR BLOCKS AND LOTS

Section 9-13-3-1. Suitability of Land.
Section 9-13-3-2. Conformance With Comprehensive Plan.
Section 9-13-3-3. Block Lengths and Widths.
Section 9-13-3-4. Width, Depth, and Size.
Section 9-13-3-5. Lot Lines.
Section 9-13-3-6. Building Lines.
Section 9-13-3-7. Double Frontage Lots.
Section 9-13-3-8. Flag Lots.
Section 9-13-3-9. Lot Remnants Not Permitted.
Section 9-13-3-10. Monuments.

Section 9-13-3-1. Suitability of Land.

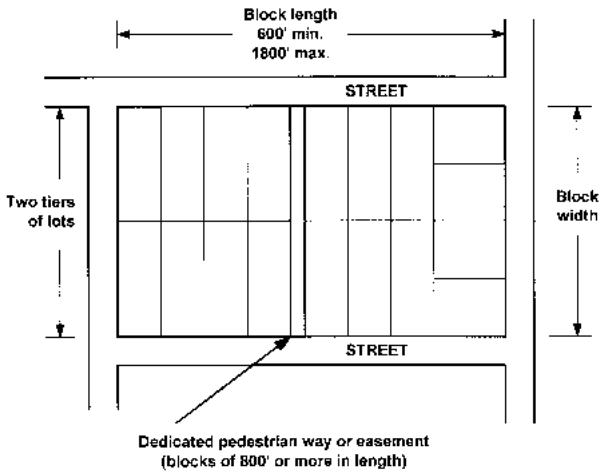
Land physically unsuitable for subdivision or development because of flooding, poor drainage, steep slopes, rock formations or other such features that may endanger health, life or property, aggravate erosion, increase flood hazard, or necessitate excessive expenditures of public funds for supply and maintenance of services shall not be approved for subdivision or development unless adequate methods are formulated by the subdivider or developer for solving the problems.

Section 9-13-3-2. Conformance With Comprehensive Plan.

All proposed subdivisions shall conform to the Comprehensive Plan and development policies in effect at the time of submission to the Director of Planning and Development.

Section 9-13-3-3. Block Lengths and Widths.

Intersecting streets shall be provided at such intervals so as to provide adequate cross traffic and connectivity. Blocks in residential subdivisions should not exceed one thousand eight hundred (1800) feet nor be less than six hundred (600) feet in length, except where topography or other conditions justify a departure from these standards. In blocks longer than eight hundred (800) feet, pedestrian ways and/or easements through the block shall be required near the center of blocks.



Block Length, Block Width, and Pedestrian Way

In addition, for blocks longer than 800 feet in length, the Director of Planning and Development may require one or more public easements of not less than 20 feet in width to extend entirely across the block for fire protection or utilities.

The width of the block shall be sufficient to allow two (2) tiers of lots of appropriate depth, except where reverse frontage lots on arterial streets are provided, or when prevented by topographic conditions or size of the property, or for lots along the periphery of the subdivision, in which case the Director of Planning and Development may approve a single row of lots. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries.

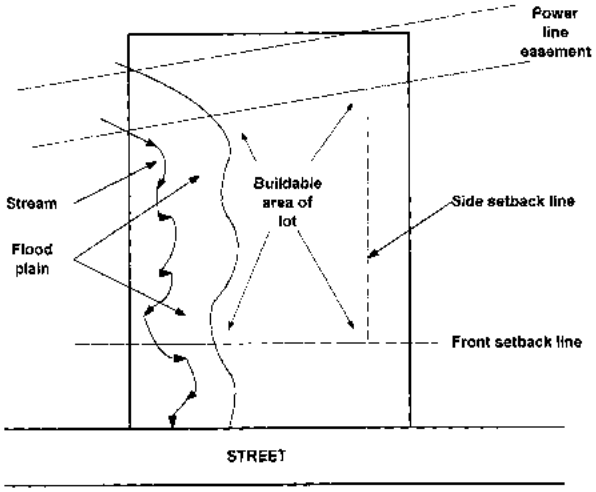
Section 9-13-3-4. Width, Depth, and Size.

Residential lots shall have a depth not greater than three times the width of the lot at the building line, unless unusual circumstances make these limitations not practicable. Residential corner lots shall have adequate width to meet building setback requirements from both abutting streets.

Where individual septic tanks are used, the Hall County Environmental Health Department shall approve minimum lot sizes to conform to health standards of the Georgia Department of Public Health and the county.

Commercial and industrial lots shall be adequate to provide service areas and off-street parking suitable to use intended.

Each lot shall contain an adequate building site not subject to flooding and outside the limits of any existing easements or required building setback lines.



Adequate Building Area Required

Section 9-13-3-5. Lot Lines.

All side lot lines shall be perpendicular to street lines, and all rear lot lines shall be parallel or radial to street lines, unless not practicable because of topographic or other features.

Section 9-13-3-6. Building Lines.

A building line, meeting or exceeding the front building setback requirements of the zoning district in which the lot is located, shall be established on all lots.

Section 9-13-3-7. Double Frontage Lots.

Double frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or overcome specific disadvantages of topography or orientation. The Director of Planning and Development may require a no-access, planting screen easement of at least ten (10) feet, across which there shall be no right of access, shall along the line of lots abutting such a traffic artery or other disadvantageous use.

Section 9-13-3-8. Flag Lots.

Flag lots, which meet minimum lot area requirements and meet the minimum lot width at the front building setback line where the building is placed, may be allowed where conditions of hardship make standard design or frontage impossible, impractical, or inefficient with regard to land use. Where such lots are allowed, the street frontage of each panhandle portion of the lot shall not be less than forty (40) feet wide, and the panhandle portion of the lot shall be no less than forty (40) feet wide and not more than two hundred (200) feet long. Not more than two (2) such panhandle access points shall abut each other. The Director of Planning and Development may require shared driveways for abutting flag lots.

Section 9-13-3-9. Lot Remnants Not Permitted.

All remnants of lots below any minimum lot size which may be required, left over after subdividing a larger tract or land-locked parcel, must be added to adjacent lots, rather than allowed to remain as unusable or noncompliant parcels. The Director of Planning and Development may permit a lot remnant for a specific purpose such as a detention pond, provided that access and design is appropriate and the lot remnant is restricted to specific nonresidential use.

Section 9-13-3-10. Monuments.

For all subdivisions, a Georgia Registered Land Surveyor shall install permanent survey monuments at all property corners, at each point at which a property line changes direction, and land lot lines, prior to final plat approval. Each monument shall be a ½ inch diameter steel rod or #4 rebar, at least 24 inches long. When rock is encountered, a hole shall be drilled 4 inches deep in the rock, into which shall be cemented a steel rod ½ inch in diameter. The top of each such monument shall be approximately level with the finished grade.

Permanent survey monuments shall also be installed in accordance with the most recent edition of Section 180-7-.05,"Monument," of the Rules of State Board of Registration for Professional Engineers and Land Surveyors and the Georgia Plat Act (O.C.G.A. 15-6-67).

CHAPTER 9-13-4
PRELIMINARY PLATS

Section 9-13-4-1. Preliminary Plat Approval Required.
Section 9-13-4-2. Relationship of Preliminary Plat to Land Development Permit.
Section 9-13-4-3. Preliminary Plat Specifications.
Section 9-13-4-4. Preliminary Plat Application Requirements.
Section 9-13-4-5. Review and Approval Process.
Section 9-13-4-6. Amendments to Preliminary Plat Approval.

Section 9-13-4-1. Preliminary Plat Approval Required.

The purpose of this Chapter is to ensure compliance with the basic design concepts and improvement requirements of subdivisions through the submittal of a preliminary plat. Any subdivision involving the dedication of a public street or public land, and any subdivision involving a new private street, shall require the submission of a preliminary plat.

Section 9-13-4-2. Relationship of Preliminary Plat to Land Development Permit.

The Director of Planning and Development or designee must first approve a preliminary plat for subdivision activity prior to the issuance of a land development permit or initiation of any land disturbing or construction activities. An application for preliminary plat approval may be processed independently or in conjunction with an application for issuance of a land development permit. Applicants are cautioned, however, that the preliminary plat approval is discretionary with regard to consistency with the comprehensive plan and design requirements of this Article, and therefore, proceeding simultaneously with preliminary plat and land development permit applications may result in the revision of civil engineering drawings and construction plans if the layout of the preliminary plat of the proposed subdivision must be significantly modified.

Section 9-13-4-3. Preliminary Plat Specifications.

A preliminary plat shall be prepared by a professional engineer, a registered land surveyor, a landscape architect, a land planner, or any other person professionally familiar with land subdivision and land development activities. The preliminary plat shall meet the following specifications:

(a) Proposed name of subdivision. The proposed name of the subdivision shall not duplicate or too closely approximate, phonetically, the name of any other subdivision in the city or county. If shown to the contrary, the Planning Department may refuse to accept such subdivision name.

(b) Plat scale and sheet size. The preliminary subdivision plat shall be clearly and legibly drawn at a scale of 100 feet or less to one (1) inch. The recommended maximum dimensions of the sheet size is 36 inches by 48 inches and the minimum dimensions of 17 inches by 22 inches; however, the Director of Planning and Development may approve other sheet sizes and scales as appropriate. For property of over 100 acres, a smaller scale may be used where, in the judgment of the Director of Planning and Development, presentation of detailed data is not necessary to evaluate the entire project. It is the intent of this provision that in all cases sufficient information shall be provided for an adequate evaluation of the public and private improvements.

(c) Owner contact information. Name, address and telephone number of the property owner.

(d) Applicant contact information. Name, mailing address, telephone and fax numbers and E-mail address of the applicant.

(e) Miscellaneous. Tax parcel number(s), date of survey, north point and graphic scale, source of datum, date of plan drawing, and revision dates, as appropriate.

(f) Use. Proposed use of the property.

(g) Location and tract boundaries. Location (Land District and Land Lot) and size of the property in acres (or in square feet if less than an acre), and the approximate boundaries of the tract to be subdivided or developed by bearings and distances, The preliminary plat must reference and be based on a boundary survey of the exterior boundaries of the proposed subdivision, prepared by a Registered Land Surveyor.

(h) Location map. A location map of the property in relation to the surrounding area with regard to well-known landmarks such as arterial streets or railroads. Location maps must be drawn at a scale sufficient to show clearly the information required, but not less than one inch equal to 2,000 feet. U.S. Geological Survey maps may be used as a reference guide or as the required location map.

(i) Prior subdivision. Name of former approved subdivision, if any, for all of the land in the preliminary subdivision plat that has been previously subdivided, showing boundaries of same.

(j) Zoning. Zoning district designation of the subject property and all adjacent properties, and zoning district boundaries and overlay zone boundaries as appropriate.

(k) Conditions of approval. A copy of zoning, special use and variance conditions, if applicable.

(l) Natural features and flood plains. Natural features within the property, including drainage channels, bodies of water, wooded areas and other significant natural features such as rock outcroppings. On all water courses entering or leaving the property, the direction of flow shall be indicated. The 100-year flood plain, if any, shall be outlined.

(m) Streets, easements, political boundaries and built features. Man-made features within and adjacent to the property, including street right-of-way and pavement widths, names of existing streets, all easements, city and county political boundary lines, and other significant information such as location and dimensions of bridges, utility lines, existing buildings to remain, and other features.

(n) Subdivision layout. The proposed subdivision layout including lot lines and street right-of-way lines, with proposed street names or letter designations and right-of-way widths, along with the front building setback line and the approximate dimensions of the length and width of each lot.

(o) Phasing. The proposed phasing of the development, if it is proposed to be platted in phases.

(p) Water and sewage disposal. A statement as to the source of the domestic water supply and provisions for sanitary sewage disposal. For those properties that will not be served by a public sanitary sewerage system, location and results of percolation tests as required and approved by the Hall County Environmental Health Department.

(q) Stormwater management. The approximate location of proposed stormwater detention facilities. Compliance with Chapter 9-13-13, "Stormwater Management," shall not be required at the time of preliminary plat approval but will be required for the issuance of a land development permit or grading permit.

(r) Additional information. Additional information as may be required to ensure compliance with this Article and the Unified Land Development Code

(s) Certificate of project approval. A certificate of project approval, as follows or as may be modified from time to time, shall be shown on the preliminary plat:

APPROVED FOR LAND DISTURBANCE

City of Gainesville
Dept. of Planning & Dev

Name_____
Date_____
Tax Parcel_____
Zoning_____
Address_____
Dev #_____

Section 9-13-4-4. Preliminary Plat Application Requirements.

Applications for preliminary plat approval shall include the following:

(a) Application form. A properly completed application form, as furnished by the Planning Department, requesting review for project approval. The Planning Department may choose to complete this form for the applicant.

(b) Copies of plats. A set number, as fixed from time to time by the Director of Planning and Development, of copies of the preliminary subdivision plat meeting preliminary plat specifications of this Chapter and showing the entire ownership.

(c) Fees. Payment of all applicable application and review fees, as established by the Governing Body from time to time.

Section 9-13-4-5. Review and Approval Process.

The Director of Planning and Development is responsible for administering the review and approval process for preliminary subdivision plats, which shall not be inconsistent with the provisions of this Chapter. The procedures of this Section may be supplemented by the Director of Planning and Development where additional specification is required.

(a) Review for completeness and application acceptance. The Planning Department shall review the application for completeness at the time of submission. Incomplete applications will not be processed and will be returned to the applicant.

(b) Distribution and agency review of preliminary plat. The Planning Department shall forward a copy of the preliminary plat application to other city departments as may be appropriate, the Georgia Department of Transportation if the proposed subdivision has frontage on or proposes access to a state or federal road, or others as appropriate, for their review and comment. Agency review shall specifically include the approval from the Hall County Environmental Health Department if septic tanks are proposed and the Gainesville Public Utilities Department in cases where connection to city water and/or sewer is proposed or required.

(c) Time period for completion of review. Within two (2) to three (3) weeks following receipt of the application, during which agency review shall be completed, the Planning Department shall indicate on the preliminary plat or in writing all comments related to compliance with this Article and the Unified Land Development Code. The Planning Department shall provide all comments to the applicant for resolution, who shall work with each Department as necessary to resolve all issues.

(d) Action. When the Planning Department has determined that the preliminary subdivision plat is in compliance with the requirements, purpose and intent of this Article and the Unified Land Development Code, it shall be approved. The owner shall be responsible for compliance with all codes, regulations, and zoning requirements and for the satisfaction of all the noted and written comments.

(e) Variances. The Planning Department shall not approve any preliminary plat that would result in a lot or situation that would clearly require a variance, until or unless such variance is lawfully obtained.

(f) Certificate of Project Approval. Upon approval of the preliminary plat, the Director of Planning and Development or his or her designee shall sign and date the CERTIFICATE OF PROJECT APPROVAL stamped on a reproducible copy of the preliminary subdivision plat. One (1) copy of the approved drawing shall be transmitted to the applicant and the Planning Department shall retain the additional copies for distribution and record-keeping purposes.

(g) Duration of approval. The Certificate of Project Approval shall remain in effect for a period of one (1) consecutive year after which time it shall become null and void and a new certificate may be required if no permit has been issued or no development activity has begun.

Section 9-13-4-6. Amendments to Preliminary Plat Approval.

The Director of Planning and Development, in consultation with the Director of Public Works and/or the Director of Public Utilities when engineering or utility considerations are involved, is

authorized to approve minor amendments to preliminary plats (i.e., those that do not affect the public or private street configuration or that reconfigure lots and which do not increase the number of lots), without the need to reapply for preliminary plat approval. The application requirements and procedures for amending preliminary plats, unless minor in nature, shall be the same as for preliminary plat applications.

CHAPTER 9-13-5
[RESERVED FOR FUTURE USE]

CHAPTER 9-13-6
MINOR LAND DEVELOPMENT PERMITS

Section 9-13-6-1. Minor Land Development Permit Required.
Section 9-13-6-2. General Application Requirements.
Section 9-13-6-3. Review of Permit Applications.
Section 9-13-6-4. Expiration of Permit Approval.

Section 9-13-6-1. Minor Land Development Permit Required.

A minor land development permit may be required for small projects that would otherwise not require a land development permit or preliminary plat as identified in this article. For multi-family and nonresidential properties, this may include but is not limited to items such as minor tree removal, clearing and grubbing, grading, landscaping, small driveway/parking installations and small building additions located on existing impervious surface areas as determined by the Planning Director. For single-family residential properties, this may include but is not limited to parking, patio, walkway and retaining wall additions as determined by the Planning Director. Regular maintenance of property including landscaping and gardening shall be exempt from these requirements. This chapter does not exempt the requirement of a separate building permit.

Section 9-13-6-2. General Application Requirements.

The application for a minor land development permit shall be submitted to the Planning Department and may include the following items below as approved by the Planning Director:

(a) Application form. Application form completed by the Planning Department. The Planning Department may choose to complete this form for the applicant.

(b) Fee. Payment of any land development permit fee, as established from time to time by the Governing Body.

(c) Plat. A copy of the approved recorded plat of the subject property.

(d) Site plan. A site plan shall be prepared by a person familiar with land development activities. The site plan shall include at minimum the project location, total project area and all erosion and sedimentation control measures.

(e) Completeness. The application shall be checked for completeness at the time of submission. Incomplete applications will not be processed and will be returned to the applicant.

Section 9-13-6-3. Review of Permit Applications.

The Planning Department shall forward a copy of the permit application and all supporting documents to other City departments and government agencies or others as appropriate, for their approval. The applicant may be required by the Planning Department to secure development approval from other agencies if they are affected by (or have jurisdiction over) the development. Development approval may be required from but not limited to:

(a) The Gainesville Public Utilities Department.
(b) The Gainesville Public Works Department
(c) The Hall County Public Works Department.

Section 9-13-6-4. Expiration of Permit Approval.

A minor land development permit shall expire within one (1) year from the date of issuance.

CHAPTER 9-13-7
LAND DEVELOPMENT PERMITS

Section 9-13-7-1. Land Development Permit Required.
Section 9-13-7-2. Types of Plans Required.
Section 9-13-7-3. Preparation by Professional
Section 9-13-7-4. Separate Requirements for Phased Applications.
Section 9-13-7-5. Relationship of Permit to Plat Approval.
Section 9-13-7-6. General Application Requirements for Land Development Permits.
Section 9-13-7-7. General Specifications for Drawings and Plans,
Section 9-13-7-8. Specifications for Erosion and Sediment Control Plans.
Section 9-13-7-9. Specifications for Tree Plans.
Section 9-13-7-10. Specifications for Stormwater Drainage Management Plans.
Section 9-13-7-11 Specifications for Street Improvement Plans.
Section 9-13-7-12. Specifications for Structural Buffer Plans.
Section 9-13-7-13. Flood Plain Permit.
Section 9-13-7-14. Administration.
Section 9-13-7-15. Review of Permit Applications.
Section 9-13-7-16. Review of Soil Erosion Plans.
Section 9-13-7-17. Action on Permit Applications.
Section 9-13-7-18. Permits for Annexed Lands.
Section 9-13-7-19. Responsibilities Limited.
Section 9-13-7-20. Bond Requirements for Violators of Soil Erosion and Sedimentation Regulations.
Section 9-13-7-21. Suspension, Revocation, or Modification.
Section 9-13-7-22. Expiration of Permit Approval.

Section 9-13-7-1. Land Development Permit Required.

A land development permit shall be required to authorize all activities associated with development activity, including, but not limited to, clearing and grubbing, grading, and the construction of such improvements as streets, surface parking areas and drives, stormwater drainage facilities, sidewalks, or other structures permanently placed on or in the property except for buildings, signs, or other structures requiring the issuance of a building permit. Any person seeking development activity on land within the city shall first submit to the Planning Department an application for a land development permit, including all civil design and construction drawings required by Chapter 9-13-7 of this Article.

A land development permit shall not be required for detached, fee-simple single-family dwellings and two-family dwellings (duplexes). All other forms of residential development including but not limited to detached, single-family dwellings and attached dwellings in condominium ownership, townhouses, and apartments shall require a land development permit.

Section 9-13-7-2. Types of Plans Required.

Persons seeking to engage in development activity on land in the City shall not commence or proceed until civil design and construction drawings are approved and a land development permit is issued by the Planning Department.

The civil design and construction drawings for a project shall conform in all respects with the approved preliminary plat, if applicable, and all other requirements of this Chapter. Applications for approval of civil design and construction drawings shall include each of the plans described

in this Chapter as appropriate to the project and summarized below (which shall not be considered limiting):

(a) Erosion and sediment control plan. Plans must be prepared to meet the erosion and sedimentation control requirements using best management practices under Article 9-14 of this Unified Land Development Code and as required by this Chapter. 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 Georgia Soil and Water Conservation Commission as a guide; or through the use of alternate design criteria which conform to sound conservation and engineering practices. The erosion and sediment control plan 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 stormwater management facilities, local ordinances and State laws.

(b) Tree Plan. A proposal for development or improvement of any tract of land shall include a tree protection plan as required by Chapter 9-16-5 of this Unified Land Development Code and this Chapter. Such plan shall be submitted to the City prior to any grading, bulldozing or other removal of existing vegetation that may affect the health of existing tree coverage.

(c) Stormwater Management Report. The location and size of all proposed drainage improvements shall be designed in accordance with and meet all standards relating to Stormwater Management as specified in under Chapter 9-13-12 of this Unified Land Development Code and this Chapter

(d) Street Improvement Plan. When new streets, public or private, are provided, or when an existing public or private street is modified, a street improvement plan shall be provided. Such plan must demonstrate compliance with Chapter 9-13-9, “Design Requirements for Streets,” of this Unified Land Development Code.

(e) Structural Buffer Plan. When a structural buffer is required by this Unified Land Development Code (see Chapter 9-16-2) or provided by the applicant, a structural buffer plan shall be submitted as a part of the land development permit application. Plans shall not be required for natural buffers, but natural buffers shall be shown on the grading plan and tree plan.

(f) Flood Plain Permit. When a flood plain permit is required by Article 9-15 of this Unified Land Development Code, a flood plain permit application shall be submitted as a part of the land development permit application and as provided in this Chapter.

(g) Sewage Disposal Plan. Sanitary sewerage plans shall include profiles of all mains and outfalls, lift station and force main details, typical manhole construction details, and other information as may be required by the Director of Public Utilities. For projects to be served by on-site sewage disposal systems, such plans shall show the location of septic tank, extent of drain field and attendant structures, location and results of percolation tests, and other information shall be shown as required by the Hall County Environmental Health Department.

(h) Domestic Water Supply Plan. The domestic water supply plan shall depict all water system improvements, water mains, fire hydrants, valves and other appurtenances, and other information as may be required by the Director of Public Utilities.

(i) Grading. A grading plan showing existing and proposed contours within and immediately adjacent to the proposed land development. When new streets are involved in the land development they shall comply as applicable with Section 9-13-9-13 of this Unified Land Development Code. Land development projects within the Limestone Parkway Overlay Zone shall meet the requirements of Chapter 9-8-3 of this Unified Land Development Code, as applicable.

(j) Site Design Review. Unless accomplished independently, the application for land development shall include information sufficient to meet the requirements for site design review and approval as specified in Article 9-9 of this Unified Land Development Code.

Section 9-13-7-3. Preparation by Professional.

All civil design and construction plans and supporting studies shall be prepared by or under the supervision of a registered professional engineer and stamped by said registered professional engineer. All other maps, drawings and supportive computations required to be submitted by this Article shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying or erosion and sediment control, as applicable to the type of plan submitted.

Section 9-13-7-4. Separate Requirements for Phased Applications.

If the tract is to be developed in phases, then a separate land development permit or grading permit, or both if applicable, shall be required for each phase.

Section 9-13-7-5. Relationship of Permit to Plat Approval.

An application for preliminary plat approval may be processed independently or in conjunction with an application for issuance of a land development permit. Applicants are cautioned, however, that the preliminary plat approval is discretionary with regard to compliance with the comprehensive plan and design requirements of this Article, and therefore, proceeding simultaneously with preliminary plat and land development permit applications may result in the revision of engineering plans if the layout of the preliminary plat of the proposed subdivision must be modified.

Section 9-13-7-6. General Application Requirements for Land Development Permits.

No person shall conduct any land-disturbing activity within the city without first applying for and obtaining a land development permit from the Planning Department to perform such activity. The application for a land development permit shall be submitted to the Planning Department and must include the following:

(f) Application form. Application on the form completed by the Planning Department. The Planning Department may choose to complete this form for the applicant.

(g) Civil design drawings and construction plans. A set number, as fixed from time to time by the Director of Planning and Development, of copies of the applicable civil design and construction drawings, including the appropriate number of copies of an erosion and sediment control plan with supporting data, as appropriate to the proposed project, and any other plans specified by this Article and applicable to the

proposed development. Said plans shall include, as a minimum, the data and conform to the specifications and standards specified in this Chapter.

(h) Statement of taxes paid. A statement by the Hall County Tax Commissioner certifying that all ad valorem taxes levied against the property and due and owing have been paid. No land development permit shall be issued unless the applicant provides such a statement.

(i) Fee. Payment of any land development permit fee, as established from time to time by the Governing Body.

(j) Plat or plan prior approvals or applications. A copy of the approved preliminary plat, if subdivision is required and preliminary plat approval has been obtained, or an application for preliminary plat approval.

The application shall be checked for completeness at the time of submission. Incomplete applications will not be processed and will be returned to the applicant.

Section 9-13-7-7. General Specifications for Drawings and Plans.

Unless otherwise specifically provided, each certified civil design plan and construction drawing required to be submitted by this Chapter shall at minimum conform to the following specifications:

(a) Graphic scale and north point or arrow indicating magnetic north.

(b) Vicinity map showing location of project and existing streets.

(c) Boundary line survey.

(d) Delineation of disturbed areas within project boundary.

Plans and drawings shall show existing and planned contours for the property and all land within fifty (50) feet of the proposed project boundaries, at a map scale of 1 inch = 100 feet or larger scale, with contour lines drawn with an interval in accordance with the following minimum contour intervals. The procedure or method used at arriving at the contour interval shall be indicated on the plans.

Ground Slope	Contour Interval in Feet
Flat 0-2%	0.5 or 1
Rolling 2-8%	1 or 2
Steep 8% +	2, 5, or 10

(e) Adjacent areas and features such as streams, lakes, residential areas, etc. which might be affected should be indicated on the plan.

(f) Proposed structures or additions to existing structures and paved areas.

(g) Delineate the required buffer width adjacent to state waters.

(h) Delineate the required horizontal greenway (buffer width) along designated trout streams, where applicable.

(i) A site location drawing of the proposed project indicating its location in relation to roadways, jurisdictional boundaries, overlay zones, streams and rivers, as well as the delineation of the 100-year flood plain and administrative floodplain (see Article 9-15 of this Unified Land Development Code), if existing, and the reference data used in making the 100-year or administrative flood plain determination.

(j) Computations, timing schedule and other supportive data required for review of the applicant's plan.

Section 9-13-7-8. Specifications for Erosion and Sediment Control Plans.

Erosion and sediment control plans shall meet the following minimum specifications, and also as provided in Article 9-14 of this Unified Land Development Code.

(a) Narrative or notes, and other information: Notes or narrative to be located on the site plan in general notes or in erosion and sediment control notes.

(b) Description of existing land use at project site and description of proposed project.

(c) Name, address, and phone number of the property owner.

(d) Name and phone number of 24-hour local contact that is responsible for erosion and sedimentation controls.

(e) Size of project, or phase under construction, in acres.

(f) Activity schedule showing anticipated starting and completion dates for the project. Include the statement in bold letters, that "the installation of erosion and sediment control measures and practices shall occur prior to or concurrent with land-disturbing activities."

(g) Stormwater and sedimentation management systems-storage capacity, hydrologic study, calculations including off-site drainage areas and other information as may be needed to satisfy the requirements of Articles 9-13 and 9-14 of this Unified Land Development Code.

(h) Location of erosion and sediment control measures and practices using coding symbols from the Manual for Erosion and Sediment Control in Georgia, Chapter 6, and meeting the requirements of Article 9-14 of this Unified Land Development Code Practices may include, but are not limited to:

1. Construction exit.
2. Sediment barrier.
3. Sediment basin.
4. Grassed waterway (open swale).
5. Storm drain outlet protection.
6. A plan for temporary and permanent vegetative and structural erosion and sediment control measures.

(i) Vegetative plan for all temporary and permanent vegetative practices, including species, planting dates, and seeding, fertilizer, lime and mulching rates. The vegetative plan should show options for year-round seeding.

(j) Detail drawings for all structural practices. Specifications may follow guidelines set forth in the *Manual for Erosion and Sediment Control in Georgia*.

(k) Maintenance statement: "Erosion and sediment control measures will be maintained at all times. Additional erosion and sediment control measures and practices will be installed if deemed necessary by on-site inspection."

(l) A description of the sediment control program and sediment control practices.

(m) An adequate description of general topographic and soil conditions of the tract as available from the Hall County Soil and Water Conservation District.

(n) A description of the maintenance program for sediment control facilities including inspection programs, vegetative establishment of exposed soils, method and frequency of removal and disposal of solid waste material removed from control facilities and disposition of temporary structural measures.

Section 9-13-7-9. Specifications for Tree Plans.

Tree plans shall be required, which shall show the information specified in this section (for more detailed requirements please see Article 9-16, "Tree Protection and Landscaping," of this Unified Land Development Code). Tree plans involving development of five acres or more shall be prepared by a registered landscape architect or registered arborist.

(a) The extent of the development site.

(b) All significant trees and all other trees 10" DBH or larger which will remain on the development site and be protected during construction; and trees less than 10" DBH that are submitted for credit as part of the required minimum tree units per acre of development site (not including land area covered by buildings).

(c) In heavily wooded areas that will not be disturbed, the plan may show only the boundaries of each stand of trees and a list of the number, size, and type (e.g., hardwood, softwood; deciduous, evergreen) of trees in each stand which are submitted for credit. An averaging method may be used for large tracts of tree save areas.

(d) Areas subject to other provisions of this Unified Land Development Code regarding retention of undisturbed natural vegetative buffers shall also be shown.

(e) Locations of proposed and existing on-site utility lines and easements. Indicate areas where trees cannot be planted because of interference with (1) existing or proposed utilities on public rights-of-way or on utility rights-of-way or easements and (2) existing utilities on adjoining properties.

(f) Limits of land disturbance, clearing, grading, and trenching.

(g) Limits of tree conservation areas, showing trees to be maintained and planted, specifying type and size. Tree protective fencing shall be delineated and labeled on all sheets of plans/plats.

(h) Grade changes or other work adjacent to a significant tree or any other tree 10" DBH or larger which would affect it adversely, with drawings or descriptions as to how the grade, drainage, and aeration will be maintained around the tree.

(i) Tree protective fencing diagram or illustration.

(j) Planting schedule, if applicable.

(k) Requirements for landscaping, as specified in Article 9-16 of this Unified Land Development Code.

Section 9-13-7-10. Specifications for Stormwater Management Report and Plans.

Stormwater management reports and plans shall be submitted and shall include all specifications of Article 9-13-12 of this Unified Land Development Code.

Section 9-13-7-11. Specifications for Street Improvement Plans.

Street improvement plans shall demonstrate compliance with Article 9-13-9 of this Unified Land Development Code, and where private streets are involved, compliance with Article 9-13-10 of this Unified Land Development Code. Such plans shall include the following:

(a) Center line profiles and typical street sections at fifty-foot (50-foot) intervals of all proposed streets. Profiles shall be drawn on standard plan and profile sheet with plan section showing street layout, pavement and right-of-way width, curvature, and required drainage facilities. Typical street sections shall be provided for street widenings.

(b) Where sanitary sewer or stormwater sewers are to be installed within a street, the grade, size, location and bedding class of pipe, and the location and invert elevation of manholes shall be indicated on the road profile.

(c) Center line profiles covering streets that are extensions of existing streets shall include elevations at fifty-foot (50-foot) intervals for such distance as may be adequate to provide continuity consistent with the standards required by this Unified Land Development Code for street improvements, but no less than 200 feet.

(d) All plan elevations shall be coordinated and sited into U.S. Coast and Geodetic Survey or Georgia Department of Transportation benchmarks where feasible or into reference monuments established by the Federal Emergency Management Agency.

(e) A street striping and signage plan, showing improvements in accordance with the *Manual on Uniform Traffic Control Devices*, latest edition as published by the Federal Highway Administration, shall be prepared for any street newly constructed or widened to four (4) or more lanes.

Section 9-13-7-12. Specifications for Structural Buffer Plans.

When required to be submitted (see Chapter 9-16-2 of this Unified Land Development Code), structural buffer plans shall provide the following

(a) All grading and construction details for earthen berms, walls and fences that are proposed as part of the visual screen.

(b) A planting plan showing the location and type of proposed plant materials.

(c) Typical cross-sections of the buffer illustrating the improvements proposed and typical location of vegetation. At least one cross-section shall be provided for each structural buffer.

Requirements for landscaping, as specified in Article 9-16 of this Unified Land Development Code, unless compliance is demonstrated on a separate landscape plan or through prior project site plan approval.

Section 9-13-7-13. Flood Plain Permit.

If development or construction is proposed within or affecting an area of special flood hazard (see Article 9-15 of this Unified Land Development Code), a flood area permit application shall be included with and reviewed along with a land development permit application. If a flood plain permit is required, the application shall also include the following:

(a) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings;

(b) Elevation in relation to mean sea level to which any nonresidential building will be floodproofed;

(c) Certificate from a registered professional engineer or architect that the nonresidential floodproofed building will meet the floodproofing criteria in Article 9-15 of this Unified Land Development Code; and

(d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

Section 9-13-7-14. Administration.

The Planning Department is responsible for administering the review and approval process for issuance of land development permits.

Section 9-13-7-15. Review of Permit Applications.

The Planning Department shall forward a copy of the permit application, including the civil design and constructions drawings for the project, to other City departments and government agencies or others as appropriate, for their review and comment. The applicant may be required by the Planning Department to secure development approval from other agencies if they are affected by (or have jurisdiction over) the development. Development approval may be required from but not limited to:

(d) The Gainesville Public Utilities Department.

(e) The Gainesville Public Works Department.

(f) The Hall County Public Works Department.

(g) The Hall County Soil and Water Conservation District.

(h) Gainesville Fire Department.

(i) Hall County Environmental Health Department.

(j) Georgia Department of Transportation.

(k) Georgia Department of Natural Resources.

(l) U.S. Army Corps of Engineers.

(m) U.S. Environmental Protection Agency.

Upon receipt of comments from other City departments and external agencies as appropriate, the Planning Department shall provide all comments to the applicant for resolution and as appropriate shall indicate on a copy of the civil design and construction drawings or in writing all comments related to compliance with this Article or Unified Land Development Code, conditions of zoning approval, and other city regulations, as appropriate.

Section 9-13-7-16. Review of Soil Erosion Plans.

Upon receipt of a land development permit application, the Planning Department shall refer the soil erosion and sediment control plan to the Hall County Soil and Water Conservation District and the Gainesville Public Works Department for its review and approval or disapproval concerning the adequacy of the erosion and sediment control plan. The results of the District and Public Works Department reviews shall be forwarded to the Planning Department. No land development permit shall be issued unless the plan has been approved by the District and the Public Works Department, and any variances and bonding, if required, have been obtained.

Section 9-13-7-17. Action on Permit Applications.

The applicant shall be responsible for compliance with all codes, regulations, and zoning requirements and for the satisfaction of all of the comments of reviewing city departments, external agencies, and the Planning Department. Although review may have been achieved, if another city department or external agency requires approval or permit, the owner shall also be responsible for obtaining approval from all other agencies affected by the project prior to issuance of the land development permit by the Planning Department.

No land development shall be issued unless the erosion and sediment control plan has been approved by the Soil and Water Conservation District and the Public Works Department, and that the Planning Department has affirmatively determined that the plans required are in compliance with all requirements of this Article and the Unified Land Development Code.

If the land development permit is denied, the reason for denial shall be furnished to the applicant. Following satisfaction of all comments from the City and external agencies and receipt of approvals from all affected agencies, the Planning Department shall issue a land development when all requirements of this Article and the Unified Land Development Code are met. Such approval authorizes land-disturbing activities to begin based on the approved civil design and construction drawings.

Section 9-13-7-18. Permits for Annexed Lands.

If the tract, for which a land development permit is sought, is being annexed into the city, then a land development may not be issued until the date the annexation becomes effective pursuant to State law under O.C.G.A. 36-36-2. No application for a land development or building permit shall be filed on newly annexed property until the first of the month following the annexation approval date.

Section 9-13-7-19. Responsibilities Limited.

Approval of plans by the Planning Department shall not imply or transfer acceptance of responsibility for the application of the principles of engineering, architecture, landscape architecture, or any other profession, from the professional, corporation, or individual under whose hand or supervision the plans were prepared.

The completion of inspections by the City and authorization for work continuation shall not transfer responsibility for the quality of the work performed or materials used from the owner, nor imply or transfer acceptance of responsibility for project design or engineering from the professional, corporation, or individual under whose hand or supervision the plans were prepared.

The approval of an erosion and sediment control plan or other plans under the provisions of this Article and the Unified Land Development Code, the issuance of a land development permit, or the compliance with the provisions of this Article and the Unified Land Development Code shall not relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the City or the Soil and Water Conservation Commission District for damage to any person or property.

The fact that any activity for which a land development 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 Article and the Unified Land Development Code or the terms of the permit.

Section 9-13-7-20. Bond Requirements for Violators of Soil Erosion and Sedimentation Regulations.

If the applicant has had two or more violations in the city of previous land development, this Article and the Unified Land Development Code as it pertains to soil erosion and sediment control, or the Georgia Erosion and Sedimentation Act, as amended, within three years prior to the date of filing of the application under consideration, the Director of Planning and Development may deny the land development permit application, or may require the applicant to post a performance bond prior to issuing the land development. If the applicant does not comply with this Article and the Unified Land Development Code, or with the conditions of the permit after issuance, the Planning Department may call the performance bond or cause 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.

Section 9-13-7-21. Suspension, Revocation, or Modification.

The land development permit may be suspended, revoked, or modified by the City, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in title is not in compliance with the approved Erosion and Sediment Control Plan or that the holder or his successor in title is in violation of this Unified Land Development Code. A holder of a land

development 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 land development permit.

Section 9-13-7-22. Expiration of Permit Approval.

A land development permit shall expire within one (1) year from the date of issuance.

CHAPTER 9-13-8
IMPROVEMENT REQUIREMENTS GENERALLY

Section 9-13-8-1. Applicability.
Section 9-13-8-2. Survey Monumentation.
Section 9-13-8-3. Streets.
Section 9-13-8-4. Stormwater Management.
Section 9-13-8-5. Sidewalks.
Section 9-13-8-6. Traffic Control Devices.
Section 9-13-8-7. Public Water.
Section 9-13-8-8. Fire Hydrants.
Section 9-13-8-9. Sanitary Sewerage.
Section 9-13-8-10. Design Variance.

Section 9-13-8-1. Applicability.

The improvements specified in this Chapter shall be provided by the subdivider or developer or at the subdivider's or developer's expense in every subdivision or land development in accordance with the standards contained in this Article and the Unified Land Development Code.

Section 9-13-8-2. Survey Monumentation.

Survey monumentation of the public streets and lot lines in a subdivision shall be provided, where applicable. See also Section 9-13-3-10 of this Unified Land Development Code.

Section 9-13-8-3. Streets.

Streets, whether public or private, shall provide access to a development and to all lots in a subdivision, including the extension of streets required to provide access to adjoining properties.

(a) Streets contained wholly within a subdivision shall be improved to the full standards contained in Chapter 9-13-9 of this Article. Streets that adjoin a development shall be improved to the minimum standards of a local street from the center line of the street along the development's frontage.

(b) Streets in nonresidential areas or serving a multi-family development shall be improved to "collector" street standards. In residential subdivisions, streets that serve 100 dwelling units or more shall be improved to "collector" street standards, while those serving fewer than 100 dwelling units shall be improved to "local" street standards.

(c) The City may participate in sharing the costs of construction and installation to the extent that improvements are needed to bring an existing public street to a higher level of classification than required to exclusively serve the subdivision or development.

(d) Curb and gutter shall be required along all streets and internal roadways. See also Section 9-13-9-23 of this Unified Land Development Code.

Section 9-13-8-4. Stormwater Facilities.

Stormwater drainage and detention facilities shall be provided as required by the Public Works Director and in accordance with Chapter 9-13-12 of this Article.

Section 9-13-8-5. Sidewalks.

Minimum five foot (5') wide sidewalks shall be provided along each side of any street within or adjacent to the development, in accordance with Section 9-13-9-26 of this Unified Land Development Code.

Section 9-13-8-6. Traffic Control Devices.

Street name signs, stop bars and traffic control signs shall be installed by the City at the developer's expense. See also Section 9-13-9-25 of this Unified Land Development Code.

Section 9-13-8-7. Public Water.

Public water service shall be provided to every lot in a subdivision and to every development for both domestic use and fire protection, as more specifically provided in Chapter 9-13-11, "Utilities," of this Article.

Water mains shall be connected to the existing City water system and extended past each lot. A contractor approved by the City shall install all elements of the water system, including mains, valves and hydrants at the developer's expense. The Governing Body may elect to participate in sharing the costs of construction and installation to the extent that pipe sizes are needed in excess of that size required to exclusively serve the subdivision or development.

Section 9-13-8-8. Fire Hydrants.

Fire hydrants shall be located along the streets in every subdivision and within every development project, as approved by the City of Gainesville Fire Department and the Director of Public Utilities.

Section 9-13-8-9. Sanitary Sewerage.

Every lot in a subdivision and every development shall be connected to the City's public sanitary sewerage system unless on-site disposal is approved by the Public Utilities Department and the Hall County Environmental Health Department. Sewer lines shall be connected to the existing sanitary sewerage system and extended past each lot, as more specifically provided in Chapter 9-13-11, "Utilities," of this Article.

Every element of the sanitary sewer system, including mains, lift stations, outfalls, and laterals, shall be installed at the developer's expense by a contractor approved by the City. The Governing Body may elect to participate in sharing the costs of construction and installation to the extent that sewer mains or related improvements are needed in excess of the facilities required to exclusively serve the subdivision or development.

Section 9-13-8-10. Design Variance.

The Director of Public Works is authorized to, upon application, approve variances to the design requirements of this Article, for good cause shown. Such application for variance shall be processed in conjunction with a preliminary plat application or land development permit application as appropriate.

CHAPTER 9-13-9
DESIGN REQUIREMENTS FOR STREETS

Section 9-13-9-1. Access.
Section 9-13-9-2. Conformance to Adopted Major Thoroughfare and Other Plans.
Section 9-13-9-3. Continuation of Existing Streets.
Section 9-13-9-4. Street Plans for Future Phases of the Tract.
Section 9-13-9-5. Development Along Arterial Street or Limited Access Highway.
Section 9-13-9-6. Separation of New Streets along Arterial Street.
Section 9-13-9-7. Street Names.
Section 9-13-9-8. Street Alignment, Intersections, and Jogs.
Section 9-13-9-9. Minimum Street Right-of-Way Widths.
Section 9-13-9-10. Perpetual Easement.
Section 9-13-9-11. Pavement Widths.
Section 9-13-9-12. Grading.
Section 9-13-9-13. Street Grades.
Section 9-13-9-14. Sight Distance.
Section 9-13-9-15. Horizontal Alignment.
Section 9-13-9-16. Curb Line Radii.
Section 9-13-9-17. Design Speed.
Section 9-13-9-18. Alleys.
Section 9-13-9-19. Dead End Streets.
Section 9-13-9-20. Street Base.
Section 9-13-9-21. Pavement Binder and Topping.
Section 9-13-9-22. Testing Requirements.
Section 9-13-9-23. Curb and Gutter.
Section 9-13-9-24. Turning Lanes.
Section 9-13-9-25. Street Name Signs and Traffic Control Signs.
Section 9-13-9-26. Sidewalks.
Section 9-13-9-27. Location of Utilities in Streets.
Section 9-13-9-28. Pavement Cuts.
Section 9-13-9-29. Street Lighting.
Section 9-13-9-30. Street Trees.

Section 9-13-9-1. Access.

(a) Every development and every lot within a subdivision shall be served by a public street meeting the requirements of this Chapter or an approved private street meeting the requirements of this Chapter and Chapter 9-13-10 of this Unified Land Development Code.

(b) Every development and every subdivision shall have access to the public street system via a paved roadway.

(c) When land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged and designed so as to allow for the opening of future streets and to provide access to those areas not presently served by streets.

(d) No subdivision or development shall be designed in a way that would completely eliminate street access to adjoining parcels of land.

(e) Reserve strips, as defined in Chapter 9-13-2 of this Article, shall be prohibited.

Section 9-13-9-2. Conformance to Adopted Major Thoroughfare and Other Plans.

All streets and other features of the adopted comprehensive plan shall be platted by the subdivider or installed by the land developer in the location and if any, to the dimensions indicated on the Major Thoroughfare Plan or transportation element of the comprehensive plan adopted by the Governing Body, as well as the transportation plan of the Metropolitan Planning Organization (MPO).

Section 9-13-9-3. Continuation of Existing Streets.

Streets existing at the property line of a subdivision or land development, or which terminate within the boundaries of a subdivision or land development, shall be continued at the same or greater width, but in no case less than the required width. The Director of Planning and Development may waive this requirement in instances where in his or her opinion such continuation or extension would be undesirable or incompatible with surroundings.

Where, in the opinion of the Director of Planning and Development, it is necessary to provide for street access to adjoining property, proposed streets shall be extended by dedication of right-of-way to the boundary of such property through the subdivision or land development.

Section 9-13-9-4. Street Plans for Future Phases of the Tract.

Where land proposed to be subdivided or developed includes only part of the tract owned by the subdivider or land developer, a tentative plan of a future street system for the portion not slated for immediate subdivision or land development consideration shall be required by the Director of Planning and Development. When such tentative plan is required, it shall be prepared and submitted by the subdivider or land developer at the time of submission of an application for preliminary plat, if required, or land development plan permit.

Section 9-13-9-5. Development Along Arterial Street or Limited Access Highway.

Where a subdivision or land development abuts or contains an arterial street or a limited access highway, the Director of Planning and Development may require a street to be constructed approximately parallel to and on each side of such right-of-way, from which the lots or land development shall be accessed instead of the arterial street or limited access highway. In such cases, the Director of Planning and Development shall require a ten-foot-wide no-access easement planted to prohibit travel across it.

Section 9-13-9-6. Separation of New Streets along Arterial Street.

Subdivision streets that intersect an arterial street shall do so at intervals of not less than 800 feet, or as required by the Georgia Department of Transportation, whichever is greater.

Section 9-13-9-7. Street Names.

Street names shall be reviewed for correct usage and reasonable meanings consistent with the language used and are subject to the approval of the Director of Planning and Development or designee. For instance, the term “parkway” shall not be appropriate for an undivided, two-lane road. Streets that are a continuation of or in alignment with existing named streets shall be given the name of the existing street. Names of new streets shall not duplicate or closely approximate those of existing streets in the City or County, regardless of the use of any suffix such as “street,” “avenue,” “boulevard,” “drive,” “place,” “way,” “court,” or other designation.

Section 9-13-9-8. Street Alignment, Intersections, and Jogs.

Streets shall be aligned to join with planned or existing streets. Streets shall be laid out so as to intersect as nearly as possible at right angles (90 degrees), but in no case shall such a street intersection be less than 80 degrees. Where street offsets or jogs cannot be avoided, offset "T" intersections shall be separated by a minimum centerline offset of 200 feet.

Section 9-13-9-9. Right-of-Way Widths.

All State or U.S. numbered highways shall meet all design requirements of and be approved by the Georgia Department of Transportation. The right-of-way width shall be the distance across a street from lot line to lot line. Minimum right-of-way widths shall be as required in Table 9-13-9-1.

TYPICAL STREET SECTION A

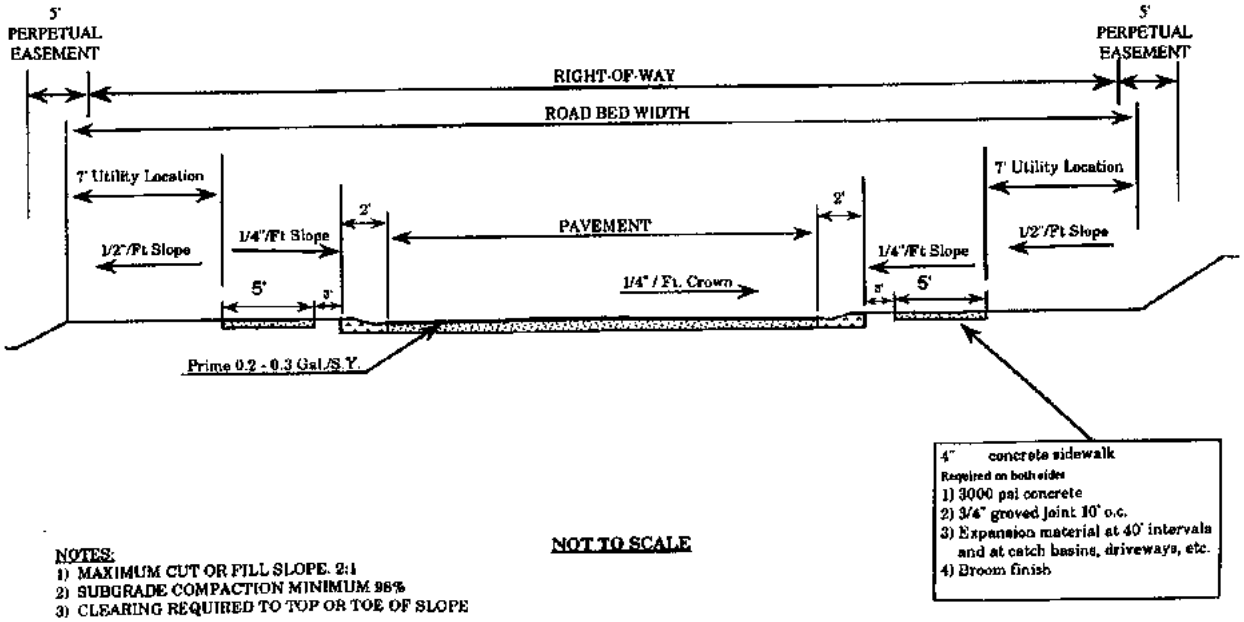


TABLE 9-13-9-1
STREET IMPROVEMENT REQUIREMENTS

Requirement	Arterial Street	Collector Street	Local Street	Alley
Right-of-way, minimum (feet)	Per Georgia DOT	60’	50’	30’
Roadway width (feet)	Per Georgia DOT	32’	28’	20’
Pavement width, minimum (feet)	Per Georgia DOT	28’	24’	16’ plus curbs if required or provided
Grade, maximum (percent)	6%	10%	12%	12%
Grade, minimum (percent)	1%	1%	1%	1%
Site distance, minimum (feet)	Per Georgia DOT	250’	200’	150’
Radius of curvature of the center line, minimum (feet)	Per Georgia DOT	500’	275’	200’
Tangent, minimum (feet)	Per Georgia DOT	200’	100’	100’
Design speed (miles per hour)	Per Georgia DOT	35 miles per hour	30 miles per hour	20 miles per hour
Cul-de-sac turnaround radius, back of curb (feet)	N/A	N/A	42’	40’
Street base, graded aggregate base, (GDOT Sec. 310) (inches)	Per Georgia DOT	8 inches	6 inches	Per Director of Public Works
Street base, soil cement Base “B” (GDOT Sec. 301) (inches)	Per Georgia DOT	8 inches	6 inches	Per Director of Public Works
Pavement topping, primer (gallons per square yard)	Per Georgia DOT	0.25 gallons per square yard	0.25 gallons per square yard	Per Director of Public Works
Pavement, binder (inches)	Per Georgia DOT	2½ inches B	2½ inches B	Per Director of Public Works
Pavement topping (inches)	Per Georgia DOT	1½ inches E or F	1½ inches E or F	Per Director of Public Works
Pavement, total (inches)	Per Georgia DOT	4 inches	4 inches	Per Director of Public Works
Curb and gutter (dimensions in inches)	Per Georgia DOT	6” x 24” combination	6” x 24” combination	Per Director of Public Works

Section 9-13-9-10. Perpetual Easement.

A five-foot wide perpetual easement shall be provided outside of the right-of-way line along both sides of all collector and local streets. See Typical Street Section A.

Section 9-13-9-11. Pavement Widths.

Street pavement widths, as measured from back-of-curb to back-of-curb, shall be provided as required in Table 9-13-9-1. All roadways shall be constructed according to methods as contained in the most recent version of the Georgia Department of Transportation *Standard Specifications for Roadway Construction*, unless otherwise approved by the Director of Public Works.

Section 9-13-9-12. Street Grades.

Maximum and minimum street grades shall be as specified in Table 9-13-9-1. In addition, the grade across a cul-de-sac in all directions may not exceed 5 percent. All changes in grade shall be connected by a vertical curve so constructed as to afford a minimum sight distance, said sight distance being measured from the driver's eyes, which are assumed to be 45 inches above the pavement surface, to an object 6 inches high on the pavement.

Section 9-13-9-13. Grading.

(a) Grading of full width. All streets, roads and alleys shall be graded to their full width by the developer so that pavement extensions or sidewalks, where required or if installed in the future, can be constructed on the same level plane.

(b) Clearing. Before grading is started the entire area to be paved shall be first cleared of all stumps, roots, brush and other objectionable materials. In all areas to be graded or filled, the developer shall stockpile the topsoil later to be spread in all disturbed areas not paved.

(c) Slopes and shoulder improvements. The maximum slope for all fill or cut slopes shall be 2 feet of run for each 1 foot of rise or fall. The minimum width for all shoulders on local or collector streets from back edge of the curb shall be 11 feet. All shoulders shall slope one-fourth (¼) inch to the foot toward the roadway. When all construction is completed, all slopes and shoulders shall be cleared of all rubbish and shall have a stand of grass to prevent undue erosion, either by sprigging or seeding. Abutting property shall be suitably sloped to the right-of-way line.

(d) Protection of banks. Immediately after grading and filling and re-spreading of topsoil, all areas of disturbed soil shall be fertilized and seeded (or in steep areas sodded or otherwise appropriately treated) with suitable vegetative cover to prevent erosion.

(e) Installation of utilities. After grading is completed and approved, the curb lines shall be staked by the developer's Registered Land Surveyor. Before any base is applied, all of the underground utilities that are to be located under the roadway are to be installed completely or otherwise provided in accordance with Public Works requirements. For proper location of utilities, see Section 9-13-9-27 of this Unified Land Development Code.

(f) Authorization. No private improvements, such as private lawn sprinkler systems, yard lighting, and the like, shall be installed within a public right-of-way except by authorization of the Director of Public Works. Such authorization, if issued, shall require the owner to assume all repair costs of the owner's and the City's facilities should they become damaged.

(g) Preparation of subgrade. Prior to placement of the street base, the subgrade shall be compacted to 95% density.

(h) Street base, curbing and paving. Street base, curbing and paving shall be installed by the developer in accordance with the requirements and standards of this Article.

Section 9-13-9-14. Sight Distance.

The minimum sight distance shall be as specified in Table 9-13-9-1.

Section 9-13-9-15. Horizontal Alignment.

Where a deflection angle of more than 10 degrees in the alignment of a street occurs, the radius of curvature of the center line of said street shall be not less than as specified in Table 9-13-9-1. Tangents shall be as specified in Table 9-13-9-1.

Section 9-13-9-16. Curb Line Radii.

Curb lines at street intersections shall have a radius of curvature of not less than 25 feet. Intersecting street right-of-way lines shall be rounded with a radius of no less than 25 feet.

Section 9-13-9-17. Design Speed.

Horizontal curves and superelevation shall be designed in accordance with the requirements specified in Table 9-13-9-1.

Section 9-13-9-18. Alleys.

Where an alley has been specifically authorized by the Director of Public Works, it shall comply with the standards specified in Table 9-13-9-1. In addition, dead-end alleys shall be provided with a turn-around having a radius of at least 40 feet.

Section 9-13-9-19. Dead End Streets.

(a) Only local streets and alleys may be dead-end streets.

(b) A cul-de-sac shall be no more than 600 feet long unless necessitated by topographic or other conditions and approved by the Director of Planning and Development. Such a street shall be provided at the closed end with a turnaround having a right-of-way radius of 53 feet and pavement radius of 40 feet (42 feet radius to back of curb).

(c) A reverse curve joining a cul-de-sac turn-around to a street section shall have a right-of-way radius of 29 feet and a radius to the back of curb of 40 feet (42 feet to edge of pavement).

(d) A permanent dead-end street other than a cul-de-sac shall not be allowed, except as a temporary stage of construction of a street that is intended to be extended in a later stage of construction. Such a temporary dead-end street shall be provided with a temporary turn-around within the right-of-way if one or more lots front exclusively on the street; and, extension of the street is not under construction when the Final Plat is submitted for recording.

(e) Temporary turnarounds shall consist of a tack coat and 1 inch of asphalt and have a radius of at least 40 feet.

Section 9-13-9-20. Street Base.

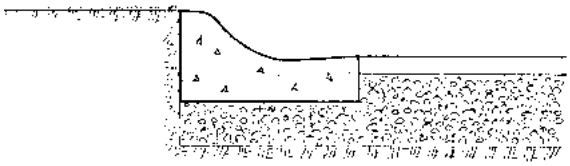
Street base material shall conform to the requirements of Table 9-13-9-1.

Soil cement base shall contain a minimum 10 percent Portland Cement by volume. Soil cement base may be allowed only under the following conditions:

(a) None of the streets exceed 8 percent grade.

(b) Tests taken every 1,000 feet of roadway shall show that the soil meets Class “B” standards of the Georgia Department of Transportation. The tests shall be conducted by a qualified geotechnical laboratory and the results filed with the City in order to obtain authorization to proceed.

(c) The street base shall extend fully under combination curb and gutter (as illustrated below).



Section 9-13-9-21. Pavement Binder and Topping.

Streets shall be paved with a top course meeting the standards specified in Table 9-13-9-1. If two-stage paving is approved by the Director of Public Works, the developer shall place a binder course on the street and delay final paving until the end of the 1-year maintenance period.

All pavement sections shall be designed by a qualified Professional Engineer with registration in the State of Georgia based on 20-year projected traffic loads for that section and the existing subgrade conditions. The minimum acceptable pavement sections shall meet the specification contained within this Chapter.

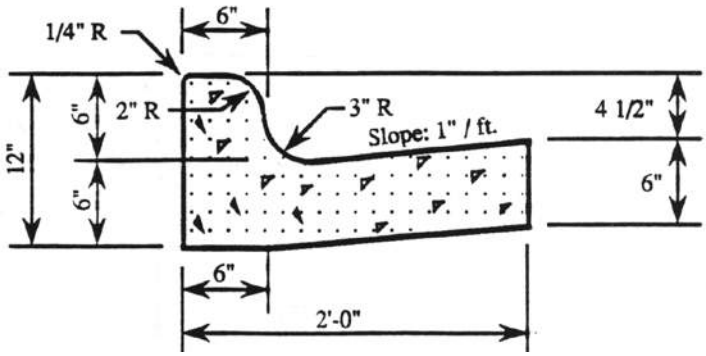
Section 9-13-9-22. Testing Requirements.

It is the responsibility of the developer to insure that all required tests are made and reported to the Public Works Department. The cost of all testing and quality control shall be performed at the expense of the developer by qualified testing laboratories.

Testing Requirements		
Type of Test to be Performed	**Minimum Number of Tests**	**Testing Standards**
Sub-grade Compaction	Each 500 linear feet of roadway	95% Max Density ASTM-1557 Field Tests ASTM D-1556 F-2922 and D-2167
Base Compaction	Each 500 linear feet of roadway	100% Max Density ASTM-1557 Field Tests ASTM D-1556 F-2922 and D-2167
Asphalt Density	Each 1,000 linear feet of roadway	92% Laboratory Density
Asphalt Thickness	Each 500 linear feet of roadway	Deficient in thickness not more than ¼”

Section 9-13-9-23. Curb and Gutter.

All streets shall be provided with a combination curb and gutter of 3,000 psi Portland cement concrete, or with a header curb of the same material at median or cul-de-sac islands. Curbing along streets shall meet one of the following standards: Along the outer edge of all roadways, 6 by 24-inch combination (full face) curb:



For use along medians only, 6-inch header curb.

(a) Adequate storm drainage structures shall be provided. The combination curb and gutter or header curb shall be constructed so as to present a smooth, even line both horizontally and vertically. Preshaped joints shall be placed every 50 feet along the curb line.

(b) Valley gutters shall not be allowed across local streets at street intersections.

(c) If a development is proposed on a parcel where multiple driveways exist, the owner/developer shall be responsible for removing all existing driveway curb cuts and aprons and replacing them with standard curb and gutter. Only new driveways constructed to current standards shall be allowed.

Section 9-13-9-24. Turning Lanes.

Turning lanes may be required at all entrances to subdivisions and industrial and commercial developments that front on arterial and collector streets. Turning lanes shall be 12 feet in width plus curb and gutter for a minimum distance of 200 feet measured from the intersection of the right-of-way lines.

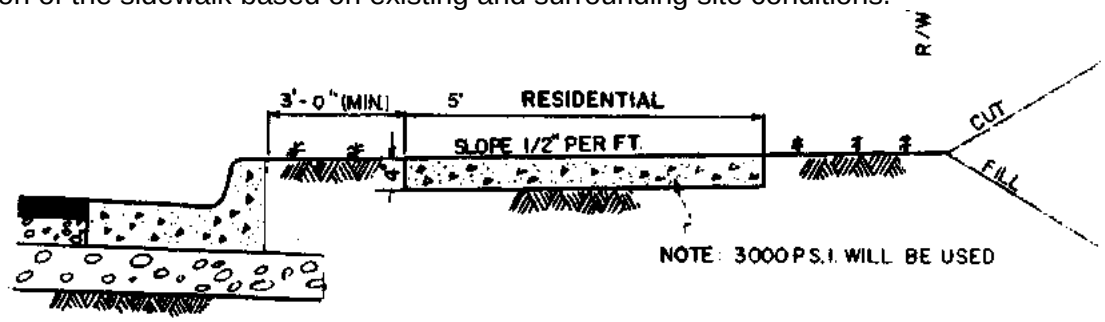
Section 9-13-9-25. Street Name Signs and Traffic Control Signs.

Street name signs of a type approved by the City shall appear at all intersections. Traffic control signs shall be placed by the City and conform to the U.S. *Manual on Uniform Traffic Control Devices*, latest edition.

Section 9-13-9-26. Sidewalks.

Minimum five foot (5') wide sidewalks shall be installed along all new streets. In addition, the Director of Public Works shall require the subdivider or land developer to install, along the entire property frontage, minimum five foot (5') wide sidewalks on streets leading to or going through commercial areas, school sites, places of public assembly, and other congested areas, and along existing streets abutting the subdivision or land development, or as may be otherwise specified in the City's Comprehensive Plan.

Where required or provided, sidewalks shall be located not less than one foot (1') from the property line to prevent interference or encroachment by fencing, walls, hedges or other plantings or structures placed on the property line at a later date. Sidewalks shall be constructed of concrete no less than 4 inches (4") in depth, and located no less than 3 feet (3') from the back of the curb. All sidewalks shall be constructed to conform to requirements of the Americans with Disabilities Act. The Director of Public Works, in accordance with Section 9-13-8-5 of this Unified Land Development Code, may administratively vary the width and location of the sidewalk based on existing and surrounding site conditions.



TYPICAL SECTION OF SIDEWALK
N.T.S.

Section 9-13-9-27. Location of Utilities in Streets.

(a) Above-Ground Utilities. Telephone poles, street light poles, telephone junction boxes and other public or private utility structures placed above ground within a street right-of-way must be at least 8 feet back from the back of the street curb and 1 foot back from the edge of the sidewalk, whichever is farthermost from the roadway.

(b) Underground Utilities. Utilities placed underground shall be placed within the right-of-way as follows (see Typical Street Section B).

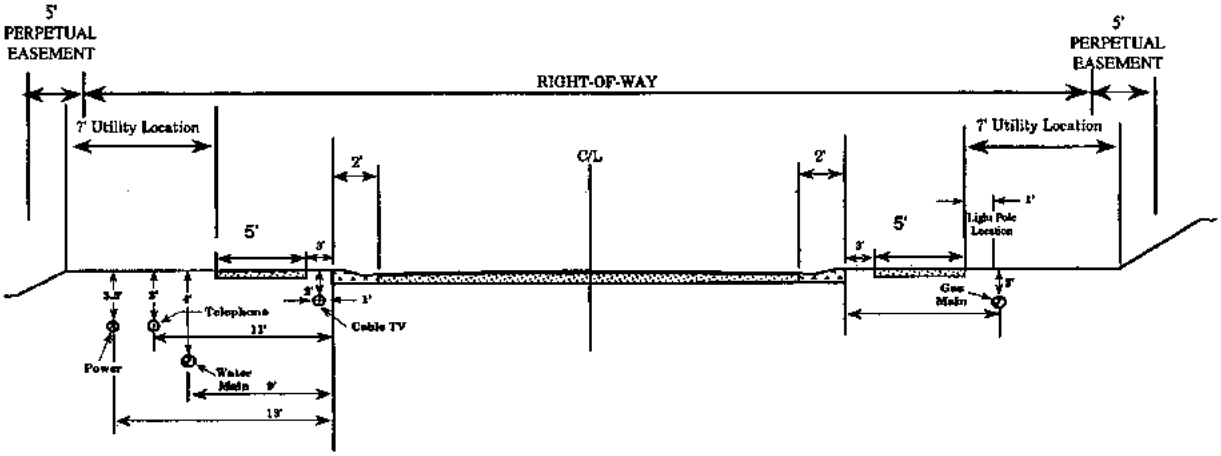
(c) Sanitary Sewer. Sanitary sewer when placed within a street right-of-way, shall have a minimum of 4 feet of cover and provide a minimum slope of laterals to abutting properties of 1 percent.

(d) Location of utilities. Other utilities, when placed underground along the roadway, shall be located in the shoulder of the road and shall be placed at the following distances measured from the back of curb or edge of pavement, and placed at or below the depths indicated as follows:

Location of Utilities		
Type of Utility by Side of Street	**Back from curb or pavement**	**Minimum depth**
TV Cable	1.0 feet	2.0 feet
Gas Main	9.0 feet	2.0 feet
Water Main	9.0 feet	4.0 feet
Telephone Cable	11.0 feet	2.0 feet
Power	13.0 feet	3.5 feet

Water and gas mains must be placed on opposite sides of the street. All utilities that will cross under pavement shall be installed completely throughout the subdivision prior to any roadway base being applied. Installation of approved utility sleeves shall be considered as an alternate.

TYPICAL STREET SECTION B
LOCATION OF UTILITIES



NOTES:
1) Standard detail for utility location within right-of-way of residential subdivisions.
2) Before any utility is installed, the entire width of the R/W shall be final graded, and all concrete curbing set at final grades.
3) In general, the deepest utilities should be installed first to minimize any possible interference with laterals or service lines.

NOT TO SCALE

Section 9-13-9-28. Pavement Cuts.

Pavement cuts across local streets shall conform to the following:

(a) Pavement cuts for the installation of utilities shall be avoided whenever possible. Utility crossings shall be bored across any arterial, subject to the approval of the Georgia DOT, and across any collector unless a pavement cut is approved by the Director of Public Works.

(b) Pavement cuts across local streets shall be permitted, provided the road is repaired with at least 6 inches of 3000 psi Portland cement and topped with at least 2½ inches of E or F hot plant mix asphaltic cement. The top of the concrete pad shall not exceed the elevation of the aggregate base course of the original road construction.

Section 9-13-9-29. Street Lighting.

(a) Roadway illumination standards. In order to insure adequate illumination of public rights-of-way and promote safety and security, the "American National Standard Practice for Roadway Lighting of the Illuminating Engineering Society" as approved by the American National Standards Institute (1993), as amended, is hereby adopted as the standard for the installation and operation of lighting in the City of Gainesville with the following exception:

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 foot-candle illumination level by roadway classification shall be as provided in the table below:

Roadway Classification	Commercial Area	Intermediate Area	Residential Area
Major	1.2	0.9	0.6
Collector	0.8	0.6	0.4
Local or Residential	0.6	0.5	0.3

The uniformity of illumination shall be such that the point of lowest illumination shall have at least one-third of the average horizontal foot-candle required illumination level, except that on local or residential streets it may not be less than one-sixth of this average. Unless extenuating circumstances exist, fixtures for residential street lighting shall not be required to be closer than 200 feet, nor fixtures for all other roadways be closer than 100 foot spacing. If pole top fixtures are used, spacing should range between 125 feet to 150 feet.

(b) Plans, approval, and appeal. Any party requesting permission to install or operate lighting fixtures within public and private rights-of-way shall furnish plans and specifications to the Director of Public Works for approval showing how the proposed lighting meets the standards of this Section. No lighting shall be installed or operated without the approval of the Director of Public Works. Should the Director of Public Works disapprove a request to install lighting fixtures within any public right-of-way, he shall communicate disapproval in writing to the party requesting approval. The written communication shall include specific reasons for disapproval. Any disapproval of a light or lighting system may be appealed to the Planning and Appeals Board. If any party desires to appeal an adverse decision by the City Engineer within ten days from the date following the written notice of disapproval, it shall be the responsibility of the Director of Public Works to transmit forthwith to the Planning and Appeals Board all papers and allied documents constituting the record upon which the action appealed was taken, and to insure that the appeals promptly placed upon the agenda of the Planning and Appeals Board for its determination. The Planning and Appeals Board may reserve or affirm, wholly or partly, or may modify, the order, requirement, and decision of determination appealed.

(c) Security and other lights. Roadway or street lighting luminaries or fixtures installed within the public or private 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 insure that the lateral light distribution pattern is parallel to the street and the vertical light distribution, at the initial source, is perpendicular to the street, so as to protect the users of the street from objectionable glare. The approval of the Director of Public Works shall be obtained prior to installation of such lights. Other lighting fixtures to be installed within or outside of public or private rights-of-way for whatever purpose shall be installed and operated in such a manner so as to prevent glare from being a hazard to or interfering with the normal use of the public or private rights-of-way.

(d) Procedures for approval in subdivisions. Street lights shall be required to be provided by the developers of all new subdivisions involving new streets, unless waived by the Governing Body on recommendation from the Planning and Appeals Board. Unless so waived, the developer, at the time of submission of the preliminary

plat of the subdivision shall present a street light layout approved by the utility company which will provide the street light service in the subdivisions. At the time of and as a requirement of the submission of a final plat, unless waived by the Governing Body on recommendation of the Planning and Appeals Board as herein provided, the developer shall:

1. Submit a final street light layout approved by the utility company which will provide the lighting service showing exact location of street lights within the subdivision. This drawing (lighting layout) must be approved by the Director of Public Works prior to obtaining any building permit within that subdivision. Fixtures and standards/poles installed or used shall be approved by the utility company which will be responsible for the maintenance of the facilities in the City. The fixtures shall be mounted a minimum of 13 to 16 feet above the ground, and shall have appropriate design to place the majority of the light output over the street. One light shall be located in each cul-de-sac within the subdivision, as well as each intersection.

2. Pay all costs for standards/poles, fixtures, and any other related items or materials necessary for the installation thereof.

3. Submit proof of payment for complete installation to the Director of Public Works.

(e) The above requirements must be met prior to obtaining any building permits for that subdivision and must be shown as a general note on the final plans.

Section 9-13-9-30. Street Trees.

(a) Optional. Street tree planting may be permitted within the rights-of-ways of new public streets and private streets within commercial, industrial, or residential subdivisions, subject to the approval of the Director of Public Works. See Chapter 9-8-7 for street tree planting requirements in the Midtown Overlay Zone.

(b) Plan Submittal and Approval. When street trees are to be provided, the subdivider, owner of land to be dedicated as a public street, or the developer of a private street shall at the time of preliminary plat approval submit a plan for the provision of street trees along all said roads which shall be subject to the approval of the Director of Public Works..

(c) Installation. It is the intent of this Section that where street trees are provided the subdivider or developer should carefully position street trees on the plan while taking into account sidewalk locations, utility locations, and, if not constructed simultaneously with the construction of the public or private street, future driveways. When street trees are provided, the subdivider or developer shall install said street trees, according to a plan approved by the Director of Public Works as a part of preliminary plat approval or land development permit approval, and prior to dedication or opening of said street. The Director of Public Works may accept an agreement by the subdivider where the responsibility for street tree planting is shifted to the owners or individual builders of the lots to be subdivided, upon their development. Any such responsibility shall be legally transferred in a form acceptable to the City Attorney.

(d) Location. Street trees must be planted within the public or private right-of-way or, if right-of-way width is insufficient to accommodate said street trees, then on private property within a street tree easement dedicated to the city.

(e) Guidelines. The guidelines below are intended to avoid conflicts with improvements; they are recommendations only and are subject to the approval of the Director of Planning and Development.

Mature Size	Minimum Width Of Tree Lawn	Spacing Between Trees	Overhead Utilities (If Permitted)	Distance From Signs, Utility Poles, Driveways, Fire Hydrants	Distance From Inter-Section	Distance From Under-Ground Utilities
Large 50-70 Feet	10 Feet	60 Feet	Do Not Plant	10 Feet	30 Feet	5 Feet
Medium 30-40 Feet	7.5 Feet	40 Feet	Do Not Plant	10 Feet	30 Feet	5 Feet
Small 15-20 Feet	5 Feet	20 Feet	Allowed with Planning Approval*	10 Feet	30 Feet	5 Feet
Evergreen 40-50 Feet	Yards Only	30 Feet	Do Not Plant	30 Feet	30 Feet	5 Feet

* Refer to Table 9-16-5-4.

ARTICLE 9-13-10
PRIVATE STREETS

Section 9-13-10-1. Private Streets Permitted.
Section 9-13-10-2. Engineering Plans Required.
Section 9-13-10-3. Standards for Private Streets.
Section 9-13-10-4. Street Names and Signs.
Section 9-13-10-5. Easements.
Section 9-13-10-6. Maintenance.
Section 9-13-10-7. Specifications for Final Plats Involving Private Streets.
Section 9-13-10-8. Purchaser's Acknowledgement.
Section 9-13-10-9. Gated Communities.

Section 9-13-10-1. Private Streets Permitted.

Private streets may, upon application, be permitted by the Director of Planning and Development, subject to the requirements of this Article. The Director of Planning and Development may impose conditions on the approval of private streets to ensure various public purposes and to mitigate potential problems with private streets. No final plat involving a private street shall be approved unless said final plat conforms to the requirements of this Article.

Section 9-13-10-2. Engineering Plans Required.

It shall be unlawful for any person, firm, or corporation to construct a new private street or alter an existing private street or to cause the same to be done without first obtaining approval of civil design drawings and construction plans and securing a land development permit from the Director of Planning and Development in accordance with the requirements of this Article, the same as for a public street.

Section 9-13-10-3. Standards for Private Streets.

All private streets shall be constructed to all standards for public streets as specified in Chapter 9-13-9 of this Article, unless otherwise specifically approved as part of a Planned Unit Development by the Governing Body.

Section 9-13-10-4. Street Names and Signs.

Private streets shall be named, subject to the approval of the Director of Planning and Development. The subdivider or developer of land involving a private street shall install street signs with content containing the street name and the designation "private," or as approved by the Director of Public Works. Alternatively, the Director of Public Works may require the subdivider or developer to pay for such signs to be installed by or under the direction of the City. Signs signifying private streets may be required by the Director of Public Works to be a different color than that of street signs provided for public streets, in order to distinguish maintenance responsibilities in the field.

Section 9-13-10-5. Easements.

Easements for private streets shall be designated on final plats as general purpose public access and utility easements, along with the name of said private street which shall require approval by the Director of Planning and Development. Said easement shall at minimum be of the same width as that required for the right-of-way of a public street for the type of public street

(local, collector, etc.) most closely resembling the proposed private street. Easements for private streets shall not be included in any calculation of minimum lot size or density maximums established by zoning regulations of this Unified Land Development Code. In the cases of private streets, the general purpose public access and utility easement shall be shown in a manner on the final plat such that the private street right-of-way is drawn as its own discrete parcel to be dedicated to a private homeowners association (i.e., not shown to be a part of any lot) or other approved entity.

Section 9-13-10-6. Maintenance.

The City shall not maintain, repair, resurface, rebuild, or otherwise improve streets, signs, drainage improvements or any other appurtenances within general purpose public access and utility easements established for private streets. A private maintenance covenant recorded with the Hall County Clerk of the Superior Court shall be required for any private street and other improvements within general purpose public access and utility easements established for private streets. The covenant shall set out the distribution of expenses, remedies for non-compliance with the terms of the agreement, rights to the use of easements, and other pertinent considerations. The covenant shall specifically include the following terms:

(a) The covenant shall establish minimum annual assessments in an amount adequate to defray costs of ordinary maintenance and procedures for approval of additional needed assessments. The covenant shall also specify that the funds from such assessments will be held by a homeowners or property owners association.

(b) The covenant shall include a periodic maintenance schedule.

(c) The covenant for maintenance shall be enforceable by any property owner served by the private street.

(d) The covenant shall establish a formula for assessing maintenance and repair costs equitably to property owners served by the private street.

(e) The covenant shall run with the land.

(f) The City, as a condition of approving private streets, shall require a performance bond and/or maintenance bond and/or maintenance bond by the subdivider as described in sections 9-13-13-9 and 10 be submitted by the subdivider.

Section 9-13-10-7. Specifications for Final Plats Involving Private Streets.

No final plat involving a private street shall be approved by the Director of Planning and Development for recording unless and until it shall contain the following on the face of the plat:

(a) Covenants, or reference to the deed book and page of the recorded covenants.

(b) “The City of Gainesville has no responsibility to build, improve, maintain, or otherwise service the private streets, drainage improvements, and other appurtenances contained within the general public purpose access and utility easement or easements for private streets shown on this plat.”

(c) “Grant of Easement. The general purpose access and utility easement(s) shown on this plat for private street(s) is (are) hereby granted and said grant of rights shall be liberally construed to provide all necessary authority to the City of Gainesville, and to

public or private utility companies serving the subdivision, for the installation and maintenance of utilities, including, but not limited to, electric lines, gas lines, telephone lines, water lines, sewer lines, cable television lines, and fiber optic cables, together with the right to trim interfering trees and brush, together with a perpetual right of ingress and egress for installation, maintenance, and replacement of such lines.

_____

Signature of Property Owner"

Section 9-13-10-8. Purchaser's Acknowledgement.

Prior to the sale or as a condition of the closing of a real estate transaction involving any lot served by a private street in the city, the subdivider or seller of said lot shall execute a notarized purchaser's acknowledgement of private street construction and drainage maintenance responsibilities as set forth below. A copy of the purchaser's acknowledgement shall be retained by the purchaser and shall be required to be submitted as a condition of a building permit for a principal building on said lot:

"Purchaser's Acknowledgement of Private Street and Drainage Maintenance Responsibility.

(I) (We) have read the Declaration of Covenant which pertains to the lot that is the subject of this real estate transaction _____ (insert address and attach legal description). (I) (We) understand that the Declaration of Covenant applies to the lot that (I am) (we are) purchasing and requires (me) (us) to provide a specified percentage or amount of the financing for the construction and maintenance of any private street and drainage facilities serving the lot which (I am) (we are) purchasing, and that owners of other lots in this plat may sue for and recover those costs which this covenant requires (me) (us) to pay, plus their damages resulting from (my) (our) refusal to contribute, plus reasonable attorneys fees. (I) (we) further understand that the City has no obligation to assist with the maintenance and improvement of the private street, drainage facilities, and other appurtenances within the general purpose public access and utility easement for the private road serving the lot in question. I (we) understand that a copy of this purchaser's acknowledgement shall be required as a condition of the issuance of a building permit for a principal building on the lot (I am) (we are) purchasing.

_____
Purchaser"

Section 9-13-10-9. Gated Communities.

Gates must be set back a minimum of 50 feet from a public right-of-way. The minimum gate width must equal the required road width plus the width of any utility easements present, but in no case shall the width be less than 30 feet. Gate width and placement must be reviewed by, and are subject to approval by, the Fire Department.

Arrangements for access through the gate for emergency service vehicles must be reviewed by, and are subject to the approval of, the Police and Fire Departments. Such arrangements may include: keypad code entry; occupant telephone authorized entry; personal service attendant 24 hours a day, 7 days a week; and/or automatic gate opening upon power disconnect.

CHAPTER 9-13-11
UTILITIES

Section 9-13-11-1. Sanitary Sewerage.
Section 9-13-11-2. Public Water.

Section 9-13-11-1. Sanitary Sewerage.

(a) Connection required. Except as otherwise required in this Section, each subdivider and land developer shall be required to pay for the installation of a sanitary sewerage collection system connected to the City's system serving his subdivision or land development. The layout and specifications of the system shall be in accordance with City specifications, as approved by the Public Utilities Director, and shall be installed by a contractor approved by the City.

(b) Connection to septic tank. Where connection to the sanitary sewerage system is not feasible in the view of the Public Utilities Director, the lot shall contain adequate area for the installation and safe operation of a septic tank and disposal field, as approved by the Hall County Environmental Health Department.

Section 9-13-11-2. Public Water.

(a) Connection required. Each subdivision or development shall connect to the City's public water system and shall provide service to each lot or the development as a whole, as appropriate, at the expense of the subdivider or land developer.

(b) Specifications. The layout and specifications of the system shall be in accordance with City specifications, as approved by the Public Utilities Director, and shall be installed by a contractor approved by the City.

(c) Fire hydrants. Fire hydrants shall be installed in subdivisions and developments and shall meet the requirements of the Fire Department.

CHAPTER 9-13-12
STORMWATER MANAGEMENT

Section 9-13-12-1. Purposes.
Section 9-13-12-2. Objectives.
Section 9-13-12-3. Definitions.
Section 9-13-12-4. Stormwater Management Report Required.
Section 9-13-12-5. Applicability.
Section 9-13-12-6. Exemptions.
Section 9-13-12-7. Variances.
Section 9-13-12-8. Reference to Stormwater Manual.
Section 9-13-12-9. Stormwater Management Report Requirements.
Section 9-13-12-10. Specifications for Stormwater Management Plans.
Section 9-13-12-11. Use of Stormwater Quality Site Design Tool Required.
Section 9-13-12-12. As-Built Certification of Stormwater Management Facilities.
Section 9-13-12-13. Inspection and Maintenance Agreement.
Section 9-13-12-14. Maintenance by Private Parties.
Section 9-13-12-15. Maintenance by Property or Homeowners Associations.
Section 9-13-12-16. Inspection and Repair.
Section 9-13-12-17. Failure to Maintain.
Section 9-13-12-18. Reference to Unified Stormwater Sizing Criteria.
Section 9-13-12-19. Stormwater Design Sizing Criteria.
Section 9-13-12-20. Stormwater Runoff Computation.
Section 9-13-12-21. Water Quality Performance Criteria.
Section 9-13-12-22. Storm Drain Pipe Design.
Section 9-13-12-23. Pipe References and Requirements.
Section 9-13-12-24. Pipe Installation Specifications.
Section 9-13-12-25. Headwalls.
Section 9-13-12-26. Open Channels.
Section 9-13-12-27. General Stormwater Design Criteria.
Section 9-13-12-28. Timing of Installation.

Section 9-13-12-1. Purposes.

This chapter defines requirements for stormwater management and outlines the water quantity and quality performance criteria for managing stormwater runoff. The majority of technical stormwater criteria and standards are adopted by reference through the use of the Georgia Stormwater Management Manual (GSMM).

The purposes of this chapter are also to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment.

Section 9-13-12-2. Objectives.

This Chapter seeks to meet its purposes through the following objectives:

(a) Require that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable in order to reduce flooding, stream bank erosion, nonpoint source pollution and

increases in stream temperature, and maintain the integrity of stream channels and aquatic habitats;

(b) Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;

(c) Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum post-development stormwater management standards;

(d) Encourage the use of nonstructural stormwater management and stormwater better site design practices, such as the preservation of greenspace and other conservation areas, to the maximum extent practicable;

(e) Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety; and,

(f) Establish administrative procedures for the submission, review, approval and disapproval of stormwater management plans, and for the inspection of approved active projects, and long-term follow up.

Section 9-13-12-3. Definitions.

Administrative Floodplain: Any land area susceptible to flooding, which would have at least a one percent probability of flooding occurrence in any calendar year based on the basin being fully developed as shown on the projected future land use map.

Applicant : A person submitting a post-development stormwater management application and plan for approval.

Channel: A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Conservation easement: An agreement between a land owner and the City of Gainesville or other government agency or land trust that permanently protects open space or greenspace on the owner's land by limiting the amount and type of development that can take place, but continues to leave the remainder of the fee interest in private ownership.

Detention: The temporary storage of stormwater runoff in a stormwater management facility for the purpose of controlling the peak discharge.

Detention facility: A detention basin or structure designed for the detention of stormwater runoff and gradual release of stored water at controlled rates.

Drainage easement: An easement appurtenant or attached to a tract or parcel of land allowing the owner of adjacent tracts or other persons to discharge stormwater runoff onto the tract or parcel of land subject to the drainage easement. Both streams and storm drainage channels are required to have easements for maintenance purposes as specified in this chapter.

Extended detention: The detention of stormwater runoff for an extended period, typically 24 hours or greater.

Extreme flood protection: Measures taken to prevent adverse impacts from large low-frequency storm events with a return frequency of 100 years or more.

Flooding: A volume of surface water that is too great to be confined within the banks or walls of a conveyance or stream channel and that overflows onto adjacent lands.

Greenspace or open space: Permanently protected areas of the site that are preserved in a natural state.

Hotspot: 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.

Hydrologic Soil Group (HSG): A Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce much more runoff.

Impervious cover: A surface composed of any material that significantly impedes or prevents the natural infiltration of water into soil. Impervious surfaces include, but are not limited to, rooftops, buildings, streets and roads, and any concrete or asphalt surface.

Improvements: The physical addition and changes to land that may be necessary to produce usable, desirable and acceptable lots or building sites.

Industrial stormwater permit: A National Pollutant Discharge Elimination System (NPDES) permit issued to an industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

Infiltration: The process of percolating stormwater runoff into the subsoil.

Inspection and maintenance agreement: A written agreement providing for 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.

Jurisdictional wetland: An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Land development: Any land change, including, but not limited to, clearing, digging, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving, and any other installation of impervious cover.

Land development activities: Those actions or activities which comprise, facilitate or result in land development.

Land development project: A discrete land development undertaking.

New development: A land development activity on a previously undeveloped site.

Nonpoint source pollution: 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: Any natural or planted vegetation or other nonstructural component 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 greenspace areas, overland flow filtration areas, natural depressions, and vegetated channels.

Off-site facility: A stormwater management facility located outside the boundaries of the site.

On-site facility: A stormwater management facility located within the boundaries of the site.

Overbank flood protection: The 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 2-year through 25-year frequency storm events.

Owner: The legal or beneficial owner of a site, including but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.

Permit: The permit issued by the City of Gainesville to the applicant which is required for undertaking any land development activity.

Person: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, any interstate body or any other legal entity.

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

Pre-development: The time period, or the conditions that exist, on a site prior to the commencement of a land development project and at the time that plans for the land development of a site are approved by the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted shall establish pre-development conditions.

Professional engineer: An engineer licensed and registered to perform the duties of a professional engineer (P.E.) by the State of Georgia.

Project: A land development project.

Public utility: A utility owned and operated by a public agency or authority.

(1) Public sewerage system: A sanitary sewerage system for the collection of water-borne wastes complete with a sewage treatment plant that is owned and operated by a public agency or authority.

(2) Public water system: A system for the intake, treatment and distribution of potable water that is owned and operated by a public agency or authority.

Public utilities director: The director of the department of public utilities of the City, or his designee, whose duties include the review and approval of construction plans for public utilities for the City.

Public works department: References to action by the public works department shall mean action by that administrative official of the Gainesville Public Works Department to whom responsibility for that action has been assigned by the director of public works.

Public works director: The director of the department of public works of the City, or his designee, whose duties include the review and approval of construction plans for public streets for the City.

Redevelopment: 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: 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.

Runoff: Stormwater runoff.

Stormwater better site design: Nonstructural site design approaches and techniques 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 management: The collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner intended to prevent increased flood damage, streambank channel erosion, habitat degradation and water quality degradation, and to enhance and promote the public health, safety and general welfare.

Stormwater management facility: Any infrastructure that controls or conveys stormwater runoff.

Stormwater management measure: Any stormwater management facility or nonstructural stormwater practice.

Stormwater management plan: Means a document describing how existing runoff characteristics will be affected by a land development project and containing measures for complying with the provisions of this ordinance.

Stormwater management system: The entire set of structural and nonstructural stormwater management facilities and practices that are used to capture, convey and control the quantity and quality of the stormwater runoff from a site.

Stormwater retrofit: 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.

Stormwater runoff: The flow of surface water resulting from precipitation.

Section 9-13-12-4. Stormwater Management Report Required.

All persons proposing development or construction in the City that meets the applicability requirements of this chapter shall prepare a stormwater management report, unless specifically exempted from the requirements of this chapter. No final subdivision plat shall be approved and no development or building permit shall be issued until and unless the stormwater management report has been reviewed and approved by the director of public works, except as exempt below.

This report must be submitted with the stamp and signature of a Professional Engineer (PE) licensed in the state of Georgia, who must verify that the design of all stormwater management facilities and practices meet submittal and permitting requirements. The Engineer sealing the Stormwater Management Report is responsible for ensuring that all permit requirements related to Section 404 of the Clean Water Act are met.

Stormwater management reports shall not be required for activities that are exempt from the provisions of this chapter.

Section 9-13-12-5. Applicability.

The provisions of this chapter apply to any new development or redevelopment site that meets one or more of the following criteria:

(a) New development that involves the creation of 5,000 square feet or more of impervious cover, or that involves other land development activities of 1 acre or more;

(b) Redevelopment that includes the creation, addition or replacement of 5,000 square feet or more of impervious cover, or that involves other land development activity of one (1) acre or more;

(c) Any new development or redevelopment, regardless of size, that is defined by the Director of Public Works to be a hotspot land use; or,

(d) Land development activities that are smaller than the minimum applicability criteria set forth in paragraphs (a) and (b) of this section 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.

Section 9-13-12-6. Exemptions.

The following activities are exempt from the requirements this chapter:

(a) Additions or modifications to existing single-family detached or duplex residential structures;

(b) Individual single-family residential lots that are not part of a subdivision or phased development project;

(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 Department of Public Works or Department of Planning and Development.

Section 9-13-12-7. Variances.

The Director of Public Works may grant a variance from the requirements of this chapter if the proposed development activity will not:

(a) Change the rate or volume of runoff significantly, as specified in the stormwater design manual;

(b) Have a significant, negative impact on any wetland, watercourse, or water body as specified in the stormwater design manual; or

(c) Contribute to degradation of water quality.

Section 9-13-12-8. Reference to Stormwater Manual.

The current version of the Georgia Stormwater Management Manual (GSMM) will provide the primary guidance for the design and evaluation of stormwater management facilities in the City of Gainesville. A copy of the GSMM can be viewed in the Department of Public Works or can be accessed at www.georgiastormwater.com.

Section 9-13-12-9. Stormwater Management Report Contents.

The stormwater management report shall detail how post-development stormwater runoff will be controlled or managed and how the proposed project will meet the requirements of this section, Georgia Stormwater Management Manual, and Section 404 of the Clean Water Act. The Stormwater Management Report shall address the following issues and analyze compliance with the water quantity and water quality performance indicators specified in this chapter.

The stormwater management report shall have the following minimum contents:

(a) A brief narrative description of the project;

(b) Geotechnical investigations including soil maps, borings, site specific recommendations, and any additional information necessary for the proposed stormwater management design;

(c) Site plan that depicts all streams, lakes, wetlands and other bodies of water. Should verification of jurisdictional waters of the US be needed, the developer must provide the Department of Public Works with a formal delineation of the waters of the US performed by a qualified and experienced professional and have the delineation verified in writing by the United States Army Corp of Engineers (USACE). Additionally, the plan shall depict relevant boundaries of the 100-year floodplain for ultimate build-out conditions (the administrative floodplain). The administrative floodplain boundary must be calculated using Federal

Emergency Management Agency (FEMA) methodologies for delineating floodplains using future hydrology conditions.

(d) Hydrologic computations, including drainage area maps depicting pre development and post development runoff flow paths and land use, including the locations and quantities of stormwater runoff entering and exiting the site for both pre-developed and post-developed conditions. Analysis of the off-site properties shall anticipate future development in addition to addressing existing conditions.

(e) Drainage area delineation maps and other exhibits at a satisfactory scale and sufficient in quantity and scope to define the boundaries of the site relative to any applicable water courses, drainage divides, drainage structures and other pertinent features.

(f) Estimates of the stormwater quality in terms of total suspended solids for both pre-developed and post-developed conditions using the Stormwater Quality Site Development Review Tool.

(g) Hydraulic computations;

(h) Structural computations;

(i) Unified sizing criteria volume computations according to the Georgia Stormwater Management Manual and this Section.

(j) Analysis of downstream conditions at each and every point or area along the project sites boundaries at which runoff will exit the property.

(k) Analysis of the portion of the drainage way “immediately” downstream from the project. In determining downstream effects from stormwater discharge control structures and the development, hydrologic-hydraulic engineering studies, using the administrative floodplain, shall extend to a point where the proposed development represents less than (10%) percent of the total watershed (the 10% rule). If the discharge calculations indicate that adjacent properties, between the exit of the proposed development and the “10% downstream point” might be adversely impacted by the proposed development, then the Engineer will provide a summary of recommendations.

(l) Stormwater Management Plan. Whenever adverse stormwater runoff related impacts are expected to result from the development of a property, the Stormwater Management Report shall describe in detail the proposed stormwater management plan. Plans, specifications and computations must be complete in detail sufficient to enable another Engineer to fully check and verify the results and computations. The plans used for construction must contain design data, a project narrative, schedule of construction, name and address or person responsible for construction and the Engineer’s seal, signature and address on the engineering drawings required for the project construction.

Section 9-13-12-10. Specifications for Stormwater Management Plans.

The stormwater management plan shall include the following items:

(a) Description of the overall stormwater management strategy.

(b) Topographic maps showing all on-site and off-site contributing drainage areas.

(c) Basis for determining runoff coefficients and times of concentration.

(d) Inflow and outflow hydrographs with peak flows for the 1-, 25- and 100-year storm frequencies.

(e) Hydraulic performance properties for all stormwater management facilities (e.g., stage/storage/discharge curves, infiltration capacities, overflow relationships).

(f) Details and calculations for all outlet control structures, including buoyancy calculations and emergency spillways.

(g) Configuration of the stormwater management system, including outflow and overflow control devices, shall be clearly described in Report with cross-sections depicted on all construction drawings.

(h) Graded access easements, (maximum 3:1 slope) around all stormwater management ponds in areas inaccessible to vehicular traffic.

(i) Temporary sediment basins are required for all detention sites and major drainage exits. The detention facility shall be designed to provide temporary sediment control unless a live stream exists.

(j) Underground detention facilities with details that provide:

1. The location and type of access protection for the detention facility.

2. Safety requirements as specified by the City of Gainesville for the site.

3. Outline of the inspection and maintenance covenant to be filed with Director of Public Works for all components of the stormwater management report, and

4. Summary of the proposed stormwater management approach and the expected performance.

(k) Construction drawings submitted for stormwater management plan approval shall include the following:

1. A vicinity map;

2. Topography survey showing existing and proposed terrain, including the area to be included in the downstream analyses;

3. Any proposed improvements including location of buildings or other structures, impervious surfaces, storm drainage facilities, and all grading;

4. The location of existing and proposed structures and utilities;

5. Any easements and rights-of-way;

6. The delineation, if applicable, of the administrative floodplain and any on site wetlands;

7. Structural and construction details for all components of the proposed drainage system or systems, and stormwater management facilities;

8. All necessary construction specifications;

9. A sequence of construction;

10. Data for total site area, disturbed area, new impervious area, and total impervious area;

11. A table showing the unified sizing criteria volumes required by the GSMM;

12. A table of materials to be used for stormwater management facility planting;

13. All soil boring logs and locations;

14. A maintenance schedule;

15. Certification by the owner/developer that all stormwater management construction will be done according to this plan; and

16. An as-built certification signature block to be executed after project completion.

Section 9-13-12-11. Use of Stormwater Quality Site Design Tool Required.

An automated spreadsheet tool was developed to facilitate the consistent review of development projects across the 16-county Metropolitan North Georgia Water Planning District (the District) of which the City of Gainesville is a part. The tool was specifically designed to meet the unified sizing and water quality performance criteria outlined in the *Georgia Stormwater Management Manual*. The overall goal is to provide an effective tool for Gainesville review staff and the development community to quickly evaluate the water quality performance of stormwater management plans for development sites. It allows the developer to use a variety of BMPs and provides incentives for leaving key areas, particularly riparian buffers, undisturbed.

The City of Gainesville requires every project, unless otherwise exempt, to use the Stormwater Quality Site Design Tool. A copy of the tool is available upon request from the Department of Public Works.

Section 9-13-12-12. As-Built Certification of Stormwater Management Facilities.

After construction and before acceptance for occupation or otherwise, the designer shall submit a certified field run topographic map of all areas including the stormwater management facilities, a revised Stormwater Management Report (if needed), and a long-term inspection and maintenance covenant signed by the property owner or organization. The designer shall certify that the as-built conditions regarding storage and outflow meet the requirements of this chapter.

Section 9-13-12-13. Inspection and Maintenance Agreement.

Prior to the issuance of any permit of occupancy, the developer must execute an inspection and maintenance agreement, and/or a conservation easement, if applicable, that shall be binding on

all subsequent owners of the site. Responsibility for the operation and maintenance of the stormwater management facility or practice shall remain with the property owner and shall pass to any successor owner. If portions of the land are sold or otherwise transferred, legally binding arrangements shall be made to pass the inspection and maintenance responsibility to the appropriate successors in title. A copy of this agreement is available from the Department of Public Works. The inspection and maintenance agreement shall consist of the following:

(a) Responsible person(s). The inspection and maintenance agreement shall identify by name or official title the person(s) responsible for carrying out the inspection and maintenance. These arrangements shall designate for each portion of the site, the person to be permanently responsible for its inspection and maintenance.

(b) Schedule. As part of the inspection and maintenance agreement, a schedule shall be developed for routine inspection and maintenance to ensure proper function of the stormwater management facility or practice.

(c) Plans for annual inspections. The agreement shall also include plans for annual inspections to ensure proper performance of the facility between scheduled maintenance events and shall also include remedies for the default thereof.

Section 9-13-12-14. Maintenance by Private Parties.

On all commercial sites and on residential property where stormwater management facilities exist, the maintenance is the responsibility of the owner or operator of the property. It shall be the responsibility of the owner or operator to repair deficiencies in a timely manner.

Section 9-13-12-15. Maintenance by Property or Homeowners Associations.

When a subdivision or industrial / commercial park has a legally created property or homeowners association, the association will be responsible for maintenance of all drainage easements and all stormwater facilities within the entire development. The association may be required to apply larvicides, stock mosquito fish or take other measures, as required by the Department of Public Works, to protect the health, safety and welfare of the public. The association will have to be formed prior to final plat approval.

Section 9-13-12-16. Inspection and Repair.

Gainesville Department of Public Works personnel will perform periodic inspections of existing and new private stormwater management facilities to determine whether they are maintained properly. Should an owner fail to maintain the stormwater management facilities in a state of service intended by the stormwater management plan, then the Director of Public Works shall notify the owner or operator in writing of the deficiencies and specific minimum maintenance requirements to remedy such deficiencies. It shall be the responsibility of the private party or association that owns or operates the facility to repair deficiencies in a timely manner.

Section 9-13-12-17. Failure to Maintain.

If the owner or operator fails to perform the required maintenance work within a maximum of thirty (30) days, then the owner or operator shall be in violation of the provisions of this chapter. At that point, the Department of Public Works may undertake the work itself or otherwise provide for the maintenance of the system, and may call such bonds or other surety as may be

outstanding on the development, or may place liens or assessments on the responsible owner's properties, in satisfaction of the cost to the City.

Section 9-13-12-18. Reference to Unified Stormwater Sizing Criteria.

The GSMM has developed a set of Unified Stormwater Sizing Criteria that serves as the basis of designing stormwater facilities in the City of Gainesville. These criteria provide an integrated approach for meeting the stormwater runoff quality and quantity management requirements for those applicable developments identified in this Section.

The purpose of the Unified Stormwater Sizing Criteria is to design a stormwater management system to:

(a) Remove stormwater runoff pollutants and improve water quality;

(b) Prevent downstream stream bank and channel erosion;

(c) Reduce downstream overbank flooding; and

(d) Reduce the runoff from and safely pass extreme storm events.

Section 9-13-12-19. Stormwater Design Sizing Criteria.

Stormwater management typically relies on a system of natural and constructed facilities (practices) for the storage, treatment, and conveyance of runoff. This section provides an overview of the design criteria required for stormwater detention and conveyance facilities in the City of Gainesville.

(a) Stormwater facilities generally. Stormwater facilities in the City of Gainesville must be designed to meet the criteria in the following table using the appropriate runoff calculation methods described in this Section. Additional discussion of these criteria can be found in the following subsections and in Volume II, Section 3.1 of the Georgia Stormwater Management Manual.

Summary of the Statewide Stormwater Sizing Criteria for Stormwater Control and Mitigation

Sizing Criteria	Description
Water Quality	Treat 85% of the runoff from the storms that occur in an average year and reduce average annual post-development total suspended solids loadings by 80%. For Georgia, these conditions equate to providing water quality treatment for the runoff resulting from the initial 1.2 inches of rainfall for every storm.
Steam Channel Protection	Provide extended detention so that the 1-year, 24-hour storm event is released over a period of 24 hours to reduce bankfull flows and protect downstream channels from erosive velocities and unstable conditions.
Overbank Flood Protection	Provide peak discharge control of the 25-year storm event such that the post-development peak rate does not exceed the predevelopment rate to reduce overbank flooding.
Extreme Flood Protection	Control and safely convey the flood produced by the 100-year, 24-hour storm event. Conduct a downstream hydrologic analysis to determine whether there are any additional impacts in terms of peak flow increase or downstream flooding. This analysis shall be conducted at the outlets of the site, and at each downstream tributary junction until the area of the

Summary of the Statewide Stormwater Sizing Criteria for Stormwater Control and Mitigation

Sizing Criteria	Description
	portion of the site draining into the system is less than or equal to10% of the total drainage area above that point. The comparison shall be conducted for the 100-year flood resulting from full build-out conditions in the watershed.

Notes: Source: Georgia Stormwater Management Manual, Volume II, p. 1.3-1.

(b) 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:

1. It is sized to treat the prescribed water quality treatment volume from the site, as defined in the Georgia Stormwater Management Manual;

2. 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,

3. Runoff from hotspot land uses and activities identified by the Department of Public Works are adequately treated and addressed through the use of appropriate structural stormwater controls, nonstructural practices and pollution prevention practices.

(c) Stream channel protection.

1. Protection of stream channels from bank and bed erosion and degradation shall be provided by using all of the following three approaches:

2. Preservation, restoration and/or reforestation (with native vegetation) of the applicable stream buffer;

3. 24-hour extended detention storage of the 1-year, 24-hour return frequency storm event;

4. 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 25-year, 24-hour return frequency storm event. If control of the 1-year, 24-hour storm is exempted, then peak discharge rate attenuation of the 2-year through the 25-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 100-year, 24 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 Department of Public Works before being included in the design of a stormwater management system. In addition, if hydrologic or topographic conditions, or land use activities warrant greater control than that provided by the minimum control requirements, Public Works may impose additional requirements deemed necessary to protect upstream and downstream properties and aquatic resources from damage due to increased volume, frequency, and rate of stormwater runoff or increased nonpoint source pollution loads created on the site in question. Applicants shall consult the Georgia Stormwater Management Manual for guidance on the factors that determine site design feasibility when selecting and locating a structural stormwater control.

(g) Stormwater credits for nonstructural measures. The use of one 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 of Public Works, 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 which 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.

Section 9-13-12-20. Stormwater Runoff Computation.

Computations for rate of runoff shall be based on the average Rainfall Intensity and Duration for Roswell, Georgia for the available period of record as tabulated in the Georgia Stormwater Management Manual (GSMM), Volume II, Appendix A. Computing runoff and generating hydrographs must be done by one of the methods outlined in the GSMM. The table below summarizes the hydrologic calculation methods that will be accepted by the Director of Public Works and the section reference from the GSMM that explains each. The table also provides guidelines for using the appropriate method based on the size of the drainage area. Additional information relating to the design of conveyance structures can be found in Section 4.1 of the GSMM. As noted, the Rational Formula can only be used to design conveyance systems, one of the other methods listed must be used for designing the stormwater detention facilities.

Methods for Stormwater Runoff Computation

Computation Task	**GSMM Chapter**	**Rational Formula**	**SCS**	**USGS Equations**	**Water Quality Volume**
Size Limitations for Each Method		*25 acres*	*25 to 2,000 acres*	*2,000 acres to 25 square miles*	*Based on Structural Control*
Water Quality Volume (WQ_v)	1.3				X

Methods for Stormwater Runoff Computation

Computation Task	GSMM Chapter	Rational Formula	SCS	USGS Equations	Water Quality Volume
Channel Protection Volume (Cp_v)	1.3		X		
Overbank Flood Protection (Qp_{25})	1.3		X	X	
Extreme Flood Protection (Q_f)	1.3		X	X	
Storage Facilities	2.2		X	X	
Outlet Structures	2.3		X	X	
Gutter Flow and Inlets	4.2	X			
Storm Drain Pipes	4.2	X	X	X	
Culverts	4.3	X	X	X	
Small Ditches	4.4	X	X	X	
Open Channels	4.4		X	X	
Energy Dissipation	4.5		X	X	

Source: Georgia Stormwater Management Manual, Volume II, p. 3.1-2.

Section 9-13-12-21. Water Quality Performance Criteria.

Total suspended solids (TSS) are a key pollutant associated with sediment runoff. It also serves as a “carrier” of other pollutants such as organics, nutrients, and metals. Thus, TSS, a measure of suspended matter-including soils and sediments-will serve as the watershed improvement guideline for managing pollutants.

(a) Stormwater management systems (which can include both structural stormwater controls and better site design practices) must be designed to remove 80% of the average annual post-development TSS load and be able to meet any other additional watershed- or site-specific water quality requirements. All stormwater detention facilities shall be designed to control the peak flow rates associated with storms having 1-, 25- and 100-year storm frequencies as specified in the table above.

(b) Use of the Stormwater Quality Site Development Review Tool, described in this chapter, provides the developer and reviewer with a summary of the TSS reduction from each of the drainage areas and also presents the overall TSS reduction efficiency of the planned site. Please note that if this overall efficiency is less than 80 percent, then the site will fail to meet the recommendations of the Georgia Stormwater Management Manual and will not be approved.

Section 9-13-12-22. Storm Drain Pipe Design.

Piped drainage structures shall be designed to meet the following criteria:

(a) Street catch basins, inlets, cross drains serving basins of 20 acres or less and longitudinal piping shall be designed for the 25-year storm, shall have a minimum slope of one (1) percent, and shall have a minimum size of 18 inches in diameter.

(b) Inlet and outlet headwalls are required for all pipes.

(c) The 100-year storm frequency shall be used on live streams, cross drains serving basins of 20 acres or larger and any other drainage system receiving and/or transferring offsite drainage flow.

(d) Velocities for all pipes should be kept to a minimum of two (2) feet per second and outlet velocities, if practical, shall not exceed four (4) feet per second when flowing full. However, if outlet velocities exceed (5) feet per second then energy dissipation devices and/or channel protection must be provided.

(e) The downstream end of all storm drain pipe shall be located at a minimum of fifty (50) feet past the building line for pipe sizes up to and including thirty-six (36) inches in diameter, unless the storm drainage is on a live stream.

(f) For all pipe design, the designer shall check the 100-year hydraulic grade line to determine that no inlet structures are flooded and that the collection capacity of any structure has not been compromised by the 100-year ultimate hydraulic grade line.

(g) Storm drain pipes shall be constructed of Class III reinforced concrete, thermoplastic corrugated-smooth lined (HDPE), or aluminized Type II corrugated culvert, as determined by the Public Works Director. Pipe materials, related connections, and fittings shall meet the following requirements and specifications noted below.

Section 9-13-12-23. Pipe References and Requirements.

Pipe references and requirements are as follows:

(a) Reinforced concrete: AASHTO M170, ASTM C-969, Minimum eight-foot joint lengths, bell and spigot with rubber O-ring gasket conforming to ASTM C-361, class of pipe and wall thickness shall be in accordance with 1030D, Georgia GDOT specifications, Table-1.

(b) Aluminized Type II corrugated culvert: AASHTO M36, AASHTO M274, AASHTO M196, ASTM C-969, ASTM B74512 gauge minimum.

(c) High density polyethylene: AASHTO M294 Type "S", AASHTO MP7 and Type "S", ASTM D-3212, ASTM F-1417, ASTM F-477, ASTM C-969, and shall be certified through the Plastic Pipe Institute Third Party Certification.

(d) Polyvinyl chloride (PVC): AASHTO M304, ASTM D-3212, ASTM F-1417, ASTM F-477, ASTM C-969, ASTM F949, ASTM F794 and F949, and shall be certified through the Plastic Pipe Institute Third Party Certification.

(e) Thermoplastic pipes: All thermoplastic pipes shall have a full circular cross section with an outer corrugated pipe wall and smooth inner wall. Deflection under loads that contributes to local buckling shall not be decreased by more

than five (5) percent (AASHTO M294 and MP7 Sec. 7.4) when tested in accordance with ASTM D-2412. The structural design of thermoplastic pipes shall be in accordance with AASHTO Section 12 titled "Buried Structures and Tunnel Liners."

Section 9-13-12-24. Pipe Installation Specifications.

Pipe Installation specifications are as follows:

(a) Foundation and bedding: Unsuitable or unstable foundations shall be undercut and replaced with suitable material. A four-inch to six-inch bedding of Class I or II shall be placed and compacted to a minimum of ninety (90) percent standard proctor density and as per AASHTO T99, AASHTO M145. Haunching materials shall be Class I, II, or III and shall be worked under the haunches by hand compaction in eight-inch maximum lifts to ninety (90) percent standard proctor density. All materials and installation (compaction and bedding) shall meet AASHTO Section 30, AASHTO Section 12, ASTM 2321 and manufacturer's latest specifications. Pipes shall be installed in a dry trench.

(b) Initial backfill: Shall meet the requirements of AASHTO M145, AASHTO Section 12 and shall be 1.24 (one and twenty-four one-hundredths) inches maximum granular size and minimum compaction of ninety (90) percent standard proctor density as per AASHTO T99.

(c) Water tight: All joints and connections to drainage structures shall be watertight per ASTM F-1417, inspected and approved by Director of Public Works before backfilling.

(d) Street crossings: Thermoplastic corrugated-smooth lined pipe may only be installed in street cross drains where the street is classified as a local road, serves twenty-five (25) or fewer lots, and shall be approved by the Director of Public Works.

(e) Live streams: Stormwater pipes carrying live streams shall be reinforced concrete or thermoplastic pipe and shall be approved by the Director of Public Works.

(f) Construction. Any storm drainage pipe dedicated to the City shall be constructed using reinforced concrete pipe or thermoplastic pipe.

(g) Easement. Any storm drainage pipe dedicated to the City that extends outside of the street right-of-way shall be located within a 30-foot wide easement.

(h) Depth. All storm drainage pipes shall be at least eighteen (18) inches below the surface and shall have a slope of at least one (1) percent.

(i) Connection to public system. Development storm drain outlet systems shall connect to a public stormwater conveyance system or to a free-flowing stream, assuming that the post-development stormwater requirements in this section are met. The developer shall be required to provide evidence of acceptable capacity to receive additional flow.

(j) Structures. Under no circumstances shall structures be constructed over an existing or proposed storm drain, whether public or private.

(k) Location. All pipes shall be laid in a straight line between structures and longitudinal outside street pavement within the right-of-way or outside right-of-way in dedicated easements. Pipes and fittings will be installed in strict accordance with AASHTO Section 30 and AASHTO Section 12.

(l) Junction boxes. Junction boxes shall be installed where the storm drain changes direction and where one (1) pipe or more intersect. Minimum cover will be eighteen (18) inches from finished street elevation to top of pipe.

Section 9-13-12-25. Headwalls.

(a) Headwalls or flared end sections with concrete collars are required at the inlet and outlet on all street cross drains and storm drain pipes.

(b) Headwalls are to be precast concrete, stone masonry with reinforced concrete footings, or poured-in-place, reinforced concrete with reinforced concrete footings.

(c) Flared end sections shall be constructed of the same material as the drainage pipe to which they are being connected.

(d) High water elevation contour is to be based on a 25-year storm at the entrance of each head wall.

(e) Energy dissipation devices, such as splash pads, riprap, stilling basins, etc., shall be provided at the outlet of every street cross drain and storm drain pipe.

Section 9-13-12-26. Open Channels.

(a) All storm water channels shall be designed to carry at least the 25-year frequency storm with one (1) foot of freeboard.

(b) Velocity at design flow shall be not less than six (6) inches per second but not greater than four (4) feet per second. A higher velocity may be allowed if actions are taken that would avoid erosion or scouring of the channel.

(c) All storm water channels must be designed to convey flows that prevent dwelling flooding, property damage, or public access and/or utility interruption.

(d) The Director of Public Works may determine that the expected long-term maintenance of a surface drainage system could prove impractical, and a storm water pipe collection system may be required.

(e) Any storm drainage channel that extends outside of the street right-of-way shall be located within a 30-foot wide easement.

(f) In cases in which a subdivision or development is traversed by a stream, there shall be provided an easement extending fifteen (15) feet from the top of each side of the stream bank.

(g) All drainage easements, natural ditches, and drainage areas shall be grassed and/or rip-rapped as necessary to control erosion.

(h) Cross drains under driveways shall meet the standards for street cross drains.

Section 9-13-12-27. General Stormwater Design Criteria.

(a) The Director of Public Works may permit several developers to construct joint facilities. The Public Works Department shall approve or disapprove the waiver of on-site drainage or detention facilities on the basis of the engineering feasibility of a combined facility.

(b) The Director of Public Works shall be authorized to approve of alternative methods of stormwater detention based on appropriate engineering studies that do demonstrate equal or better performance in accordance with City storm water management practices. Approved alternatives may include well maintained and landscaped lakes that may be provided to act jointly as detention reservoirs and recreation facilities or aesthetic focal points within forest preserve areas, City or private parks, housing developments, shopping centers, and industrial parks. Other control methods to regulate the rate of stormwater discharge which may be acceptable include, but not [to] be limited to, detention on flat roofs, parking lots, streets, lawns, underground storage, and oversized storm drains with restricted outlets.

(c) Detention facilities and drainage structures shall, where possible, use natural topography and natural vegetation. In lieu thereof these shall have planted trees and vegetation such as shrubs and permanent ground cover on their borders. All on-site facilities shall be properly maintained by the owner in such a way that they do not become nuisances. Nuisance conditions shall include: improper storage resulting in uncontrolled runoff and overflow; stagnant water with algae growth, insect breeding, and odors; discarded debris; and safety hazards created by the facility's operation. Private facilities are the perpetual responsibility of the landowner.

(d) No portion of any detention facility shall be located in any required buffer, street right-of-way or within a flood hazard area.

(e) The 100-year ponding limits of a detention facility shall not encroach upon a public street.

(f) An easement at least twenty-five (25) feet in width shall be required to provide access to the detention facility from a street.

(g) Every detention facility shall be completely enclosed within a drainage easement. The drainage easement shall extend at least ten (10) feet beyond the ponding limits of the 100-year storm.

(h) Detention facilities shall be enclosed with a minimum four-foot high chain link fence and shall be equipped with a minimum four-foot wide access as necessary for maintenance.

Section 9-13-12-28. Timing of Installation.

Construction of the storm water system shall be initiated as part of the grading of the site. Storm water detention facilities shall be constructed prior to the installation of any other site improvements, and may be utilized under proper design as sedimentation basins during development. Installation of all other storm drainage pipes, culverts, headwalls, and ditches, shall be coordinated with the construction of streets and other site improvements, as appropriate.

CHAPTER 9-13-13
LAND DEVELOPMENT INSPECTION

Section 9-13-13-1. Applicability.
Section 9-13-13-2. Owner's Responsibilities.
Section 9-13-13-3. Request for Inspection.
Section 9-13-13-4. Inspections Required.
Section 9-13-13-5. As-Built Surveys Required.
Section 9-13-13-6. Specifications for As-Built Surveys.
Section 9-13-13-7. Process for Approving As-Built Surveys.
Section 9-13-13-8. Final Land Development Inspection.
Section 9-13-13-9. Maintenance Bond.
Section 9-13-13-10. Amount of Maintenance Bond.
Section 9-13-13-11. Amount of Performance Bond.

Section 9-13-13-1. Applicability.

This Chapter shall apply to inspections processes during the land development permitting process as specified in Chapter 9-13-7 of this Unified Land Development Code. It shall be unlawful for any person, owner, or contractor to proceed with land development activities except as inspected for compliance in accordance with this Chapter.

Section 9-13-13-2. Owner's Responsibilities.

The owner shall be responsible for correcting any deficiencies identified by land development inspections prior to approval of a final subdivision plat or issuance of a certificate of occupancy.

Section 9-13-13-3. Request for Inspection.

Requests for land development inspections shall be made by the owner or contractor to the applicable department at least 24 hours prior to when the inspection is needed. Inspections shall be made and passed prior to continuation of further activity or proceeding into new phases.

Section 9-13-13-4. Inspections Required.

Inspections are required of each of the following phases of the land development process, as applicable to the actual work to be performed under the development permit:

(a) Land disturbance/soil erosion inspection. Prior to clearing, grubbing and/or land disturbance of the property or any activity undertaken pursuant to an approved land development permit, erosion and sedimentation control measures and devices for protection of trees and undisturbed areas shall be inspected and approved.

(b) Street grade and sub-grade preparation. After completing street grading but prior to trenching or continuation with sub-grade preparation, inspection and approval shall be required.

(c) Storm drainage. Installation of storm drainage pipe, detention, or other stormwater facilities shall be inspected and approved.

(d) Sub-grade of streets. After compaction and receipt of test reports, the sub-grade may be roll-tested with an 18-ton tandem dump truck and shall pass to the satisfaction of the Director of Public Works.

(e) Street curbing and gutter. Inspection shall be requested after the forms or string lines have been set. Street width and vertical and horizontal alignment may be spot checked.

(f) Street base. After receipt of test reports, the base may be string-lined for depth and crown. The street base may be roll-tested with an 18-ton tandem dump truck and shall pass to the satisfaction of the Director of Public Works.

(g) Paving. A Public Works Inspector shall be on site during the paving process to check consistency, depth, and workmanship, as applicable. For asphalt paving, the temperature of the material will be monitored and the street will be cored after completion to check thickness and density. Satisfactory test results of the cores shall be delivered to Public Works Department prior to approval of a final subdivision plat or certificate of occupancy.

(h) Final. A final inspection of land development activity and improvements installed shall be required and approved by the Public Works Department, following submission and review of the as-built surveys required by this Chapter.

Section 9-13-13-5. As-Built Surveys Required.

Upon completion of land development activity or the installation of improvements as authorized by the land development permit and prior to final development inspection of public and private improvements, the owner shall submit record survey drawings showing “as-built” conditions of all public infrastructure improvements. The as-built survey drawings shall be certified and sealed by a registered land surveyor, subject to the tolerances of accuracy indicated in the survey certification.

Section 9-13-13-6. Specifications for As-Built Surveys.

The as-built survey drawings shall show the location, vertical and horizontal alignment, and finished elevations of the following:

(a) Drainage system pipes and channels.

(b) Stormwater detention facilities.

(c) Sanitary sewer system.

(d) Public water system.

(e) Public streets, including street centerlines showing angles of deflection and standard curve data of intersection, radii, length of tangents and arcs, and degree of curvature with basis of curve data.

Section 9-13-13-7. Process for Approving As-Built Surveys.

As-built survey drawings required by this Chapter shall be submitted to the Public Works Department in a number of sets as the Department may require. The Public Works Department will coordinate review and approval with the Public Utilities Department.

Section 9-13-13-8. Final Land Development Inspection.

Following submission and review of the as-built surveys, the Public Works Department shall conduct a final land development inspection of the project. The owner shall be responsible for correcting any deficiencies identified in the final development inspection prior to approval of a final subdivision plat or issuance of a certificate of occupancy.

Section 9-13-13-9. Maintenance Bond Required.

Prior to approval of a final subdivision plat or issuance of a certificate of occupancy, a maintenance bond in a form acceptable to the Public Works Department shall be required for all public improvements shown on the as-built surveys required by this Chapter. The owner and subdivider shall be responsible for maintenance of all such public improvements for 24 months from the date of issuance of the certificate of occupancy or final subdivision plat approval, as applicable.

Section 9-13-13-10. Amount of Maintenance Bond.

The value of the maintenance bond shall be equal to 30 percent of the actual cost of construction of the public improvements shown on the as-built surveys or final plat if they are 100 percent complete. For those developers who choose to delay the wearing course of pavement and/or the sidewalk improvements, the value of the maintenance bond shall be equal to 30 percent of the completed work and, in addition, the subdivider shall provide a performance bond as described in section 9-13-13-11 of this Code. The cost of construction shall be evidenced by copies of contractor agreements or actual invoices paid, or as otherwise determined by the Director of Public Works.

Section 9-13-13-11. Amount of Performance Bond.

For those subdividers who choose to delay the wearing course of pavement and/or the sidewalk improvements, the value of the performance bond shall be equal to 100 percent of the value of the wearing course and /or sidewalks, and any other incomplete work as allowed by the Director of Public Works. The cost of construction shall be evidenced by copies of contractor agreements or actual invoices paid, or as otherwise determined by the Director of Public Works.

CHAPTER 9-13-14
FINAL PLATS

Section 9-13-14-1. Final Plat Approval Required.
Section 9-13-14-2. Conformance with Preliminary Plat.
Section 9-13-14-3. Responsibilities.
Section 9-13-14-4. Installation of Improvements.
Section 9-13-14-5. Final Plat Specifications.
Section 9-13-14-6. Final Plat Application Requirements.
Section 9-13-14-7. Review and Approval Process.
Section 9-13-14-8. Certificate of Final Plat Approval.
Section 9-13-14-9. Recording of Final Plat
Section 9-13-14-10. Distribution of Recorded Final Plat.
Section 9-13-14-11. Amendments to Final Plat Approval.
Section 9-13-14-12. Dedication of Public Streets and Acceptance of Public Improvements.

Section 9-13-14-1. Final Plat Approval Required.

The purpose of this Chapter is to ensure compliance with the legal recording requirements of subdivisions and the proper installation of all required public or private improvements through the submittal of a final plat.

Section 9-13-14-2. Conformance with Preliminary Plat.

The final subdivision plat shall conform substantially to the preliminary subdivision plat and may constitute only that portion of the approved preliminary subdivision plat that the owner proposes to record at any one time, provided that such portion conforms to the requirements of this Article and the Unified Land Development Code.

Section 9-13-14-3. Responsibilities.

The property owner is responsible for compliance with all requirements of this Article and Unified Land Development Code. Approval of a final subdivision plat and acceptance of the public improvements and dedications therein shall not relieve the owner of that responsibility.

Section 9-13-14-4. Installation of Improvements.

Prior to submission of an application for final subdivision plat approval, all public and private improvements shall have been properly installed and completed in accordance with all requirements and standards of this Article and the Unified Land Development Code (except traffic signs, street name signs, street striping, and signalization, the responsibility for which is with the City).

Section 9-13-14-5. Final Plat Specifications.

A final plat shall be prepared by a Registered Land Surveyor. In addition, if the subdivision involves public dedications of improvements, the final plat shall be approved and stamped by a Professional Engineer.

The final subdivision plat shall be drawn on an appropriate material and sheet size, and using minimum line weights and letter heights as required by Georgia law for the recordation of maps and plats (O.C.G.A. 15-6-67, as amended), and as acceptable to the Clerk of the Superior Court.

The final plat shall meet the following specifications:

(a) All data required by Georgia law pertaining to the recordation of maps and plats (O.C.G.A. 15-6-67, as amended).

(b) Name of the subdivision and street names.

(c) Name of the former subdivision if any or all of the property has been previously subdivided.

(d) Location map.

(e) Reference to north point (magnetic, true north, or grid north).

(f) Graphic scale.

(g) Total acreage of the property being subdivided.

(h) Names of owners of record of all abutting land and deed/plat book references.

(i) Lot lines with dimensions to the 1/10 foot, necessary internal angles, arcs, and chords and tangent or radii of rounded corner.

(j) Building setback lines (front, side, rear, and build-to lines) with dimensions as to length across each lot and distance from the street right-of-way.

(k) Lots or sites numbered in numerical order and blocks lettered alphabetically.

(l) Location, dimensions and purpose of all easements, including slope easements, if required, and any areas to be reserved, donated, or dedicated to public use.

1. Utility easements. Whenever it is necessary or desirable to locate a public utility line outside of the street right-of-way, the line shall be located in an easement dedicated to the City for such purpose. The easement shall be no less than 20 feet wide for water and 30 feet wide for sewer, or as otherwise acceptable to the Public Utilities Department.

2. Water Course and Drainage Easements. A publicly dedicated stormwater easement or drainage easement is to be provided along any drainage channel, stream or water impoundment within a development. The easement is to be substantially centered on the water course or surround the high water line of the impoundment. All easements shall be no less than 20 feet wide or as otherwise acceptable to the City.

(m) The location and size of all utility lines.

(n) Designated tree save areas.

(o) A listing of the private covenants recorded with each lot or a statement of the location of such covenants, if applicable.

(p) The extent of any area of special flood hazard, as defined in this Unified Land Development Code, and any wetlands protection overlay zones/buffers and required stream buffers shall be delineated and labeled.

(q) Conditions of zoning, special use, or other approval by the city.

(r) Acreage to be dedicated to the public, or as privately maintained (common area, roads, etc.).

(s) A surveyor's certificate and owner's certificate, as provided in this paragraph. In addition, the original final subdivision plat drawing shall bear the original signature, in black ink, of the registered land surveyor placed across the surveyor's seal in order to be valid and recordable.

SURVEYOR'S CERTIFICATE

It is hereby certified that this plat is true and correct and was prepared from an actual survey of the property by me or under my supervision; that all monuments shown thereon actually exist.

The field data upon which this plat is based has a closure precision of one foot in _____ feet, and an angular error of _____ per angle point, and was adjusted using _____ rule.

This plat has been calculated for closure and is found to be accurate within one foot in _____ feet.

By (name): _____

Registered Georgia Land Surveyor No. _____

Address: _____

Telephone Number: _____

Date: _____

OWNER'S CERTIFICATE

State of Georgia

County of Hall

The undersigned certifies that he or she is the owner of the land shown on this plat and that the plat and the public and private improvements contained therein or associated therewith meet all applicable requirements and standards of the Gainesville Unified Land Development Code. The owner further acknowledges this plat and allotment to be his free act and deed, and dedicates to the City of Gainesville forever all areas shown or indicated on this plat as public streets, easements or other public use areas, and all water system, sewerage and other public improvements (hereinafter "facilities"). However, the City of Gainesville will not take ownership and maintenance of these facilities until such time as the undersigned petitions for and the Governing Body of the City of Gainesville accepts the dedication and acceptance of the facilities as provided in section 9-13-14-12 of the Gainesville Unified Land Development Code and provided a maintenance bond as required in sections 9-13-13-9 and 10.

Owner's name: _____

Owner's address: _____

_____ Date_____
(Owner's signature)

(t) Plat recording and signature block for the Clerk of Superior Court.

Section 9-13-14-6. Final Plat Application Requirements.

Applications for final plat approval shall include the following:

(a) Application form. A properly completed application form, as completed by the Planning Department, requesting review for project approval. The Planning Department may complete the application form for the applicant.

(b) Copies of plats. A set number, as fixed from time to time by the Director of Planning and Development, of copies of the final subdivision plat meeting final plat specifications of this Chapter.

(c) Fees. Payment of all applicable application and review fees, as established by the Governing Body from time to time.

(d) Payment for materials and installations. Payment to the City for materials and installation of traffic signs and street name signs. Payment of the cost of street striping or signalization, if required and not completed by the owner, shall also be included in the application.

(e) Financial guarantee of improvements. A maintenance bond, providing for the maintenance of all public improvements required by this Article and the Unified Land Development Code in the subdivision, shall be submitted which shall be valid for a period of twenty-four (24) months following the date of approval of the final plat. If approved by the Director of Public Works, an alternative financial guarantee of improvements may be accepted, such as one of the following:

1. An escrow of funds with the City.

2. An escrow upon which the City can draw with a bank or financial institution in good standing authorized to do business in Georgia.

3. An irrevocable letter of commitment or credit, from a bank in good standing authorized to do business in Georgia, upon which the City can draw.

4. A performance bond for the benefit of the city upon which the City can collect.

5. A certificate of deposit with assignment letter from the subdivider and a bank in good standing authorized to do business in Georgia.

Section 9-13-14-7. Review and Approval Process.

The Director of Planning and Development is responsible for administering the review and approval process for final subdivision plats, which shall not be inconsistent with the provisions of this Chapter. The procedures of this Section may be supplemented by the Director of Planning and Development where additional specification is required.

(a) Review for completeness and application acceptance. The Planning Department shall review the application for completeness at the time of submission. Incomplete applications will be returned to the applicant.

(b) Distribution and agency review of final plat. The Planning Department shall forward a copy of the final plat application to other city departments as may be appropriate, the Georgia Department of Transportation if the proposed subdivision has frontage on or access to a state or federal road, or others as appropriate, for their review and comment. Agency review shall specifically include the approval from the Hall County Environmental Health Department if septic tanks are proposed and the Gainesville Public Utilities Department in cases where connection to city utilities is proposed or required.

(c) Time period for completion of review. Within two (2) to three (3) weeks following receipt of the application, during which agency review shall be completed, the Planning Department shall collect all written comments or comments marked on plats related to compliance with this Article and the Unified Land Development Code, and shall submit them to the applicant (not necessarily in consolidated form). The Director of Planning and Development shall have sole authority to determine the applicability of any provisions of this Unified Land Development Code to the final plat.

(d) Action. When the Planning Department has determined that the final subdivision plat is in compliance with the requirements, purpose and intent of this Article and the Unified Land Development Code, it shall be approved. The owner shall be responsible for compliance with all codes, regulations, and zoning requirements and for the satisfaction of all the noted and written comments. If revisions to a final plat are required, the applicant shall resubmit all revised drawings to the Director of Planning Development or designee.

Section 9-13-14-8. Certificate of Final Plat Approval.

When all of the requirements of this Article and the Unified Land Development Code, and any conditions of zoning or historic preservation approval, have been met, the Director of Planning and Development or designee shall sign and date the CERTIFICATE OF FINAL PLAT APPROVAL stamped or printed on a reproducible copy of the final subdivision plat. The executed original of the approved drawing shall be transmitted to the applicant and the Planning Department shall retain the reproducible copy.

Section 9-13-14-9. Recording of Final Plat.

Once the final subdivision plat has received approval as evidenced by the Certificate of Final Plat Approval, it shall be recorded by the applicant with the Clerk of the Superior Court. The applicant shall provide the Planning Department with one reproducible of said recorded final subdivision plat. Recordation of a final plat constitutes approval to begin the sale or transfer of subdivision lots. After recording, the reproducible copy may omit the stamp and seal of the Registered Land Surveyor or the Professional Engineer, or both, upon request.

Section 9-13-14-10. Distribution of Recorded Final Plat.

The final plat is a source of essential information to tax officials, public safety officials, and utility officials, among others. The Director of Planning and Development or designee shall be responsible for ensuring that each applicable agency listed in this Section receives a copy of the final recorded plat with addresses assigned by the Addressing Department, unless that function is done by another City Department:

1. The Hall County Tax Commissioner
2. The Hall County Tax Assessor
3. The Hall County Environmental Health Department
4. The City Police Department
5. The City Fire Department
6. The City Building Inspector
7. The City Public Works Director
8. The City Public Utilities Director
9. The Unites States Postal Service (local postmaster)

At the discretion of the Director of Planning and Development, additional agencies or persons may be added to the above list.

Section 9-13-14-11. Amendments to Final Plat Approval.

The application requirements and procedures for amending final plats shall be the same as for preliminary plat applications.

Section 9-13-14-12. Dedication of Public Streets and Acceptance of Public Improvements.

(a) Petition for public acceptance. At any date after twelve months has passed since the date of final plat approval, the subdivider may petition in writing to the Director of Public Works for the Governing Body to accept public streets and other dedications, in whole or in part, within the subdivision. Said improvements shall not be accepted for maintenance until approved by the Governing Body.

(b) Completion of improvements. If construction of any required public improvements was authorized by the Director of Public Works to be deferred at the time of final plat approval, said work shall have been completed during the one-year maintenance period for the subdivision.

(c) Final inspection. The Public Works Department shall conduct a final acceptance inspection of the public improvements and facilities within thirty (30) days of receipt of the letter requesting acceptance.

(d) Correction of deficiencies. The owner shall correct all defects or deficiencies in materials or workmanship and make such repairs as necessary to approximate the as-built condition of the improvements.

(e) Public acceptance. Upon certification by the Public Works Director that the public improvements and facilities depicted on the as-built surveys are in conformance with the specifications of this Article and the Unified Land Development Code and are in good repair, the Governing Body shall determine whether to accept the public improvements and facilities into perpetual maintenance by the City.

(f) Warranty deed. Subdivision streets and right-of-ways and other lands facilities to be dedicated to the public shall be accepted by the City only upon the delivery to the Governing Body of a general warranty deed conveying fee simple title of such right-

of-ways and lands. The warranty deed shall be accompanied by a certificate of title and a tax transfer form addressed to the Governing Body, certifying that the grantor in such deed is vested with marketable fee simple title to the property conveyed thereby, free and clear of all liens and encumbrances, and further that the individual executing such deed has full authority to do so.

(g) Release of Bond. Upon certification by the Public Works Director that the public improvements and facilities depicted on the final plat are in conformance with the specifications of this Article and the Unified Land Development Code and are in good repair, and at any date after twenty four months has passed since the date of the final plat approval, the Governing Body may release the maintenance bond.

CHAPTER 9-13-15
CONSERVATION SUBDIVISIONS

Section 9-13-15-1. Purpose.
Section 9-13-15-2. Applicability.
Section 9-13-15-3. Housing Density Determination.
Section 9-13-15-4. Standards to Determine Open Space.
Section 9-13-15-5. Permitted Uses of Open Space.
Section 9-13-15-6. Prohibited Uses of Open Space.
Section 9-13-15-7. Ownership and Management of Open Space.
Section 9-13-15-8. Legal Instrument for Permanent Protection.
Section 9-13-15-9. Conservation Subdivision Application Requirements.

Section 9-13-15-1. Purpose.

The purpose of conservation subdivisions is to provide flexibility of design in order to promote sustainable development of land in portions of the City of Gainesville already zoned for residential use. It permits the clustering of houses and structures on less environmentally sensitive lands which will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development. Appropriate use of Conservation Subdivisions can also:

(a) Provide for the preservation of greenspace as a nonstructural stormwater runoff and watershed protection measure,

(b) Preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat, and

(c) Reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development.

Section 9-13-15-2. Applicability.

This conservation subdivision option is available in the Residential Zoning Districts as a use by right. The applicant shall comply with all other provisions of the Unified Land Development Code and all other applicable laws, except those that are incompatible with the provisions contained herein.

Section 9-13-15-3. Housing Density Determination.

The maximum number of lots in the conservation subdivision shall be determined by either of the following two methods, at the discretion of the Director of Planning and Development:

(a) Calculation: The maximum number of lots is determined by dividing the area of the tract of land by the minimum lot size specified in the underlying zoning. In making this calculation, the following shall not be included in the total area of the parcel:

1. Slopes over 25 percent of at least 5,000 square feet contiguous area;

2. The 100-year administrative floodplain;

3. Bodies of open water over 5,000 square feet contiguous area;

4. Wetlands that meet the definition of the Army Corps of Engineers pursuant to the Clean Water Act; or,

5. Anticipated right-of-way needs for roads and utilities.

(b) Yield Plan: The maximum number of lots is based on a conventional subdivision design plan, prepared by the applicant, in which the tract of land is subdivided in a manner intended to yield the highest number of lots possible. The plan does not have to meet formal requirements for a site design plan, but the design must be capable of being constructed given site features and all applicable regulations.

Section 9-13-15-4. Standards to Determine Open Space.

(a) The minimum restricted open space shall comprise at least 40 percent of the gross tract area.

(b) The following are considered primary conservation areas and are required to be included within the open space, unless the applicant demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of this chapter:

1. The administrative 100-year floodplain;

2. A total buffer protection zone of at least 75 ft in width along all streams which includes a 50 foot stream protection buffer and a 25 foot stream buffer setback;

3. Slopes above 25 percent of at least 5,000 square feet contiguous area; Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act;

4. Populations of endangered or threatened species, or habitat for such species; and,

5. Archaeological sites, cemeteries and burial grounds.

(c) The following are considered Secondary Conservation Areas and should be included within the Open Space to the maximum extent feasible.

1. Important historic sites;

2. Existing healthy, native forests of at least one acre contiguous area;

3. Individual existing healthy trees greater than 8 inches caliper, as measured from their outermost drip line;

4. Other significant natural features and scenic viewsheds such as ridge lines, peaks and rock outcroppings, particularly those that can be seen from public roads;

5. Prime agricultural lands of at least five acres contiguous area; and,

6. Existing trails that connect the tract to neighboring areas.

(d) Above-ground utility rights-of-way and small areas of impervious surface may be included within the protected open space but cannot be counted towards the 40 percent minimum area requirement (exception: historic structures and existing trails may be counted). Large areas of impervious surface shall be excluded from the open space.

(e) At least 75 percent of the open space shall be in a contiguous tract. The open space should adjoin any neighboring areas of open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected open space.

(f) The open space 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 open space.

Section 9-13-15-5. Permitted Uses of Open Space.

Uses of open space may include the following:

(a) Conservation of natural, archeological or historical resources;

(b) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;

(c) Walking or bicycle trails, provided they are constructed of porous paving materials;

(d) Passive recreation areas;

(e) Active recreation areas, provided that they are limited to no more than 10 percent of the total open space and are not located within Primary Conservation Areas. Active recreation areas may include impervious surfaces. Active recreation areas in excess of this limit must be located outside of the protected open space;

(f) Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts, and such activities are not conducted within primary conservation areas;

(g) Nonstructural stormwater management practices;

(h) Easements for drainage, access, and underground utility lines; or

(i) Other conservation-oriented uses compatible with the purposes of this Unified Land Development Code.

Section 9-13-15-6. Prohibited Uses of Open Space.

Uses of open space shall not include the following:

(a) Golf courses;

(b) Roads, parking lots and impervious surfaces, except as specifically authorized in the previous sections;

(c) Agricultural and forestry activities not conducted according to accepted Best Management Practices; and,

(d) Other activities as determined by the applicant and recorded on the legal instrument providing for permanent protection.

Section 9-13-15-7. Ownership and Management of Open Space.

(a) Ownership of open space. The applicant must identify the owner of the open space who is responsible for maintaining the open space and facilities located thereon. If a Homeowners Association is the owner, membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. If a Homeowners Association is the owner, the Homeowners' Association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the open space and any facilities located thereon shall be borne by the owner.

(b) Maintenance of open space. In the event the party responsible for maintenance of the open space fails to maintain all or any portion in reasonable order and condition, City of Gainesville may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the owner, Homeowner's Association, or to the individual property owners that make up the Homeowner's Association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties. Should the Homeowner's Association go defunct responsibility falls to the actual homeowners.

Section 9-13-15-8. Legal Instrument for Permanent Protection.

The open space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:

(a) A permanent conservation easement in favor of either: a land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions; or a governmental entity with an interest in pursuing goals compatible with the purposes of this chapter. If the entity accepting the easement is not the City of Gainesville, then a third right of enforcement favoring City of Gainesville shall be included in the easement;

(b) A permanent restrictive covenant for conservation purposes in favor of a governmental entity; or,

(c) An equivalent legal tool that provides permanent protection, if approved by the City of Gainesville.

The instrument for permanent protection shall include clear restrictions on the use of the open space. These restrictions shall include all restrictions contained in this chapter, as well as any further restrictions the applicant chooses to place on the use of the open space.

Section 9-13-15-9. Conservation Subdivision Application Requirements.

(a) Site Analysis Map Required. Concurrent with the submission of a site concept plan, Applicant shall prepare and submit a site analysis map. The purpose of the site analysis map is to ensure that the important site features have been adequately identified prior to the creation of the site design, and that the proposed open space will meet the requirements of this article. The preliminary site plan shall included the following features:

1. Property boundaries;
2. All streams, rivers, lakes, wetlands and other hydrologic features;
3. Topographic contours of no less than 10-foot intervals;
4. All Primary and Secondary Conservation Areas labeled by type, as described in this Chapter;
5. General vegetation characteristics;
6. General soil types;
7. The planned location of protected open space;
8. Existing roads and structures; and,
9. Potential connections with existing greenspace and trails.

(b) Open Space Management Plan Required. An open space management plan, as described in this chapter, shall be prepared and submitted prior to the issuance of a land development permit. Said plan shall:

1. allocate responsibility and guidelines for the maintenance and operation of the Open Space and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;
2. estimate the costs and staffing requirements needed for maintenance and operation of, and insurance for, the Open Space and outline the means by which such funding will be obtained or provided;
3. provide that any changes to the Plan be approved by the City Council; and
4. provide for enforcement of the Plan.

(c) Instrument of Permanent Protection Required. An instrument of permanent protection, as described by this Chapter, shall be placed on the open space concurrent with the issuance of a land disturbance permit.

(d) Other Requirements. The applicant shall adhere to all other applicable requirements of the underlying zoning.

CHAPTER 9-13-16
CORRIDOR MAP

Section 9-13-16-1. Purpose and Intent.
Section 9-13-16-2. Definitions.
Section 9-13-16-3. Findings and Corridor Map Adoption.
Section 9-13-16-4. General Provisions.
Section 9-13-16-5. Land Development Permit Required to Develop Reserved Land.
Section 9-13-16-6. Public Hearing and Notice on Land Development Permit.
Section 9-13-16-7. Action.
Section 9-13-16-8. Authority to Acquire Reserved Land for Public Use.
Section 9-13-16-9. Final Action on the Development Permit.

Section 9-13-16-1. Purpose and Intent.

The purposes of a corridor map are to implement the city's comprehensive plan, especially transportation and thoroughfare plans, by reserving land needed for future transportation facilities designated by a plan. The corridor map is intended to provide a basis for coordinating the provision of transportation facilities with new development by designating corridors where the construction and improvement of transportation facilities is expected, to restrict the construction or expansion of permanent structures in the intended right-of-way of planned transportation facilities as indicated on a corridor map, and to protect the rights of landowners whose land is reserved on a corridor map.

Section 9-13-16-2. Definitions.

Corridor map: A map adopted by a Governing Body which designates land to be reserved for the construction of future or improvement of existing transportation or linear park and recreation facilities (e.g., greenways). The corridor map establishes the width and termini of corridors as necessary to allow flexibility in planning the design of a transportation facility or linear park and recreation facility.

Reserved land: Land shown on the corridor map as reserved for future public use.

Transportation facilities: Streets, highways, bikeways, sidewalks, and trails.

Section 9-13-16-3. Findings and Corridor Map Adoption.

The Governing Body reserves the right to adopt, after public hearing, a corridor map that is consistent in all respects with the comprehensive plan or plans of participating municipalities. Prior to adoption of a corridor map, the following actions shall be taken to ensure procedural due process:

(a) Prior to public hearing, if the proposed corridor map includes land intended for transportation facilities to be constructed or improved by the city, a copy of the proposed corridor map shall be submitted to the chief executive officer of the city who shall be allowed thirty (30) days to indicate in writing any reserved land for transportation facilities for which they are responsible that they want removed from the corridor map, in which case such reserved land shall be removed from the corridor map.

(b) At least fifteen (15) days before the public hearing, the Director of Planning and Development shall notify the public of the date, time, place, and nature of the public hearing by publication in a newspaper of general circulation in the territory of the city.

(c) The Director of Planning and Development shall notify all owners of parcels of land that include proposed reserved land of the date, time, place, and nature of the public hearing by mail at least fifteen (15) days before the public hearing.

(d) The Governing Body shall hold a public hearing(s) at the date, time, and place advertised, and afford all interested individuals the opportunity to be heard concerning the proposed corridor map.

Section 9-13-16-4. General Provisions.

The Director of Planning and Development shall not issue any permit pertaining to zoning or land development on land regulated by this Chapter except pursuant to the procedures and in compliance with this Chapter. This Chapter does not forbid or restrict the use of any reserved land that does not constitute the development of that land, nor does this Chapter forbid or restrict development on the unreserved portion of any reserved land.

Section 9-13-16-5. Land Development Permit Required to Develop Reserved Land.

An owner of reserved land who proposes to develop reserved land shall apply to Planning Department for a land development permit. It shall be unlawful to carry out development upon land shown as reserved on the corridor map without securing a development permit as required by this Unified Land Development Code.

Section 9-13-16-6. Public Hearing and Notice on Development Permit.

Upon receiving an application for a land development permit involving reserved land as shown on an adopted corridor map, the Director of Planning and Development shall arrange for the application to be scheduled for public hearing before the Governing Body. The applicant (and the governmental unit, if land is reserved for a public use by a governmental unit other than the local government) shall be notified in writing of the date, time, and place of the hearing, by written mail, personal service, or facsimile, at least fifteen (15) days prior to the public hearing. The public shall be given notice of the date, time, place, and nature of the hearing by publication in a newspaper of general circulation in the City at least fifteen (15) days prior to the public hearing. The applicant shall, at the hearing, have an opportunity, personally or through counsel, to present evidence and argument in support of his or her application, as shall any governmental unit or interested individual that has an interest in the application.

Section 9-13-16-7. Action.

Following the public hearing, the Governing Body may take one of the following actions:

(a) Approve the land development permit as proposed, with or without conditions, modify the mapped corridor to remove all or part of the reserved land from the mapped corridor, and issue with or without conditions the land development permit authorizing development on the land removed from the mapped corridor.

(b) Modify the proposed land development permit application and issue it for development as modified, with or without conditions, if the development can

reasonably be accomplished on the subject parcel without encroaching on the reserved land.

(c) Delay action on the development permit for a defined period of time not to exceed three (3) months for the purpose of any of the following: negotiating with the property owner for the purchase of all or a part of the reserved land by the governmental agency responsible for the transportation facilities; acquiring the reserved land voluntarily; acquiring an easement over the reserved land that prevents the property owner from building on the reserved land; taking the reserved land through eminent domain and the payment of just compensation.

Section 9-13-16-8. Authority to Acquire Reserved Land for Public Use.

After consideration of the development permit by the Governing Body, the Governing Body or other governmental unit responsible for the transportation facilities may, but shall not be obligated to, negotiate for the voluntary dedication of the land, enter into option to purchase, or it may initiate condemnation proceedings subject to applicable state laws and use its powers of eminent domain.

Section 9-13-16-9. Final Action on the Land Development Permit.

If the Governing Body delays action on the development permit as provided by this Chapter and the governmental agency responsible for transportation facilities on the reserved land fails to arrange for the legal acquisition of all or a part of the reserved land within the specified time period which shall not exceed three (3) months, then the Governing Body shall approve the land development permit, with or without conditions, or in the absence of such approval, the land development permit shall be deemed approved as submitted.

ARTICLE 9-14
SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL

CHAPTER 9-14-1	DEFINITIONS	14-1
CHAPTER 9-14-2	EXEMPTIONS	14-9
CHAPTER 9-14-3	MINIMUM REQUIREMENTS FOR EROSION AND SEDIMENTATION CONTROL	14-12
CHAPTER 9-14-4	ADDITIONAL PROVISIONS	14-17

CHAPTER 9-14-1
DEFINITIONS

As-built survey drawings: Drawings specifying the dimensions, location, capacities, and operational capabilities of structures and facilities as they have been constructed.

Available head: The depth of water that is present at the entrance to a pipe during a 100-year storm.

Best Management Practices (BMPs): These include sound 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 Commission as of January 1 of the year in which the land-disturbing activity was permitted, a copy of which is on file in the Clerk of the City.

Board: Board of Natural Resources

Bond: A bond, letter of credit or approved surety method approved by the City Manager.

Certified Personnel: A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water conservation Commission.

City – The City of Gainesville, Georgia.

Commission: The Georgia Soil and Water Conservation Commission (GSWCC).

Construction: Any building or erection of a structure or preparation of a property for same.

CPESC: Certified Professional in Erosion and Sediment Control with current certification by Certified Profession in Erosion and Sediment Control Inc., a corporation registered in North Carolina, which is also referred to as CPESC or CPESC, Inc.

Cut: 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."

Cutting: The removal of any soil or other solid material from a natural ground surface.

Department: The Georgia Department of Natural Resources (DNR).

Design head: The depth of water at the entrance to a pipe that was used in design to force a rate of flow through the pipe needed in the design.

Design Professional: A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying: or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by Certified Professional in Erosion and Sediment Control Inc.

Detention facility: A detention basin or structure designed for the detention of stormwater runoff and gradual release of stored water at controlled rates.

Development: (1) A land development project involving the construction of streets, utilities, buildings, or other improvements required for the habitation or use of property, such as a residential neighborhood, an apartment complex, a store, or a shopping center; (2) any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials; (3) the act of constructing or carrying out a land development project, including the alteration of land or vegetation in preparation for construction activity.

District: The Hall County Soil and Water Conservation District.

Division: The Environmental Protection Division (EPD) of the Department of Natural Resources.

Drainage: A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping; most commonly applied to surface water.

Drainage structure: A device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one 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: The surface and subsurface system for the removal of water from the land, including both the natural elements of streams, marshes, swales and ponds, whether of an intermittent or continuous nature, and the man-made element which includes culverts, ditches, channels, detention facilities and the storm sewer system.

Elevation: The vertical height or heights above a datum plane which for purposes of this Chapter shall be the Mean Sea Level datum of the United States Coast and Geodetic Survey of 1929 or other customarily accepted source.

EPD: The Environmental Protection Division of the Georgia Department of Natural Resources.

EPD Director: The Director of the Environmental Protection Division or an authorized representative.

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

Erosion and sediment control plan A plan required by the Erosion and Sedimentation Act, O.C.G. A. Chapter 12-7, as amended, that includes, as a minimum protections at least as

stringent as the State General Permit, best management practices, and requirements in section 9-14-3-3 of this ordinance.

Excavation: The mechanical removal of earth material.

Extended detention: The detention of stormwater runoff for an extended period, typically 24 hours or greater.

Facility/Site Outfall: The location where storm water in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.

Fill: A portion of land surface to which soil or other solid material has been added; the depth above the original ground or an excavation.

Filling: The placement of any soil or other solid material, either organic or inorganic, on a natural ground surface or excavation.

Final Stabilization: All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or equivalent permanent stabilization measures (such as the use of rip rap, gabions, permanent mulches or geotextiles) have been used. Permanent vegetation shall consist of: planted trees, shrubs, perennial vines; a crop of perennial vegetation appropriate for the time of year and region; or a crop of annual vegetation and a seeding of target crop perennials appropriate for the region. Final stabilization applies to each phase of construction.

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

Grading: 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.

Grading Permit: Authorization necessary but limited to the initiation and conduct of a land-disturbing activity on a property. For purposes of this Unified Land Development Code, a land development permit issued pursuant to Chapter 9-13-7 shall constitute approval of the grading permit required by this Article.

Greenway: An area along the course of any state waters to be maintained in an undisturbed and natural condition.

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

Hydrologic Soil Group (HSG): A Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce much more runoff.

Land development: Any land change, including but not limited to clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving and any other installation of impervious cover.

Land development or disturbance activity: Those actions or activities which comprise, facilitate or result in land development.

Land disturbance: Any land or vegetation change, including, but not limited to, clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, that do not involve construction, paving or any other installation of impervious cover.

Land development permit: The authorization necessary to carry out the planned development of land and structures, which may include authorization to initiate and conduct a land-disturbing activity. The land development permit is issued pursuant to Chapter 9-13-7 of this Unified Land Development Code.

Land-disturbing activity: Any activity that 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 this Chapter.

Larger Common Plan of Development or Sale: A contiguous area where multiple separate and distinct construction activities are occurring under one 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: The quantity of water capable of being effectively contained by a stormwater detention facility for a specified period of time.

Manual for Erosion and Sediment Control in Georgia: A publication of the same name published by the Georgia Soil and Water Conservation Commission, and as amended or supplemented from time to time, a copy of which is on file in the Office of the Clerk of the City.

Natural drainage: Channels formed by the existing surface topography of the earth prior to changes made by unnatural causes.

Natural ground surface: The ground surface in its original state before any grading, excavation or filling.

Nephelometric Turbidity Units (NTU): 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 particles are present.

NOI: A Notice of Intent form provided by EPD for coverage under the State General Permit.

NOT: A Notice of Termination form provided by EPD to terminate coverage under the State General Permit.

One-hundred-year flood: A 100-year frequency flood that has the probability of occurring once every 100 years and thus has a 1 percent chance of occurring each year.

One-hundred-year flood plain: A land area adjoining a river, stream, watercourse or lake that has a probability of being flooded up to and including the 100-year flood.

Operator: 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 an erosion, sedimentation and pollution control 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 erosion, sedimentation and pollution control plan or to comply with other permit conditions.

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

Person: 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 the State of Georgia, any interstate body or any other legal entity.

Phase or Phased: Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

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

Properly Designed: Designed in accordance with the design requirements and specifications contained in the *Manual for Erosion and Sediment Control in Georgia* of the year in which the land-disturbing activity was permitted and amendments to the Manual as approved by the Commission up until the date of NOI submittal.

Qualified personnel: Any person who meets or exceeds the education and training requirements of O.C.G.A. 12-7-19, as amended.

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

Riparian: Belonging or related to the bank of a river, stream, lake, pond or impoundment.

Roadway drainage structure: 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 side of a traveled way consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

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

Runoff rate coefficient: The numerical factor which, when multiplied with the average slope for a particular site, will give the release rate of water from that site.

Sediment: 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: The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.

Slope: The degree of deviation of a surface from the horizontal, usually expressed in percent or degree.

Soil and Water Conservation District approved plan: An erosion and sediment control plan approved in writing by the Hall County Soil and Water Conservation District.

Soils: The upper layer of earth that can be dug or plowed; the loose surface material of the earth in which vegetation normally grows.

Stabilization: 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.

State General Permit: The National Pollution Discharge Elimination System (NPDES) 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. Section 1251, et seq., and subsection (f) of O.C.G.A. Code Section 12-5-30, as amended.

State waters: 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 Georgia which are not entirely confined and retained completely upon the property of a single individual, partnership or corporation.

Static head: The depth of water at the entrance to a culvert when the depth is greater than the diameter of the pipe.

Stream: A stream is defined as beginning at:

(a) The location of a spring, seep, or groundwater outflow that sustains streamflow; or

(b) A point in the stream channel with a drainage area of 25 acres or more; or

(c) Where evidence indicates the presence of a stream in a drainage area of other than 25 acres, the Director of Planning and Development may require field studies to verify the existence of a stream.

Stream bank: The sloping land that contains the stream channel and the normal flows of the stream.

Stream protection buffer setback: An additional setback, measured horizontally, beyond the undisturbed stream protection buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.

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

Stream protection buffer: The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, as measured horizontally, which facilitates the protection of water quality and aquatic habitat.

Stream protection area, or protection area: The combined areas of all required stream protection buffers and setbacks applicable to such stream.

Structural Erosion Sedimentation and Pollution Control Practices: Practices 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 sedimentation control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures and sediment traps. Such practices can be found in the publication *Manual for Erosion and Sediment Control in Georgia.*

Ten-year, twenty-five-year and one-hundred-year storms: Rainfall events having a probability of occurrence once every 10, 25 or 100 years, respectively, or a 10%, 4% or 1% chance of occurring each year, respectively.

Trout streams: All streams or portions of streams within the watershed as designated by the Wildlife Resources 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 , as amended, in the Rules and Regulations for Water Quality Control Chapter 391-3-6 at www.gaepd.org., as amended. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

Utilities: All public and private, above or below ground, infrastructure systems providing water, stormwater, sewer, gas, telephone or cable television, and any other service controlled by the Georgia Public Services Commission.

Vegetation: All plant growth, such as trees, shrubs, mosses and grasses.

Vegetative Erosion and Sedimentation Control Measures: Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

(a) Permanent seeding, sprigging or planting, producing long-term vegetative cover; or

(b) Temporary seeding, producing short-term vegetative cover; or

(c) Sodding, covering areas with a turf of perennial sod-forming grass.

Such measures can be found in the *Manual for Erosion and Sediment Control in Georgia*

Watercourse: 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.

Wetlands: 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.

CHAPTER 9-14-2
EXEMPTIONS

Section 9-14-2-1. Generally
Section 9-14-2-2. Mining and Quarrying
Section 9-14-2-3. Minor Activities
Section 9-14-2-4. Single-family Detached Dwellings
Section 9-14-2-5. Agriculture
Section 9-14-2-6. Forestry Land Management Practices
Section 9-14-2-7. NRCS Projects
Section 9-14-2-8. Small Projects
Section 9-14-2-9. State Projects and State/Local Road Projects
Section 9-14-2-10. Electric and Public Utilities

Section 9-14-2-1. Generally.

This Article shall apply to any land-disturbing activity undertaken by any person on any land except for those uses specifically identified in this Chapter.

Where this Chapter requires compliance with Chapter 9-14-3 of this Article, "Minimum Requirements for Erosion and Sedimentation Control," the City shall enforce compliance with the minimum requirements as if a land development permit had been issued and any violations of said minimum requirements shall be subject to the same penalties as violations by land development permit holders.

Section 9-14-2-2. Mining and Quarrying.

Surface mining, as same is defined in O.C.G.A. § 12-4-72, as amended, entitled "The Georgia Surface Mining Act of 1968", and granite quarrying and land clearing for such quarrying are exempt from compliance with this Article.

Section 9-14-2-3. Minor Activities.

Minor land-disturbing activities, such as home gardens and individual home landscaping, repairs, maintenance work fences, and other related activities, which result in minor soil erosion are exempt from compliance with this Article.

Section 9-14-2-4. Single-family Detached Dwellings.

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 O.C.G.A. 12-7-6, as amended, and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a stream protection 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, as amended. In any such stream protection 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

stream protection buffer zone shall be at least 50 horizontal feet, and no variance to a smaller stream protection buffer shall be granted. For secondary trout waters, the stream protection buffer zone shall be at least 50 horizontal feet, but the EPD Director may grant variances to no less than 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 stream protection buffer shall be at least 25 horizontal feet, and no variance to a smaller stream protection buffer shall be granted. The minimum requirements of subsection (b) of O.C.G.A. 12-7-6, as amended, and the stream protection buffer zones provided by this paragraph shall be enforced by the City.

Section 9-14-2-5. Agriculture.

Exempt from the requirements of this article are those agricultural operations defined in O.C.G.A. § 1-3-3, as amended, “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 chicken, hens, and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs, and apiarian products and farm buildings and farm ponds.

Section 9-14-2-6. Forestry Land Management Practices.

Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a stream protection buffer, as established in section 9-14-3-3 of this ordinance, 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 three (3) years after completion of such forestry practices.

Section 9-14-2-7. NRCS Projects.

Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture shall be exempt from compliance with this Article.

Section 9-14-2-8. Small Projects.

Any project involving less than one (1) acre of disturbed are; 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 200 feet of the bank of any state waters, and for purposes of this paragraph, “State Waters” excludes channels and drainage ways 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 200 feet of any such excluded channel or drainage way, 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 from regulating any such project which is not specifically exempted by this article.

Section 9-14-2-9. State Projects and State/Local Road Projects.

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 Georgia State Road and 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 the Georgia Department of Transportation or the Georgia State Road and Tollway Authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. 12-7-7.1, as amended; except where the Georgia Department of Transportation, the Georgia Highway Authority, or the Georgia 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 City, the City shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6, as amended, as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;

Section 9-14-2-10. Electric and Public Utilities.

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, as amended, 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, as amended, 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 City shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6, as amended, as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and any public water system reservoir.

CHAPTER 9-14-3
MINIMUM REQUIREMENTS FOR EROSION AND SEDIMENTATION CONTROL

Section 9-14-3-1. General Provisions
Section 9-14-3-2. Minimum Requirements/Best Management Practices
Section 9-14-3-3. Minimum Requirements
Section 9-14-3-4. Stream Protection Buffers
Section 9-14-3-5. Stream Protection Buffers along Trout Streams
Section 9-14-3-6. Provisions Regarding Land Disturbance Activity and the Disturbance of Stream Protection Buffers
Section 9-14-3-7. Maintenance of Control Measures
Section 9-14-3-8. Manual Adopted by Reference

Section 9-14-3-1. General Provisions.

Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the ordinance and the NPDES permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by chapter 9-14-2 of this article shall contain provisions for application of soil erosion and sedimentation and pollution control measures and practices. The provisions shall be incorporated into the erosion and sediment control plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of this chapter.

The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this ordinance and the NPDES General Permit.

Section 9-14-3-2. Minimum Requirements/Best Management Practices.

(a) Required. Best management practices as set forth in this section shall be required for all land-disturbing activities unless specifically exempted by chapter 9-14-2 of this article.

(b) Defense to enforcement action. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the EPD Director or to any other allegation of noncompliance with this section or any substantially similar terms contained in a land development permit for the discharge of stormwater. Issued pursuant to subsection (f) of O.C.G.A. 12-5-30, as amended, the “Georgia Water Quality Control Act”.

(c) Definitions. As used in this section, the terms “proper design” and “properly designed” mean 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 subsection (b), as amended.

(d) Violations. 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 the City or of any state general permit issued by the Division pursuant to subsection (f) of O.C.G.A. 12-5-30, as amended, 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 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than 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 EPD Director. 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.

(e) Inadequate Best Management Practices. Failure to properly design, install or maintain best management practices shall constitute a violation of any land disturbing permit issued by the City or of any state general permit issued by the Division pursuant to subsection (f) of Code Section 12-5-30, as amended, the "Georgia Water Quality Control Act", for each day on which such failure occurs.

(f) Requirements by EPD Director. The EPD Director may require, in accordance with regulations adopted by the Board of Natural Resources, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.

Section 9-14-3-3. Minimum Requirements.

The rules and regulations, ordinances, or resolutions adopted pursuant to O.C.G.A. 12-7-1 et seq., as amended, for the purpose of governing land-disturbing activities shall require, as a minimum practices, including soil 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* of the year in which the land-disturbing activity was permitted, as well as the following:

(a) Stripping of vegetation, re-grading and other development activities shall be conducted in a manner so as to minimize erosion.

(b) Cut-fill operations must be kept to a minimum.

(c) Development plans must conform to topography and soil type so as to create the lowest practicable erosion potential.

(d) Whenever feasible, natural vegetation shall be retained, protected and supplemented.

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

(f) Disturbed soil shall be stabilized as quickly as practicable.

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

(h) Permanent vegetation and structural erosion control measures shall be installed as soon as practicable.

(i) 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 O.C.G.A. 12-7-1 et. seq., as amended.

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

(k) Cuts and fills may not endanger adjoining property.

(l) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners.

(m) Grading equipment must 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.

(n) No public streets, drainage systems or private property shall be restricted from normal use or operation by the scattering of earth, rock, vegetation and other debris resulting from the land disturbing activity. The permittee shall be responsible for clearing, unclogging and cleaning any such facility or lands on a daily basis.

(o) Land-disturbing activity plans for erosion sedimentation and pollution control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in this section.

(p) Land-disturbing activities shall not be conducted within the 100-year flood plain except in compliance with article 9-15 of this Unified Land Development Code.

(q) Construction site operators are required to control waste at the construction site, such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste.

Section 9-14-3-4. Stream Protection Buffers.

Except as provided in section 9-14-3-5, there is established a 25 foot stream protection buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal streams flow or wave action, except where the EPD Director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the EPD Director pursuant to O.C.G.A. 12-2-8 as amended, 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 specification, and are implemented; or along any ephemeral stream. As used in the provision, the term ‘ephemeral stream’ means a stream: that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the ground-water table year round; for which ground water is not a source of

water; and for which runoff from precipitation is the primary source of water flow, unless exempted as along an ephemeral stream, the stream protection buffers of at least 25 feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act", as amended, shall remain in force unless a variance is granted by the EPD Director as provided in this paragraph. The following requirements shall apply to any such stream protection buffer:

(a) No land-disturbing activities shall be conducted within a stream protection buffer and a stream protection 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 stream protection 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 stream protection 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

(b) The stream protection buffer shall not apply to the following land-disturbing activities provided that they occur at an angle, as measured form the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the stream protection 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.

Section 9-14-3-5. Stream Protection Buffers Along Trout Streams.

There is established a 50 foot stream protection 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, as amended, 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 25 gallons per minute or less shall have a 25 foot stream protection 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 Board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the stream protection buffer requirements for any adjacent trout streams. The EPD Director may grant a variance from such stream protection 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 stream protection buffer:

(a) No land-disturbing activities shall be conducted within a stream protection buffer and a stream protection 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 stream protection 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 stream protection 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

(b) The stream protection buffer shall not apply to the following land-disturbing activities provided that they occur at an angle, as measured form the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the stream protection 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.

Section 9-14-3-6. Provisions Regarding Land Disturbance Activity and the Disturbance of Stream Protection Buffers.

This section shall not be construed as preventing the application of other requirements of this Unified Land Development Code which require larger buffers along property lines than specified in this article (see Table 9-5-2 and Table 9-6-2, which may apply). Furthermore nothing contained in O.C.G.A. 12-7-1 et. seq., as amended, shall prevent the City from adopting rules and regulations, ordinances, or resolutions which contain stream protection buffer requirements that exceed the minimum requirements in this article.

See Chapter 9-16-3 of this Unified Land Development Code for provisions regarding disturbance within stream protection buffers.

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 ordinance or the terms of the permit.

Section 9-14-3-7. Maintenance of Control Measures.

Owner's responsibility. Maintenance of all soil erosion and sediment control measures, whether temporary or permanent, shall be at all times the responsibility of the owner.

Section 9-14-3-8. Manual Adopted by Reference.

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* or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The *Manual for Erosion and Sediment Control in Georgia* is hereby incorporated by reference into this article.

CHAPTER 9-14-4
ADDITIONAL PROVISIONS

Section 9-14-4-1. Application/Permit Process
Section 9-14-4-2. Inspection and Enforcement
Section 9-14-4-3. Penalties and Incentives
Section 9-14-4-4. Education and Certification
Section 9-14-4-5. Administrative Appeal Judicial Review
Section 9-14-4-6. Validity and Liability

Section 9-14-4-1. Application/Permit Process.

A. General

The property owner, developer and designated planners and engineers shall design and review before submittal, the general development plans. The City shall review the tract to be developed and the area surrounding it. The staff of the City shall consult the zoning ordinance, storm water management ordinance, subdivision ordinance, flood damage prevention ordinance, this ordinance, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the City. However, the owner and/or operator are the only parties who may obtain a permit.

B. Application Requirements

1. No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the City without first obtaining a permit from the City to perform such activity and providing a copy of NOI submitted to EPD if applicable.
2. The application for a permit shall be submitted to the City and must include the applicant's erosion, sedimentation and pollution control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in this article. Erosion, sedimentation and pollution control plans, together with supporting data, must demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of this article will be met. Applications for a permit will not be accepted unless accompanied by seven (7) copies of the applicant's erosion, sedimentation and pollution control plans. All applications shall contain a certification stating that the plan preparer or the designee there of visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-.10, as amended.
3. 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, as amended, provided that such fees shall not exceed $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. 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, as amended, shall be submitted in full to the Division.
4. Immediately upon receipt of an application and plan for a permit, the City shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan. The District shall approve or disapprove a plan within 35 days of receipt. Failure of the District to act

within 35 days shall be considered an approval of the pending plan. The results of the District review shall be forwarded to the City. No permit will be issued unless the plan has been approved by the District, and any variances required by this article have been obtained, all fees have been paid, and bonding, if required, has been obtained. Such review will not be required if the City and the District have entered into an agreement which allows the City to conduct such review and approval of the plan without referring the application and plan to the District. The City with plan review authority shall approve or disapprove a revised plan submittal within 35 days of receipt. Failure of the City with plan review authority to act within 35 days shall be considered an approval of the revised plan submittal.

5. If a permit applicant has had two or more violations of previous permits, this ordinance section, or the Erosion and Sedimentation Act, as amended within three years prior to the date of filing the application under consideration, the City may deny the permit application.
6. The City 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, $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 City 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. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the City with respect to alleged permit violations.

C. Plan Requirements

1. Plans must be prepared to meet the minimum requirements as contained in this article, or through the use of more stringent alternate design criteria which conform to sound conservation and engineering practices. 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. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the Commission and in consultation with the Division and Stakeholder Advisory Board created pursuant to O.C.G.A. 12-7-20, as amended.
2. Data required for site plan shall include all the information required from the appropriate Erosion, Sedimentation and Pollution Control Plan Review Checklist established by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.

D. Permits

1. 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 City of a completed application as well as all required approved plans and reports, providing variances and bonding are obtained,

where necessary and all applicable fees have been paid prior to permit issuance. The permit shall include conditions under which the activity may be undertaken.

2. No permit shall be issued by the City unless the erosion, sedimentation and pollution control plan has been approved by the District and the City has affirmatively determined that the plan is in compliance with this ordinance, any variances required by this article are obtained, bonding requirements, if necessary, are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the City are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
3. Any land-disturbing activities by the City shall be subject to the same requirements of this ordinance, and any other ordinances relating to land development, as are applied to private persons and the Division shall enforce such requirements upon the City.
4. If the tract is to be developed in phases, then a separate permit shall be required for each phase.
5. The permit may be suspended, revoked, or modified by the City, as to all or any portion of the land affected by the plan, upon finding that the holder or that person's successor in the title is not in compliance with the approved erosion, sedimentation and pollution control plan or that the holder or his successor in title is in violation of this ordinance. A holder of a permit shall notify any successor in title to that person as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.
6. The City may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of O.C.G.A. 12-7-7 (f) (1), as amended.

Section 9-14-4-2. Inspection and Enforcement.

A. The city 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 shall regulate primary, secondary, and tertiary 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. Tertiary permittees shall be responsible for installation and maintenance where the tertiary 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 ordinance, a written notice to comply shall be served upon that person. The notice shall set forth the necessary measures 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, that person shall be deemed in violation of this ordinance.
B. The City shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this ordinance, 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, the Commission, the District, or 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.

Section 9-14-4-3. 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 ordinance 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.

B. Stop-Work Orders

1. For the first and second violations of the provisions of this ordinance, the EPD Director or the City shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the EPD Director or the City may issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the EPD Director or the City may issue an immediate stop-work order in lieu of a warning;
2. For a third and each subsequent violation, the EPD Director or the City may issue and immediate stop-work order; and;
3. All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
4. When a violation in the form of taking action without a permit, failure to maintain a stream protection buffer, or significant amounts of sediment, as determined by City or by the EPD 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 may be issued by the City or by the EPD 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 upon that person. The notice shall set forth necessary measures 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 ordinance and, in addition to other penalties, may be deemed to have forfeited his performance bond for erosion, sedimentation and pollution control, if required to post one. The City 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. Any person who violates any provision of this ordinance, or any permit condition or limitation established pursuant to this ordinance, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the City or the EPD Director issued as provided in this ordinance shall be liable for a civil penalty not to exceed $2,500.00 per day. For the purpose of enforcing the provisions of this ordinance, notwithstanding any provisions in any City charter or ordinance to the contrary, the municipal court of the City shall be authorized to impose a penalty not to exceed $2,500.00 for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations, each day during which violation or failure or refusal to comply continues shall be a separate violation.

Section 9-14-4-4. Education and Certification.

A. 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, as amended.
B. For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the Commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.
C. Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this ordinance.
D. If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of O.C.G.A. 12-7-19, as amended, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in paragraph (4) of subsection (b) of O.C.G.A 12-7-19, as amended, and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

Section 9-14-4-5. Administrative Appeal Judicial Review.

A. Administrative Remedies

The suspension, revocation, modification or grant with condition of a permit by the City upon finding that the holder is not in compliance with the approved erosion, sediment and pollution control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the Administrative Hearing Officer within thirty (30) days after receipt by the City of written notice of appeal.

B. Judicial Review

Any person, aggrieved by a decision or order of the City, after exhausting his administrative remedies, shall have the right to appeal by writ of certiorari to the Superior Court of Hall County.

Section 9-14-4-6. Validity and Liability.

A. Liability

1. Neither the approval of a plan under the provisions of this ordinance, nor the compliance with provisions of this ordinance 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 or District for damage to any person or property.
2. 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 standards provided for in this ordinance or the terms of the permit.
3. No provision of this ordinance 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, as amended, or pollute any waters of the State as defined thereby.

ARTICLE 9-15
FLOODPLAIN MANAGEMENT

CHAPTER 9-15-1	GENERAL PROVISIONS	15-1
CHAPTER 9-15-2	ADMINISTRATION AND PERMITTING	15-10
CHAPTER 9-15-3	FLOOD HAZARD REDUCTION	15-16

CHAPTER 9-15-1
GENERAL PROVISIONS

Section 9-15-1-1	Findings of Fact
Section 9-15-1-2	Statement of Purpose
Section 9-15-1-3	Objectives
Section 9-15-1-4	Definitions
Section 9-15-1-5	Applicability
Section 9-15-1-6	Adoption by Reference
Section 9-15-1-7	Interpretation
Section 9-15-1-8	Warning and Disclaimer of Liability
Section 9-15-1-9	Compatibility with Other Regulations

Section 9-15-1-1. Findings of Fact.

The flood hazard areas of the City of Gainesville are subject to periodic inundation which can result in loss of life and 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.

Flood hazard areas can serve important stormwater management, water quality, stream bank protection, stream corridor protection, wetland preservation and ecological purposes when permanently protected as undisturbed green space areas.

Effective floodplain management and flood hazard protection activities can (1) Protect human life and health; (2) Minimize damage to private property; (3) Minimize damage to public facilities and infrastructure such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains; and (4) Minimize expenditure of public money for costly flood control projects associated with flooding and generally undertaken at the expense of the general public.

These flood losses are increased by the cumulative effect of obstructions in flood plains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood proofed, or otherwise unprotected from flood damage.

Section 9-15-1-2. Statement of Purpose.

It is the purpose of this Article to promote the public health, safety, environment and general welfare and to minimize public and private losses due to flood conditions in flood hazard areas,

as well as to protect the beneficial uses of floodplain areas for water quality protection, stream bank and stream corridor protection, wetlands preservation and ecological and environmental protection by provisions designed to:

(a) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(b) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural flood plains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(d) Control filling, grading, dredging and other development which may increase erosion or flood damage; and

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood-waters or which may increase flood hazards to other lands.

(f) Protect the stormwater management, water quality, stream bank protection, stream corridor protection, wetland preservation and ecological functions of natural floodplain areas.

Section 9-15-1-3. Objectives.

The objectives of this section are to:

(a) Protect human life and health;

(b) Minimize expenditure of public money for costly flood control projects;

(c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) Minimize prolonged business interruption;

(e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in flood plains;

(f) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and

(g) Insure that potential home buyers are notified that property is in a flood area.

Section 9-15-1-4. Definitions.

Addition (to an existing building): Any walled and roofed expansion to the perimeter of a building in which the addition is connected by 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.

Appeal: A request for a review of the Director of Public Work's interpretation of any provision of this Article by the Planning and Appeals Board.

Area of shallow flooding: A designated AO or AH zone on the City's flood insurance rate map (FIRM) with base flood depths from one (1) to three (3) feet and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard: The land in the flood plain within a community subject to a one (1) percent or greater chance of flooding in any given year. This includes all flood plain and flood prone areas at or below the base flood elevation (including A,A1-30,A-99,AE,AO,AH,and AR on the FHBM or the FIRM), all flood plain and flood prone areas at or below the future conditions flood elevation, and all other flood prone areas as referenced in Section 9-15-1-6. All streams with a drainage area of 100 acres or greater shall have the area of special flood hazard delineated.

Base flood: The flood having a one (1) percent chance of being equaled or exceeded in any given year.

Base flood elevation: The highest water surface elevation anticipated at any given point during the base flood.

Basement: That portion of a building having its floor subgrade (below ground level) on all sides.

Breakaway or shear wall: 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 foundation system.

Building: Any structure built for support, shelter, or enclosure for any occupancy or storage.
Development: Any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, mining, dredging, filling, clearing, grubbing, grading, paving, any other installation of impervious cover, excavation or drilling operations or storage of equipment or materials.

Elevated building: A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear or breakaway walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

Existing construction: Any structure for which the start of construction commenced before December 17, 1974.

Existing manufactured home park or subdivision: 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 final site grading or the pouring of concrete pads) is completed before December 17, 1974.

Expansion to an existing manufactured home park or subdivision: 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.

FEMA: The Federal Emergency Management Agency.

Flood or flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from the: (1) Overflow of inland or tidal waters; or (2) Unusual and rapid accumulation or runoff of surface waters from any source.

Flood Hazard Boundary Map (FHBM): 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 Insurance Rate Map (FIRM): 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 (FIS): The official report provided by the Federal Insurance Administration evaluating flood hazards and containing flood profiles water surface elevations of the base flood.

Floodplain: Any land area susceptible to flooding.

Floodproofing: any combination of structural and non-structural 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.

Floodway: The channel of a stream 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: The top surface of an enclosed area in a building, including basement, i.e., 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.

Functionally dependent facility: 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 "functionally dependent facility" does not include long-term storage, manufacture, sales, or service facilities.

Future conditions flood: The flood having a one (1) percent chance of being equaled or exceeded in any given year based on future conditions hydrology.

Future conditions flood elevation: The highest water surface elevation anticipated at any given point during the future conditions flood.

Future conditions floodplain: Any land area susceptible to flooding by the future conditions flood.

Future conditions hydrology: The flood discharges associated with projected land-use conditions based on a community's zoning map, comprehensive land-use plans, and/or watershed study projections, and without consideration of projected future construction of flood detention structures or projected future hydraulic modifications within a stream or other waterway, such as bridge and culvert construction, fill, and excavation.

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

Historic Structure: Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) 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;

(c) Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places and determined as eligible by 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.

Lowest floor: The lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this Unified Land Development Code.

Manufactured home: A building, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term includes any structure commonly referred to as a "mobile home" regardless of the date of manufacture. The term also includes parked trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Mean sea level: The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the flood plain or for airport zone elevations. For purposes of this section, the term "mean sea level" is synonymous with National Geodetic Vertical Datum (NGVD) and/or the North American Vertical Datum (NAVD) of 1988.
National Geodetic Vertical Datum (NGVD): As corrected in 1929, is a vertical control used as a

reference for establishing varying elevations within the flood plain.

New Construction: Any structure for which the start of construction commenced after December 17, 1974.

New Manufactured Home Park or Subdivision: 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 December 17, 1974.

North American Vertical Datum (NAVD) of 1988: A vertical control used as a reference for establishing varying elevations within the flood plain.

Owner: The legal or beneficial owner of a site, including but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.

Permit: The permit issued by the Director of Planning and Development to the applicant which is required for undertaking any land development activity.

Recreational Vehicle: A vehicle which is:

(a) Built on a single chassis;

(b) 400 square feet or less when measured at the largest horizontal projection;

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

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

Repetitive Loss: Flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals, or exceeds 25 percent of the market value of the structure before the damage occurred.

Site: The parcel of land being developed, or the portion thereof on which the development project is located.

Subdivision: The division of a tract or parcel of land resulting in one or more new lots or building sites for the purpose, whether immediately or in the future, of sale, other transfer of ownership or land development, and includes divisions of land resulting from or made in connection with the layout or development of a new street or roadway or a change in an existing street or roadway.

Start of construction: The initiation of new construction or a substantial improvement, as follows:

(a) For new construction: The date the development permit was issued, provided the actual start of construction, repair, reconstruction or improvement was within one

hundred eighty (180) days of the permit date. The actual start of construction means the first placement of permanent construction of a building, including a manufactured home, on a site, such as the pouring of slabs or footings, installation of piles, 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 or walkways; the 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 building.

(b) For a substantial improvement: The date the building permit was issued, provided the actual start of construction was within one hundred eighty (180) days of the permit date. The actual start of construction means the first alteration of any wall, ceiling, floor or other structural parts of a building, whether or not that alteration affects the external dimensions of the building.

Structure: A walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other manmade facilities or infrastructures.

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement: Any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during the life of a building, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the building prior to improvement. This term includes structures, which have incurred “repetitive loss” or “substantial damage” regardless of the actual amount of repair work performed. The market value of the building should be: (1) The appraised value of the building prior to the start of the initial repair or improvement; or (2) In the case of damage, the value of the building prior to the damage occurring. 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 building commences, whether or not that alteration affects the external dimensions of the structure. The term does not include any project for improvement of a building required to comply with existing health sanitary or safety code specifications which are solely necessary to assure safe living conditions, which have been pre-identified by the Code Enforcement Official, and not solely triggered by an improvement or repair project.

Variance: A grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance.

Violation: The failure of a structure or other development to be fully compliant with the community’s flood plain management regulations. A structure or other development without the elevation certificate, other certificates, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Section 9-15-1-5. Applicability.

This article shall apply to all areas of special flood hazard within the City of Gainesville, i.e. floodplain and flood prone areas as defined herein at or below the base flood elevation or the future conditions flood elevation, whichever is more restrictive (including A and AE on the FIRM), and all new or substantial improvement residential units, all subdivisions, non-residential structures, manufactured home, recreational vehicles, and utilities located within these areas. In addition, all streams with a drainage area of 100 acres of more have an area of special flood hazard.

Section 9-15-1-6. Adoption by Reference.

The following are adopted by reference:

(a) The Flood Insurance Study (FIS), dated September 29, 2006, with accompanying maps and other supporting data and any revision thereto. For those land areas acquired through annexation, the current effective FIS and data for Hall County, Georgia, dated September 29, 2006, with accompanying maps and other supporting data and any revision thereto are hereby adopted by reference.

(b) Other studies which may be relied upon for the establishment of the base flood elevation or delineation of the 100-year floodplain and flood prone areas include:

1. Any flood or flood-related study conducted by the United States Corps of Engineers or the United States Geological Survey applicable to the City of Gainesville; or

2. Any base flood study authored by a registered professional engineer in the State of Georgia which has been prepared by FEMA approved methodology and approved by the Public Works Department.

(c) Other studies which may be relied upon for the establishment of the future conditions flood elevation or delineation of the future conditions floodplain and flood prone areas include:

1. Any flood or flood-related study conducted by the United States Corps of Engineers or the United States Geological Survey applicable to the City of Gainesville; or

2. Any future conditions flood study authored by a registered professional engineer in the State of Georgia which has been prepared by FEMA approved methodology and approved by the Public Works Department.

(d) The repository for public inspection of the FIS, accompanying maps and other supporting data is located at the Public Works Department.

Section 9-15-1-7. Interpretation.

In the interpretation and application of this section, all provisions shall be:

(a) Considered as minimum requirements;

(b) Liberally construed in favor of the City Council; and

(c) Deemed neither to limit nor repeal any other powers granted under state statutes.

Section 9-15-1-8. Warning and Disclaimer of Liability.

The degree of flood protection required by this section 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 manmade or natural causes. This article does not imply that land outside the areas of special flood hazard 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 or the County or by any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder.

Section 9-15-1-9. Compatibility with Other Regulations.

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, statute, easement, covenant, deed restriction or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or impose higher protective standards for human health or the environment shall control.

CHAPTER 9-15-2
ADMINISTRATION AND PERMITTING

Section 9-15-2-1 Director of Public Works Administrative Duties
Section 9-15-2-2 Flood Area Permit Required
Section 9-15-2-3 Floodplain Management / Flood Damage Prevention Plan
Section 9-15-2-4 Specific Requirements for Plans
Section 9-15-2-5 Construction Stage Submittal Requirements
Section 9-15-5-6 Variances
Section 9-15-5-7 Enforcement

Section 9-15-2-1. Director of Public Works Administrative Duties.

The Director of Public Works is hereby appointed Floodplain Administrator. The duties of the Director of Public Works regarding any land within an area of special flood hazard shall include, but not be limited to:

(a) Review all land development applications and permits to assure that the requirements of this ordinance have been satisfied;

(b) Require that copies of all necessary permits from governmental agencies from which approval is required by Federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, be provided and maintained on file;

(c) When Base Flood Elevation data or floodway data have not been provided, then the Director of Public Works shall require the applicant to obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, state or other sources in order to meet the provisions of this article;

(d) Review and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new or substantially improved structures;

(e) Review and record the actual elevation, in relation to mean sea level to which any substantially improved structures have been flood-proofed;

(f) When flood-proofing is utilized for a structure, the Director of Public Works shall obtain certification of design criteria from a registered professional engineer or architect;

(g) Notify affected adjacent communities and the Georgia 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 (FEMA);

(h) Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions) the Director of Public Works shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the

interpretation as provided in this ordinance. Where floodplain elevations have been defined, the floodplain shall be determined based on flood elevations rather than the area graphically delineated on the floodplain maps; and,

(i) All records pertaining to the provisions of this ordinance shall be maintained in the office of the Director of Public Works and shall be open for public inspection.

Section 9-15-2-2. Flood Area Permit Required.

A flood area permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within an area of special flood hazard. Application for a flood area permit shall be made to the Director of Public Works on forms furnished by the Department prior to any development activities occurring.

Section 9-15-2-3. Floodplain Management / Flood Damage Prevention Plan.

No application for a land development project within any area of special flood hazard will be approved unless it includes a floodplain management / flood damage prevention plan (floodplain management plan). This plan shall be in accordance with the following criteria:

(a) This plan must be submitted with the stamp and signature of a Professional Engineer (PE) licensed in the state of Georgia, who will verify that all designs are consistent with the requirements of this ordinance.

(b) The approved floodplain management plan shall contain certification by the applicant that all land development activities will be done according to the plan or previously approved revisions. Any and all land development permits and/or use and occupancy certificates or permits may be revoked at any time if the construction and building activities are not in strict accordance with approved plans.

The floodplain management plan shall include, but not be limited to, the following: plans drawn to scale of the site in question, existing and proposed elevations of the area in question and the nature, location, and dimensions of existing or proposed structures, proposed grading plan, earthen fill placement, amount and location of excavation, storage of materials or equipment, and drainage / stormwater management facilities.

Section 9-15-2-4. Specific Requirements for Plans.

The following information is required as a part of flood plain management / flood damage prevention plans:

(a) Site plan drawn to scale, including but not limited to:

1. Existing and proposed elevations of the area in question and the nature, location and dimensions of existing and/or proposed structures, earthen fill placement, amount and location of excavation material, and storage of materials or equipment;

2. For all proposed structures, spot ground elevations at building corners and 20 foot or smaller intervals along the foundation footprint, or one foot contour elevations throughout the building site;

3. Proposed locations of water supply, sanitary sewer, and utilities;

4. The base flood elevation and future conditions flood elevation;

5. Boundaries of the base flood floodplain and future conditions floodplain;

6. If applicable, the location of the floodway;

7. Proposed locations of drainage and stormwater management facilities;

8. Proposed grading plan; and

9. Certification of the above by a registered professional engineer or surveyor.

(b) Building and foundation design detail, including but not limited to:

1. Proposed elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all structures;

2. For enclosures below the base flood elevation or future conditions flood elevations, location and total net area of foundation openings as required in this ordinance.

3. Proposed elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;

4. Certification that any proposed non-residential flood proofed structure meets the criteria of this article;

(c) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed land development project; and

(d) Hard copies and digital files of computer models, if any, copies of work maps, comparison of pre and post development conditions base flood elevations, future conditions flood elevations, flood protection elevations, Special Flood Hazard Areas and regulatory floodway widths, flood profiles and all other computations and other information similar to that presented in the FIS

Section 9-15-2-5. Construction Stage Submittal Requirements.

(a) For all new construction and substantial improvements on sites with a floodplain management / flood damage prevention plan, the permit holder shall provide to the Director of Public Works a certified as-built plan showing of the regulatory flood elevation or flood-proofing level immediately after the lowest floor or flood-proofing 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 flood-proofing 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 approval of these certifications shall be at the permit holder's risk. The Director of Public Works 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 work being allowed to proceed. Failure to submit certification or failure to make the corrections required hereby shall be cause to issue a stop work order for the project.

Section 9-15-2-6. Variances.

A request for variance may be submitted by an applicant who has been denied a permit for development activity or by an owner or developer who has not applied for a permit because it is clear that the proposed development activity would be inconsistent with the provisions of this chapter. A request for variance shall be submitted through the Director of Planning and Development. All such requests shall be heard and decided in accordance with the procedures set forth in Chapters 9-22-6 and/or 9-24-3. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.

(a) Any person adversely affected by any decision of the Director of Planning and Development or the Director of Public Works shall have the right to appeal such decision to the Planning and Appeals Board as established by the City council of Gainesville, Georgia with procedures to be published in writing by the Planning and Appeals Board. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.

(b) Any person aggrieved by the decision of the Planning and Appeals Board may appeal such decision to a court of competent jurisdiction, as provided in Section 5-4-1 of the Official Code of Georgia Annotated.

(c) Variances may be issued for the repair or rehabilitation of Historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an Historic structure, and the variance issued shall be the minimum necessary to preserve the historic character and design of the structure.

(d) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Section are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

(e) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(f) In reviewing such requests, the City of Gainesville and the Planning and Appeals

board shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this ordinance.

(g) Conditions for variances:

1. A variance shall be issued only when the requirements of the applicable chapter(s) have been met and there is:

   i. A finding of good and sufficient cause;

   ii. A determination that failure to grant the variance would result in exceptional hardship; and

   iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, or the creation of a nuisance.

2. The provisions of this ordinance are minimum standards for flood loss reduction; therefore, any deviation from the standards must be weighed carefully. Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of an Historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

3. Any person to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.

4. The Director of Public Works shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(h) Any person requesting a variance shall, from the time of the request until the time the request is acted upon, submit such information and documentation as the City of Gainesville and the Planning and Appeals Board shall deem necessary to the consideration of the request.

(i) Upon consideration of the factors listed above and the purposes of this ordinance, the City of Gainesville and the Planning and Appeals Board may attach such conditions to the granting of variances as they deem necessary or appropriate, consistent with the purposes of this ordinance.

(j) Variances shall not be issued “after the fact.”

Section 9-15-2-7. Enforcement.

Enforcement of this chapter shall be as outlined in chapter 9-24-2. and may include:

(a) Administrative Penalties

1. Stop Work Order

2. Withhold Certificate of Occupancy

3. Suspension, Revocation or Modification of Permit

(b) Civil Penalties: In the event the applicant or otherwise responsible person fails to take the remedial measures set for in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days (except, that in the event the violation constitutes and immediate danger to public health or public safety, 24 hours notice shall be sufficient) after the City of Gainesville has taken one or more of the Administrative actions described above, the city may impose a penalty not to exceed $1000.00 (depending on the severity or the violation) for each day the violation remains unremedied after receipt of the notice of violation.

(c) Criminal Penalties: For intentional and flagrant violations or this ordinance, the City of Gainesville may issue a citation to the applicant or other responsible person, requiring such person to appear in a court of competent jurisdiction to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed $1000.00 or imprisonment for 60 days or both. Each act of violation and each day upon which a violation shall occur shall constitute a separate offense.

CHAPTER 9-15-3
FLOOD HAZARD REDUCTION

Section 9-15-3-1 Definition of Floodplain Boundaries
Section 9-15-3-2 Definition of Floodway Boundaries
Section 9-15-3-3 General Standards
Section 9-15-3-4 Engineering Study Requirements for Floodplain Encroachments
Section 9-15-3-5 Floodway Encroachments
Section 9-15-3-6 Maintenance Requirements
Section 9-15-3-7 General Standards for Flood Hazard Reduction
Section 9-15-3-8 Elevated Buildings.
Section 9-15-3-9 Service Facilities
Section 9-15-3-10 Manufactured Homes
Section 9-15-3-11 Water and Sewer Facilities
Section 9-15-3-12 Nonconformities
Section 9-15-3-13 Residential Buildings Within the Future Conditions Floodplain
Section 9-15-3-14 Non-Residential Buildings within Floodplains
Section 9-15-3-15 Accessory Structures and Facilities in Floodplains
Section 9-15-3-16 Standards for Recreational Vehicles in Floodplains
Section 9-15-3-17 Buildings and Structures Adjacent to the Floodplain
Section 9-15-3-18 Building Standards for Residential Single Lot Development for Streams without Established Base Flood Elevations and/or Floodway (A-Zones)
Section 9-15-3-19 Building Standards for Areas of Shallow Flooding (AO-Zones)
Section 9-15-3-20 Standards for Subdivisions

Section 9-15-3-1. Definition of Floodplain Boundaries.

(a) Studied “A” zones, as identified in the FIS, shall be used to establish base flood elevations whenever available.

(b) For Special Flood Hazards Areas and flood prone areas, the future conditions flood elevations shall be determined by a registered professional engineer using FEMA approved methodology approved by the Director of Public Works

(c) The boundaries or limits of the floodplain shall be within 0.5 feet vertical accuracy on the site plan containing existing topographic information.

Section 9-15-3-2. Definition of Floodway Boundaries.

(a) The width of a floodway shall be determined from the FIS or FEMA approved flood study. For all streams with a drainage of 100 acres or greater the floodway shall be provided by the City of Gainesville. If unavailable then it shall be determined by a registered professional engineer using FEMA approved methodology approved by the Director of Public Works

(b) The boundaries or limits of the floodway shall be shown on the (development or stormwater) site plan containing existing topographic information.

Section 9-15-3-3. General Standards.

(a) No development shall be allowed within the base flood floodplain or the future conditions floodplain that could result in any of the following:

1. Raising the base flood elevation or future conditions flood elevation equal to or more than 0.01 foot;

2. Reducing the base flood or future conditions flood storage capacity. All compensation for storage capacity shall occur either within the boundaries of ownership of the property being developed, or within a permanent recorded flood control easement, and shall be within a reasonable proximity to the location of the encroachment. Acceptable means of providing required compensation include: lowering of natural ground elevations within the floodplain; or, lowering of adjoining land areas to create additional floodplain; or raising of the administrative flood elevation within the boundaries of ownership of the property being developed. All cut areas are to be graded to a slope of no less than 2.0 percent. In no case shall any required compensation be provided via bottom storage or by excavating below the elevation of the top of the natural (pre-development) stream channel unless such excavation results from the widening or relocation of the stream channel. A step-backwater analysis will be required to determine the volume of flood storage created by raising the administrative flood elevation;

3. Changing the flow characteristics of the waters of the administrative flood as they pass both the upstream and the downstream boundaries of the property. Verification shall be provided via a step-backwater analysis; or,

4. Creating hazardous or erosion-producing velocities, or resulting in excessive sedimentation. In all cases effective transitions must be provided such that flow velocities occurring on both upstream and downstream properties are not increased or decreased.

5. Verification of no-rise conditions (0.01) foot or less), flood storage volumes, and flow characteristics shall be provided via a step-backwater analysis meeting the requirements of Section 9-15-3-4.

(b) All proposed development shall have public utilities and facilities, such as sewer, gas, electrical and water system, located and constructed to minimize flood damage.

(c) Any significant changes or revisions to the flood data adopted herein and shown on the FIRM shall be submitted as a Conditional Letter of Map Revision (CLOMR) or Conditional Letter of Map Amendment (CLOMA), whichever is applicable. The CLOMR submittal shall be subject to approval by the Director of Public Works using the Community Consent forms before forwarding the submittal package to FEMA for final approval. The responsibility for forwarding the CLOMR to FEMA and for obtaining the CLOMR approval shall be the responsibility of the applicant. Within six months of the completion of construction, the applicant shall submit as built surveys which demonstrate general conformance to the approved designs as submitted in the CLOMR

application. A Letter of Map Revision (LOMR) or Letter of Map Amendment (LOMA) must be issued before the Final Plat can be approved or a Certificate of Occupancy can be issued. Significant changes or revisions shall be defined as any change to the FIRM easily observed when plotted at a scale of 1" = 1000'. The changes or revisions may be due to, but are not limited to, more current and/or superior topographic information or compensatory cut and fill grading done as a part of the development.

Section 9-15-3-4. Engineering Study Requirements for Floodplain Encroachments.

An engineering study is required, as appropriate to the proposed development activities on the site, whenever a development proposes to disturb the future conditions floodplain. This study shall be prepared by a currently registered Professional Engineer in the State of Georgia and made a part of the application for a permit. This information shall be submitted to and approved by the Director of Public Works prior to the approval of any permit which would authorize the disturbance of land located within the floodplain. Such study shall include:

(a) Description of the extent to which any watercourse or floodplain will be altered or relocated as a result of the proposed development;

(b) Step-backwater analysis, using a FEMA approved methodology approved by the Public Works Department. Cross-sections (which may be supplemented by the applicant) and flow information will be obtained whenever available. Computations will be shown duplicating FIS results and will then be rerun with the proposed modifications to determine the new base flood and future conditions flood profiles;

(c) Floodplain storage calculations based on cross-sections (at least one every 100 feet) showing existing and proposed floodplain conditions to show that the base flood floodplain and future conditions floodplain storage capacity would not be diminished by the development;

(d) If changes to the base flood elevation or future conditions flood elevation are proposed, profiles of the channel showing the existing and proposed base and future conditions flood elevations must be provided; and,

(e) The study shall include a preliminary plat, grading plan, or site plan, as appropriate, which shall clearly define all floodplain encroachments.

Section 9-15-3-5. Floodway Encroachments.

Located within Areas of Special Flood Hazard are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity flood waters, debris or erosion potential. In addition, floodways must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the base floodway, except when required for the construction of bridges, culverts, roadways and utilities,

provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase to the pre-project base flood elevations, floodway elevations, or floodway widths during the base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof; and,

(b) If the applicant proposes to revise the floodway boundaries, no permit authorizing the encroachment into or an alteration of the floodway shall be issued by the Public Works Director until an affirmative Conditional Letter of Map Revision (CLOMR) or Conditional Letter of Map Amendment (CLOMA), whichever is applicable, is issued by FEMA.

Section 9-15-3-6. Maintenance Requirements.

The property owner shall be responsible for continuing maintenance as may be needed within an altered or relocated portion of a floodplain on his property so that the flood-carrying or flood storage capacity is not diminished. The Director of Public Works may direct the property owner (at no cost to the City of Gainesville) to restore the flood-carrying or flood storage capacity of the floodplain if the owner has not performed maintenance as required by the approved floodplain management plan on file with the Public Works Department.

Section 9-15-3-7. General Standards for Flood Hazard Reduction.

In all Areas of Special Flood Hazard the following provisions apply:

(a) New construction of principal buildings (residential or non-residential), including manufactured homes, shall not be allowed within the limits of the floodplain unless all requirements of this article have been met;

(b) New construction or substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(c) New construction or substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage; and

(d) New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage.

Section 9-15-3-8. Elevated Buildings.

(a) All new construction and substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished and flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.

(b) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

1. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

2. The bottom of all openings shall be no higher than one foot above grade; and,

3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions.

(c) So as not to violate the "lowest floor" criteria of this article, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area; and, the interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

Section 9-15-3-9. Service Facilities.

All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located three (3) feet above the base flood elevation or one (1) foot above the future conditions flood elevation, whichever is higher, so as to prevent water from entering or accumulating within the components during conditions of flooding;

Section 9-15-3-10. Manufactured Homes.

Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces.

Section 9-15-3-11. Water and Sewer Facilities.

(a) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(c) On-site waste disposal systems shall be located outside the floodplain and constructed to avoid impairment to them or contamination from them during flooding.

Section 9-15-3-12. Nonconformities.

Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of this ordinance, shall be undertaken only if the non- conformity is not furthered, extended or replaced.

Section 9-15-3-13. Residential Buildings Within Floodplains.

(a) New construction. New construction of principal buildings, including manufactured homes shall not be allowed within the limits of the floodplain unless all requirements of this article have been met. New construction shall have the lowest floor, including basement, elevated no lower than three (3) feet above the base flood elevation adjacent to the building or one (1) foot above the future conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of this article for elevated buildings.

(b) Substantial Improvements. Substantial improvement of any structure or manufactured home shall have the lowest floor, including basement, elevated no lower than three (3) feet above the base flood elevation adjacent to the building or one (1) foot above the future conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of this article for elevated buildings.

Section 9-15-3-14. Non-Residential Buildings Within the Future Conditions Floodplain.

(a) New construction. New construction of principal buildings, including manufactured homes shall not be allowed within the limits of the future conditions floodplain unless all requirements of this article have been met. Non-residential new construction may be authorized by the Director of Public Works to be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one (1) foot above the base flood elevation, or at least as high as the future conditions flood elevation, whichever is higher, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered Professional Engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Director of Public Works.

(b) Substantial Improvements. Substantial improvement of any structure located in A1- 30, AE, or AH zones, may be authorized by the Director of Public Works to be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one (1) foot above the base flood elevation, or at least as high as the future conditions flood elevation, whichever is higher, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered Professional Engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Director of Public Works.

Section 9-15-3-15. Accessory Structures and Facilities in Floodplains.

Accessory structures and facilities (i.e., barns, sheds, gazebos, detached garages, parking lots, recreational facilities and other similar structures and facilities) which are permitted to be located within the limits of the floodplain shall be designed and constructed to pass all floodwater in a manner consistent with this article and be anchored to prevent flotation, collapse or lateral movement of the structure.

Section 9-15-3-16. Standards for Recreational Vehicles in Flood Plains.

All recreational vehicles placed on sites must either:

(a) Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

(b) The recreational vehicle must meet all the requirements for "Residential Buildings—Substantial Improvements", including the anchoring and elevation requirements above.

Section 9-15-3-17. Buildings and Structures Adjacent to the Floodplain.

(a) Residential Buildings. For new construction or substantial improvement of any principal residential building or manufactured home, the elevation of the lowest floor, including basement and access to the building, shall be at least three (3) feet above the level of the base flood (100 year) elevation or one (1) foot higher than the future conditions flood elevation, whichever is higher.

(b) Non-Residential Buildings. For new construction or substantial improvement of any principal non-residential building, the elevation of the lowest floor, including basement and access to the building, shall be at least one (1) foot above the level of the base flood (100 year) elevation or at least as high as the future conditions flood elevation, whichever is higher.

Section 9-15-3-18. Building Standards for Residential Single Lot Development for Streams Without Established Base Flood Elevations and/or Floodway (A-Zones).

Located within the Areas of Special Flood Hazard, where streams exist but no base flood data have been provided (A-Zones) –or– where base flood data have been provided but a Floodway has not been delineated, the Director of Public Works shall review and reasonably utilize any available scientific or historic base flood elevation or regulatory flood elevation and floodway data available from a Federal, State, or other source, in order to administer the provisions and standards of this Section.

If sufficient data are not available from these sources, the following provisions shall apply:

(a) No encroachments, including structures or fill material, shall be located within an area equal to twice the width of the stream or fifty (50) feet from the top of the bank of the stream, whichever is greater.

(b) In special flood hazard areas without base flood or future conditions flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the provisions of this article.

Section 9-15-3-19. Building Standards for Areas of Shallow Flooding (AO-Zones).

Areas of Special Flood Hazard may include designated "AO" shallow flooding areas. These areas have base flood depths of one to three feet (1'-3') above ground, with no clearly defined channel.

In these areas the following provisions apply:

(a) All substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the flood depth number in feet specified on the Flood Insurance Rate Map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards for "Elevated Buildings". The applicant's or owner's engineer shall certify to the Director of Public Works that the lowest floor elevation level and the record shall become a permanent part of the permit file;

(b) Substantial improvement of a non- residential structure may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level plus one (1) foot above the highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice; and,

(c) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

Section 9-15-3-20. Standards for Subdivisions.

(a) All subdivision proposals shall identify the special flood hazard area and provide base flood and future conditions flood elevation data;

(b) All residential lots in a subdivision proposal shall have sufficient buildable area outside of the future conditions flood plain such that encroachments into the future conditions flood plain for residential structures will not be required;

(c) All subdivision plans will provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood or future conditions flood elevation, the lowest flood and pad elevations shall be certified by a registered professional engineer or surveyor and provided to the Director of Public Works;

(d) All subdivision proposals shall be consistent with the need to minimize flood damage;

(e) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage; and,

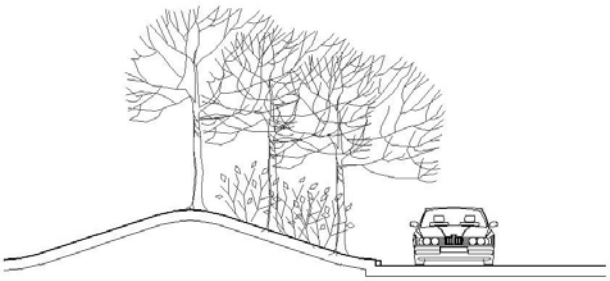
(f) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

ARTICLE 9-16
BUFFERS, LANDSCAPING AND TREE PROTECTION

CHAPTER 9-16-1	DEFINITIONS	16-1
CHAPTER 9-16-2	BUFFERS AND SCREENING	16-8
CHAPTER 9-16-3	STREAM PROTECTION BUFFERS	16-11
CHAPTER 9-16-4	LANDSCAPING	16-17
CHAPTER 9-16-5	TREE PROTECTION	16-21

CHAPTER 9-16-1
DEFINITIONS

Berm: An earthen mound or embankment, usually less than three feet if designed to provide visual interest only, and usually six feet or more in height if intended to screen views or reduce noise.



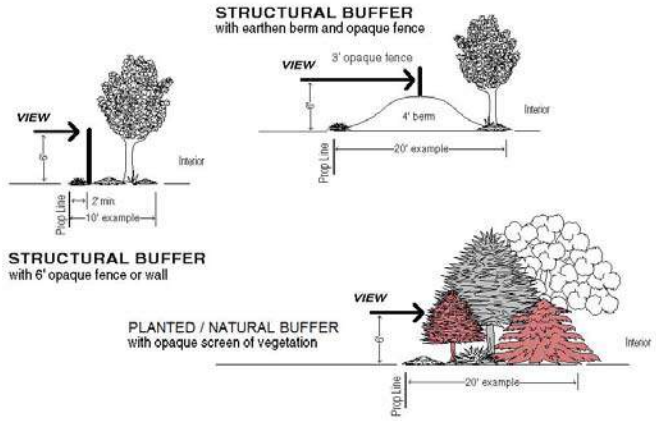
PLANTED BERM

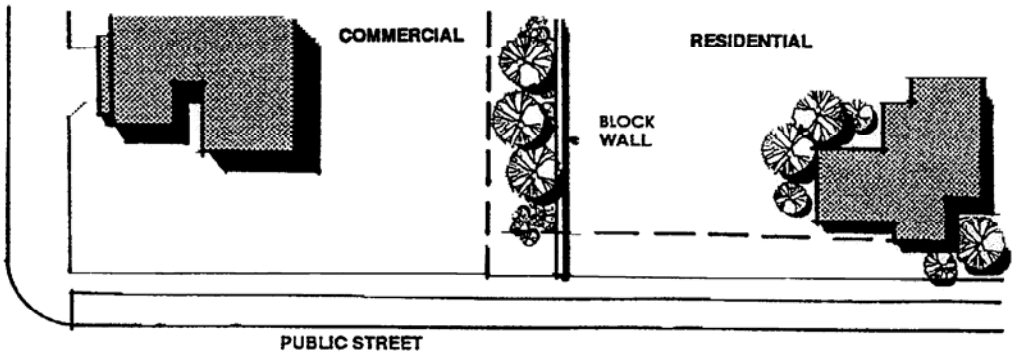
Buffer: A strip of land located between a side or rear property line and a building, structure, or use, intended to separate and obstruct the view of the site on which the buffer is located from an abutting property. A buffer is intended to provide screening, as defined and as may be required by this Article.

(1) Buffer, natural undisturbed: A buffer that contains a natural area consisting of trees and/or other vegetation, undisturbed except for approved access and utility crossings, and replanted where sparsely vegetated.

(2) Buffer, planted: A buffer consisting of newly planted evergreen and deciduous trees and shrubs native to the region. Deciduous trees shall be a minimum of two inch caliper and evergreen trees a minimum of six feet in height at time of planting. Required deciduous and evergreen shrubs shall be a minimum of three feet at time of planting.

(3) Buffer, structural: A visual screen created through construction of a solid wooden fence, decorative masonry wall, earthen berm, or combination of fence or wall with an earthen berm, supplemented with vegetation, so as to present an opaque visual separation when viewed from one side to the other throughout the year.



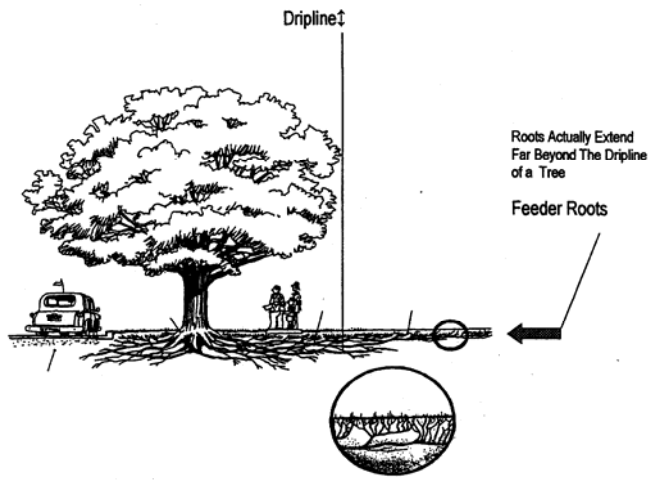


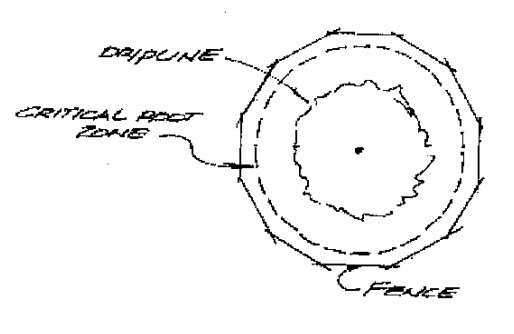
Caliper: The diameter of a tree (usually nursery stock) measured at a point 6 inches above the ground or top of root ball for up to and including 4-inch caliper trees, and at a point 12 inches above the ground or top of root ball for larger sizes.

Canopy tree: A species of tree that normally reaches a height at maturity in excess of 50 feet and is used primarily for shade, such as red oak, shumark oak, Chinese elm, white oak, pin oak, and American beech. See “Parking Lot Trees” in Table 9-16-5-4 for additional examples of generally appropriate canopy trees.

Construction area: Any and all areas within which “development” takes place.

Critical root zone: The land area circular in shape and centered on the trunk of a tree, the radius of which circle is determined by the farthest extent of the drip line from the trunk.



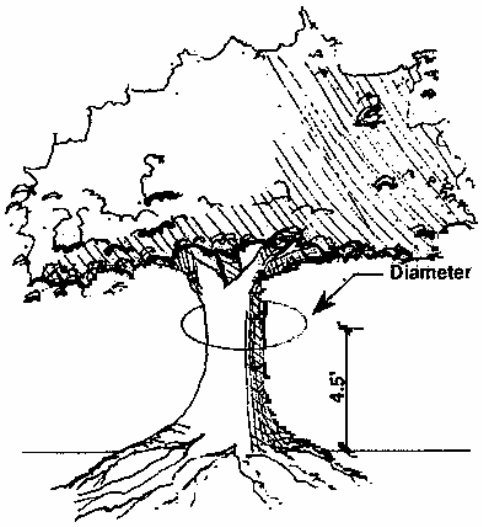


Deciduous: A plant with foliage that is shed annually (e.g., weeping willow; maple).

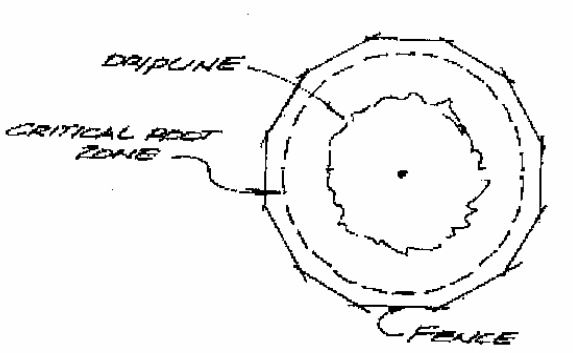
Development: (1) A land development project involving the construction of streets, utilities, buildings, or other improvements required for the habitation or use of property, such as a residential neighborhood, an apartment complex, a store, or a shopping center; (2) any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials; (3) the act of constructing or carrying out a land development project, including the alteration of land or vegetation in preparation for construction activity.

Development site: Any and all areas within which "development" takes place.

Diameter Breast Height (DBH): The diameter of a tree trunk (usually a mature tree) measured at a height of 4½ feet above the ground. If a tree splits into multiple trunks below 4½ feet, the trunk is measured at its most narrow point beneath the split.



Drip line: A perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.



Evergreen: A plant or tree with foliage that persists and remains green year-round (e.g., pine; magnolia).

Flowering ornamental tree: A tree, other than a canopy tree, that produces seasonal flowers and blossoms and is used primarily for aesthetic or ornamental purposes (e.g., flowering dogwood; eastern redbud).

Historic and Landmark Trees: Any tree or group of trees which the Georgia Urban Forest Council has included on The Georgia Landmark and Historic Tree Register.

Impervious cover: Any manmade paved, hardened or structural surface regardless of material. Impervious cover includes but is not limited to rooftops, buildings, streets, roads, decks, swimming pools and any concrete or asphalt.

Land development: Any land change, including but not limited to clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving and any other installation of impervious cover.

Land development activity: Those actions or activities which comprise, facilitate or result in land development.

Land disturbance: Any land or vegetation change, including, but not limited to, clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, that do not involve construction, paving or any other installation of impervious cover.

Land disturbance activity: Those actions or activities which comprise, facilitate or result in land disturbance

Landscape Strip: An area of landscaping of specified width.

Landscaped open space,: That portion of a given lot, not covered by buildings, parking, access and service areas, that is designed to enhance privacy and the amenity of the development by providing landscaping features, screening, and buffering for the benefit of the occupants or those in neighboring areas, or a general appearance of openness. Landscaped open space may include, but need not be limited to, grass lawns, decorative planting, berms, walls and fences, sidewalks/walkways, ornamental objects such as fountains, statues and other similar natural and man-made objects, wooded areas, and water courses, any or all of which are

designed and arranged to produce an aesthetically pleasing effect within and exterior to the development.

Landscaping: The modification of the landscape for an aesthetic or functional purpose. The area within the boundaries of an individual lot that includes the preservation of existing vegetation and the continued maintenance thereof, as well as, the installation of trees, shrubs, ground covers, grass, and flowers. Landscaping areas may also include decorative rock, bark, mulch and other similar materials in addition to vegetation and live plant material.

Opaque: Impenetrable to view, or so obscuring to view that features, buildings, structures, and uses become visually indistinguishable.

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

Parcel: Any plot, lot or acreage shown as a unit on the latest city tax records.

Person: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, any interstate body or any other legal entity.

Setback, stream buffer: An additional setback, measured horizontally, beyond the undisturbed stream buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.

Shade tree*:* A broadleaf tree having an average height at maturity of at least 20 feet and having a broad spread relative to its height (excluding trees with pyramidal, conical, or columnar crowns) and a dense canopy, so as to provide shade to structures or parking areas in the summer months.

Shrub: A woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground, and generally obtaining a height less than eight (8) feet; a shrub may be deciduous or evergreen.

Significant tree: A tree in fair or better condition which has been determined to be of a high value by an Arborist, Forester, or other qualified professional because of its species, size, age or other professional criteria. A tree is considered in fair or better condition if: (1) its life expectancy is greater than 15 years; (2) it has a relatively sound and solid trunk with no extensive decay or hollow with less than 29 percent radial tip die-back; and (3) it has no major insect or pathological problems.

Hardwood trees such as oaks and hickories and soft-wood trees such as pines and cedars whose diameters are 18 inches DBH or more and small hardwoods such as dogwoods, redbuds or sourwoods whose diameters are 8 inches DBH or more shall be considered significant trees due to size. A tree of lesser size than the preceding shall be significant if it is a rare or unusual species or is of historical significance.

Site Density Factor: The minimum number of tree density units per acre, including recompense for significant and historic/landmark trees, that must be achieved on a property after development.

Specimen Tree: Any tree or grouping of trees which has been determined, by the Director of Planning and Development, to be of high value because of its species, size, age, or other professional criteria.

Stream: A stream is defined as beginning at:

(a) The location of a spring, seep, or groundwater outflow that sustains streamflow; or

(b) A point in the stream channel with a drainage area of 25 acres or more; or

(c) Where evidence indicates the presence of a stream in a drainage area of other than 25 acres, the Director of Planning and Development may require field studies to verify the existence of a stream.

Stream bank: The sloping land that contains the stream channel and the normal flows of the stream.

Stream buffer: An undisturbed natural vegetative buffer, measured horizontally from the top of the stream bank, on both banks (as applicable) of the stream.

Stream buffer setback: An additional setback, measured horizontally, beyond the undisturbed stream buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.

Stream channel: Stream channel refers to the portion of a watercourse that contains the base flow of the stream.

Stream protection area, or protection area: This area refers to the combined areas of all required buffers and setbacks applicable to such stream.

Tree Density Unit: A credit assigned to a tree, based on the diameter of the tree, in accordance with tables contained in this Ordinance.

Tree Protection Area: Any portion of a site wherein are located existing trees that are proposed to be retained in order to comply with the requirements of this Ordinance or any other existing trees proposed to be retained due to zoning conditions or requirements from other Ordinances.

Tree Protection and / or Replacement Plan: A plan that identifies “Tree Protection Areas”, existing trees to be retained and proposed trees to be planted on a site to meet minimum requirements, as well as methods of tree protection to be undertaken on the site and other pertinent information.

Tree Save Area: Any portion of a site wherein are located existing trees that are proposed to be retained in order to comply with the requirements of this Ordinance. The Tree Save Area shall include no less than the total area defined by the Critical Root Zone (CRZ) of a tree or a group of trees, collectively.

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

Watershed: A watershed refers to the land area that drains into a particular stream.

CHAPTER 9-16-2
BUFFERS AND SCREENING

Section 9-16-2-1. Buffer Required.
Section 9-16-2-2. Screening.
Section 9-16-2-3. Buffer Materials.
Section 9-16-2-4 Planted Buffer Specifications
Section 9-16-2-5. Buffer Encroachments.
Section 9-16-2-6. Waiver of Required Buffer.
Section 9-16-2-7. Reduction of Natural Buffer by Installing Structural Buffer.
Section 9-16-2-8. Specifications for Structural Buffers.
Section 9-16-2-9. Maintenance of Buffers and Structural Buffers.
Section 9-16-2-10. Stream Protection Buffers.

Section 9-16-2-1. Buffer Required.

Buffers, as defined and illustrated in Chapter 9-16-1 of this Article, shall be required as specified in Table 9-6-2 of this Unified Land Development Code. Buffers shall also be required for particular uses when specified in Article 9-10 of this Unified Land Development Code. Trees retained or replanted within buffers required by this Chapter shall not be included in calculations of compliance with minimum tree unit requirements established in Chapter 9-16-5 of this Unified Land Development Code.

Section 9-16-2-2. Screening.

All buffers shall provide screening as defined by this Article. Where another provision of this Unified Land Development Code requires screening, such screening shall require compliance with this Section, unless more restrictive provisions are required by regulations of an overlay zone or other provision of this Unified Land Development Code.

Minimum required screening shall consist of a natural buffer utilizing existing vegetation or a structural buffer, whichever provides an opaque visual screen to a height of six (6) feet, or any combination of existing and replanted vegetation which can reasonably be expected by the Director of Planning and Development to create an opaque visual screen six (6) feet high within two (2) growing seasons. Where another provision of this Unified Land Development Code has different specifications for screening, the more restrictive requirements shall apply.

Section 9-16-2-3. Buffer Materials.

It is the intent of this Unified Land Development Code that, when a buffer is required, the buffer shall consist of natural, undisturbed vegetation. However, replanting of a buffer shall be required where sparsely vegetated or where screening as required by this Article cannot be provided with existing natural vegetation. This is the intent whether or not the term “natural” buffer or “natural, undisturbed” buffer is used.

Where disturbance of a required buffer is permitted by this Chapter, it must be replanted to a standard acceptable to provide screening as defined by this Article and as determined appropriate by the Director of Planning and Development. Natural buffers may contain deciduous or perennial vegetation, but they shall contain evergreen shrubs and trees suitable to

local growing conditions that will provide a six (6) foot high opaque visual screen during all seasons of the year.

Section 9-16-2-4. Planted Buffer Specifications.

Re-planted buffers when installed shall meet the following criteria, which shall be shown and compliance demonstrated on plans submitted for a land disturbance permit as required by Chapter 9-13-7 of this Unified Land Development Code:

(a) Plantings shall consist of a combination of evergreen and deciduous trees and shrubs native to the region. Required deciduous trees shall be a minimum of two inch caliper and evergreen trees shall be at least six feet in height at time of planting and achieve a height of 20 feet at maturity. All shrubs planted shall be a minimum of three feet in height at time of planting and achieve an overall height of 10 feet at maturity.

(b) Plantings in buffers shall be limited to 33% of one tree species. Calculations are required on the Tree Protection Plan.

Section 9-16-2-5. Buffer Encroachments.

Buffers shall contain no driveways, parking areas, patios, stormwater detention facilities, or any other structures or accessory uses except in the case of structural buffers, within which a fence, wall or earthen berm is constructed to provide the visual screening required to meet the standards of this Article.

Underground utilities may be permitted to cross a buffer if the screening standards of this Article will be subsequently achieved to the satisfaction of the Director of Planning and Development and as permitted by the Director of Public Utilities.

Required vehicular access may be allowed through a buffer as a condition of a zoning, Special Use or Planned Unit Development approval by the Governing Body; or through an administrative variance if provided for in Chapter 9-24-3 of this Unified Land Development Code.

Section 9-16-2-6. Waiver of Required Buffer.

The Planning and Appeals Board may, at the time of application for rezoning or Special Use, waive a buffer requirement of this Unified Land Development Code if the Comprehensive Plan anticipates future development on the adjoining property in a land use category (shown on the future land use map) such that a buffer would not be required by this Unified Land Development Code. When such a request is not accomplished simultaneously with a rezoning or Special Use application, it shall be processed and considered as a zoning variance.

Section 9-16-2-7. Reduction of Natural Buffer by Installing Structural Buffer.

If a structural buffer is provided that creates an opaque screen to a height of no less than eight (8) feet, the minimum required buffer width may be reduced by up to fifty (50) percent.

Section 9-16-2-8. Specifications for Structural Buffers.

Structural buffers, when installed as an alternative to a natural buffer, shall meet the following criteria, which shall be shown and compliance demonstrated on plans submitted for a land development permit as required by Chapter 9-13-7 of this Unified Land Development Code:

(c) Structural buffers shall be vegetated throughout the minimum area required for the buffer on both sides of any fences or walls and upon any earthen berms, which may include grass, ground covers, shrubs, and trees.

(d) All earthen berms shall have a maximum side slope of 2 horizontal to 1 vertical. Earthen berms shall not be constructed within the drip line of any existing trees that will remain on the property.

(e) Trees shall be located or planted within any structural buffer at a density of no less than one tree for each twenty (20) feet of buffer length or portion thereof. New trees shall have a caliper of no less than two (2) inches upon planting and may be clustered for decorative effect following professional landscaping standards for spacing, location, and design (see illustration under definition of structural buffer).

(f) Fences and freestanding walls shall present a finished and decorative appearance to the abutting property, and shall be located no closer to the property line than three (3) feet. Shrubs, ground covers, or other vegetation shall be provided between the fence or wall and the property line so as to provide a decorative effect, as proposed by a registered landscaped architect or as approved by the Planning Department.

(g) Fences used in buffers must be made of rot-resistant material or protected from deterioration with water-proofing material.

Section 9-16-2-9. Maintenance of Buffers and Structural Buffers.

Every buffer required by this Unified Land Development Code shall be maintained by the owner of the property where the buffer is located, so as to provide an opaque visual screen to a height of six (6) feet on a continuous, year-round basis, or eight (8) feet in height in the case of a structural buffer.

Dying, diseased or dead vegetation shall be removed provided minimal disturbance occurs. Subsequently, vegetation removed must be replaced where necessary to fulfill buffer requirements.

Section 9-16-2-10. Stream Protection Buffers.

In addition to the buffers specified Tables 9-5-2 and 9-6-2 of this Unified Land Development Code and this Chapter, properties shall comply as applicable with the stream protection buffer requirements specified in Chapter 9-16-3 of this Unified Land Development Code.

CHAPTER 9-16-3
STREAM PROTECTION BUFFERS

Section 9-16-3-1. Purposes.
Section 9-16-3-2. Applicability.
Section 9-16-3-3. Grandfather Provisions.
Section 9-16-3-4. Exemptions.
Section 9-16-3-5. Stream Protection Buffer and Stream Buffer Setback Requirements.
Section 9-16-3-6. Stream Protection Buffer Variances.
Section 9-16-3-7. Stream Protection Variance Buffer Criteria.
Section 9-16-3-8. Variance Application Requirements.
Section 9-16-3-9. Stream Protection Zone Development Review Requirements.
Section 9-16-3-10. Inspection of Stream Protection Zone.
Section 9-16-3-11. Violations, Enforcement and Penalties.

Section 9-16-3-1. Purposes.

This Chapter sets standards for stream buffers to:

(a) Protect the public health, safety, environment and general welfare;

(b) Minimize public and private losses due to erosion, siltation and water pollution;

(c) Maintain stream water quality by creating and maintaining buffer zones along the streams of the City of Gainesville for the protection of water resources; and,

(d) Minimize land development within such buffers by establishing buffer zone requirements and by requiring authorization for any such activities.

Section 9-16-3-2. Applicability.

This chapter shall apply to all land development activity on property containing a stream as defined in this article. After the effective date of these provisions as originally adopted, it shall apply to new subdividing and platting activities. Any land development activity within a stream protection buffer established hereunder or any impervious cover within a stream buffer setback established hereunder is prohibited unless a variance is granted. These requirements are in addition to, and do not replace or supersede, any other applicable buffer requirements established under state law and approval or exemption from these requirements do not constitute approval or exemption from buffer requirements established under state law or from other applicable local, state or federal regulations.

Section 9-16-3-3. Grandfather Provisions.

This section shall not apply to the following activities:

(a) Work consisting of the repair or maintenance of any lawful use of land that is zoned and approved for such use on or before the effective date of this chapter as originally adopted.

(b) Existing development and on-going land disturbance activities including but not limited to existing agriculture, silviculture, landscaping, gardening and lawn maintenance, except that new development or land disturbance activities on such properties will be subject to all applicable buffer requirements.

(c) Any land development activity that is under construction, fully approved for development, scheduled for permit approval or has been submitted for approval as of the effective date of this chapter as originally adopted.

(d) Land development activity that has not been submitted for approval, but that is part of a larger master development plan, such as for an office park or other phased development that has been previously approved within two years of the effective date of this chapter as originally adopted.

Section 9-16-3-4. Exemptions.

The following specific activities are exempt from this chapter. Exemption of these activities does not constitute an exemption for any other activity proposed on a property.

(a) Activities for the purpose of building one of the following:

1. A stream crossing by a driveway, transportation route or utility line;
2. Public water supply intake or public wastewater outfall structures;
3. Intrusions necessary to provide access to a property;
4. Public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the river, fishing platforms and overlooks;
5. Unpaved foot trails and paths;
6. Activities to restore and enhance stream bank stability, vegetation, water quality and/or aquatic habitat, so long as native vegetation and bioengineering techniques are used.

(b) Public sewer line easements paralleling the creek, except that all easements (permanent and construction) and land disturbance should be at least 25 feet from the top of the bank. This includes such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures. This exemption shall not be construed as allowing the construction of roads, bike paths or other transportation routes in such easements, regardless of paving material, except for access for the uses specifically cited above.

(c) Land development activities within a right-of-way existing at the time this ordinance takes effect or approved under the terms of this chapter.

(d) Within an easement of any utility existing at the time this chapter as originally adopted takes effect or approved under the terms of this ordinance, land disturbance activities and such impervious cover as is necessary for the

operation and maintenance of the utility, including but not limited to manholes, vents and valve structures.

(e) Emergency work necessary to preserve life or property. However, when emergency work is performed under this chapter, the person performing it shall report such work to the Director of Planning and Development on the next business day after commencement of the work. Within 10 days thereafter, the person shall apply for a permit and perform such work within such time period as may be determined by the Director of Planning and Development to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area.

(f) Forestry and silviculture activities on land that is zoned for forestry, silvicultural or agricultural uses and are not incidental to other land development activity. If such activity results in land disturbance in the buffer that would otherwise be prohibited, then no other land disturbing activity other than normal forest management practices will be allowed on the entire property for three years after the end of the activities that intruded on the buffer.

Section 9-16-3-5. Stream Protection Buffer and Stream Buffer Setback Requirements.

(a) An undisturbed natural vegetative stream protection buffer shall be maintained for 50 feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank.

(b) An additional stream buffer setback shall be maintained for 25 feet, measured horizontally, beyond the stream protection buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within this setback.

(c) No septic tanks or septic tank drain fields shall be permitted within the buffer or the setback.

Section 9-16-3-6. Stream Protection Buffer Variances.

Variances from the above buffer and setback requirements may be granted in accordance with the following provisions:

(a) Where a parcel was platted prior to the effective date of this chapter as originally adopted, and its shape, topography or other existing physical condition prevents land development consistent with this chapter, and the Director of Planning and Development finds and determines that the requirements of this ordinance prohibit the otherwise lawful use of the property by the owner, the Board of Planning and Appeals of the City of Gainesville may grant a variance from these requirements hereunder, provided such variance require mitigation measures to offset the effects of any proposed land development on the parcel.

(b) Except as provided in paragraph (a) of this section, the Board of Planning and Appeals of the City of Gainesville shall grant no variance from any provision of this chapter without first conducting a public hearing on the application for

variance and authorizing the granting of the variance by an affirmative vote of the Board of Planning and Appeals. The City of Gainesville shall give public notice of each such public hearing in the local newspaper of record and shall require that the applicant post a sign giving notice of the proposed variance and the public hearing. The sign shall be of a size and posted in such a location on the property as to be clearly visible from the primary adjacent road right-of-way.

Section 9-16-3-7. Stream Protection Variance Buffer Criteria.

Variances will be considered only in the following cases, and the following factors will be considered in determining whether to issue a stream protection buffer variance::

(a) The locations of all streams on the property, including along property boundaries;

(b) When a property's shape, size, topography, slope, soils, vegetation or other physical conditions existing at the time of the adoption of this chapter prevents land development unless a stream buffer protection variance is granted;

(c) The location and extent of the proposed buffer or setback intrusion;

(d) Unusual circumstances when strict adherence to the minimal buffer requirements in the ordinance would create an extreme hardship.

(e) Variances will not be considered when, following original adoption of this chapter, actions of any property owner of a given property have created conditions of a hardship on that property.

(f) Whether alternative designs are possible which require less intrusion or no intrusion;

(g) The long-term and construction water-quality impacts of the proposed variance;

(h) Whether issuance of the variance is at least as protective of natural resources and the environment.

Section 9-16-3-8. Variance Application Requirements.

In addition to the requirements for variance applications specified generally by this Unified Land Development Code, a request to vary the provisions of this chapter shall at minimum include the following information:

(a) A site map that includes locations of all streams, wetlands, floodplain boundaries and other natural features, as determined by field survey;

(b) A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;

(c) A detailed site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land disturbance, both inside and outside the buffer and setback. The exact area of the buffer to be affected shall be accurately and clearly indicated;

(d) Documentation of unusual hardship should the buffer be maintained;

(e) At least one alternative plan, which does not include a buffer or setback intrusion, or an explanation of why such a site plan is not possible;

(f) A calculation of the total area and length of the proposed intrusion;

(g) A stormwater management site plan, if applicable; and,

(h) Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed.

Section 9-16-3-9. Stream Protection Zone Development Review Requirements.

Any permit applications for property requiring stream protection zones must include the following:

(a) A site plan showing:

1. The location of all streams on the property;
2. Limits of required stream buffers and setbacks on the property;
3. Topography with contour lines at no greater than five (5)-foot contour intervals;
4. Delineation of forested and open areas in the buffer zone; and,
5. Detailed plans of all proposed land development in the buffer and of all proposed impervious cover within the setback;

(b) A description of all proposed land development within the buffer and setback; and,

(c) Any other documentation that the Director of Planning and Development may reasonably deem necessary for review of the application and to insure that the stream protection buffer zone is addressed in the approval process.

All buffer and setback areas must be recorded on the final plat of the property following plan approval.

Section 9-16-3-10. Inspection of Stream Protection Zone.

The Director of Planning and Development, or his / her designee, may cause inspections of the work in the stream protection buffer or setback to be made periodically during the course thereof and shall make a final inspection following completion of the work. The permittee shall assist the Director, or his /her representative, in making such inspections. The City of Gainesville shall have the authority to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this section, and for this purpose to enter at reasonable time upon any property, public or private, for the purpose of investigating and inspecting the sites of any land development activities within the stream protection zone.

No person shall refuse entry or access to any authorized representative or agent who requests entry for 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 official duties.

Section 9-16-3-11. Violations, Enforcement and Penalties.

Any action or inaction which violates the provisions of this chapter may be subject to the enforcement actions outlined in Chapter 9-24-2 of this Unified Land Development Code. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties shall not prevent such equitable relief.

CHAPTER 9-16-4
LANDSCAPING

Section 9-16-4-1. Landscape Strips Required.
Section 9-16-4-2. Minimum Landscaped Open Space Required.
Section 9-16-4-3. Landscaping Encroachments.
Section 9-16-4-4. Landscape Strip Planting Specifications.
Section 9-16-4-5. Parking Lot Landscaping.
Section 9-16-4-6. Landscaping Plans Incorporated into Tree Plans.
Section 9-16-4-7. Additional Landscaping Specifications.

Section 9-16-4-1. Landscape Strips Required.

Landscape strips, as defined in Chapter 9-16-1 of this Article, shall be required along right-of-ways for non-single-family uses according to the zoning district in which it is located as specified in Tables 9-5-2 and 9-6-2 of this Unified Land Development Code. Landscape strips shall be required along side lot lines for non-single-family uses as specified in Tables 9-5-2 and 9-6-2 of this Unified Land Development Code. Landscape strips shall also be provided if required for particular uses specified in Article 9-10 of this Unified Land Development Code.

Section 9-16-4-2. Minimum Landscaped Open Space Required.

Non-single-family uses shall provide minimum landscaped open space on the lot according to the zoning district in which it is located, as specified in Tables 9-5-2 and 9-6-2 of this Unified Land Development Code.

Section 9-16-4-3. Landscaping Encroachments.

Landscape strips and areas devoted to meeting minimum landscaped open space requirements shall contain no structures, parking areas, patios, stormwater detention facilities, or any other accessory uses except for retaining walls or earthen berms constructed as part of an overall landscape design, pedestrian-oriented facilities such as sidewalks and bus stops, underground utilities, driveways required to access the property, and signs otherwise permitted by Article 9-18 of this Unified Land Development Code.

Section 9-16-4-4. Landscape Strip Planting Specifications.

(a) One tree shall be provided within the landscape strip for every 30 feet of length of street frontage, or portion thereof. Such trees may be deciduous or evergreen, but must be of a type that is suitable to local growing conditions. Deciduous trees shall be a minimum of two inch caliper at time of planting and achieve a diameter breast (DBH) of at least 12 inches at maturity. Trees required by this Section within landscape strips may be included in calculations of compliance with minimum tree unit requirements established in Chapter 9-16-5 of this Unified Land Development Code.

(b) One shrub shall be provided within the landscape strip for every 30 linear feet of street frontage, or portion thereof. Shrubs shall be of a type that is suitable to local growing conditions.

(c) All portions of required landscape strips shall be planted in trees, shrubs, grass or ground cover, except for those ground areas that are mulched.

(d) Upon planting, new trees and shrubs may be planted at regular intervals or clustered for decorative effect following professional landscaping standards for spacing, location, and design and as approved by the Department of Planning and Development.

(e) Plant materials in the landscape strip shall not extend into the street right-of-way unless specifically allowed by the Public Works Department.

(f) Tree Planting Recommendations: The following recommendations are provided regarding tree selection, planting, and maintenance:

1. Tree selection should be suited to locations, climate and other factors of the site (e.g. utility lines).

2. Tree species selected should be relatively maintenance free.

3. The ideal urban tree is attractive and should: have a deep-growing, well-behaved root system; have a fast reaction time to environmental changes; be insect and disease resistant; have sturdy limbs and long life expectancy; have the ability to be self-pruning; be resistant to drought or other extreme weather conditions; and have features that reduce clean-up problems because of shedding of limbs, fruit, leaves, etc.

4. Have a “training” program for new trees in which branches are properly pruned and the tree is trained to minimize storm damage and decay problems.

5. Select trees that have an expected mature height and/or spread which will meet criteria of the Code and site.

6. Try to avoid co-dominant branches (forks), and do not use trees with flat tops.

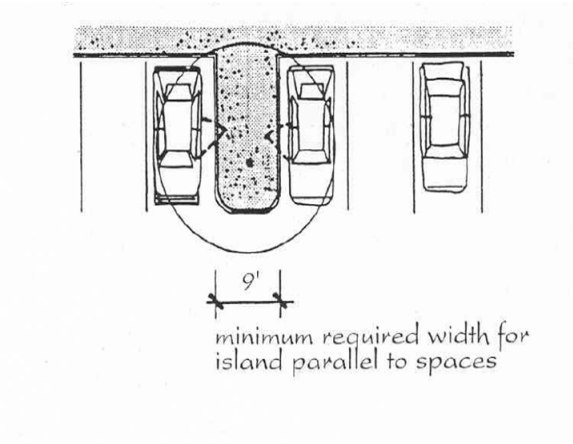
Section 9-16-4-5. Parking Lot Landscaping.

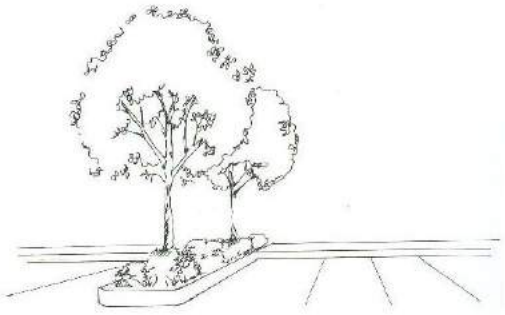
Deciduous shade trees shall be provided within any parking lot designed or intended to accommodate five (5) cars or more, in accordance with the requirements of this Section.

(a) One landscaping island with a deciduous shade tree shall be provided within the parking lot for every twenty (20) parking spaces, or portion thereof. Additionally, every parking space shall be located within 70 feet of the landscape island. Trees required within parking lots by this Section may be included in determinations of compliance with minimum tree unit requirements established in Chapter 9-16-5 of this Unified Land Development Code.

(b) A landscaping island shall be located at the end of every parking aisle between the last parking space and an adjacent travel aisle or driveway. The landscaping island shall be no less than nine (9) feet wide for the length of the adjacent parking space. In addition to providing a deciduous shade tree, the landscaping island shall be planted in ground cover or low-lying shrubs, except for mulch within the drip line or

critical root zone of the shade tree. Landscaping materials must not encroach on site visibility at the end of parking aisles.





TREE ISLAND IN PARKING LOT

(c) Tree planting areas for shade trees and understory trees shall be no less than nine (9) feet in width and shall provide at least one-hundred and fifty (150) square feet of planting space. If shared with other trees an additional fifty (50) square feet of planting space shall be provided. No tree shall be located less than 2½ feet from the back of curb.

(d) All parking lot landscape islands shall be curbed with minimum 6-inch high header curbs.

(e) Landscaping islands and tree planting areas shall be well drained and contain suitable soil and natural irrigation characteristics for the planting materials they contain.

Section 9-16-4-6. Landscaping Plans Incorporated Into Tree Plans.

The landscaping requirements of this Article and the Unified Land Development Code shall be incorporated into tree plans as required by Section 9-13-7-9 (submitted as part of a land development permit) and as specified in Chapter 9-16-5 of this Unified Land Development Code.

If no tree plan is required to be submitted, or if no land development permit is required, the Planning Department may require a separate landscaping plan to demonstrate compliance with the requirements of this Chapter, which may include any of the following as appropriate to determine compliance:

(a) Location and general type of existing trees;

(b) Existing trees to be saved;

(c) Methods and details for protecting existing trees during construction;

(d) Locations and labels for all proposed plants and a plant list or schedule showing the existing and proposed quantities in relation to any required quantities;

(e) Location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, signs and light fixtures.

Section 9-16-4-7. Additional Landscaping Specifications.

Approval of all landscaping and other materials by the Planning Department shall be required. The following specifications are required.

(a) Invasive or potentially invasive plants are not permitted. However, well-mannered non-native plants are acceptable if they are not considered invasive.

(b) Existing tree cover and natural vegetation shall be preserved, whenever possible, or replaced with suitable vegetation.

(c) Ground cover(s) should be used to supplement landscaping in appropriate areas to reduce the need for extensive grass lawns, which would require regular watering in drought conditions.

(d) No artificial plants, trees, or other vegetation shall be installed.

(e) Where existing utilities are present within a landscape strip, appropriate plant material should be used that does not grow to a height or have a root system that will interfere with above-ground or underground utilities.

(f) Do not plant materials in parking lot landscaping islands that will grow to a maturity of more than 2 and ½ feet, except for the required shade tree, unless regular pruning is provided, so as to avoid site visibility problems.

(g) All plant material shall conform to the current version of the American Standard For Nursery Stock published by the American Nursery and Landscape Association. A copy of this manual can be downloaded at www.anla.org.

CHAPTER 9-16-5
TREE PROTECTION

Section 9-16-5-1. Establishment of Tree Protection Zone.
Section 9-16-5-2. Exemptions from Tree Protection Zone.
Section 9-16-5-3. Tree Damage Prohibited.
Section 9-16-5-4. Limitations on Tree Removal.
Section 9-16-5-5. Tree Retention Priorities.
Section 9-16-5-6. Significant Trees
Section 9-13-5-7. Preliminary Tree Plan for Multiple Sites in Industrial Park.
Section 9-16-5-8. Permit Required for Removal of Certain Trees.
Section 9-16-5-9. Criteria for the Protection of Existing Trees.
Section 9-16-5-10. Tree Protection Fencing.
Section 9-16-5-11. Additional Tree Protection Requirements.
Section 9-16-5-12. Minimum Tree Unit Required.
Section 9-16-5-13. Calculation of Tree Units Generally.
Section 9-16-5-14. Measurement of Tree Units of Existing Trees.
Section 9-16-5-15. Measurement of Tree Units of Replacement Trees.
Section 9-16-5-16. Criteria for Replacement Trees.
Section 9-16-5-17. Physical Site Limitations.
Section 9-16-5-18. List of Generally Appropriate Trees.
Section 9-16-5-19. Maintenance and Inspection Requirements.

Section 9-16-5-1. Establishment of Tree Protection Zone.

Except as exempted by this Chapter, a tree protection zone is hereby established and which applies to the entirety of a tract of land for which no tree protection plan has been approved. After such approval, the tree protection zone shall correspond to that part of a tract of land designated as such on said plan. Tree protection zones shall be shown on land development plans and preliminary subdivision plats, as applicable, or a separate tree plan shall be submitted to demonstrate compliance with this Chapter.

Section 9-16-5-2. Exemptions from Tree Protection Zone.

The tree protection zone shall not apply to the following, except that any construction, paving, or other activity on a property that will damage trees on the public right-of-way is subject to the restrictions of this Chapter for the protection of existing trees:

(a) Tracts of land for which this Unified Land Development Code imposes no yard requirements and permits 100 percent coverage of the lot by buildings. This specifically includes the C-B, Central Business zoning district.

(b) Property on which a single-family dwelling is being constructed under contract to the person who will occupy the structure.

(c) Property already occupied by an owner-occupied single-family dwelling, unless non-residential uses or additional dwelling units are proposed for such property.

(d) Public utility companies conducting operations on public and utility rights-of-way and easements or on sites for electric power substations and similar facilities, which operations are for the purpose of assuring uninterrupted utility services.

(e) Property in use for the following:

1. Tree farming: The planting, cultivating, and harvesting of trees in a continuous cycle as a regular practice on a tract of land; not including the removal of trees for purposes of development or the removal of trees without replanting.

2. Agricultural activities: (a) Bona-fide commercial production from the land or on the land of agricultural products, including horticultural, floricultural, dairy, livestock, poultry, and apiarian products, but not including forestry products (see "tree farming" herein); and (b) clearing trees for the purpose of planting crops, providing pasture for livestock, or constructing buildings accessory to production of agricultural products.

Section 9-16-5-3. Tree Damage Prohibited.

It shall be unlawful for any person to:

(a) Cut, carve or otherwise damage or remove any tree except in accordance with the provisions of this Chapter.

(b) Attach any wire, nails, advertising posters or other contrivance harmful to any tree.

(c) Allow any gaseous, liquid or solid substance which is harmful to trees (such as concrete washout, fuel, lubricants, herbicides or paint) to come in contact with them.

(d) Set a fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.

Section 9-16-5-4. Limitations on Tree Removal.

(a) Existing significant trees or any other trees 10" DBH or larger that are in excess of the minimum required tree units per acre of development site (not including land area covered by buildings) but outside the construction area (buildings, accessory uses, parking area) shall not be removed unless adjacent development would cause irreparable damage to the critical root zones.

(b) No person shall remove more than 90 percent of the existing trees on a lot that is subject to the requirements of this Chapter.

(c) An existing tree survey identifying all significant trees 10" DBH or larger shall be required as part of the approved tree plan.

Section 9-16-5-5. Tree Retention Priorities.

The retention of trees is the highest priority and shall take precedence over the removal of trees and replacement with smaller trees. Tree protection and landscaping plans shall be reviewed

for compliance with the following provisions, and noncompliance with this Section may be grounds for disapproval of tree protection and landscaping plans required by this Article:

(a) Existing trees in required landscape strips shall be retained to the maximum extent possible.

(b) Existing trees between the building line and the street shall be retained to the maximum extent possible,

(c) Where existing trees exist where parking lots are proposed, such trees shall be integrated into the design of the parking lot so that they may be retained in tree planting islands, to the maximum extent possible.

(d) Any other existing trees in parking areas to the rear of the building line or elsewhere on the site shall be retained to the maximum extent possible.

(e) Trees categorized as significant trees, historical or landmark trees located shall be integrated into the design of the development to the maximum extent possible.

Section 9-16-5-6. Significant Trees.

Significant trees are composed of Specimen, Historic and Landmark trees. In order to obtain credit for a significant tree, the tree shall be protected in their natural state, free from damage.

To encourage the protection of a significant hardwood tree additional density credits will be given for significant trees saved. Credit for any significant hardwood tree saved will be four (4) times the assigned unit value shown in Table 9-16-5-2.

If a significant tree is damaged or removed without prior approval by the Director of Planning and Development, recompense or penalty will be required or imposed as follows:

(a) Any specimen tree that is removed without prior approval must be replaced by trees with a total density equal to twice the unit value of the tree removed. Additionally, replacement trees shall be a minimum of 2” caliper.

(b) If a historic or landmark tree is damaged or removed without prior approval, the Department of Planning and Development will require replacement by trees with a total density equal to four (4) times the unit of the tree removed.

Section 9-16-5-7. Preliminary Tree Plan for Multiple Sites in Industrial Park.

A preliminary tree plan may be submitted for development of an industrial park where multiple sites will be cleared and graded for purposes of marketing vacant sites to industrial prospects. Planting of new trees will not be required on a lot until a use is developed on that lot, and locations of new trees need not be shown on the preliminary plan. Removal of significant trees and other trees 10” DBH or larger shall be permitted only in conjunction with an approved preliminary tree protection plan, an approved grading plan, and actual grading of building pads (i.e., not simply to clear the lot). The preliminary tree protection plan shall show the following:

(a) The extent of the development site.

(b) Limits of land disturbance, clearing, grading and trenching.

(c) Grade changes or other work adjacent to a significant tree or any other tree 10" DBH or larger which would affect it adversely, with drawings or descriptions as to how the grade, drainage, and aeration will be maintained around the tree.

(d) Units of trees that will be required on the lot when it is developed, calculated both: (1) without subtracting any building footprint area from the acreage and (2) by subtracting one-third of the lot area as assumed building area.

(e) Location of any significant, historical and landmark trees to be removed.

Section 9-16-5-8. Permit Required for Removal of Certain Trees.

On properties which are not specifically exempted by this Chapter, a permit shall be required to be issued by the Director of Planning and Development to remove or cause the death of existing significant trees and any other trees 10" DBH or larger located within the tree protection zone or for grading or other work adjacent to a tree which would affect it adversely. An approved tree protection plan is required for issuance of a permit.

Permit requirements of this Section shall be waived if the applicant submits information from an Certified Arborist, Registered Forester, Registered Landscape Architect, or other qualified professional who demonstrates in writing that trees to be removed are dead, are diseased or infested to the extent that removal is necessary, or have been damaged by lightning, wind, ice, or other disasters to the extent that public safety is endangered. When a tree that has died or has been irreparably damaged is counted toward meeting the minimum tree density requirements of this Article, said tree shall be replaced with an equal number of tree units on the site.

Section 9-16-5-9. Criteria for the Protection of Existing Trees.

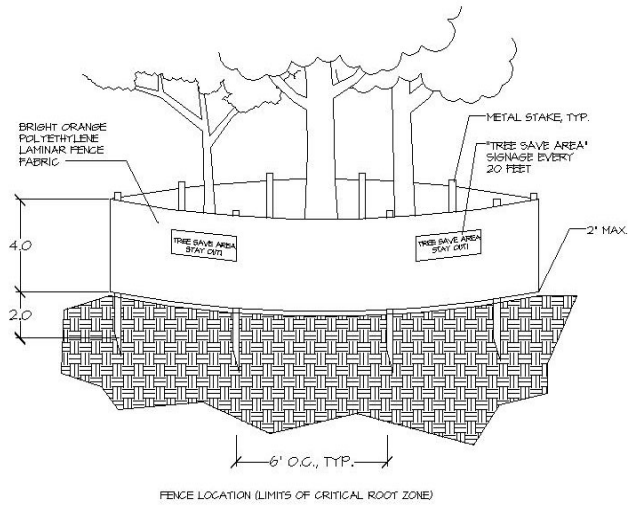
When a choice is available as to which existing trees to save, emphasis shall be given to the preservation of significant trees, as defined in this Article, even isolated significant trees, over retention of other trees. Non-significant trees, however, should be saved in stands rather than as individual trees scattered over a site.

Section 9-16-5-10. Tree Protection Fencing.

(a) During excavation, filling, construction or demolition operations, each tree or stand of trees within tree protection zones or otherwise designated to remain on the property shall be protected against damage to bark, roots and low-hanging branches with an orange barricade fence enclosing the critical root zone of said trees to be retained.

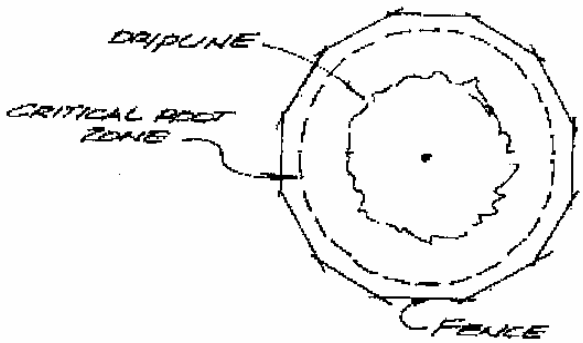
(b) Fencing shall be either plastic construction area fencing, silt fencing, 12-gauge 2 x 4-inch wire mesh, double 1 x 4-inch rails on 2 x 4-inch posts, or high-visibility surveyors' tape on 1 x 2-inch posts. Height of the latter three fence types shall be 4 feet.

(c) Tree save area signage with the language, "Tree Protection Area – Do Not Disturb" shall be required every twenty (20) feet of fencing.



TREE PROTECTION

Illustrative Tree Protection Fencing



Section 9-16-5-11. Additional Tree Protection Requirements.

(a) Compaction prohibited. All building materials, vehicles, construction equipment, dirt, debris, or other objects likely to cause soil compaction or above-ground damage shall be kept outside the critical root zone of trees within tree protection zones or other trees to be protected. Where a limited amount of encroachment is unavoidable and is approved by the city, the critical root zone shall first be mulched with a 4" layer of processed pine bark or wood chips or a 6-inch layer of pine straw.

(b) Grade change prohibited. There shall be no raising or lowering of the ground level within the critical root zone of trees within tree protection zones or other trees to be protected. Stripping of topsoil in such critical root zones shall not be permitted. Where necessary, the use of moderate fill is permitted only with prior installation of an aeration system approved by the city. Deposition of sediment in such critical root zones shall be prevented by placement of sediment barriers, which shall be backed by 2 x 4-inch wire mesh in areas of steep slope.

(c) Ditches prohibited. No person shall excavate any ditch or trench within the critical root zone of trees within tree protection zones or other trees to be protected. Where such encroachment is unavoidable and is approved by the city, ditches or trenches shall be so located as to minimize root damage. If roots must be cut, root pruning procedures approved by the city must be employed.

(d) Paving prohibited. No person shall pave with concrete, asphalt, or other impervious material within the critical root zone within tree protection zones or other trees to be protected.

(e) Encroachment in critical root zones. Encroachment on the critical root zone of a tree is permitted where necessary to the development (e.g., construction of a driveway), provided the tree is not counted toward the required minimum tree units per acre of development site (not including land area covered by buildings).

Section 9-16-5-12. Minimum Tree Units Required.

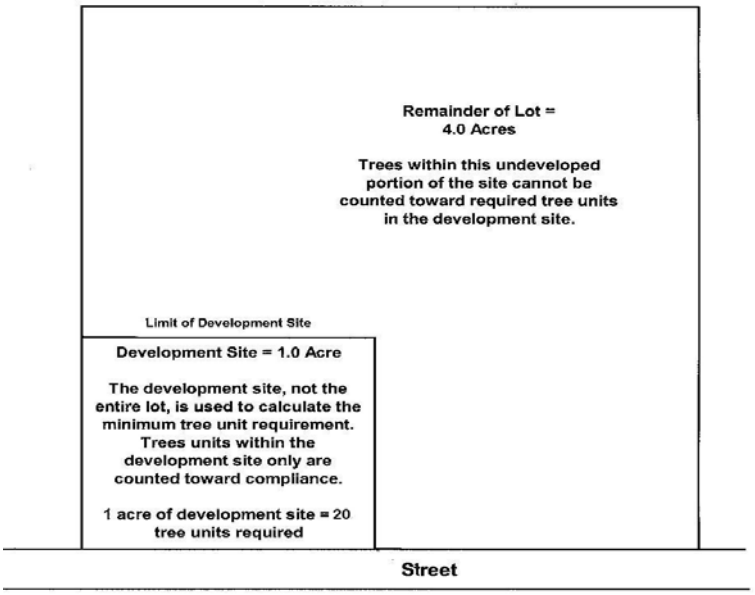
Upon completion of development, all properties shall have the minimum tree units per acre of the development site (not including land area covered by buildings). Within the development site of any property subject to the requirements of this Chapter, and unless otherwise specifically exempted from the provisions of this Chapter, there shall be a number of trees so as to produce a total Tree Density Unit of no less than:

(a) Eighteen (18) units per acre for property in Commercial and Industrial zoning districts.

(b) Twenty (20) units per acre for property in Residential zoning districts.

For purposes of this Chapter, the term “development site” excludes undeveloped portions of a lot.

Trees on the same lot but within required buffers or undeveloped portions of the site shall not be counted toward meeting this requirement for any given development site. A development site may be proposed larger than the limits of clearing, to retain trees on a forested portion of the site that will help meet the requirement of this Section, provided that the area containing trees is set aside as a tree protection area and is made a part of the boundary of the development site, through boundary line adjustment if the development site is a separate lot.



Example Minimum Tree Unit Calculation
(5-acre lot, 1-acre development site)

Section 9-16-5-13. Calculation of Tree Units Generally.

One "tree unit" is not the same as one "tree." For existing trees, the "tree units" assigned are the cross-sectional areas of the trunks at DBH in square feet. For new trees, credits given reflect a size that will be achieved after several years of growth. When the calculation of tree units required results in a fraction, the number of tree units shall be rounded upward to the next highest whole number.

Section 9-16-5-14. Measurement of Tree Units of Existing Trees.

The diameter of an existing tree's trunk will be measured and a value assigned in "tree units" in accordance with Table 9-16-5-2. When an existing tree meets the definition of "significant hardwood tree" as provided in this Article, the value assigned is four (4) times the value shown in Table 9-16-5-2.

TABLE 9-16-5-2
TREE UNIT VALUES FOR EXISTING TREES

DBH (inches)	Tree Units	DBH (inches)	Tree Units
1 to 4	.3	28	5.3
5 to 6	.6	29	5.7
7	.8	30	6.1
8	1.0	31	6.5
9	1.1	32	7.0
10	1.2	33	7.3
11	1.3	34	7.8
12	1.5	35	8.3
13	1.6	36	8.9
14	1.8	37	9.3
15	1.9	38	9.8
16	2.0	39	10.4
17	2.1	40	10.8
18	2.3	41	11.4
19	2.4	42	12.0
20	2.5	43	12.6
21	3.0	44	13.2
22	3.2	45	13.8
23	3.6	46	14.4
24	3.8	47	15.0
25	4.2	48	15.8
26	4.6	49	16.4
27	5.0	50 and above	17.0

Section 9-16-5-15. Measurement of Tree Units of Replacement Trees.

The diameter of a replacement tree's trunk will be measured and a value assigned in "tree units" in accordance with Table 9-16-5-3. For purposes of this Section, a "large species is one that will have a height at maturity of forty (40) feet or more. All fractions of tree requirements shall be rounded up to the nearest whole number.

TABLE 9-16-5-3
TREE UNIT VALUES FOR REPLACEMENT TREES

Generally		Large Species	
Caliper (inches)	**Tree Units**	**Caliper (inches)**	**Tree Units**
2	.6	2	.7
3	.7	3	.8
4	.8	4	1.0
5	.9	5	1.2
6 and above	1.1	6 and above	1.4

Section 9-16-5-16. Criteria for Replacement Trees.

(a) Spacing and the potential size of species chosen shall be compatible with spatial limitations of the site.

(b) The species must be ecologically compatible with the specifically intended growing site. Publications of the Georgia Forestry Commission, the Cooperative Extension Service of the University of Georgia College of Agriculture, or other sources acceptable to the City may be consulted regarding questions of tree characteristics.

(c) The trees must have the potential for size and quality comparable to those removed (e.g., an existing oak tree should not be replaced with a pine or dogwood tree).

(d) The trees must have crowns and root systems at maturity that will not disrupt nearby utilities, sidewalks, or public right-of-way infrastructure.

(e) Where trees must be added to achieve the minimum required tree units per acre of development site (not including land area covered by buildings), the following shall apply:

1. Pines may not comprise more than 10 percent of the required tree units. Where existing pines already comprise 10 percent or more of the required units, no more pines may be credited toward the required tree units.

2. No more than 30 percent of the required tree units can consist of a single tree species.

3. At least 25 percent of the replacement tree units must be canopy trees.

4. Flowering ornamental trees shall not be counted in terms of compliance with minimum tree unit requirements, unless listed in the tree list provided in Table 9-16-5-4 of this Chapter.

(f) Where trees must be added to achieve the required minimum tree units per acre of development site (not including land area covered by buildings), such additions shall be made between the street right-of-way and the front building line to the extent that physical space is available.

Section 9-16-5-17. Physical Site Limitations.

Where the proposed development area (i.e., the buildings, accessory uses, and parking area) for whatever reason does not permit the retention or planting of a number of trees equivalent to the minimum tree units per acre of the development site, the following regulations shall apply:

(a) The development site shall be enlarged, in cases where it does not comprise the entire lot.

(b) The tree protection zone shall to the extent possible be enlarged by removing parking spaces in excess of the minimum number required, by placing additional planting islands within the development area, or by reducing the area to be occupied by buildings.

(c) Alternative Compliance. Where such changes to development site or plans are not feasible, as determined by the Director of Community Development, the development applicant may propose and the Department may approve one of the two following alternatives:

(1) Off-site Location. An alternative, off-site location for the planting of required trees to meet the minimum required tree units may be approved by the Department. Public street rights-of-ways and public properties in the City, or private property in the City that has a valid conservation easement granted in favor of tree protection, shall be acceptable alternative sites for tree planting. If this is allowed, an escrow account or bond shall be required and established to cover the costs of trees and installation. Approval for off-site planting of required trees shall not exceed fifty-percent (50%) of total trees required for replanting.

(2) Tree Replacement Fund. In lieu of planting trees on an approved off-site location, the development applicant may contribute to the City of Gainesville Tree Replacement Fund. Contributions shall be calculated based on two-inch (2”) caliper trees and shall be based upon the number, size and type of trees that cannot be planted on the development site. The amount of the donation shall be 100% of the estimated costs derived from the average of two written estimates provided by the applicant from nurseries, including the plant materials, labor and any other costs associated with the plantings. Approval for Tree Replacement Fund contribution in lieu of on-site replanting shall not exceed fifty-percent (50%) of the total trees required for replanting.

Section 9-16-5-18. List of Generally Appropriate Trees.

Table 9-16-5-4 provides a list of trees generally appropriate for planting within the City.

TABLE 9-16-5-4
LIST OF GENERALLY APPROPRIATE TREES

Large Trees

Scientific Name	Common Name	Comments
Acer saccharum	Southern Sugar Maple*^	Deciduous, urban street tree/shade tolerant
Acer rubrum	Red Maple	Deciduous, urban street tree
Carpinus betulus fastigiata	Upright European Hornbeam	Deciduous, narrow young/spreads with age
Carya illinoinesis	Hickories, Pecans (native, fruitless)	Deciduous, shade/branches subject to breakage
Celtis laevigata	Sugar Hackberry*^	Deciduous, street & shade tree
Fagus grandifolia	American Beech*^	Deciduous, avoid post-planting disturbance
Fraxinus Americana/ caroliniana	White^ or Carolina Ash	Deciduous, Carolina Ash: wet habitats
Magnolia grandiflora	Southern Magnolia*	Evergreen, specimen tree
Metasequoia glyotostroboides	Dawn Redwood (not a canopy tree)	Deciduous (conifer), tolerant of wet sites
Nyssa sylvatica	Black Gum, Black Tupelo*^	Deciduous, very hardy
Pinus taeda	Loblolly Pine*	Evergreen (conifer)
Quercus coccinea	Scarlet Oak*	Deciduous, drought tolerant
Quercus laurifolia	Laurel Oak*	Deciduous, drought tolerant
Quercus lyrata	Overcup Oak*	Deciduous, transplants well/adapts to poor sites
Quercus nuttallii	Nutall Oak^	Deciduous, transplants well
Quercus palustris	Pin Oak^	Deciduous, specimen tree
Quercus phellos	Willow Oak*	Deciduous, drought tolerant
Quercus shumardii	Shumard Oak*^	Deciduous, good street tree
Quercus stellata	Post Oak	
Robinia pserdoacacia	Black Locust	Deciduous, hardy tree
Zelkova serrata	Green Vase Japanese Zelkova^	Deciduous, good street tree/fast growth

Street Trees

Scientific Name	Common Name	Comments
Acer buergeranum	Trident Maple	Deciduous, urban street tree
Acer rubrum	Red Maple	Deciduous, urban street tree
Acer saccharum	Southern Sugar Maple*	Deciduous, urban street tree/shade tolerant
Celtis laevigata	Sugar Hackberry*^	Deciduous, street & shade tree
Celtis occidentalis	Common Hackberry*	Deciduous
Fraxinus pennsylvanica	Green Ash*	Deciduous, heat tolerant
Ginkgo biloba	Gingko	Deciduous, urban tolerant, disease resistant
Koelreuteria paniculata	Golden Raintree	Deciduous, drought tolerant
Liriodendron tulipifera	Tulip Tree*	Deciduous, fast growing urban street tree
Quercus bicolor	Swamp White Oak*	Deciduous, sun, shade and wind tolerant
Quercus falcate	Southern Red Oak*	Deciduous, drought tolerant
Quercus nigra	Water Oak*	Deciduous
Quercus phellos	Willow Oak*	Deciduous, drought tolerant
Quercus rubra	Red Oak	Deciduous
Quercus shumardii	Shumard Oak*	Deciduous, good street tree
Ulmus alata	Winged Elm*	Deciduous, drought tolerant
Ulmus parvifolia	Lace Bark Elm	Deciduous, drought tolerant
Zelkova serrata	Green Vase Japanese Zelkov	Deciduous, good street tree/fast growth

Small Trees

Scientific Name	Common Name	Comments
Acer palmatum	Japanese Maple#	Deciduous, specimen tree
Amelanchier arborea	Serviceberry#	Deciduous, spring flowering
Carpinus caroliniana	American Hornbeam*	Deciduous, tough urban-tolerant & wet-tolerant
Cercis canadensis	Eastern Redbud*#	Deciduous, spring flowering
Chionanthus virginicus	Fringe Tree*#	Deciduous, specimen tree
Cladratis kentukea	American Yellowood*	Deciduous, specimen tree
Cornus florida	Flowering Dogwood*#	Deciduous, specimen tree
Cornus kousa	Kousa Dogwood#	Deciduous, spring flowering
Cotinus obovatus	American Smoketree*#	Deciduous, spring flowering
Hamamelis virginiana	Witch-hazel*#	Deciduous, specimen
Ilex x attenuate 'Fosteri'	Fosters Holly#	Broad-leaf, specimen tree/light shade-tolerant
Ilex x 'Emily Bruner'	Emily Bruner Holly#	Broad-leaf
Ilex x 'Nellie R. Stevens'	Nellie Stevens Holly	Broadleaf Evergreen
Ilex opaca	American Holly*	Evergreen (broad-leaf), specimen tree
Ilex verticulata	Winterberry*	Evergreen, specimen
Ilex vomitoria	Yaupon Holly (Tree Form)*	Evergreen, drought tolerant
Magnolia virginiana	Sweetbay Magnolia*	Semi-evergreen
Malus 'Callaway'/ x 'Dolgo	Callaway Crabapple#/ Dolgo Crabapple#	Deciduous, flowering & fruit/ disease resistant
Ostrya virginica	Ironwood*	Evergreen, specimen
Oxydendrum arboretum	Sourwood	Deciduous
Pinus virginiana	Virginia Pine	Evergreen (conifer)
Pistacia chinensis	Chinese Pistache	Deciduous, hardy & heat-tolerant
Prunus mume	Japanese Apricot#	Deciduous
Prunus subhirtella var. autumnalis	Fall Blooming Cherry#	Deciduous, specimen
Quercus myrsinifolia	Chinese Evergreen Oak*	Evergreen (broad-leaf), specimen tree
Vitex agnus-castus	Chaste Tree#	Deciduous, drought tolerant, specimen

(*) Indicates Native Species
(^) Indicates species used as either Frontage/Street Tree or Parking Lot Tree
(#) Indicates Flowering Tree species that may be counted toward site density factor

Parking Lot Trees

Scientific Name	Common Name	Comments
Acer rubrum	Red Maple^	Deciduous, outgrow site/shallow roots invasive
Betula nigra'BNMTF'	River Birch	Deciduous, heat-tolerant/multi-branch
Gingko biloba	Gingko or Maiden Hair Tree^	Deciduous, select **MALE** only
Platanus occidentalis	Sycamore or Planetree*	Deciduous, roots may be invasive over time
Platanus x acerifolia	London Planetree^	Deciduous, urban-tolerant
Quercus acutissima	Sawtooth Oak^	Deciduous, specimen tree
Quercus alba	White Oak*^	Deciduous, difficult to transplant
Quercus coccinea	Scarlet Red Oak*	Deciduous
Quercus falcate	Southern Red Oak*^	Deciduous
Quercus nigra	Water Oak*	Deciduous
Quercus palustris	Pin Oak*	Deciduous
Quercus phellos	Willow Oak*	Deciduous, drought tolerant
Quercus prinus	Chestnut Oak	
Quercus rubra	Northern Red Oak	Deciduous
Quercus shumardii	Shumard Oak	Deciduous, drought tolerant
Taxodium distichum	Bald Cypress	Deciduous, specimen tree
Ulmus parvifolia	Chinese Elm (Elmer I or II)^	Deciduous, good urban tree
Zelkova serrata	Japanese Zelkova 'Green vase'	Deciduous, urban-tolerant

Screening/Buffer Trees

Scientific Name	Common Name	Comments
Cedrus atlantica	Atlas Cedar	Conifer, specimen tree
Cedrus deodora	Deodar Cedar	Conifer, specimen tree
Cotinus Coggygria	American Smoketree	
Cryptomeria japonica	Japanese Cryptomeria	Conifer, light shade-tolerant
x Cupressocyparis leylandii	Leyland Cypress	Conifer
Ilex attenuata	Fosters Holly, Savannah Holly	Broad-leaf, specimen tree/light shade-tolerant
Ilex x 'Nellie R.	Nellie R. Stevens Holly	Broad-leaf, specimen tree
Ilex cassine	Cassine Holly*	Broad-leaf
Ilex opaca	American Holly*	Broad-leaf, specimen
Ilex opaca 'Greenleaf'	Greenleaf Holly	Broad-leaf, compact habit of growth
Ilex vomitoria	Yaupon Holly*	Broad-leaf
Illicium floridanum	Florida Anise	Shade tolerant
Juniperus virginiana	Eastern Red Cedar*	Conifer, not shade-tolerant
Loropetalum chinense	Loropetalum	Semi-shade tolerant
Magnolia grandiflora	Southern Magnolia*	Broad-leaf, specimen tree
Myrica cerifera	Southern Wax Myrtle*	Sun, drought tolerant
Osmanthus americanus	Devilwood*	Shade tolerant
Pinus taeda	Loblolly Pine*	Conifer
Pinus virginiana	Virginia Pine*	Conifer
Prunus caroliniana	Carolina Cherrylaurel	Broad-leaf, susceptible to ice damage
Quercus myrsinifolia	Chinese Evergreen Oak*	Broad-leaf, specimen tree
Thuja 'Green Giant'	Green Giant Arborvitae	Conifer, hardy/adapts well to saturated clay soils
Thuja occidentalis	Northern White-Cedar; Eastern Arborvitae	

(*) Indicates Native Species
(^) Indicates Species Used as Either Frontage/Street Tree or Parking Lot Tree
(#) Indicates Flowering Tree Species that may be counted toward site density factor

Source: "Treescape: A Citizen's Guide for Urban Tree Planting" (a resource published by the Cooperative Extension Service, University of Georgia College of Agriculture).

Section 9-16-5-19. Maintenance and Inspection Requirements

Trees, which are planted to meet the density requirements, shall be maintained for one (1) growing season after the date of final inspection and a certificate of occupancy is issued. After one (1) growing season a maintenance inspection shall be performed by the Planning and Development staff to determine if the project is still in compliance as required by this Chapter. Any trees planted to meet the required density requirements, which are dead, dying or diseased must be replaced. Additionally, trees protected to meet the density requirements which are dead, dying, diseased or have been removed at the time of inspection must be replaced if there is evidence that the demise of such trees was due to an act or omission that caused the tree to deteriorate.

Trees required to be replaced shall be a minimum of two (2) inch caliper at time of planting and shall be planted within 30 days of receipt of notification by the City of Gainesville. Additionally, unless exempt from this Chapter, the subject property shall continually meet the Buffers, Landscaping and Tree Protection standards set forth in Article 9-16.

ARTICLE 9-17
ACCESS, PARKING AND LOADING REQUIREMENTS

CHAPTER 9-17-1	GENERAL PROVISIONS	17-1
CHAPTER 9-17-2	ACCESS	17-5
CHAPTER 9-17-3	DRIVEWAYS	17-7
CHAPTER 9-17-4	SITE VISIBILITY TRIANGLE EASEMENTS	17-11
CHAPTER 9-17-5	PARKING REQUIREMENTS	17-13
CHAPTER 9-17-6	OFF-STREET LOADING	17-26

CHAPTER 9-17-1
GENERAL PROVISIONS

Section 9-17-1-1. Findings.
Section 9-17-1-2. Purposes.
Section 9-17-1-3. Definitions.
Section 9-17-1-4. Applicability.

Section 9-17-1-1. Findings.

(a) Need for parking. Space for the parking of motor vehicles is needed to serve every property that contains a principal use, for the safety and convenience of the people who live or work on the property, shop or do business on the property, or otherwise visit the property in the normal course of activity of the principal use.

(b) Need for loading and unloading spaces. Space for the loading and unloading of equipment, supplies, and products is needed to serve properties engaging in such loading and unloading operations. If not required, adequate and proper loading spaces in acceptable locations tend not to be provided.

(c) Environment. Poor design of parking lots can lead to damage to the environment and may require the community to subsidize the interests of a private property owner at the expense of the community's environment. It is reasonable to ensure the good design of parking lots. Possible negative effects of parking and loading areas include changes to microclimate, isolation of pedestrians, increased stormwater runoff, and reduced stormwater infiltration into the ground. Large parking lots can create heat islands where pavement absorbs solar radiation during the day and remains warm well into the night. When heat islands exist, cooling costs are higher than normal.

(d) Stormwater management. Parking lots surfaces such as asphalt contribute to the degradation of local water quality. Parking lots can be more compatible environmentally if protection measures are incorporated into design standards and regulations. Porous pavement and grass pavers reduce runoff by allowing it to pass through the paved surface and infiltrate back into the soil and groundwater. Porous pavement designs and grass pavers are appropriate in some instances. Other types of stormwater management facilities are environmentally compatible, such as vegetative swales and bioretention.

(e) Pedestrian mobility. Areas of paving are necessary to accommodate automobiles, but they can be unfriendly to pedestrians without specific regulations requiring that designers accommodate pedestrians. Large, open parking areas are conducive to high

speeds and random maneuvers which can endanger pedestrians. Wide driveway aisles and access roads also increase speeds and discourage pedestrian travel. Street and parking lot design can balance the needs to accommodate automobile-centered standards with approaches that take into account the needs of pedestrians.

(f) Overbuilding of parking lots. Off-street parking requirements, as conventionally implemented, have resulted in excess, unnecessary parking around shopping centers and malls because it remains unused for most of the year. Parking lot construction is a considerable factor in the cost of development. Reducing parking areas reduces development costs. Therefore, reductions in the size of paved parking and flexibility in the types of pavement and parking designs are beneficial to all concerned.

(g) Connectivity. Abutting properties which do not provide interconnecting access to one another make it difficult, dangerous, and inefficient if not impossible, for motorists to travel between those properties. Between compatible uses, provisions requiring inter-parcel access meet substantial public purposes of convenience and safety.

Section 9-17-1-2. Purposes.

The multiple purposes of this Article include but are not limited to the following:

(a) Establish requirements for multi-modal access to development sites, including vehicular, truck service, and pedestrian, as appropriate;

(b) Establish on-site circulation patterns conducive to safe pedestrian as well as vehicular and truck access;

(c) Reduce congestion in the streets and ensure that uses and functions of street rights-of-ways are not interrupted;

(d) Establish certain maximum as well as minimum requirements for parking spaces to reduce development costs and ensure that excess impervious surfaces are not constructed, while providing for exceeding maximums when a demonstrated need exists. Parking requirements should be based on actual average parking demands, rather than to accommodate the highest hourly parking at a site as in conventional parking requirements;

(e) Provide in certain conditions for the use of alternative pavement materials in parking lots, such as porous materials which have higher degrees of water quality effectiveness than conventional asphalt and pervious concrete;

(f) Promote flexible approaches to the provision of off-street parking, including in some cases, as appropriate, use of on-street parking and shared parking arrangements; and

(g) Establish design and improvement specifications for the development of parking lots, loading areas, access aisles, and connections of parking lots to streets.

Section 9-17-1-3. Definitions.

Access: A way or means of approach to provide physical entrance to a property.

Curb break or curb cut: Any interruption or break in the line of a street curb for the purpose of connecting a driveway to a street, or otherwise to provide vehicular access to abutting property.

Deceleration lane: An added roadway lane, of a specified distance and width and which may include a taper, which permits vehicles to slow down and leave the main vehicle stream.

Driveway: A constructed vehicular access serving one or more properties and connecting to a public or private street.

Floor area: The sum of all square footages (areas) of each floor of a building, measured from the interior faces of the exterior walls or from the centerline of walls separating two buildings. The following areas are excluded from the measurement of floor area: unfinished attics, attached garages or spaces used for off-street parking and loading, breezeways, and enclosed or unenclosed decks and porches.

Frontage or street frontage: The width in linear feet of a lot where its front lot line abuts the right-of-way of any street from which access may be directly gained.

Handicapped parking space: A space laid out and designated by signage in accordance with the requirements of the federal Americans with Disabilities Act.

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

Parking aisle: The traveled way, which is not the public right-of-way, by which cars enter and depart parking spaces and maneuver within a designated parking lot.

Parking bay: Three or more parking spaces adjacent to one another and aligned side-by-side.

Parking lot: Any public or private area at grade used for the express purpose of temporarily parking automobiles and other vehicles otherwise in operation for personal or business use.

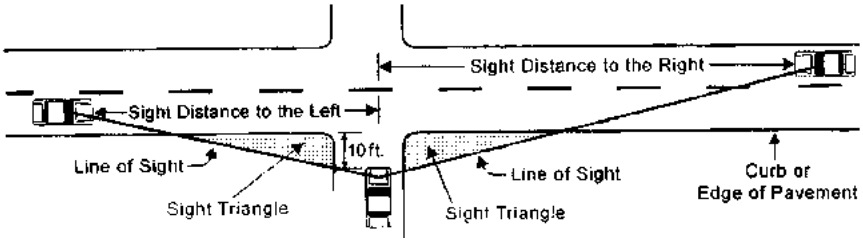
Parking space: A space meeting required dimensions for width and length and identified and set aside for the temporary parking of an automobile or other motor vehicle.

Porous materials: Porous asphalt, porous concrete, permeable pavers, or turf block or other porous materials approved by the Department of Water Resources Director or designee. Turf block consists of interlocking concrete or plastic cells filled with soil and planted with turf grass or a low-maintenance groundcover.

Right-of-way: Land reserved for and immediately available for public use as a street or other purpose.

Sidewalk: A hard-surfaced pedestrian access area adjacent to or within the right-of-way of a street.

Sight visibility triangle easement: The areas at the corners of an intersection, or at the intersection of a street and driveway, which may vary based on type of street, that are to be kept free of shrubs, ground covers, berms, fences, structures, or other materials or items over two and one-half (2½) and twelve (12) feet in height as measured from the ground.



Street: An improved way for the conveyance of motor driven, rubber-tired vehicles, such as automobiles and trucks.

Section 9-17-1-4. Applicability.

(a) This Article shall apply to all development; provided however, that within this Article certain exceptions are made to specific sections or paragraphs.

(b) Before any development permit or building permit is issued for a given development or building, the parking lot layout and area must be found by the Community Development Director to be in compliance with all applicable requirements of this article and site design review as required by Article 9-9 of this Unified Land Development Code is accomplished. The Community Development Director may exempt from the permit and site design review requirements of this code any improvement project resulting in four or less parking spaces, or the addition of four or less parking spaces to an existing parking lot. Such exemption shall not relieve the developer of compliance with other applicable provisions of this Unified Land Development Code.

(c) The Building Official shall not authorize occupancy or use of a building until advised by the Community Development Director or designee that parking facilities meet the applicable requirements of this Article.

(d) Prior to the city's issuance of a business registration, compliance with the requirements of this Article shall be demonstrated.

(e) This Article shall not be construed as requiring compliance of parking lots which lawfully existed on the effective date of this Article; provided, however, that the Community Development Director shall ensure parking lots that do not comply with this Article meet the requirements of this Article or substantially comply when there is a change in use, and when a new development permit is required or a building permit is required to add additional building space on the site. If substantial redesign of the parking lot is required to comply with this Article in such cases of new development or building additions, the Community Development Director may accept substantial rather than complete compliance when the strict application of a requirement of this Article would pose substantial practical difficulty.

CHAPTER 9-17-2
ACCESS

Section 9-17-2-1. Access.
Section 9-17-2-2. Access Control on State Routes.
Section 9-17-2-3. Safe Maneuvering and Prevention of Obstructions.
Section 9-17-2-4. Stacking Spaces for Drive-through Facilities or Service Windows.

Section 9-17-2-1. Access.

(a) Every development and every lot shall have access via an approved roadway or driveway to a public street or private street (if approved) which connects to the public street system.

(b) Ingress and egress to parking areas shall be by means of a driveway from the abutting street meeting the minimum requirements of this Article.

(c) The Community Development Director shall not authorize access of development in a non-residential zoning district through any residential zoning district; exceptions may be made for mixed-use developments.

Section 9-17-2-2. Access Control on State Routes.

(a) Access onto a U.S. or state highway shall meet Georgia Department of Transportation requirements. Specifically, for subdivisions or land developments accessing state routes, the Georgia Department of Transportation requires a driveway permit and may require the installation of deceleration lanes and/or other improvements per its *Regulations for Driveways and Encroachment Control*, as most recently revised. Such state approval and driveway permit shall be a precondition of development permit approval. A copy of the Georgia Department of Transportation permit, if required, shall be submitted to the Community Development Director before plans can be approved.

(b) For driveways accessing U.S. or State highways, the requirements of the Georgia Department of Transportation shall apply whenever more restrictive than the standards in this Article.

Section 9-17-2-3. Safe Maneuvering and Prevention of Obstructions.

(a) Except for single-family dwellings, duplexes, residential condominiums, and townhouses, off-street parking spaces shall have access so that their use will not require backing movements or other maneuvering within a street right-of-way.

(b) There shall be no obstruction of a public sidewalk, including that portion of the sidewalk within a driveway apron, due to parking, loading, or other activity. The Director of Public Works may require that construction contractors make special provisions for maintaining safe passage along public sidewalks during construction.

Section 9-17-2-4. Stacking Spaces for Drive-through Facilities or Service Windows.

Stacking spaces shall be provided for any use having a drive-through facility or areas having drop-off and pick-up areas in accordance with this section.

(a) Stacking spaces shall begin at the window or communication/mechanical device (e.g., order board) first encountered by the vehicle user. Financial institutions with drive-through windows, car washes (automated or staffed facilities), drive-through coffee sales facilities, and any other uses with drive-through facilities shall provide three stacking spaces for each window or drive-through service facility. Restaurants with drive-through facilities shall at least provide five stacking spaces for each window or drive-through service facility.

(b) Stacking spaces and lanes for drive-through stations shall not impede on and off site traffic movements and shall not create a potentially unsafe condition where crossed by pedestrian access to a public entrance of a building.

(c) Drive-through lanes shall be separated by striping or curbing from off-street parking areas. Individual lanes shall be striped, marked, or otherwise distinctly delineated.

(d) All drive-through facilities shall be provided with a bypass lane with a minimum width of nine (9) feet, aside the drive-through lane.

CHAPTER 9-17-3
DRIVEWAYS

Section 9-17-3-1. Permit Required.
Section 9-17-3-2. Driveway Width Requirements.
Section 9-17-3-3. Number of Driveways Limited.
Section 9-17-3-4. Location Limitations.
Section 9-17-3-5. Minimum Driveway Construction Specifications.
Section 9-17-3-6. Driveway Surfacing.
Section 9-17-3-7. Common Access Easements for Shared Driveways.

Section 9-17-3-1. Permit Required.

(a) A permit shall be required for construction, including driveways and utilities, in any public right-of-way. Permits will not be issued until such time that plans have been submitted and approved by the Public Works Director or designee and, if a surfacing other than asphalt or concrete is used, the Department of Water Resources Director or designee.

(b) No curbs or medians on public streets or rights-of-way shall be cut or altered for access, and no driveway connection to a public or private street shall be made or altered, without a permit issued by the Public Works Department and/or other applicable jurisdictions (e.g., GDOT, Hall County).

(c) Deceleration lanes may be required at all entrances to subdivisions and industrial and commercial developments that front on arterial and collector streets. Deceleration lanes shall be twelve (12) feet in width plus curb and gutter for a minimum distance of 200 feet measured from the intersection of the right-of-way lines, or as may be otherwise required by the Georgia Department of Transportation (on state routes) or the Public Works Director for a local street.

Section 9-17-3-2. Driveway Width Requirements.

(a) Vehicular access from properties to streets shall comply with the following minimum dimensional requirements, measured at the right-of-way line.

TABLE 9-17-3-1
DRIVEWAY WIDTH REQUIREMENTS

Use	Minimum Driveway Width, Divided Entrance with Center Island	Minimum Driveway Width	
		Two-Way	One-Way
Single-Family Residence	25 feet	8 feet	8 feet
Multi-Family Residential	36 feet	26 feet	12 feet
Commercial & Industrial	36 feet	30 feet	16 feet

(b) When a property containing a single-family residence is converted to a use that requires a wider driveway, the Public Works Director may reduce the driveway width required by this Section if access via a narrower driveway will not be impeded.

Section 9-17-3-3. Number of Driveways Limited.

(a) Along State or U.S. highways, no more than one (1) driveway access from a property shall be permitted for each 300 feet of lot frontage, or fraction thereof.

(b) Along all streets other than State or U.S. highways, one driveway that meets the driveway width requirements described within Table 9-17-3-1 of this chapter shall be permitted for every 200 feet of road frontage not to exceed a total of three (3) driveways within residential zoned districts and not to exceed a total of five (5) driveways within commercial or industrial zoned districts as described in Table 9-17-3-2 of this chapter. The Public Works Director shall have the ability to administratively vary this requirement for good cause. Written application must be made to the Public Works Director stating the reason for the administrative variance, and identifying the reason(s) for such request.

TABLE 9-17-3-2
NUMBER OF DRIVEWAYS PERMITTED

Number of Driveways		Road Frontage
Residential	Commercial/ Industrial	
1	1	0’ to 199’
2	2	200’ to 299’
3	3	300’ to 399’
n/a	4	400’ to 499’
n/a	5	500’ and above

(c) The Public Works Director shall determine whether the driveways may be unrestricted or will have to be designed for right-in, right-out traffic flow.

Section 9-17-3-4. Location Limitations.

(a) No driveway shall be allowed within 35 feet of the right-of-way line of any street intersections for single-family and two-family residential lots and within 50 feet for multi-family and nonresidential properties. The Public Works Director shall have the ability to administratively vary this requirement for good cause. Written application must be made to the Public Works Director stating the reason for the administrative variance, and identifying the reason(s) for such request.

(b) Corner lot access shall be located at the points farthest from the intersection to eliminate turning movement accidents and to promote proper storage of through traffic.

Section 9-17-3-5. Minimum Driveway Construction Specifications.

Driveway connections shall be provided between the edge of pavement or back of curb to the right-of-way line. No property may be afforded access from a public street except as follows:

(a) Curb and gutter streets shall be provided with a driveway apron constructed of 3000 psi concrete at least six (6) inches thick. Sidewalks, where provided, shall be warped to the driveway apron and are to be identified across the driveway apron by construction joints or control joints.

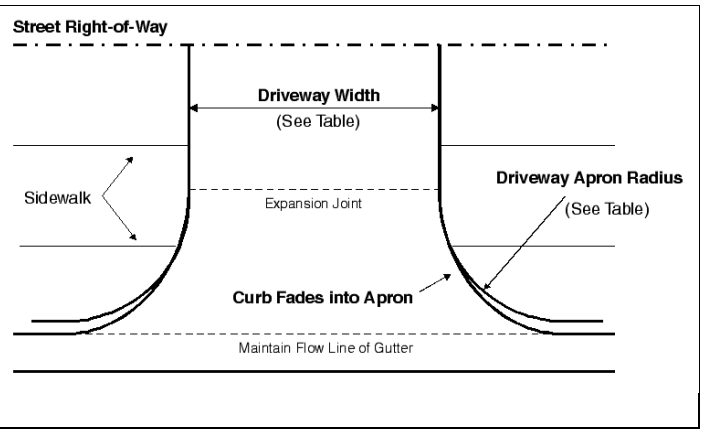
(b) Swale ditch section streets shall be provided with a driveway apron constructed of 3000 psi concrete at least six (6) inches thick, or asphaltic concrete of the same thickness and type as the paving course(s) for the street.

(c) For streets that have been overlaid, driveway aprons shall tie into the existing curb and gutter. Asphalt may be added to the apron for smoother access.

(d) All driveway aprons shall have a radius connecting the driveway to the curb line or pavement edge as follows:

TABLE 9-17-3-3
DRIVEWAY APRON RADII

Use	Minimum Driveway Radius
Single-Family Residential	5 feet
Commercial or Multi-Family Residential	15 feet
Industrial	25 feet



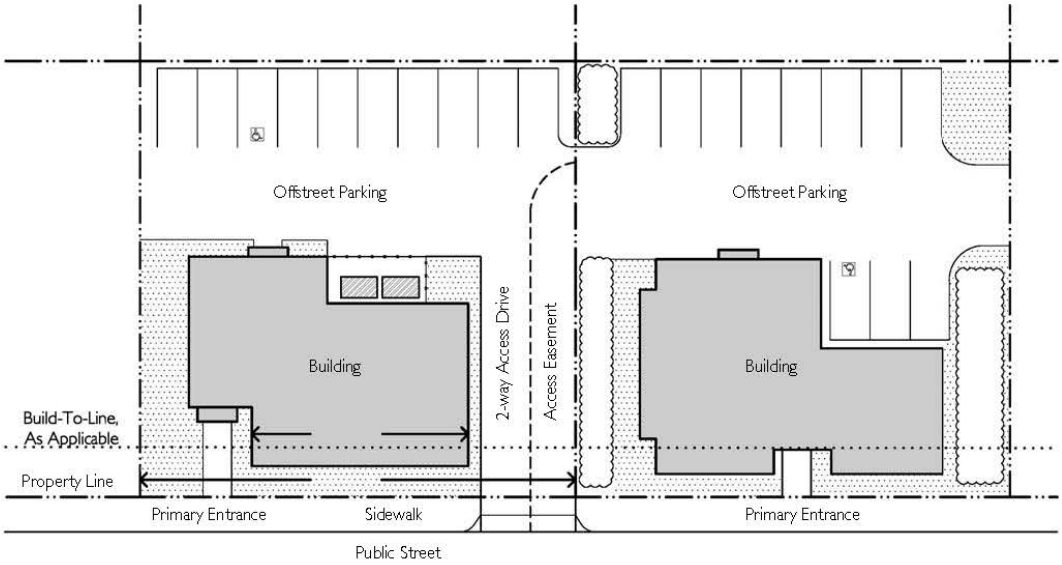
Section 9-17-3-6. Driveway Surfacing.

a) Driveways shall be paved with asphalt or concrete unless the Department of Water Resources Director or designee permits porous materials due to environmental impacts or to meet the stormwater management and water quality objectives of this Unified Land Development Code. Porous materials shall not be installed at commercial/industrial sites where, in the opinion of the Water Resources Director or designee, the potential for spills and groundwater contamination exists.

(a) In the case of land development within the Historic Preservation Overlay Zone, the Community Development Director or designee may recommend and the Historic Preservation Commission shall be authorized to review and approve the use of alternative pavement surfaces or permit driveways to be unpaved if appropriate to the character of the historic district or landmark.

Section 9-17-3-7. Common Access Easements for Shared Driveways.

Shared driveways between two parcels along the common property line may be required by the Public Works Director. In such cases, each property owner shall grant an access easement to facilitate the movement of motor vehicles across the site.



Illustrative Shared Driveway and Access Easement
Source: Oregon Transportation and Growth Management Program, 2012
Model Development Code & User's Guide for Small Cities, 3rd Ed.

CHAPTER 9-17-4
SIGHT VISIBILITY TRIANGLE EASEMENTS

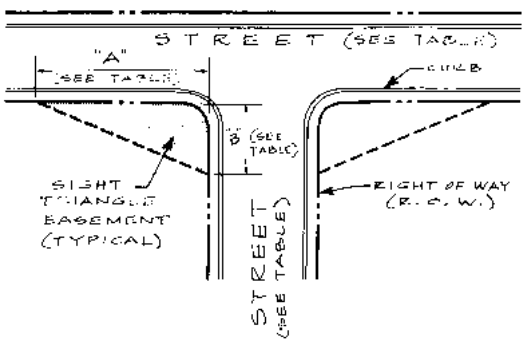
Section 9-17-4-1. Site Visibility Triangle Easement Established.
Section 9-17-4-2. Delineation at Street Intersections.
Section 9-17-4-3. Delineation at Driveway Intersections.
Section 9-17-4-4. Restrictions within Sight Visibility Easements.

Section 9-17-4-1. Site Visibility Triangle Easement Established.

A sight visibility triangle easement, as defined in this Article, is hereby established at every public or private street intersection with another street or a private driveway, which shall meet the dimensions specified in Table 9-17-4-1. Required sight visibility triangle easements shall be required to be delineated on all plans and plats.

TABLE 9-17-4-1
SITE VISIBILITY TRIANGLE EASEMENT REQUIREMENTS
(see diagram)

"B" Distance in Feet		"A" Distance in Feet		
		Local Street	Collector Street	Arterial Street
25	Private Drive	25	25	25
30	Local Street	30	100	150
100	Collector Street	30	100	150
150	Arterial Street	30	100	150



Section 9-17-4-2. Delineation at Street Intersections.

At public street intersections, the sight visibility triangle easement is delineated by the two intersecting street right-of-way lines and a line connecting the right-of-way lines at the points indicated Table 9-17-4-1. The connecting points shall be measured from the right-of-way lines extended to their point of intersection.

Section 9-17-4-3. Delineation at Driveway Intersections.

At driveway intersections with public streets, the edge of the driveway's pavement or back of curb will be used for the sight visibility triangle easement measurements along the driveway.

Section 9-17-4-4. Restrictions within Sight Visibility Easements.

Within the sight visibility triangle easement, the planting of trees or other vegetation or the location of structures over two and one-half (2 and ½) feet in height that would obstruct the clear sight across the area of the easement shall be prohibited. The easement shall provide right of entry to the City for the purpose of removing any object or vegetation that obstructs the clear sight. The Public Works Director may authorize structures or vegetation at a greater height within a sight visibility triangle easement if it is determined that sight visibility will not be

compromised. Any proposed structures or vegetation exceeding this height shall be indicated on plans.

CHAPTER 9-17-5
PARKING REQUIREMENTS

Section 9-17-5-1. Off-Street Parking Required.
Section 9-17-5-2. Parking Requirements in the C-B, Central Business Zoning District.
Section 9-17-5-3. Surfacing and Curbing of Parking Lots.
Section 9-17-5-4. Parking Area Use Limitations.
Section 9-17-5-5. Parking for Company-Owned Vehicles.
Section 9-17-5-6. Interpretations.
Section 9-17-5-7. Off-Street Parking Spaces on Same Site as Use They Serve.
Section 9-17-5-8. Off-Site Parking Spaces Permitted.
Section 9-17-5-9. Requirements for Design of Parking Lots.
Section 9-17-5-10. Minimum Number of Handicapped Parking Spaces.
Section 9-17-5-11. Specifications for Handicapped Parking Spaces.
Section 9-17-5-12. Off-Street Parking Requirements by Use.
Section 9-17-5-13. Administrative Variances.
Section 9-17-5-14. Compact Parking Spaces.
Section 9-17-5-15. Reduction of Parking Stall Width and Use of Porous Materials.
Section 9-17-5-16. Cross-referenced Provisions.

Section 9-17-5-1. Off-Street Parking Required.

(a) Unless specifically provided otherwise in this Chapter, at the time of the establishment of any use, or erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area, there shall be provided permanent off-street parking spaces in a number and in accordance with the design specifications required by this Chapter.

(b) No existing or future off-street parking area shall be reduced in capacity to less than the minimum required number of spaces, or increased to more than the maximum permitted number of spaces, or altered in design or function to less than the minimum standards, unless specifically provided for in this Article.

Section 9-17-5-2. Parking Requirements in the C-B, Central Business Zoning District.

Notwithstanding other provisions of this Chapter, off-street parking shall not be required for any use within the C-B, Central Business Zoning District.

Section 9-17-5-3. Surfacing and Curbing of Parking Lots.

Parking lots shall be improved with an asphalt or concrete surface and curb and gutter as approved by the Public Works Director; provided, however, that:

(a) Parking lots shall be paved with asphalt or concrete, unless the Department of Water Resources Director or designee permits porous materials due to environmental impacts or to meet the stormwater management and water quality objectives of this Unified Land Development Code. Porous materials shall not be installed at commercial/industrial sites where, in the opinion of the Water Resources Director or designee, the potential for spills and groundwater contamination exists.

(b) Curbing shall be installed as required by the Department of Water Resources Director when considered necessary for drainage, although water quality effectiveness and character of the zoning district shall be considerations in determining curbing requirements. Toward the end of maximizing infiltration and the promoting the water quality effectiveness of low impact development techniques, the Department of Water Resources Director is authorized to vary curb requirements for parking lots.

(c) In the case of land development within the Historic Preservation Overlay Zone, the Community Development Department may recommend and the Historic Preservation Commission shall be authorized to review and approve the use of alternative pavement surfaces or permit parking lots to be unpaved if appropriate to the character of the historic district or landmark.

(d) See also Section 9-17-5-15 for by-right permissions to use alternative paving surfaces for large parking lots.

Section 9-17-5-4. Parking Area Use Limitations.

(a) Areas provided to meet the minimum requirements of this Article as to handicapped and other parking spaces, along with the aisles and driveways necessary to provide access to those spaces, shall not be used for any purpose other than the temporary parking of vehicles for the present on-site use or uses. Specifically, no such parking area may be used for the sale, repair, dismantling or servicing of any vehicles, equipment, materials or supplies.

(b) Upon application, the Community Development Director may approve temporary structures and uses such as tent sales within required parking spaces that are not used on a continuous basis, provided that such uses are moveable from the site upon order by the Community Development Department, subject to the requirements of Section 9-10-8-2 of this Unified Land Development Code.

(c) This section shall not preclude the uses of parking lots as authorized in Section 9-10-1-4 of this Unified Land Development Code.

Section 9-17-5-5. Parking for Company-Owned Vehicles.

Every business that stores vehicles owned by the business on site overnight (such as a company fleet), or maintains a stock of vehicles as part of its business activities (such as a car sales lot, a salvage and wrecking yard, auto repair, car rental agency, etc.), shall provide for adequate parking or storage for the vehicles such that:

(a) No parking occurs in a public right-of-way;

(b) Parking does not encroach on off-street parking spaces required by this chapter and may not be parked within the front yard or otherwise positioned for advertising purposes;

(c) Any other area that has not been improved as a parking lot or storage yard. Such parking spaces shall be in addition to those required by this Chapter.

Section 9-17-5-6. Interpretations.

(a) Fractions. Where a fractional space results during the calculation of required parking, the required number of parking spaces shall be rounded downward to the next whole number.

(b) Parking space requirement not specified. Where the parking requirement for a particular use is not described in this Chapter, and where no similar use is listed, the Community Development Director shall determine the number of spaces to be provided based on requirements for similar uses, location of the proposed use, the number of employees on the largest shift, total square footage, potential customer use, and other expected demand and traffic generated by the proposed use. At the discretion of a development applicant, a parking generation study prepared by a qualified professional may be submitted to aid the Community Development Director in making such a determination; if submitted, it shall be considered by the Community Development Director prior to making a determination.

(c) Computations for multiple floor uses within a building. In cases where a building contains some combination of office space, retail or wholesale sales area, and/or bulk storage area, the Community Development Director may authorize that combinations of the parking requirements established in this Chapter be used which are proportional to the use of floor areas (e.g., warehousing, retail, and/or office) in determining the minimum required off-street parking space requirements of this Chapter.

(d) Related facility parking. The Community Development Director may through the administrative variance process specified in Chapter 9-24-3 of this Unified Land Development Code, authorize a reduction of the number of required parking spaces when it can be demonstrated to his or her satisfaction that the use provides other areas on the site that are not marked as parking spaces but which serve some of the demand for on-site parking. Such areas may include but are not limited to drive-through stacking lanes, drive-through bays, and gas pump canopy areas, and excess loading zones.

Section 9-17-5-7. Off-Street Parking Spaces on Same Site as Use They Serve.

All parking spaces required by this Chapter for all uses shall be located on the same lot as the use for which such parking is intended, except as specifically provided otherwise by this Chapter.

Section 9-17-5-8. Off-Site Parking Spaces Permitted.

In lieu of parking on the same lot as the use for which such parking is intended, parking spaces required by this Chapter for all uses may be provided off-site, provided the following requirements are met:

(a) The spaces are within a walking distance of four-hundred (400) feet of the main entrance to the building or use they are intended to serve, provided, however, that no required parking spaces may be located across any State or U.S. highway from the use they are intended to serve. In townhouse subdivision developments, each parking space shall be within one-hundred (100) feet of the entrance to the dwelling unit that it serves, as measured along the most direct pedestrian route.

(b) The property containing the parking spaces not serving a use onsite must be either under the same ownership as the property containing the use to which the parking will serve, or a valid lease agreement must exist between the two property owners for use of the parking area. Lease agreements, as applicable, must be of sufficient duration to serve the use or uses proposed to be partially served by the off-site leased parking, as approved by the Public Works Director.

(c) Off-site parking shall not exceed thirty (30) percent of the required parking for a building or buildings, except in the C-B zoning district, where 100 percent is permitted.

(d) Safe and convenient pedestrian access, such as a sidewalk or path, must exist or be provided at the expense of the property owner from the structure or use to the off-site parking lot.

(e) The Community Development Director may in individual cases administratively authorize a reduction, not to exceed twenty percent (20%) of the minimum required number of parking spaces for projects that are directly served by on-street parking approved by the Public Works Director.

(f) The number of parking spaces required by this Chapter for any number of separate uses may be combined and provided in one lot (i.e., off the site of one or more uses), provided that the spaces are within a walking distance of four-hundred (400) feet of the main entrance to the building or use they are intended to serve; provided further that the required spaces assigned to each use may not be assigned to another use, except as follows:

1. One-half of the parking spaces required for a church, theater or assembly hall whose peak attendance will be on weekends and nights that services or activities are held may be assigned to a use that will be closed during those time periods.

2. Parking spaces may be shared by more than one use if the Community Development Director finds that the total number of spaces will be adequate at the peak hours of the uses they serve.

Section 9-17-5-9. Requirements for Design of Parking Lots.

(a) Site Design Review. The design of parking lots is of critical importance with regard to functionality, pedestrian access, and aesthetics. Therefore, all parking lots or additions to parking lots consisting of more than four (4) spaces require site design review in accordance with Article 9-9 of this Unified Land Development Code. Locations of parking spaces and their design may vary based on character area and use, after considering the stormwater management objectives of this Unified Land Development Code.

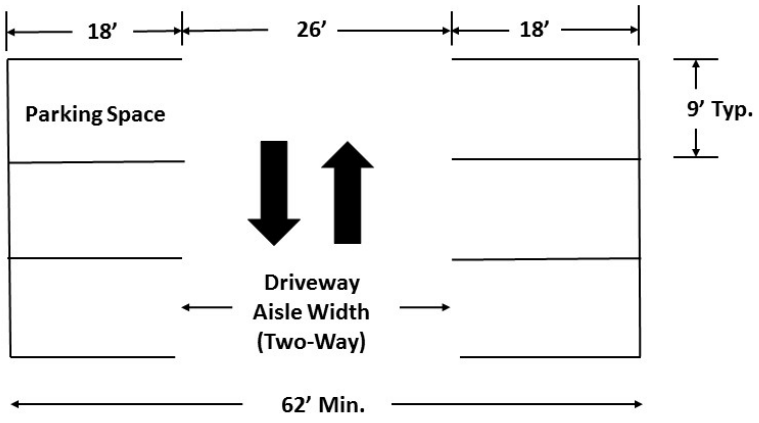
(b) Drainage. For any use that will require a parking area of five spaces or more, or a loading area, to be newly constructed, added to, or altered in such a way as to affect drainage either on or off the site, storm water drainage plans, including grading plans, shall be submitted to and approved by the Community Development Director and the Department of Water Resources Director, prior to the issuance of a land development permit.

(c) Location of spaces in relation to rights-of-ways. No parking space shall be provided along an access driveway within the first twenty-five (25) feet of the driveway from any

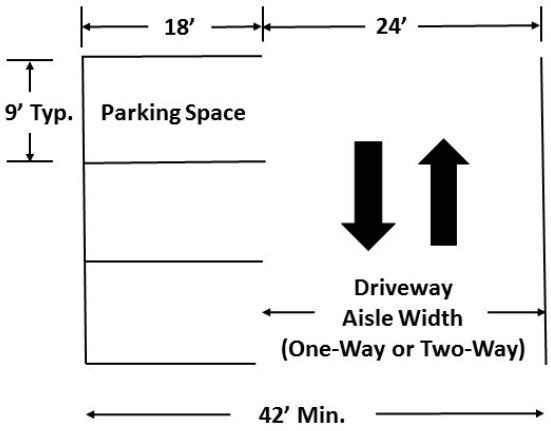
local street. The Public Works Director may require that the parking spaces be located at least fifty (50) feet from the right of way of a collector street and one-hundred (100) feet from the right of way of an arterial street.

(d) Minimum dimensions of spaces. Every parking space shall provide a useable rectangular area at least nine (9) feet wide by eighteen (18) feet long, excluding any access aisles; provided, however, that the minimum width of parking spaces may be reduced in accordance Sections 9-17-5-14 and 9-17-5-15 of this chapter.

(e) Minimum dimensions of access aisles. Access aisles in parking lots with parking at 90 degree angles must be at least twenty-six (26) feet wide for double-loaded parking space designs with two-way traffic, and twenty-four (24) feet wide for single-loaded parking space designs with one-way or two-way traffic (see figures). One-way traffic aisles must be clearly marked with directional arrows on the pavement at each intersection with another aisle. The Public Works Director may authorize a minor reduction in the required minimum width of access aisles for redeveloped areas if sufficient access is provided and the Fire Marshal agrees that access for fire apparatus is maintained.



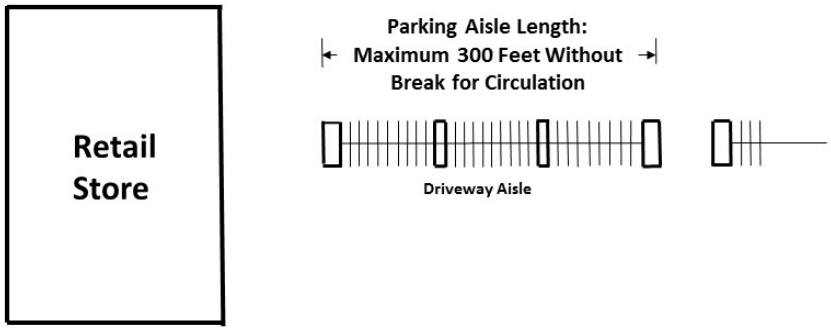
Minimum Required
Parking Space and Aisle Dimensions
(Double-Loaded, Two-Way Traffic)



Minimum Required Parking Space and Aisle Dimensions (Single-Loaded, One-Way or Two-Way Traffic)

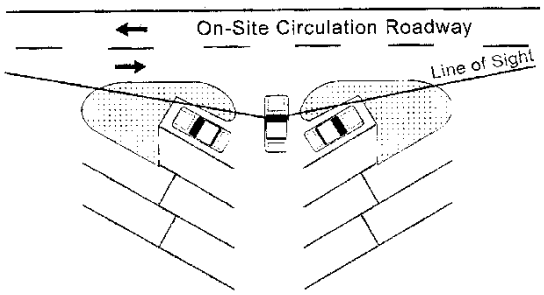
(f) Demarcation. Every parking space shall be clearly demarcated by lines painted on or otherwise applied to the parking lot surface. One-way traffic aisles must be clearly marked with directional arrows on the pavement at each intersection with another aisle, driveway, or street entrance. The Public Works Director may grant exceptions to the requirement of this paragraph to mark common boundaries between parking spaces in the case of gravel parking lots, if and where permitted, or to authorize traffic directional signs in lieu of one-way pavement markings.

(g) Maximum aisle length. Parking aisle lengths shall not exceed 300 feet without a break for circulation (see figure).



(h) Angled parking. Parking spaces with 90-degree designs shall be required, unless 60-degree, or 45-degree angles to the access aisle are authorized by the Community Development Director, in which case required aisle widths for 90-degree parking may be reduced per standards approved by the Director. Parking lots with parking space angles less than 45 degrees to the access aisle shall not be allowed, except for parking spaces that are parallel to the access aisle.

(i) Sight distance at end aisles. The intersection of parking aisles with a ring road or other on-site roadways or driveways shall provide adequate intersection sight distance. Parking aisle end islands shall be curbed unless that requirement is waived for water quality purposes or in a rural/ exurban area; painted end islands are ineffective and are generally not permitted.



End Islands Preserve Sight Distance
Source: Stover, Vergil G., and Frank J. Koepke. 2002. *Transportation and Land Development* (2nd Ed.). Washington, DC: Institute of Transportation Engineers. Figure 8-15, p. 8-25.

(j) Light pole locations and specifications. Light poles should be located in landscaped planter strips. Where this cannot be accomplished, light poles must be placed on a reinforced concrete pedestal to protect them from damage or being knocked over.

Section 9-17-5-10. Minimum Number of Handicapped Parking Spaces.

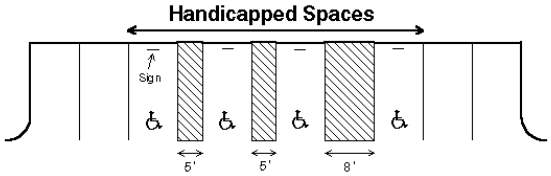
Handicapped spaces shall be provided in each parking lot according to the requirements of Table 9-17-5-1. Such spaces shall be counted in meeting the off-street parking requirements of this Chapter, as specified in Table 9-17-5-2 of this Chapter.

TABLE 9-17-5-1
MINIMUM NUMBER OF HANDICAPPED SPACES REQUIRED

Total Required Parking Spaces	Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20 plus 1 for each 100 over 1000

Section 9-17-5-11. Specifications for Handicapped Parking Spaces.

(a) Handicapped parking spaces shall have an adjacent aisle five (5) feet wide, and one in every eight (8) handicapped spaces (but not less than one) shall be adjacent to an aisle eight (8) feet wide and the space shall be signed "van accessible." Handicapped parking space aisles shall be clearly demarcated.



(b) All handicapped parking shall comply with the requirements of the federal Americans with Disabilities Act. Accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility, per applicable state law requirements. Such signs shall be located so that they cannot be obscured by a vehicle parked in that space.

Section 9-17-5-12. Off-Street Parking Requirements by Use.

Unless specifically provided otherwise in this Chapter, on each lot where a building, structure, or use exists, each site shall be designed to provide and shall provide for off-street parking in the minimum amounts and not to exceed the maximum amounts specified in Table 9-17-5-2 (including handicapped parking spaces). Requirements refer to one space per unit of measurement unless otherwise specifically provided. Square footages are measured on the basis of gross square footage unless otherwise specifically provided.

TABLE 9-17-5-2
MINIMUM AND MAXIMUM NUMBER OF
OFF-STREET PARKING SPACES REQUIRED

USE	MINIMUM PARKING REQUIRED	MAXIMUM PARKING PERMITTED
COMMERCIAL USES		
Animal hospital; kennel	One per 400 square feet	One per 250 square feet
Appliance sales and repair	One per 500 square feet	One per 300 square feet
Art gallery	One per 400 square feet	One per 300 square feet
Automated teller machine, no drive-through	Two per machine	Three per machine
Auto parts store	One per 500 square feet	One per 300 square feet
Automobile sales	One per 200 square feet of repair space plus one per 400 square feet of showroom/office	One per 150 square feet of repair space plus one per 300 square feet of showroom/office
Automobile service and repair	One per 250 square feet plus Two per service bay	One per 200 square feet plus Three per service bay
Bank, credit union, savings and loan	One per 300 square feet (also see stacking requirements for drive-through facilities)	One per 200 square feet (also see stacking requirements for drive-through facilities)
Barber shop or beauty parlor	One per 300 square feet	One per 200 square feet
Bed and breakfast inn	Two for the owner-operator plus one per guest bedroom	Two for the owner-operator plus one per guest bedroom
Carpet or floor covering store	One per 300 square feet of retail sales and office area, plus if applicable, warehouse requirements for designated storage, receiving, and shipping area	One per 250 square feet of retail sales and office area, plus if applicable, warehouse requirements for designated storage, receiving, and shipping area
Car wash, staffed or automated	Two stacking spaces for each car wash lane plus two drying spaces per lane	Three stacking spaces for each car wash lane plus two drying spaces per lane
Contractor's establishment	One per 300 square feet of office space and one per 2,000 square feet of outdoor storage	One per 250 square feet of office space and one per 1,500 square feet of lot outdoor storage
Convenience store	One per 200 square feet	One per 100 square feet
Dance hall	One per 125 square feet	One per 75 square feet
Day care center	One per 500 square feet	One per 375 square feet
Funeral home or mortuary	One per four seats in largest chapel	One per three seats in largest chapel
Furniture and home furnishing store	One per 600 square feet	One per 300 square feet
Grocery store	One per 300 square feet	One per 250 square feet
Hardware store	One per 400 square feet	One per 300 square feet

USE	MINIMUM PARKING REQUIRED	MAXIMUM PARKING PERMITTED
Health or fitness club	One per 200 square feet	One per 150 square feet
Hotel, extended stay	1.5 per unit lodging unit	Two per lodging unit
Hotel or motel	One per lodging unit, plus one per each 150 square feet of banquet, assembly, meeting, or restaurant seating area	1.2 per lodging unit, plus one per each 100 square feet of banquet, assembly, meeting, or restaurant seating area
Laboratory	One per 250 square feet	One per 200 square feet
Laundromat	One for each three washer/dryer combinations	One for each two washer/dryer combinations
Nursery or garden center	One per 300 square feet plus one per 1,500 square feet outdoor sales or display area	One per 250 square feet plus one per 1,000 square feet outdoor sales or display area
Office	One per 300 square feet	One per 250 square feet
Office/Clinic (Medical)	One per 250 square feet	One per 150 square feet
Open air sales	One per 250 square feet of indoor floor space plus one per 600 square feet of outdoor sales	One per 200 square feet of indoor floor space plus one per 500 square feet of outdoor sales
Personal service establishment	One per 250 square feet	One per 200 square feet
Photographic studio	One per 300 square feet	One per 250 square feet
Restaurant, bar, or tavern	One per 125 square feet	One per 75 square feet
Retail store	One per 275 square feet	One per 250 square feet
Self-storage facility (mini-warehouse)	One per 40 storage units	One per 25 storage units
Shopping center	One per 275 square feet	One per 225 square feet
INDUSTRIAL USES		
Manufacturing, processing, assembling	One per 1,500 square feet	One per 1,000 square feet
Warehouse	One per 3,000 square feet	One per 1,500 square feet
Wholesale	One per 1,000 square feet	One per 500 square feet
INSTITUTIONAL – GOVERNMENT USES		
Assembly hall; auditorium; nonprofit club or lodge	One per four seats in room with greatest seating capacity or one per 40 square feet in largest assembly area without fixed seats	One per three seats in room with greatest seating capacity or one per 30 square feet in largest assembly area without fixed seats
Club or lodge	One per 400 square feet	One per 200 square feet
Church, temple, synagogue and place of worship	One per four seats in room with greatest seating capacity or one per 40 square feet in largest assembly area without fixed seats	One per three seats in room with greatest seating capacity or one per 30 square feet in largest assembly area without fixed seats
Group home, rooming house	One per 4 living units	One per each living unit
Government office	One per 300 square feet	One per 250 square feet
Hospital	1.5 per bed	Two per bed
Library	One per 400 square feet	One per 300 square feet
Museum	One per 500 square feet	One per 300 square feet

USE	MINIMUM PARKING REQUIRED	MAXIMUM PARKING PERMITTED
Nursing home, assisted living facility	One per four beds	One per three beds
Post office	One per 200 square feet	One per 150 square feet
Retirement community	One per unit	Two per unit
School, Elementary, Middle, High	Two per classroom	5 per classroom
School, Post-Secondary	One per 500 square feet	One per 375 square feet
School, Professional	20 per classroom	30 spaces per classroom
School, Special	One per 500 square feet	One per 375 square feet
RESIDENTIAL USES		
Apartment, one bedroom	1.5 per unit plus 0.1 per unit for guest space	Two per unit plus 0.2 per unit for guest space
Apartment, two bedroom	1.5 per unit plus 0.1 per unit for guest space	Two per unit plus 0.2 per unit for guest space
Apartment, three bedroom	2 per unit plus 0.2 per unit for guest space	Three per unit plus 0.2 per unit for guest space
Home occupation	See chapter 9-10-4	
Residence within building containing a non-residential use	One per unit	1.5 per unit
Single family detached or attached	Two per unit	Four per unit
Two family dwelling	Two per unit	Three per unit
RECREATIONAL FACILITIES		
Athletic field	20 spaces per field	25 spaces per field
Billiard hall/amusement arcade	One per 200 square feet	One per 150 square feet
Bowling alley	Two per each bowling lane (add parking for billiard hall/ amusement arcade, if provided)	Three per each bowling lane (add parking for billiard hall/ amusement arcade, if provided)
Community center	One per 300 square feet	One per 250 square feet
Golf course	2.5 per hole	Three per hole
Golf driving range	0.75 per tee	1 per tee
Ice or roller skating rink	One per 200 square feet	One per 150 square feet
Miniature golf	Two per hole	Three per hole
Outdoor event facility	One per four seats or one per 200 square feet of event area whichever is less	One per three seats or one per 150 square feet of event area whichever is less
Stadium or sport arena	One per twelve feet of bench seating	One per ten feet of bench seating
Swimming pool – subdivision amenity	One per 150 square feet of surface water area	One per 100 square feet of surface water area
Swimming pool – public	One per 125 square feet of surface water area	One per 75 square feet of surface water area
Tennis or racquet ball court	Two per court	Three per court
Theater, cinema	One per four fixed seats	One per three fixed seats

Section 9-17-5-13. Administrative Variances.

(a) The Community Development Director may via administrative variance allow parking at a rate of up to twenty percent (20%) above the maximum or twenty percent (20%) below the minimum required as specified in Table 9-17-5-2, on a case-by-case basis based upon the scale and impacts of the request, for good cause shown, in accordance with Chapter 9-24-3 of this Unified Land Development Code.

(b) The applicant shall make said request in writing which shall include documentation from an acceptable industry publication (e.g., Institute of Transportation Engineers, Urban Land Institute, American Planning Association, etc.) or by a study prepared by a qualified professional that documents parking requirements.

(c) In approving administrative variances that reduce the minimum parking requirements established in this Chapter, the Community Development Director may as a condition of approval, if applicable, require an area to be reserved or set-aside for additional parking area for future use if needed.

Section 9-17-5-14. Compact Parking Spaces.

Compact parking spaces may be used in parking areas when more than twenty (20) parking spaces are required, provided that the areas for compact parking are clearly marked and not more than twenty percent (20%) of the number of parking spaces provided in the entire parking area is designated compact auto parking.

Section 9-17-5-15. Reduction of Parking Stall Width and Use of Porous Materials.

When a parking lot of 75 spaces or an area of one acre or more of parking is proposed, the applicant may divide the parking lot into distinct use areas as provided in Table 9-17-5-3 and reduce impervious surfaces via reduction of parking stall width and the use of porous materials for improved water quality infiltration techniques.

Table 9-17-5-3
Division of Large Parking Lots for Minimum Parking Space Width Reduction and Authorization of Porous Materials

Division of Parking Lot	Description	Minimum Parking Space Width Permitted	Alternative Pavement Surfaces Authorized
Prime customer parking	Within 200 to 300 feet of buildings and near building entrances, because these spaces are used more frequently (i.e., high turnover).	9.0	No
Overflow customer parking	Used to meet peak parking demands. Spaces are used less frequently than prime customer parking.	8.5	Yes
Employee parking areas	At the fringe of the site and areas not readily associated with major building entrances, with low turnover	8.0	Yes

Section 9-17-5-16. Cross-Referenced Provisions.

(a) Accessory uses. Accessory uses of parking lots and loading areas shall be limited as specified in Section 9-10-1-4 of this Unified Land Development Code.

(b) Street frontage. Parking lots shall meet minimum street frontage requirements as specified in Section 9-3-2-5 of this Unified Land Development Code.

(c) Landscaping. Parking lots shall be landscaped according to the requirements of Chapter 9-16-4 of this Unified Land Development Code. Also see Chapter 9-16-5 for tree plan requirements.

(d) Residential zoning districts. Vehicle parking in residential zoning district shall meet the requirements of Section 9-10-3-7 of this Unified Land Development Code.

(e) Home occupations. Home occupations shall meet the parking requirements of Section 9-10-4-4 of this Unified Land Development Code.

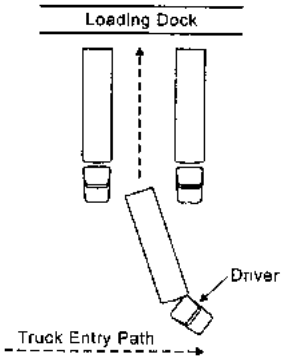
(f) Special temporary outdoor events. Parking for special temporary outdoor events shall meet the requirements of Section 9-10-8-2 of this Unified Land Development Code.

CHAPTER 9-17-6
OFF-STREET LOADING

Section 9-17-6-1. Off-Street Loading Required.
Section 9-17-6-2. Loading Area Specifications.
Section 9-17-6-3. Minimum Number of Off-Street Loading Spaces Required.
Section 9-17-6-4. Administrative Variance.

Section 9-17-6-1. Off-Street Loading Required.

On the same lot with every building, structure or part thereof, erected or occupied for manufacturing, storage, warehouse, truck freight terminal, department store, wholesale store, grocery supermarket, hotel, hospital, mortuary, dry cleaning plant, retail business, or other uses similarly involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained adequate space for the standing, loading, and unloading of such materials to avoid undue interference with public use of streets, alleys, and private or public parking areas.

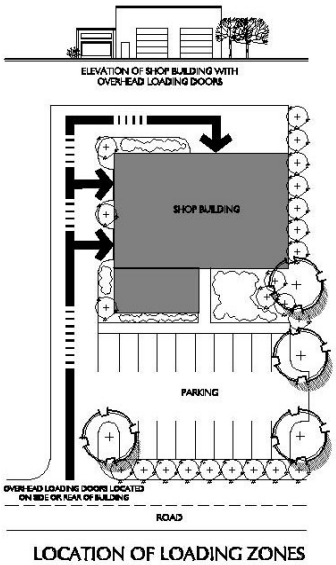


Section 9-17-6-2. Loading Area Specifications.

Unless otherwise approved by the Community Development Director, loading spaces shall be a minimum of fourteen (14) feet wide, forty (40) feet long, with fourteen (14) feet of height clearance. When the development requires loading and unloading by full-size tractor-trailers, loading spaces shall be at least sixty (60) feet long with a total approach zone of at least 90 feet.

Section 9-17-6-3. Minimum Number of Off-Street Loading Spaces Required.

One off-street loading space shall be provided for the first 10,000 square feet of gross floor area or fractional part thereof for light industrial use and one off-street loading space for the first 5,000 square feet of gross floor area or fractional part thereof for retail or other non-industrial use for which a loading space is required. One additional space shall be required for each additional 25,000 square feet of gross floor area or fractional part thereof for light industrial use and for each additional 10,000 square feet for retail or other non-industrial use.



LOCATION OF LOADING ZONES

For example, a 100,000 square foot building consisting of 5,000 square feet of office/sales area and 95,000 square feet of warehouse would require a total of six (6) off-street loading spaces:

one (1) for the first 10,000 square feet of warehouse space; one (1) for the 5,000 square feet of office/sales area; and four (4) for the remaining 85,000 square feet of warehouse space (85,000 divided by 25,000 = 3.4 spaces, which is rounded upward to four spaces).

The Community Development Director is authorized to modify the loading area specifications of this Chapter and/or reduce or waive off-street loading space requirements for good cause shown, after application for administrative variance as specified in Chapter 9-24-3 of this Unified Land Development Code.

Section 9-17-6-4. Administrative Variance.

The Community Development Director is authorized to modify the loading area specifications of this Chapter and reduce or waive off-street loading space requirements for good cause shown, after application for administrative variance, in accordance with Chapter 9-24-3 of this Unified Land Development Code.

ARTICLE 9-18
SIGN REGULATIONS

CHAPTER 9-18-1	PURPOSE AND DEFINITIONS	18-1
CHAPTER 9-18-2	GENERAL PROVISIONS	18-8
CHAPTER 9-18-3	PERMITS AND PERMISSIONS	18-12
CHAPTER 9-18-4	MAINTENANCE AND REMOVAL	18-15
CHAPTER 9-18-5	LOCATION AND PLACEMENT REQUIREMENTS	18-17
CHAPTER 9-18-6	NUMBER, SIZE AND HEIGHT LIMITATIONS	18-19
CHAPTER 9-18-7	ADDITIONAL ALLOWANCES FOR SPECIFIC TYPES OF SIGNS	18-24

CHAPTER 9-18-1
PURPOSE AND DEFINITIONS

Section 9-18-1-1. Purpose.
Section 9-18-1-2. Definitions.

Section 9-18-1-1. Purpose.

In addition to the general purposes of this Unified Land Development Code, the purposes of these sign regulations are as follows:

(a) To promote and protect the public health, safety and general welfare;

(b) To balance the rights of individuals to convey their messages through signs and the right of the public to be protected against the unrestricted proliferation of signs;

(c) To enhance the economy and the business and industry of the City by promoting the reasonable, orderly and effective display of signs, including the public being able to locate goods, services, and facilities in the City;

(d) To maintain and enhance the aesthetics of the City by restricting signs and lights which increase clutter;

(e) To maintain and improve traffic safety by preventing or restricting signs that due to their placement or appearance increase the probability of traffic accidents by obstructing vision or confusing motorists;

(f) To promote signs which are compatible with their surroundings and which minimize potential adverse effects of signs on nearby property; and;

(g) To insure proper maintenance of signs, for safety and structural soundness, as well as the appearance and attractiveness of signs.

(h) To maintain the historic image of the City;

(i) To ensure the fair and consistent enforcement of sign regulations.

Section 9-18-1-2. Definitions.

For the purposes of this Article, certain terms and words are hereby defined. As used in this Article, unless the context otherwise indicates, the following words and terms shall have the meaning ascribed to them:

Advertising device: Any structure or device erected or intended for the purpose of displaying advertising situated upon or attached to real property. For purposes of this Article, an advertising device is a "sign."

Animated sign: A sign with action, motion, changing colors, flashing lights, or moving characters. Such signs may require electrical energy, but shall also include wind-activated devices including, but not limited to, spinners, aerial devices, and other attention-getting devices. This definition does not include rotating signs that revolve no faster than five (5) revolutions per minute or electronic message boards. Also included in this definition are 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 and signs that emits smoke, vapor, particles, or odors.

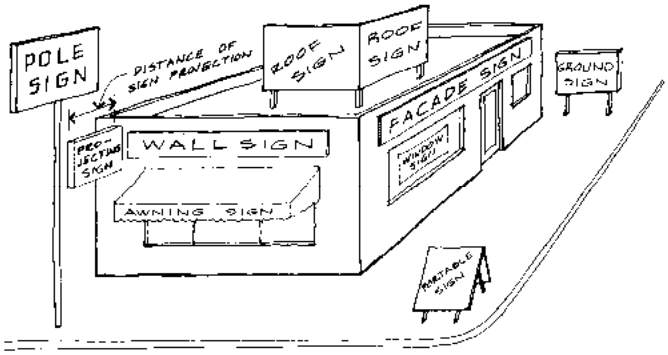
Awning: A roof-like cover that projects from the wall of a building for the purpose of shielding a doorway, walkway, or window from the elements. Awnings are often made of fabric or flexible plastic supported by a rigid frame, and may be retracted into the face of the building.

Awning or canopy sign: See "Building Sign."

Banner: A sign other than an official flag, which is temporary in nature and made of paper, cloth, thin plastic, or similar lightweight material. A banner is not a streamer or pennant.

Billboard: A freestanding sign, distinguished from a real estate directional sign or semi-public directional sign, that carries a noncommercial message or commercial message not pertaining to use or activity on the site on which it is located.

Building sign: A sign that in any manner is fastened to, projects from, or is placed or painted upon the exterior wall, canopy, awning, window, door, or roof of a building. The term "building sign" includes but is not limited to the following:



SIGN TYPES

1. Awning or canopy sign: A sign imposed or painted upon or suspended beneath any awning or canopy (see illustration).

2. Facade or wall sign: A sign that is fastened directly to or is placed or painted directly upon the exterior wall of a building and extends from the surface of the wall no more than 18 inches (see illustration).

3. Incidental sign: An announcement or other display providing information about the occupancy or conduct of business permitted on a premises, such as logos of credit cards accepted on the premises, hours of operation, a “closed” or “open” sign, emergency contact person name and telephone number, street address, “help wanted,” “no loitering or solicitations,” security system notices, notices required by law, and similar information.

4. Projecting sign: A sign affixed to a wall and extending more than 18 inches from the surface of such wall, usually perpendicular to the wall surface (see illustration).

5. Roof sign: A sign that is mounted on, applied to, or otherwise structurally supported by the roof of a building; or any building sign that extends above the top edge of the parapet or eaves of a flat or shed roof; the ridge line of a gable, hip, or gambrel roof; or the deck line of a mansard roof (see illustration).

6. Window sign: A sign that is placed on or behind a window pane and intended to be viewed from outside the building (see illustration).

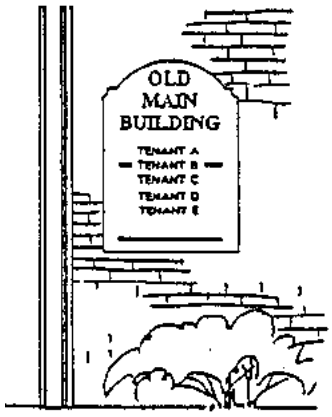
Construction sign: A sign identifying the contractors, engineers, architects or financial institutions involved in the building construction or development of a property.

Derelict sign: A sign that is dilapidated or in such condition as to create a hazard or nuisance, or to be unsafe or fail to comply with the Building or Electrical Codes of the City of Gainesville.

Discontinued sign: A freestanding or building sign that no longer is used by a business or establishment.

Directional sign: A sign designed to provide direction to pedestrian and vehicular traffic.

Directory sign for multi-tenant development: A sign, distinguished from a project entrance sign, which is allowed on a premise with more than one tenant or occupants of a building, and which is necessary to find tenants within the development once a patron enters the property. It may be freestanding or a building (wall) sign. Such signs are not visible from the public street right-of-way of a development which provides initial access to the property, but rather are located within the development, along a driveway, access way, or parking aisle. These signs are distinguished from “project entrance” signs



Wall Directory Sign

Electronic message board: A type of sign that utilizes computer-generated messages or some other electronic means of changing copy. These signs include displays using incandescent lamps, LEDs, LCDs or a flipper matrix.

Flag, official: A flag of the United States of America, State government, County government, city government, or any sovereign nation or political subdivision that has been approved by the governing body of such government as the current official flag, or any previous flag that was so approved.

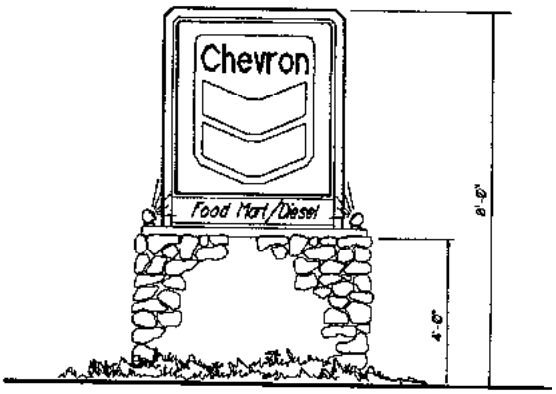
Flag, business, institutional, or personal: Any flag other than an official flag as defined in this Section that carries symbols, emblems, words, or numbers of an institution, organization, or business, or person.

Freestanding sign: A sign permanently attached to the ground which is wholly independent of any building or other structure. The term "freestanding sign" includes but is not limited to the following:

1. Pole sign: A sign that is mounted on a freestanding pole or similar support such that the bottom of the sign face is at least 6 feet above the ground (see illustration accompanying the definition of "building sign").

2. Ground sign: A freestanding sign, other than a pole sign or monument sign, in which the bottom of the sign face is less than six (6) feet above the ground but not directly in contact with the ground (see illustration accompanying the definition of "building sign"), and which has supports constructed with brick, stone, and/or other material architecturally compatible with the principal building on the lot in which the sign is located.

3. Monument sign: A freestanding sign in which the entire bottom of the sign face is in contact with a solid and continuous structure which is attached to the ground and made of brick, stone, or other material architecturally compatible with the principal building on the lot to which it pertains.



Monument-Style Sign

Inflatable sign: A sign or advertising device that is intended to be expanded by air or other gas for its proper display or support.

Multi-faced sign: A sign structure that contains two or more sign face surfaces that are located on different sides of the structure and are separated from each other at their nearest point by no more than three feet.

Multi-tenant development: A single office, commercial or industrial property that is designed or intended for occupancy by two or more businesses, or a multi-family residential development.

Neon lighting or outlining: A sign, display, or installation outlining windows, doors, or other portions of the building which is composed of one or more discharge lamps in which the gas contains a large proportion of neon, giving it a fluorescent or extremely bright color.

Nonconforming sign: A nonconforming sign is a sign that was lawfully erected and maintained prior to the adoption, revision or amendment of this Unified Land Development Code, and which by reason of such adoption, revision or amendment fails to conform to all applicable regulations and restrictions of this Unified Land Development Code.

Official sign: Any sign placed by a governmental body, governmental agency, or public authority, such as a traffic sign, signal, or regulatory device or warning; official emblem, public notice, or official instrument; a sign of historical interest; a sign designating special events or areas of architectural or historic significance or gateways; or other similar sign or device, and which are erected and controlled by such governmental body or on its behalf, whether or not located within a public right-of-way.

Pennant: A small, triangular or rectangular flag or multiples thereof, made of lightweight plastic, fabric, or other material, individually supported or attached to each other by means of a string, rope, or other material and meant to be stretched across or fastened to buildings, or between poles and/or structures, and which is designed to move in the wind. For purposes of this Article, pennants are “signs.” This term does not include a “banner” or a flag as defined and regulated by this Article.

Political sign: A sign identifying or urging voter support for a particular election issue, political party, or candidate for public office.

Portable sign: A sign designed to be transported or easily relocated and not attached to the ground, such as but not limited to the following:

1. A sign designed to be temporarily placed upon the ground and not otherwise affixed to it (see illustration accompanying the definition of “building sign”).

2. A sign mounted or painted upon a vehicle or trailer, with or without wheels, which vehicle or trailer is designed or used for the primary purpose of acting as a sign.

3. An A-frame or sandwich board sign.

4. An umbrella used for advertising.

5. A sign mounted or painted upon a parked vehicle that is positioned for the primary purpose of acting as a sign exposed to the public and is not in use in the ordinary course of carrying out its transportation function.

6. Any sign mounted or painted upon a vehicle that projects or extends beyond the original manufactured body proper of the vehicle, except that a vehicle may have one sign not exceeding two (2) feet in width and not exceeding one (1) foot in height mounted temporarily or permanently on the roof of a vehicle.

7. A sign affixed to or carried by a person.

Principal freestanding sign: The main freestanding sign on a property, other than a billboard.

Project entrance sign: A sign located at a discernible entrance into a particular subdivision, multi-family residential development, or office or industrial park.

Projecting sign: See "Building sign."

Real estate sign: A sign pertaining to the temporary lease, sale, or rental of a parcel of land, subdivision or unit of land, building or portion thereof, or housing unit.

Roof sign: See "Building sign."

Sign: The term "sign" shall mean any structure, display, or device that is used to advertise, identify, direct, or attract attention to a business, institution, organization, person, idea, product, service, event, or location by any means, including words, letters, figures, design characteristics, symbols, logos, fixtures, colors, movement, or illumination. The term "sign" shall specifically include but not be limited to "banners," "balloons," "flags," "pennants," "streamers," "windblown devices," and "advertising devices." Furthermore, the term "sign" includes the sign structure, supports, lighting system, and any attachments, ornaments, or other features used to draw the attention of the observers. The following elements are not considered to be signs, and are therefore not regulated by this Article:

1. Displays of goods available on a site, through windows or doors of a building or through the open air, where permitted.

2. Brand names or logos on products, product containers, or dispensers that are an integral part of the product or the product's packaging.

3. Building designs, colors, or motifs that are associated with a particular establishment or organization but which convey no commercial message, but not including neon lighting and neon window outlining as regulated by this Article.

Sign face: That portion of the surface of a sign structure where words, letters, figures, symbols, logos, fixtures, colors, or other design elements are or may be located in order to convey the message, idea, or intent for which the sign has been erected or placed. The sign face may be composed of two or more modules on the same surface that are separated or surrounded by portions of a sign structure not intended to contain any advertising message or idea and are purely structural or decorative in nature.

Sign face module: Each portion or unit of a sign face that is clearly separable from other such units by virtue of the expression of a complete thought, message, logo, or idea.

Sign height: The vertical distance to the highest point of a sign structure, as measured from the average grade at the base of the structure or directly below a projecting structure.

Sign structure: All elements of a freestanding sign, including the sign face, background or decorative elements related to the presentation of the sign's message, and the structural supports.

Streamer: A long narrow banner, pennant, or strip of fabric or other material.

Tenant: One who possesses or occupies land or buildings by title, under a lease, or through payment of rent; an occupant, inhabitant, or dweller of a place.

Uniform sign plan: Coordinated drawings and specifications that establish a unified design concept with regard to the location, materials, size, letter style, and color of all signs to be placed on a property or development.

Wall sign: See “Façade or wall sign” under “Building sign.”

Windblown device: Any device not otherwise specifically defined in this Article, that is designed to inform or attract, whether or not such device carries a message, and which all or part of the device is set in motion by wind. For purposes of this Article, windblown devices are “signs.”

Window sign: See “Building Sign.”

CHAPTER 9-18-2
GENERAL PROVISIONS

Section 9-18-2-1. Applicability.
Section 9-18-2-2. Display of Property Addresses.
Section 9-18-2-3. Nonconforming Signs.
Section 9-18-2-4. Sign Limitations When Nonconforming Sign Exists.
Section 9-18-2-5. Prohibited Signs.
Section 9-18-2-6. Exempt Signs.
Section 9-18-2-7. Modifications According to Approved Uniform Sign Plans.

Section 9-18-2-1. Applicability.

The regulations and requirements of this Article apply to all signs that are or are intended to be viewed from a public right-of-way or from outdoor areas of public property. Such signs are allowed only in conformance with these sign regulations, or as otherwise provided for nonconforming signs under the terms of this Chapter.

Section 9-18-2-2. Display of Property Addresses.

The display of street addresses is permitted without compliance with this Article. Building identification numbers on multi-tenant buildings which are essential to the location of such buildings are also permitted without compliance with this Article.

Section 9-18-2-3. Nonconforming Signs.

A building or freestanding sign that is lawfully existed on the effective date of this Unified Land Development may continue to be used, except that the nonconforming sign:

(a) Shall not be repaired, rebuilt, replaced or altered after damage or removal exceeding 50 percent of the sign structure.

(b) Shall not be enlarged or altered in a way that increases its nonconformity.

(c) Shall not be altered for a change in use, change in ownership or change in business name. Individual sign panels not exceeding 50 percent of the total sign face area of a multi-tenant freestanding sign shall be allowed to be replaced for a change in use or change in business name.

Section 9-18-2-4. Sign Limitations When Nonconforming Sign Exists.

No sign or advertising device shall be erected for the same establishment on the same lot with an existing nonconforming sign until the nonconforming sign has been removed or made to conform to the provisions of this Article.

Section 9-18-2-5. Prohibited Signs.

The following signs shall be prohibited within the City of Gainesville:

(a) Animated signs, but not including rotating signs that revolve no faster than five (5) revolutions per minute.

(b) Derelict signs.

(c) Inflatable signs, except as permitted in association with a Special Temporary Outdoor Event approved under the provisions of Section 9-10-8-2 and 9-18-7-13 of this Unified Land Development Code.

(d) Pennants, streamers, and wind-blown devices, except as permitted in association with a Special Temporary Outdoor Event approved under the provisions of Section 9-10-8-2 and 9-18-7-13 of this Unified Land Development Code.

(e) Portable signs, except as permitted in association with a Special Temporary Outdoor Event approved under the provisions of Section 9-10-8-2 and 9-18-7-13 of this Unified Land Development Code. In addition, A-frame or sandwich board signs shall be allowed within the Central Business (C-B) district.

(f) Roof signs.

(g) Signs painted on or attached to a utility pole, or painted on or attached to tree, rock or other natural feature.

(h) Signs lit with exposed neon, including neon lighting outlining of windows, doors, or other parts of a building or structure, but excluding incidental signs internal to an establishment.

(i) Signs attached to freestanding walls (including retaining walls) or fences or poles.

(j) Any flag for which there is no symbol, emblem, text, number, or copy whatsoever on the flag (i.e., colored flags with no message), except as permitted in association with a Special Temporary Outdoor Event approved under the provisions of Section 9-10-8-2 and 9-18-7-13 of this Unified Land Development Code.

Section 9-18-2-6. Exempt Signs.

The following types of signs are specifically exempted from compliance with this Article.

(a) Official flags, plus no more than one (1) business, institutional, or personal flag, none of which may exceed thirty-two (32) square feet in area, but only when designed and displayed in a way that allows for routine, daily raising and lowering of the flags; provided further, that the poles for such flags shall not exceed the maximum height permitted in the zoning district in which it is located. The official flag of the Unified States of America shall be flown in accordance with protocol established by the Congress of the Unified States for the Stars and Stripes.

(b) Incidental signs within windows or doors of establishments in nonresidential zoning districts which do not exceed two (2) square feet of area, or four (4) square feet total per establishment.

(c) Signs or stickers, not exceeding one (1) square feet each sign or sticker, which are designed to be read only from close range (i.e., five feet), attached to a device or structure more than twenty-five (25) feet from the right-of-way of a road. Examples include but are not limited to the following: lettering, credit card stickers, and inspection certificates on gasoline pumps; "flammable" signs on enclosures for fuel canisters, and similar information.

(d) Building markers and integral decorative or architectural features or works of art such as statues and murals, so long as such features do not contain moving parts or lights. Statues and murals shall contain no advertisement for an individual business such as a business name, logo or product.

(e) Directional signs along private streets and driveways, and in off-street parking lots, that are installed per the requirements of the City Engineer. Directional signs shall be a maximum of two and one-half (2.5) feet in height and four (4) square feet each. Directional signs shall contain no advertising or illumination.

(f) Directory signs for residential or nonresidential multi-tenant developments, provided that no such sign shall be located within one hundred (100) feet of the project entrance. Directory signs shall be permitted at each driveway intersection where direction of travel to tenant spaces changes. Such signs shall not exceed four (4) square feet of area or a height of two and one-half (2.5) feet.

(g) Holiday lights and decorations, including inflatable decorations, provided that they are removed within fifteen (15) days following the holiday to which they pertain.

(h) Handicapped parking signs, when required per state law or this Unified Land Development Code.

(i) Temporary signs for the purpose of charitable events recognized by proclamation of the Governing Body (e.g., National Child Abuse Month).

Section 9-18-2-7. Modifications According to Uniform Sign Plans.

A uniform sign plan is required for any multi-tenant nonresidential development, such as a shopping center, before any building signs or freestanding signs for the development or the development's tenants may be erected on the property.

Modifications to the restrictions on signage for a specific property or development may be requested for administrative approval by submitting to the Planning Department a uniform sign plan for review and handling. Such intent of this Section is to provide for compatibility of all signs within a particular development so that they conform to certain physical characteristics such as color, font, design of sign face, sign face module, sign structure, etc. The uniform sign plan shall not be considered or used as an alternative to the strict regulations of this Article, except that building sign requirements may be modified pursuant to a uniform sign plan for good cause shown and greater visual coherence and coordination within the development.

Uniform sign plans shall at minimum consist of the following:

(a) Drawings and specifications as may be required to clearly illustrate the location, materials, size, letter style, and color of all and every sign to be placed as freestanding and building signs within the development.

(b) Design standards such that signs of a similar type and function within the development shall have a consistency of size, lettering style, color scheme, and construction materials so as to present a unified design concept while respecting the differences between tenant types and occupancies.

Following approval by the Planning Department, the requirements of the uniform sign plan shall be recorded by the owner in the office of Clerk of Superior Court prior to issuance of a certificate of occupancy for the development, and shall be included in any sale, lease, or other transfer of right of occupancy affecting any part of the development. Upon such approval, said uniform sign plan shall be binding on the owner, and any lessees, subtenants, purchasers, or other occupants, until or unless the uniform sign plan is replaced with another approved uniform sign plan or the recorded sign plan is lawfully repealed (and in such cases the strict terms of this Article shall apply).

CHAPTER 9-18-3
PERMITS AND PERMISSIONS

Section 9-18-3-1. Building Permit and Conformance to Codes.
Section 9-18-3-2. Sign Approval in Historic Properties Overlay Zone.
Section 9-18-3-3. Zoning Verification Optional.

Section 9-18-3-1. Building Permit and Conformance to Codes.

Any freestanding or building sign that requires a building permit according to the Building Code shall be obtained prior to installation or placement of any such freestanding or building sign. All signs for which a building permit is required shall be constructed and maintained in conformance with all Building Code requirements. All electrical service to a sign shall be in compliance with the Electrical Code, and an electrical permit if required shall be obtained.
If plans are required for issuance of a building permit for a sign, the plans shall be certified as to conformance with all structural and wind-load resistive standards of the Building Code by a structural engineer registered in the State of Georgia, or be prepared using standard drawings prepared by a structural engineer or other qualified professional meeting or exceeding all requirements of the Building Code.

In addition, whether or not required by the building code, a building permit shall be required and must be obtained from the Building Department prior to installation or placement of all principal freestanding signs.

Section 9-18-3-2. Sign Approval in Historic Preservation Overlay Zone.

Signs are external environmental features that can detract from historic character if not considered in the proper context. Signs located in the Historic Preservation Overlay Zone established by this Unified Land Development Code require a Certificate of Appropriateness to be issued pursuant to Chapter 9-23-3 of this Unified Land Development Code. Within the Historic Preservation Overlay Zone (i.e., historic districts and properties designated in Chapter 9-8-8 of this Unified Land Development Code, no freestanding or building sign shall be erected or installed unless sign has been approved by the Gainesville Historic Preservation Commission, except as specifically provided otherwise in this Section.

In acting on applications involving sign approvals, the Historic Preservation Commission shall consider the criteria established for the issuance of certificates of appropriateness, and adopted design guidelines for signs, if any. In addition, the Historic Preservation Commission may consider the following, which shall not be limiting, in issuing certificates of appropriateness for signs and may use these criteria in determining whether to approve, deny, or modify said signs:

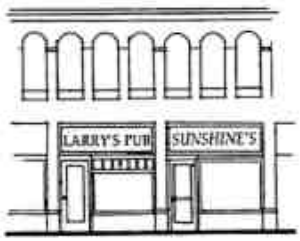
(a) The sign with its overall design makes a positive contribution to the general appearance of the street and area in which it is located.

(b) The scale, size, and shape of the sign are proportional to the building on which they are placed or to which it pertains and the area in which it is located. To this end, the Historic Preservation Commission may find that a sign is out of character with the area or not proportional to the building, activity or use and may work with the applicant to reduce the scale, size or shape or placement of the sign or signs.

(c) The sign does not obscure architectural features of the building, and the design of the sign is integrated with the design of the building.

(d) The sign is designed for and directed toward pedestrians rather than to vehicular traffic so that it can be easily and comfortably read standing adjacent to the business, activity, or use.

These signs block building elements and create a chaotic image



These signs complement the building form and create a more orderly appearance

(e) The proposed sign is composed of materials that are compatible with the materials of the face of the building façade where it is placed or to which it pertains.

Wall signs of consistent size and placement establish facade rhythm.

(f) Signage, particularly freestanding principal signs, shall be simple in design and draw upon the architectural elements of the principal building.

1. If the sign proposed is a building sign, it must establish an appropriate rhythm to the façade.

2. The proposed sign shall be composed of materials that are compatible with the materials of the face of the building façade where it is places or to which it pertains.

3. Design, lettering, and composition of the sign must be compatible with the building.

4. Lighting shall be indirect only, unless otherwise approved as part of a Certificate of Appropriateness granted by the Historic Preservation Commission.

The Historic Preservation Commission may approve design guidelines and examples of appropriate signs. All such approved design guidelines and examples of appropriate signs shall be maintained on file with the Director of Planning and Development and be made available to applicants for signs in the Historic Preservation Overlay Zone. If such guidelines are examples are adopted, and a sign within the Historic Preservation Overlay Zone is found by the Director of Planning and Development to be consistent with said guidelines or examples of appropriate signs, the Director may issue approval of a Certificate of Appropriateness as a minor work project without the need for review and approval by the Historic Preservation Commission. In acting on applications involving sign approvals, the Director of Planning and Development shall

consider the criteria established for the issuance of certificates of appropriateness, adopted design guidelines for signs, and the criteria established in this Section.

Section 9-18-3-3. Zoning Verification Optional.

Except for signs that require a building permit or a Certificate of Appropriateness under the terms of this Chapter, no additional approval shall be required to erect a sign. However, property owners who want to ensure compliance with the terms of this Article may apply for and subject to a reasonable fee as may be established from time to time by the Governing Body zoning verification by the Planning Department. Upon request and after a determination of compliance (within five (5) calendar days from the date of the request was received), a zoning verification shall be issued in writing to the applicant.

CHAPTER 9-18-4
MAINTENANCE AND REMOVAL

Section 9-18-4-1. Sign Maintenance.
Section 9-18-4-2. Situations Where Maintenance is Required.
Section 9-18-4-3. Removal of Certain Signs.

Section 9-18-4-1. Sign Maintenance.

All signs, together with all their supports, braces, guys, and anchors shall be kept in good repair and, unless constructed of galvanized or noncorroding metal, shall be given a protective coating as necessary to maintain a clean appearance and safe condition.

Section 9-18-4-2. Situations Where Maintenance is Required.

Upon discovery of a sign in need of maintenance, the Director of Planning and Development, his or her designee, City Marshal or, or other administrative official responsible for administration shall give written notice to the owner of the sign or the owner of the property on which the sign is located if the owner of the sign itself cannot be determined. Said notice shall state the item or items requiring repair or maintenance. The owner shall have thirty (30) days in which to repair or maintain the sign before a citation is issued. If the owner has failed to make repairs or the necessary maintenance within that time, the enforcement officer shall initiate enforcement proceedings as required to cure violation of this Article. Situations constituting the need for maintenance include but are not limited to the following (other similar conditions of disrepair or lack of maintenance may be determined):

(a) Lettering or other elements of the sign have become detached or have fallen off the sign or become misaligned.

(b) Painted surfaces on the sign or sign structure have begun to peel, flake over a significant portion of the sign, or have faded or oxidized to an extent that the sign no longer displays the message as originally intended.

(c) A significant number of the bricks, stones, or other materials on the structural base of a sign have become detached or have fallen off, or have become misaligned.

Section 9-18-4-3. Removal of Certain Signs.

(a) Unlawful signs. If any sign is installed, erected, or constructed in violation of this Article, the owner or person or firm maintaining the sign shall, upon notice either written or verbal from the Director of Planning and Development, his or her designee, City Marshal, or other enforcement officer, to remove prohibited signs immediately. If the sign will require additional time period because of its structure or size then a reasonable time frame will be given in which the sign is to be removed. Any such sign not removed or properly altered within the time period allotted from the written notice, it then may be removed by the City and all costs charged to the owner, agent, or person having beneficial interest of the building or premises upon which such sign was located, or in the sign itself.

(b) Derelict signs. Should any sign become insecure or in danger of falling or otherwise unsafe in the opinion of the Director of Planning and Development, Building Official, City Marshal, or other code enforcement officer, the owner or person or firm maintaining the sign shall, upon written notice from said enforcement officer, forthwith in the case of immediate danger and in any case within ten (10) days, remove such sign or secure it in a manner approved by the enforcement officer. Any such sign not removed or secured within ten (10) days from the written notice may be removed by the City and all costs charged to the owner, agent, or person having beneficial interest of the building or premises upon which such sign was located, or in the sign itself.

(c) Signs of a temporary or quasi-temporary nature. Pennants, streamers, banners, wind-blown devices, real estate signs, real estate directional signs, semi-public use directional signs, political signs and construction signs that do not conform to the provisions of this Article upon its adoption or amendment shall be removed within thirty (30) days. Pennants, wind blown devices, and streamers which are unlawful by design shall be removed in accordance with subsection (a) of this section.

(d) Nonconforming signs that cannot be made to conform to this Article. A nonconforming freestanding or building sign shall not be reused for a new business or establishment and shall be removed within ninety (90) days after the business or establishment to which the sign initially pertained ceases to operate at the subject location. This includes, for example, a prohibition against the replacement of a sign face module for a new business on a sign or sign structure that exceeds the maximum area or height requirements established by this Article. This paragraph does not apply to billboards.

(e) Change or removal of discontinued signs. When a property owner has a lawful and conforming freestanding or building sign that no longer is used by a business or establishment, and the owner desires to retain said sign, this section shall apply in order to retain said freestanding sign as a lawful sign. If the discontinued freestanding sign or building sign contains a sign face that is in the form of a removable sign face module, the removable sign face module containing advertising shall be removed and replaced with a panel of like or similar appearance without advertising until another use is lawfully established. If a discontinued freestanding sign or building sign contains a sign copy area that is not removable, then the said sign shall be removed or the copy area shall be painted over to conceal the advertising.

CHAPTER 9-18-5
LOCATION AND PLACEMENT REQUIREMENTS

Section 9-18-5-1. Prohibitions.
Section 9-18-5-2. Relationship to Landscaping; Additional Requirements.
Section 9-18-5-3. Setback.
Section 9-18-5-4. Clearance for and Placement of Suspended Signs.

Section 9-18-5-1. Prohibitions.

No sign shall be placed or located in a manner inconsistent with this Section.

(a) Location in right-of-way prohibited. No part of any sign shall be located in, over, or project into a public right-of-way except for awning signs, canopy signs, or projecting signs in the C-B zoning district.

(b) Obstructions of buildings and roadways prohibited. No sign shall be erected, located, or maintained in such a manner as to interfere with safe and free ingress and egress of any door, emergency exit, driveway, street, or roadway.

(c) Obstruction of utilities prohibited. No sign shall interfere with such utilities as water mains and hydrants, sanitary sewerage, gas, electricity, and communications equipment or lines, nor interfere with natural or manmade storm water drainage facilities.

(d) Obstructions of views and confusion with traffic controls. No sign shall be erected or maintained where, by reason of its position, wording, illumination, size, shape or color, it may obstruct the view of oncoming vehicles or impair, obscure, interfere with the view of, or be confused with any authorized traffic control sign, signal, or device. No sign shall contain or be an imitation of an official governmental traffic control sign, signal, or emergency vehicle device.

(e) Damage to trees. No sign shall be located in a manner that poses a threat to the critical root zone of an existing tree.

Section 9-18-5-2. Relationship to Landscaping; Additional Requirements.

(a) At the time of permitting or zoning verification, the Planning Department will review freestanding signs and their locations for their impacts on the front landscape strip required for the property on which the freestanding sign is proposed to be located, and on any landscaping or tree protection plans approved or proposed on said property.

(b) The Planning Department may require modification of the approved tree plan if the proposed location of the freestanding sign would require the removal of landscaping. If the freestanding sign would be placed in a way that would reduce required landscaping or detract from the purpose of the front landscape strip, the Department may require that the property owner to revise the tree plans so that compliance with landscaping requirements of this Unified Land Development Code are maintained and assured.

(c) As a guide to compliance with this section, any freestanding sign should have a minimum of 25 square feet of landscaped area, exclusive of the sign structure, surrounding the base of each principal freestanding sign. Landscaping should consist of ground covers, flowers, or low-lying shrubs that will not obscure the visibility of the sign as vegetation matures. The amount of landscaping recommended in this Section may be reduced upon approval by the Planning Department if existing site conditions so warrant.

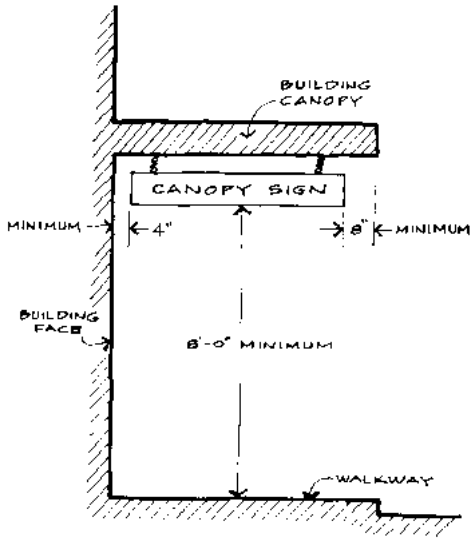
Section 9-18-5-3. Setback.

There shall be a minimum of five (5) feet between any street right-of-way/front property line and the nearest edge of a freestanding sign.

Section 9-18-5-4. Clearance for and Placement of Suspended Signs.

Signs suspended from canopies shall be placed with at least eight (8) feet of clearance above the ground when erected over pedestrian walkways on private property. In addition, such signs shall be at least four (4) inches from the building face and at least eight (8) inches from the edge of the canopy (see “canopy sign” in illustration).

Signs suspended from canopies over a sidewalk along a public street, where permitted, shall be placed with at least nine (9) feet of clearance above the ground. In addition, such signs shall extend not more than within eighteen (18) inches of the back of curb.



CANOPY SIGN

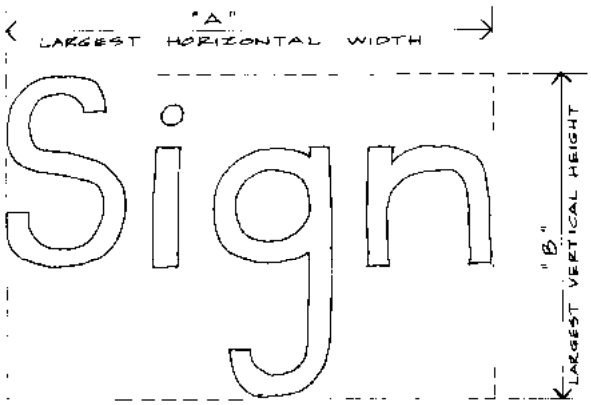
CHAPTER 9-18-6
NUMBER, SIZE AND HEIGHT LIMITATIONS

Section 9-18-6-1. Computation of Sign Face and Sign Structure Areas.
Section 9-18-6-2. Regulation by Zoning District.
Section 9-18-6-3. Signs in Planned Unit Developments.

Section 9-18-6-1. Computation of Sign Face and Sign Structure Areas.

The area of a sign face and sign structure shall be computed as follows:

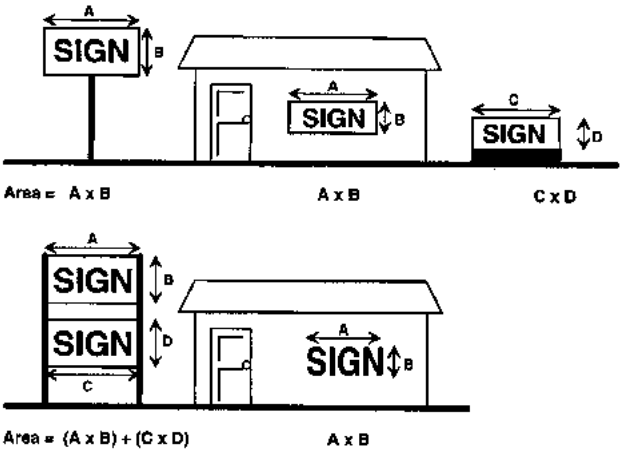
(a) The area of a "sign face" shall be computed as the area within the smallest rectangle enclosing the limits of a sign face, or the combination of the areas of all such rectangles delimiting each sign face module, together with any material, texture, or color forming an integral part of the sign face or used to differentiate the sign face from the structure upon which it is placed.



MEASUREMENT OF WALL SIGN AREA WHERE THERE IS NO DEFINED SIGN BACKGROUND

"A" x "B" = SIGN AREA

(b) The computation of the area of a sign face shall not include the structure, supports or uprights on which the sign face is placed or any portions of a sign structure that are not intended to contain any message or idea and are purely structural or decorative in nature, other than those portions contained within the rectangle that delimits the sign face or a sign face module.



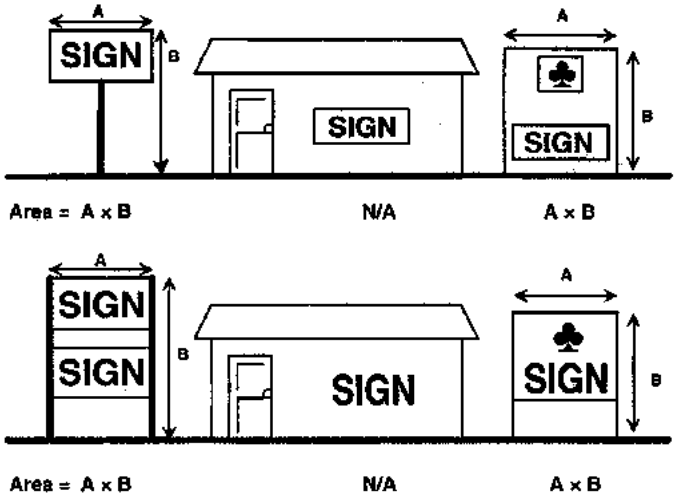
Examples of Sign Face Area Measurements

(c) Any sign on which the words, letters, figures, symbols, logos, fixtures, colors, or other design elements routinely change or are intended to be changed from time to time, the sign face area shall include the entire area within which any words, letters,

figures, symbols, logos, fixtures, colors, or other design elements may be placed, together with any material, texture, or color forming an integral part of the sign face or used to differentiate the sign face from the freestanding structure or building face upon which it is placed.

(d) The area of a sign structure of a freestanding sign shall be computed as the area within the sign face plus all portions of the sign structure and all open or solid areas within the total area of the sign structure (i.e., tallest height x widest width).

(e) For multi-faced signs, when the sign face surfaces are parallel (back-to-back), or where the interior angle formed by the faces is 45 degrees or less, the area of the sign shall be taken as the area on the largest side. For all other multi-faced signs, the area of the sign shall be the total area on all sides that can be viewed at one time from any angle.



Examples of Sign Structure Area Measurements

Section 9-18-6-2. Regulation by Zoning District.

Table 9-18-6-1 establishes the maximum number, size, height, and illumination restrictions relating to specific signage that are permitted by right in each zoning district.

(a) The “Principal Freestanding Sign—Individual Use” category applies to a lot where there is only one single or two-family dwelling, or one business occupant.

(b) The “Principal Freestanding Sign—Multi-Tenant” category applies to a single office, commercial or industrial property that is designed or intended for occupancy by two or more separate businesses.

(c) All building signs attached to a particular wall and its awnings and canopies, including signs that project from the wall, shall collectively not exceed the total square footage of sign face area allowed for the particular wall as shown in Table 9-18-6-1.

(d) For building signs in the office, commercial and industrial zoning districts, the following shall apply:

1. For single-occupant buildings, the total sign face area for building signs on each side of a building shall be calculated on the basis of the horizontal length of the wall along that side of the building. Each side of the building shall be calculated separately; provided, however, that building (wall) sign permissions shall not be granted when the angle of intersecting building walls is less than 60 degrees.

2. For multi-tenant nonresidential developments (such as shopping centers), the total sign face area per wall for each tenant shall be distributed on the basis of the horizontal length of the wall along each tenant's occupied space. The maximum sign face area on a particular wall for each tenant shall be calculated separately.

Section 9-18-6-3. Signs in Planned Unit Developments.

For signs in the PUD zoning district each development shall conform to the sign regulations established as part of the zoning approval for the Planned Development (including previously established P-R-D, P-O-D, P-C-D and P-I-D Planned Development Districts). If no such regulations exist, each portion of a Planned Development existing on the effective date of this Unified Land Development Code shall conform to the regulations of this Article for the zoning district most comparable to that portion of the Planned Development, as determined by the Director of Planning and Development.

TABLE 9-18-6-1
SIGN REGULATIONS BY ZONING DISTRICT

Note: For signs located within the Overlay Zones, additional restrictions apply or may be applied. See Article 9-8 and Section 9-18-3-2 of this Article. See also Chapter 9-18-7 of this Article for additional sign allowances for specific types of signs.

Principal Freestanding Sign - Individual Use						
	R-I-A, R-I, N-C, R-II**	**R-O****	**O-I, N-B**	**R-B, G-B**	**C-B**	**L-I, H-I**
Maximum number	1	1	1 per street frontage	1 per 200 feet of street frontage, maximum 2 per site	1 per street frontage	1 per street frontage
Maximum face area (square feet)	8	32	64	80	40	80
Maximum structure area (square feet)	8	60	96	120	120	120
Maximum height (feet)	8	8	10	10	10	10
Illumination*	Indirect	Indirect	Indirect	Internal or indirect	Internal or indirect	Internal or indirect
Principal Freestanding Sign - Multi-Tenant						
	R-I-A, R-I, N-C, R-II	**R-O**	**O-I, N-B**	**R-B, G-B**	**C-B**	**L-I, H-I**
Maximum number	N/A	1 per street frontage	1 per street frontage	1 per 200' of street frontage, maximum 3 per site.	1 per street frontage	1 per street frontage
Maximum face area (square feet)	N/A	32	120	140	80	140
Maximum structure area (square feet)	N/A	60	160	240	120	240
Maximum height (feet)	N/A	8	15	15	15	15
Illumination*	Indirect	Indirect	Indirect	Internal or indirect	Internal or indirect	Internal or indirect
Note: Street frontage is defined as being a street "from which access may be directly gained."						

Building Sign: Wall signs and awning, canopy, Projecting (excludes incidental & window signs)						
	R-I-A, R-I, R-II, N-C* **	**R-O *** **	**O-I, N-B**	**R-B, G-B**	**C-B**	**L-I, H-I**
Maximum Number per building frontage (signs on more than two building frontages is not permitted)	N/A	N/A	2	2	2	2
Total sign face area of all signs per wall (square feet)****	N/A	N/A	1 square feet for each foot of wall length	1 square feet for each foot of wall length	1 square feet for each foot of wall length	1 square foot for each foot of wall length
Maximum sign face area of largest sign per wall****	N/A	N/A	1 sq. foot for each foot of wall length	1 sq. feet for each foot of wall length	1 sq. feet for each foot of wall length	1 sq. foot for each foot of wall length
Illumination*	N/A	N/A	Indirect	Internal or indirect	Internal or indirect	Internal or indirect

* See also the provisions of Section 9-18-3-2, “Sign Approval in Historic Preservation Overlay Zone.”

** These sign allowances (principal freestanding sign – individual use) are for non-single-family residential uses that are permitted outright or as a special use in these residential zoning districts. Examples include commercial recreational facilities and model homes. Where a non-profit club or lodge or a religious institution is a permitted use, the maximum face and maximum structure size area shall be a maximum of thirty-two (32) square feet (the maximum height of eight feet shall be observed).

*** Where a non-profit club or lodge or a religious institution is a permitted use, the following building signage shall be permitted: a maximum of two signs, not exceeding a total sign face area of sixteen (16) square feet, with no individual building sign larger than eight (8) square feet. No such wall signs shall be illuminated.

****In addition to the total sign face area for building signs calculated within Table 9-18-6-1, one additional square foot of sign face area shall be allowed on a wall facing a public street for each additional 40-feet the building is setback beyond the minimum principal building front yard setback not to exceed 3 square feet for each foot of wall length.

CHAPTER 9-18-7
ADDITIONAL ALLOWANCES FOR SPECIFIC TYPES OF SIGNS

Section 9-18-7-1. Generally.
Section 9-18-7-2. Awning or Canopy Signs.
Section 9-18-7-3. Banners.
Section 9-18-7-4. Billboards.
Section 9-18-7-5. Construction Signs.
Section 9-18-7-6. Electronic Message Board Signs.
Section 9-18-7-7. Political Signs.
Section 9-18-7-8. Principal Freestanding Signs.
Section 9-18-7-9. Project Entrance Signs.
Section 9-18-7-10. Real Estate (On-site) Signs.
Section 9-18-7-11. Real Estate Directional Signs.
Section 9-18-7-12. Semi-public Use Directional Signs.
Section 9-18-7-13. Special Temporary Outdoor Event Signage.
Section 9-18-7-14. Window Signs.

Section 9-18-7-1. Generally.

In addition to the specific signs permitted in each zoning district, as provided in Chapter 9-18-5 and Table 9-18-6-1, the following signs shall be allowed in all zoning districts (or in the zoning districts as indicated) under the conditions noted for each type of sign.

Section 9-18-7-2. Awning or Canopy Signs.

Awning or canopy signs shall be limited to no more than one (1) per tenant on a property, and each tenant shall have no more than one (1) awning or canopy sign (which may project below the awning or canopy), except that one awning or canopy sign may be placed on each of three sides of a freestanding or attached canopy that covers and protects pumps that dispense gasoline or diesel fuels for retail customers.

Section 9-18-7-3. Banners.

Unless specifically provided otherwise pursuant to approval of a special temporary outdoor event (see Section 9-10-8-2 and Section 9-18-7-13 of this Unified Land Development Code), a banner shall be allowed only as wall or window signage (building signs), and shall be placed flush upon the wall or window to which it is attached. In cases where a building is not visible from the road, a banner may be allowed to be attached to an existing principal freestanding sign or securely mounted to the ground no closer than 5-feet from the right-of-way so as to not impede the visibility of motorist. A banner shall not be hung as a canopy sign, flown as a flag, attached to a fence or wall (freestanding or retaining) or used as any other form of sign.

Section 9-18-7-4. Billboards.

A billboard is a freestanding sign that exceeds the maximum sign face or sign structure area permitted by right on a property under the provisions of this Article. A billboard may be allowed individually or as an additional freestanding sign on a property under the following conditions:

(a) The sign must be located in G-B, L-I, or H-I zoning districts within 300 feet of a State, U.S. or Interstate numbered highway.

(b) In the G-B district, the area of the sign face shall not exceed 80 square feet. In the L-I and H-I districts, the area of the sign face shall not exceed 240 square feet. In each of the districts, the height of the sign shall not exceed 25 feet.

(c) All portions of the billboard shall be located in accordance with the principal building setback requirements of the zoning district in which it is located.

(d) The billboard shall not be located within 1,000 feet of any other billboard or within 500 feet of a residential zoning district. Distance measurements shall be made horizontally in all directions from the nearest edge of the sign face.

(e) The billboard may not be located on or over any building.

(f) Billboards located near expressway interchanges shall be limited as follows:

1. No more than one (1) billboard may be located in each quadrant of the interchange.

2. Such billboards shall be restricted to an area in each quadrant 1,200 feet long beginning 500 feet from the road that crosses the expressway or 500 feet beyond the point where the pavement begins to widen on the main travelway of the expressway to accommodate an exit or entrance ramp, whichever is farther from the interchange.

(g) All billboards visible from or within 660 feet of a U.S. or State numbered highway shall comply with all requirements of the State of Georgia.

A site plan prepared by a registered land surveyor, architect or engineer shall be submitted with all billboard applications. The site plan shall include a boundary survey of the property, the exact location of the proposed billboard, and certification that all dimensional and distance requirements of this chapter are met.

Section 9-18-7-5. Construction Signs.

One construction sign per street frontage may be placed on a property upon the commencement of construction and shall be removed upon issuance of a final certificate of occupancy for the construction or development project to which it refers, if each sign complies with all of the following.

(a) Six (6) square feet in sign face area and a maximum height of four (4) feet in single-family residential zoning districts.

(b) 32 square feet and a maximum height of eight (8) feet in multi-family or nonresidential zoning districts.

(c) No illumination shall be permitted.

(d) Such a sign shall not be permitted if a temporary on-site real estate sign exists on the property; or, alternatively, construction information and on-site real estate information may be combined into one sign that is up to six (6) square feet in sign face area and a maximum height of four (4) feet in a single-family residential zoning district or up to thirty-two (32) square feet in sign face area and a maximum height of eight (8) feet in multi-family or nonresidential zoning districts.

Section 9-18-7-6. Electronic Message Board Signs.

Electronic Message Board Signs shall be limited to one such sign per property and shall be incorporated into a monument style sign only. Electronic Message Board Signs shall be a maximum of twenty (20) square feet in size with amber lighting only. Any messages of said board shall consist of text which may change but shall not flash or scroll across the screen.

Section 9-18-7-7. Political Signs.

Political signs shall be limited to one per property frontage, non-illuminated, with a maximum area of six (6) square feet and maximum height of four (4) feet in residential zoning districts and twenty-four (24) square feet and eight (8) feet in height in all other zoning districts.

Section 9-18-7-8. Principal Freestanding Signs.

Principal freestanding signs shall be monument signs and ground signs only in all zoning districts. Materials used in the structure of the monument sign and any other ground signs should be architecturally compatible with the principle building or structure on the lot. An administrative variance may be granted by the Director of Planning and Development for a decorative post-style sign in lieu of a monument sign if this requirement for a monument sign presents sight line or safety issues, or when located within the Historic Preservation Overlay Zone is determined by the Historic Preservation Commission to be more appropriate within that overlay zone.

Section 9-18-7-9 Project Entrance Signs.

Two one-sided monument signs or one two-sided monument signs may be located at each entrance into a residential subdivision, multi-family development or into an office or industrial park consisting of two or more buildings. Each project entrance sign shall not exceed:

(a) 32 square feet in sign face area. If not integrated into a wall, the sign structure area shall not exceed 96 square feet.

(b) 2½ feet in height if located within a sight visibility easement (see Chapter 9-17-4 of this Unified Land Development Code) or eight (8) feet otherwise.

(c) Signs shall not be internally illuminated.

(d) Project entrance signs are limited to freestanding monument signs.

(e) If the establishment is a multi-family development, this sign allowance shall be in substitution for but not in addition to the allowance for a principal freestanding sign for said property as permitted by the zoning district in which it is located.

Section 9-18-7-10 Real Estate (On-site) Signs.

One real estate sign for each 500 feet of street frontage of the property or premises, may be placed on a site until the property or premises to which the sign refers is sold or leased. Such signs shall be limited as follows:

(a) Single-Family residential zoning districts: maximum six (6) square feet in area, four (4) feet in height, non-illuminated.

(b) Multi-Family, commercial and office zoning districts: maximum thirty-two (32) square feet in area and ten (10) feet in height, non-illuminated.

(c) Industrial zoning districts: maximum sixty-four (64) square feet in area and fifteen (15) feet in height, non-illuminated.

Section 9-18-7-11 Real Estate Directional Signs.

A sign that conveys directions to a specific property for sale or lease, such as a real estate development, residential subdivision, apartment or condominium project, home for sale, apartment for rent, or any other real estate property for sale or lease, is permitted in all zoning districts, subject to compliance with all of the following:

(a) It (any such sign) may not contain any commercial message or advertisement other than the phrase “home (or “house”) for sale,” but may contain the name, trademark or trade symbol of the development or property to which directions are being provided and/or the real estate company offering the property.

(b) It shall be erected and maintained only with the permission of the owner of the property upon which the sign is erected.

(c) It shall not exceed a maximum size of four (4) square feet.

(d) It shall not be illuminated.

(e) It shall be removed within five (5) days of the consummation of the sale or lease of the property to which directions are provided.

(f) There may be no more than four (4) real estate directional signs providing directions to any one residential, commercial, or industrial development or site.

Section 9-18-7-12 Semi-public Use Directional Sign.

A sign that coveys directions to a specific use owned or operated by a non-profit, religious or eleemosynary institution for the purpose of providing educational, cultural, recreational, religious or social services to the general public, is permitted if it complies with all of the following:

(a) It shall be erected and maintained only with the permission of the owner of the property upon which the sign is erected.

(b) It shall not exceed a maximum size of six (6) square feet in area and six (6) feet in height.

(c) It shall not be lighted.

(d) It shall be no more than four (4) semi-public use directional signs providing directions to any one semi-public use.

(e) It shall be erected on supports provided specifically for that purpose and no more than one (1) such support may be erected at any street corner.

Section 9-18-7-13 Special Temporary Outdoor Event Signage.

The following sign allowance shall be permitted in conjunction with a special temporary outdoor event permitted pursuant to Section 9-10-8-2 of this Unified Land Development Code. A total of one additional sign per street frontage, which may be either of the following shall be allowed for the duration of the event:

(a) One non-illuminated temporary sign, flag or banner announcing the event, not exceeding six (6) square feet in area nor four (4) feet in height in a single-family residential zoning district and not exceeding thirty-two (32) square feet in area nor twelve (12) feet in height in a multi-family or nonresidential zoning district; or

(b) One non-illuminated inflatable sign attracting attention to the event, which may be placed on a building roof, but regardless of location, shall be installed in accordance with all requirements of the Building Code. Such inflatable sign shall not contain an inflatable area in cubic feet that is greater than the square footage area of the sign structure for the principal freestanding sign on the property as determined by the Director of Planning and Development.

(c) Signage shall be limited to a total of 60 days a calendar year for the same business or organization.

Section 9-18-7-14 Window Signs.

Signs within windows and doors, except incidental signs exempt from the requirements of this Article, shall be permitted in nonresidential zoning districts, not to exceed twenty (20) percent of any individual window and fifty (50) percent of glass panes of any doors.

ARTICLE 9-19
DEVELOPMENT IMPACT FEES

CHAPTER 9-19-1 GENERAL PROVISIONS
CHAPTER 9-19-2 PUBLIC SAFETY DEVELOPMENT IMPACT FEES
CHAPTER 9-19-3 PARK AND RECREATION DEVELOPMENT IMPACT FEES

CHAPTER 9-19-1
GENERAL PROVISIONS

Section 9-19-1-1. Legislative Findings.
Section 9-19-1-2. Short Title and Applicability.
Section 9-19-1-3. Intents and Purposes.
Section 9-19-1-4. Rules of Construction.
Section 9-19-1-5. Definitions.
Section 9-19-1-6. Individual Fee Calculation Study.
Section 9-19-1-7. Certification of Fee Schedule or Fee.
Section 9-19-1-8. Payment of Fee.
Section 9-19-1-9. Administrative Fee.
Section 9-19-1-10. Deposit of Fees in Appropriate Account.
Section 9-19-1-11. Report by Administrator.
Section 9-19-1-12. Refund of Fees Paid.
Section 9-19-1-13. Exemptions.
Section 9-19-1-14. Credits Generally.
Section 9-19-1-15. Appeals.
Section 9-19-1-16. Review and Automatic Update of Fee Schedules.
Section 9-19-1-17. Penalty Provision.
Section 9-19-1-18. Severability.
Section 9-19-1-19. Repealer.

Section 9-19-1-1. Legislative Findings.

The City Council of the City of Gainesville has considered the feasibility of imposing development impact fees and finds, determines, and declares that:

(a) The Georgia Legislature, through the enactment of the Georgia Development Impact Fee Act, Georgia Code Title 36-71-1 through 36-71-13, has authorized the City of Gainesville to enact development impact fees;

(b) The City of Gainesville established a Development Impact Fee Advisory Committee pursuant to the Georgia Development Impact Fee Act, Georgia Code Title 36-71-5, and that Committee has served in an advisory capacity and assisted and advised the City of Gainesville with regard to the development and adoption of this development impact fee ordinance;

(c) The City of Gainesville Comprehensive Plan contains within it Land Use Assumptions, a Capital Improvement Element for Public Safety and Parks and Recreation Impact Fees, and the establishment of a level of service standard for public safety and park and recreation capital facilities for the planning horizon to

2026; and the City of Gainesville Comprehensive Plan, including the amendment to include a Capital Improvement Element for Public Safety and Parks and Recreation Impact Fees, has been submitted to the Georgia Mountains Regional Development Center and determined by the Georgia Department of Community Affairs to be in compliance with the rules of the Georgia Department of Community Affairs, Chapter 110-12-2, Development Impact Fee Compliance Requirements;

(d) The City of Gainesville must expand its public safety and parks and recreation capital facilities in order to maintain the current level of service established in the City of Gainesville Comprehensive Plan if new development is to be accommodated without decreasing its adopted level of service standards. This must be done in order to promote and protect the health, safety, morals, convenience, order, prosperity, and the general welfare of the City of Gainesville, Georgia;

(e) The imposition of development impact fees is a preferred method of ensuring the availability of capital facilities necessary to accommodate new development;

(f) Each of the types of land development described in this Article will create a need for the construction, equipping, or expansion of the City of Gainesville's public safety and park and recreation capital facilities;

(g) The fees established by this Article are derived from, are based upon, and do not exceed a proportionate share of the costs of providing additional public safety and parks and recreation facilities necessitated by the new land developments for which the fees are levied;

(h) The report entitled "A Report on Public Safety and Park & Recreational Development Impact Fees Prepared for Gainesville, Georgia," dated March 1, 2006, and revised June 4, 2006, sets forth a reasonable methodology and analysis for the determination of the development impact of new development on the need for and costs for additional public safety and parks and recreation improvements in the City of Gainesville.

Section 9-19-1-2. Short Title and Applicability.

(a) This Article shall be known and may be cited as the City of Gainesville Development Impact Fee Ordinance.

(b) This Article shall apply throughout the incorporated area of the City of Gainesville.

Section 9-19-1-3. Intents and Purposes.

(a) This Article is intended to assist in the implementation of the City of Gainesville's Comprehensive Plan.

(b) The purpose of this Article is to regulate the use and development of land so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide public safety and parks and recreation in the City of Gainesville.

(c) This Article is intended to comply fully with each and every relevant provision of the Georgia Development Impact Fee Act, Georgia Code Title 36-71-1 through 36-71-13, and shall be interpreted and implemented to so comply.

Section 9-19-1-4. Rules of Construction.

The following provisions regarding interpretation are hereby adopted and shall be applied to this Article. Where the provisions of this Section conflict with interpretations specified in Chapter 9-2-1 of this Unified Land Development Code, the rules of construction of this Section shall control, unless the context clearly indicates otherwise.

(a) The provisions of this Article shall be liberally construed so as to effectively carry out its purpose to promote and protect the health, safety, morals, convenience, order, prosperity, and the general welfare of the City of Gainesville, Georgia;

(b) For the purposes of administration and enforcement of this Article, unless otherwise stated in this Article, the following rules of construction shall apply to the text of this Article:

1. In case of any difference of meaning or implication between the text of this Article and any caption, illustration, summary table, or illustrative table, the text shall control.

2. The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

3. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

4. The phrase "used for" includes "arranged for", "designed for", "maintained for", or "occupied for".

5. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

6. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and", "or" or "either...or", the conjunction shall be interpreted as follows:

   a. "And" indicates that all the connected terms, conditions, provisions or events shall apply.

   b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

   c. “Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

7. The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

Section 9-19-1-5. Definitions.

The following definitions are hereby adopted and shall be applied to this Article. Where the definitions of this Section conflict with terms defined in Chapter 9-2-2 of this Unified Land Development Code, the definitions of this Section shall control, unless the context clearly indicates otherwise.

Applicant: A person applying for the issuance of a building permit.

Building permit: The approval issued by the City of Gainesville that authorizes the construction or permanent placement of a building, dwelling or other structure on a site.

Capital equipment: Buildings, vehicles, weapons, and communications equipment, all with an expected use life of ten years or more.

Capital improvement: An improvement with a useful life of ten years or more, by new construction or other action, which increases the service capacity of a public facility.

Developer: Any person or legal entity undertaking development.

Development: Any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any change in the use of land, any of which creates additional demand and need for public safety facilities and parks and recreation facilities.

Development approval: Any written authorization from the City of Gainesville which authorizes the commencement of construction.

Development impact fee: A payment of money imposed upon development as a condition of development approval to pay for a proportionate share of the cost of public improvements needed to serve new growth and development.

Encumber: To legally obligate by contract or otherwise commit to use by appropriation or other official act of the City of Gainesville.

Floor area: Floor area shall have the same meaning as in the Building Code of the City of Gainesville.

Impact Fee Administrator: The City of Gainesville Director of Planning and Development or his/her designee.

Present value: The current value of past, present, or future payments, contributions or dedications of goods, services, materials, construction, or money.

Project: A particular development on an identified parcel of land.

Project improvements: Site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project and are not system improvements. The character of the improvement shall control a determination of whether an improvement is a project improvement or system improvement and the physical location of the improvement on

site or off site shall not be considered determinative of whether an improvement is a project improvement or a system improvement. If an improvement or facility provides or will provide more than incidental service or facilities capacity to persons other than users or occupants of a particular project, the improvement or facility is a system improvement and shall not be considered a project improvement. No improvement or facility included in a plan for public facilities approved by the governing body of the municipality or county shall be considered a project improvement.

Proportionate share: That portion of the cost of system improvements which is reasonably related to the service demands and needs of the project.

Service area: A geographic area defined by the City of Gainesville in which a defined set of public facilities provide service to development within the area. Service areas shall be designated on the basis of sound planning or engineering principles or both.

System improvement costs: Costs incurred to provide additional public facilities capacity needed to serve growth and development for planning, design and construction, land acquisition, land improvement, design and engineering related thereto, including the cost of constructing or reconstructing system improvements or facility expansions, including but not limited to the construction contract price, surveying and engineering fees, related land acquisition costs (including land purchases, court awards and costs, attorneys' fees, and expert witness fees), and expenses incurred for qualified staff or any qualified engineer, planner, architect, landscape architect, or financial consultant for preparing or updating the capital improvement element, and administrative costs, if so authorized in this Article, provided that such administrative costs shall not exceed 3 percent of the total amount of development impact fee receipts. Projected interest charges and other finance costs may be included if the development impact fees are to be used for the payment of principal and interest on bonds, notes, or other financial obligations issued by or on behalf of the municipality or county to finance the capital improvements element but such costs do not include routine and periodic maintenance expenditures, personnel training, and other operating costs.

System improvements: Capital improvements that are public facilities and are designed to provide service to the community at large, in contrast to "project improvements."

Section 9-19-1-6. Individual Fee Calculation Study.

If an applicant opts not to have the development impact fee determined according Section 9-19-2-2 for public safety facilities or Section 9-19-3-2 for park and recreation facilities, then the applicant shall prepare and submit to the Impact Fee Administrator an independent fee calculation study for the land development activity for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. The Impact Fee Administrator shall consider the documentation submitted by the applicant but is not required to accept such documentation as he/she shall reasonably deem to be inaccurate or not reliable and may, in the alternative, require the applicant to submit additional or different documentation for consideration. If an acceptable independent fee calculation study is not presented, the applicant shall pay the development impact fees based upon the schedule shown in Section 9-19-2-2 and Section 9-19-3-2, as applicable. If an acceptable independent fee calculation study is presented, the Impact Fee Administrator may adjust the fee to that appropriate to the particular development. Determinations made by the Impact Fee Administrator pursuant to this paragraph may be appealed to the Mayor and City Council in accordance with Section 9-19-1-14 of this Chapter.

Section 9-19-1-7. Certification of Fee Schedule or Fee.

On the request of an applicant, the Impact Fee Administrator shall certify the development impact fee schedules or development impact fees resulting from an individual assessment, whichever is applicable, and said certification shall establish the applicable development impact fees for a period of 180 days from the date thereof.

Section 9-19-1-8. Payment of Fee.

The applicant shall pay the development impact fee(s) required by this Article to the Impact Fee Administrator or his/her designee prior to the issuance of a building permit.

Section 9-19-1-9. Administrative Fee

An administrative fee of three (3) percent shall be levied against the total development impact fee due prior to the issuance of a building permit.

Section 9-19-1-10. Deposit of Fees in Appropriate Account.

(a) All public safety impact fee funds collected shall be properly identified by and promptly transferred for deposit in the Public Safety Development Impact Fee Trust Funds of the City of Gainesville, which shall be interest bearing accounts, to be held in separate accounts as established in Section 9-19-2-4 of this Article and used solely for the purposes specified in this Article.

(b) All parks and recreation impact fee funds collected shall be properly identified by and promptly transferred for deposit in the Park and Recreation Development Impact Fee Trust Fund of the City of Gainesville, as established in Section 9-19-3-4 of this Article which shall be an interest bearing account, and used solely for the purposes specified in this Article.

Section 9-19-1-11. Report by Administrator.

At least once each fiscal period the Impact Fee Administrator shall present to the City Council a report describing the amount of development impact fees collected, encumbered and used, and a proposed capital improvement program for public safety and parks and recreation, assigning funds, including any accrued interest, from the Public Safety Development Impact Fee Trust Funds to specific police facility and fire protection facility improvement projects and related expenses, and from the Park and Recreation Impact Fee Trust Funds to specific park and recreation facility improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the respective Impact Fee Trust Fund until the next fiscal period except as provided by the refund provisions of this Article.

Section 9-19-1-12. Refund of Fees Paid.

(a) If a building permit expires without commencement of construction, then the Feepayor shall be entitled to a refund, without interest, of the development impact fee paid as a condition for its issuance except that the City shall retain three percent (3%) of the fee, if so authorized and collected, to offset a portion of the costs of

collection and refund. The Feepayor must submit an application for such a refund to the Impact Fee Administrator within 30 days of the expiration of the permit.

(b) In the event that development impact fees have not been expended or encumbered by the end of the calendar quarter immediately following six (6) years from the date the development impact fee was paid, the Impact Fee Administrator shall provide written notice of entitlement to a refund to feepayors or their successors with interest.

(c) If funds are not expended or encumbered by the end of the calendar quarter immediately following six (6) years from the date the development impact fee was paid, upon application of the then current landowner, they must be returned to such feepayor with interest that is a pro rata share of the interest earned by the fund. A feepayor must submit an application for a refund to the Impact Fee Administrator within one year of the expiration of the six year period or the publication of the notice of entitlement, whichever is later. Refunds shall be made to the feepayor within 60 days after it is determined that a sufficient proof of claim for a refund has been made.

Section 9-19-1-13. Exemptions.

The following shall be exempted from payment of development impact fees:

1. Alterations or expansion of an existing building where use and size are not changed.

2. Additions to an existing dwelling unit.

3. The construction of accessory buildings or structures.

4. The replacement of a building or structure with a new building or structure of the same size and use.

Any claim of exemption must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

Section 9-19-1-14. Credits Generally.

(a) This Section shall apply when a credit is considered or approved by the Impact Fee Administrator pursuant to Sections 9-19-2-6 and 9-19-3-6 of this Article.

(b) Credit for the dedication of land shall be valued at: 115% of the most recent assessed value by the Property Appraiser, or by fair market value established by private appraisers acceptable to the City. Credit for the dedication of land for facilities shall be provided when the property has been conveyed at no charge to, and accepted by, the City in a manner satisfactory to the Impact Fee Administrator.

(c) Applicants for credit for construction of improvements shall submit acceptable engineering drawings and specifications, and construction cost estimates to the Impact Fee Administrator. The Impact Fee Administrator shall determine credit for construction based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if the Impact Fee Administrator determines that such estimates submitted by the applicant are either unreliable or inaccurate.

The Impact Fee Administrator shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the letter or certificate and return such signed document to the Impact Fee Administrator before credit will be given. The failure of the applicant to sign, date, and return such document within 60 days shall nullify the credit.

(d) Except as provided in paragraph (e) of this Section, credit against development impact fees otherwise due will not be provided until: the construction is completed and accepted by the City, the County, or the State, whichever is applicable; and a suitable maintenance and warranty bond is received and approved by the Impact Fee Administrator, when applicable.

(e) Credit may be provided before completion of specified improvements if adequate assurances are given by the applicant that the standards set out above will be met and if the applicant posts security as provided below for the costs of such construction. Security in the form of a performance bond, irrevocable letter of credit or escrow agreement shall be posted with and approved by the Impact Fee Administrator in an amount determined by the Impact Fee Administrator. If the public facility construction project will not be constructed within one (1) year of the acceptance of the offer by the Impact Fee Administrator, the amount of the security shall be increased by ten per cent (10%) compounded, for each year of the life of the security.

1. Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

2. Credits shall not be transferable from one project or development to another unless so provided in a development impact fee credit agreement.

Section 9-19-1-15. Appeals.

(a) Any Applicant or Feepayor aggrieved by a decision of the Impact Fee Administrator made pursuant to this Article shall have the right to appeal to the Mayor and City Council. Prior to any such appeal the aggrieved Applicant or Feepayor shall file a request for reconsideration with the Impact Fee Administrator who shall act upon such request within fifteen (15) days.

(b) All appeals shall be taken within fifteen (15) days of the Impact Fee Administrator's decision on the request for reconsideration by filing with the Impact Fee Administrator a notice of appeal specifying the grounds therefore. The Impact Fee Administrator shall forthwith transmit to the Mayor and City Council all papers constituting the record upon which the action appealed from is taken. The Mayor and City Council shall thereafter establish a reasonable date and time for a hearing on the appeal, give due notice thereof, and decide the same within a reasonable period of time following the hearing. Any Applicant or Feepayor making an appeal shall have the right to appear at the hearing, to present evidence and may be represented by counsel.

(c) An Applicant may pay a Development Impact Fee under protest to obtain a building permit and by making such payment shall not be estopped from;

1. Exercising the right of appeal provided for in this Section or

2. Receiving a refund of any amount deemed to have been illegally collected.

Section 9-19-1-16. Review and Automatic Update of Fee Schedules.

(a) The development fee schedules contained in this Article shall be reviewed by the City Council at least once every two years.

(b) Unless otherwise resolved by the City Council, the development impact fee schedules established in this Article shall be adjusted by the Impact Fee Administrator in March of each calendar year based on the methodology described in paragraph (c) of this section. Any adjustments to the impact fee schedules, made pursuant to this section, shall be effective the following first day of May.

(c) The base for computing any adjustment is the January Construction Cost Index for the United States, published by McGraw-Hill. For the purpose of this Section the initial index to be referenced is January of the last year when the impact fees were updated with cost or demographic data.

(d) If the index is changed so that the base year is different, the index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Construction Cost Index is discontinued or revised, the Consumer Price Index or such other index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Construction Cost Index had not been discontinued or revised.

Section 9-19-1-17. Penalty Provision.

A violation of this Article shall be prosecuted in the same manner as specified in Chapter 9-24-2, “Enforcement,” of this Unified Land Development Code and upon conviction, the violator shall be punishable according to law; however, in addition to or in lieu of any criminal prosecution the City of Gainesville shall have the power to sue in civil court to enforce the provisions of this Article.

Section 9-19-1-18. Severability.

If any section, phrase, sentence or portion of this Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof of this Article or this Unified Land Development Code.

Section 9-19-1-19. Repealer.

Any ordinances covering the subject matter contained in this Article are hereby repealed, and all ordinances or parts of ordinances inconsistent with the provisions of this Article are hereby repealed.

CHAPTER 9-19-2
PUBLIC SAFETY DEVELOPMENT IMPACT FEES

Section 9-19-2-1. Imposition of Public Safety Development Impact Fee.
Section 9-19-2-2. Computation of the Amount of Public Safety Development Impact Fee.
Section 9-19-2-3. Public Safety Service Area Established.
Section 9-19-2-4. Public Safety Development Impact Fee Trust Funds Established.
Section 9-19-2-5. Use of Funds.
Section 9-19-2-6. Credits.

Section 9-19-2-1. Imposition of Public Safety Development Impact Fee.

(a) Any person, who, after the effective date of this Article, seeks to develop land within the City of Gainesville, Georgia, by applying for a building permit, is hereby required to pay a public safety development impact fee in the manner and amount set forth in this Article.

(b) No new building permit for any activity requiring payment of a development impact fee pursuant to Section 9-19-2-2 of this Article shall be issued unless and until the public safety development impact fee hereby required has been paid.

Section 9-19-2-2. Computation of the Amount of Public Safety Development Impact Fee.

At the option of the applicant, the amount of the public safety development impact fee may be determined by adding together the applicable police facility impact fee and the applicable fire protection facility impact fee from the following schedules.

Type and Unit of Development	Police	Fire
Residential:		
Residential: (Dwelling)	$54.30	$98.93
Non-Residential:		
Industrial:	**Police**	**Fire**
General Light (1000 FT^2)	$19.46	$35.46
General Heavy (1000 FT^2)	$9.73	$17.73
Manufacturing (1000 FT^2)	$31.14	$56.73
Warehousing (1000 FT^2)	$27.25	$49.64
Mini-Warehouse (1000 FT^2)	$3.89	$7.09
Truck Terminal (1000 FT^2)	$97.32	$177.29
Lodging		
Hotel (Room)	$15.57	$28.37
All-Suites Hotel (Room)	$9.73	$17.73
Business Hotel (Room)	$10.71	$19.50
Motel (Room)	$11.68	$21.27
Recreational		
Campground/RV Park (Camp Site)	$1.36	$2.48
Golf Course (Acre)	$4.87	$8.86
Multi-Purpose Recreational Facility (Acre)	$97.32	$177.29
Movie Theatre (1000 FT^2)	$29.20	$53.19
Arena (Acre)	$97.32	$177.29
Amusement Park (Acre)	$194.64	$354.58

Tennis Courts (Court)	$4.67	$8.51
Racquet Club (Court)	$7.01	$12.76
Bowling Alley (1000 FT^2)	$9.73	$17.73
Recreational Community Center (1000 FT^2)	$38.93	$70.92
Institutional		
Private School (K-12) (1000 FT^2)	$19.46	$35.46
House of Worship (1000 FT^2)	$9.73	$17.73
Day-Care (1000 FT^2)	$48.66	$88.65
Cemetery (Acre)	$1.56	$2.84
Fraternal Organization (1000 FT^2)	$38.93	$70.92
Medical		
Hospital (1000 FT^2)	$63.26	$115.24
Nursing Home (1000 FT^2)	$19.46	$35.46
Clinic (1000 FT^2)	$58.39	$106.37
Office		
General Office (1000 FT^2)	$58.39	$106.37
Corporate Headquarters (1000 FT^2)	$48.66	$88.65
Single-Tenant Office Building (1000 FT^2)	$48.66	$88.65
Medical-Dental Offices (1000 FT^2)	$116.78	$212.75
Medical Research (1000 FT^2)	$38.93	$70.92
Walk-in Bank (1000 FT^2)	$97.32	$177.29
Drive-in Bank(1000 FT^2)	$77.86	$141.83
Retail		
Building Materials Store (1000 FT^2)	$32.50	$59.21
Free-Standing Discount Superstore (1000 FT^2)	$32.50	$59.21
Specialty Retail Center (1000 FT^2)	$32.50	$59.21
Free-Standing Discount Store (1000 FT^2)	$32.50	$59.21
Hardware/Paint Store (1000 FT^2)	$32.50	$59.21
Garden Center (1000 FT^2)	$32.50	$59.21
Nursery (Wholesale) (1000 FT^2)	$32.50	$59.21
Shopping Center (1000 FT^2)	$32.50	$59.21
Factory Outlet Center (1000 FT^2)	$32.50	$59.21
Quality Restaurant (1000 FT^2)	$136.25	$248.21
High Turnover (Sit Down) Restaurant (1000 FT^2)	$145.20	$264.52
Fast Food Restaurant (1000 FT^2)	$212.16	$386.49
Quick Lube Vehicle Shop (Service Bay)	$38.93	$70.92
Auto-Care Center (1000 FT^2)	$38.93	$70.92
New Car Sales (1000 FT^2)	$38.93	$70.92
Auto Parts Store (1000 FT^2)	$38.93	$70.92
Self-Service Car Wash (Stall)	$3.89	$7.09
Tire Store (1000 FT^2)	$32.50	$59.21
Supermarket (1000 FT^2)	$32.50	$59.21
Convenience Market (Open 24 hours) (1000 FT^2)	$38.93	$70.92
Convenience Market (Open 15-16 hours) (1000 FT^2)	$32.50	$59.21
Convenience Market with Gasoline Pumps (1000 FT^2)	$38.93	$70.92
Wholesale Market (1000 FT^2)	$32.50	$59.21
Discount Club (1000 FT^2)	$32.50	$59.21
Home Improvement Superstore (1000 FT^2)	$32.50	$59.21

Electronics Superstore (1000 FT^2)	$32.50	$59.21
Apparel Store (1000 FT^2)	$32.50	$59.21
Pharmacy/Drugstore (1000 FT^2)	$32.50	$59.21
Furniture Store (1000 FT^2)	$7.79	$14.18
Bar/Tavern (1000 FT^2)	$48.66	$88.65
Service Station (Fueling Position)	$5.84	$10.64

1. If a building permit is requested for mixed uses, then the fee shall be determined through using the above schedules by apportioning the space committed to uses specified on the schedules.

2. If the type of development activity that a building permit is applied for is not specified on the above fee schedules, the Impact Fee Administrator shall use the fee applicable to the most nearly comparable type of land use on the above fee schedules.

   The Impact Fee Administrator shall be guided in the selection of a comparable type by the City of Gainesville Comprehensive Plan, supporting documents of the City of Gainesville Comprehensive Plan, and this Unified Land Development Code. If the Impact Fee Administrator determines that there is no comparable type of land use provided in the above fee schedules, then the Impact Fee Administrator shall determine the appropriate fee by considering demographic or other documentation which is available from the City of Gainesville Planning and Development Department, and state and regional authorities.

3. In the case of change of use, redevelopment, or expansion or modification of an existing use which requires the issuance of a building permit, the development impact fee shall be based upon the net positive increase in the development impact fee for the new use as compared to the previous use. The Impact Fee Administrator shall be guided in this determination by the sources listed in paragraph 2 above.

Section 9-19-2-3. Public Safety Service Area Established.

There is hereby established one (1) Public Safety Service Area which shall be the entirety of the incorporated area of the City of Gainesville.

Section 9-19-2-4. Public Safety Development Impact Fee Trust Funds Established.

(a) There is hereby established one (1) Police Facility Development Impact Fee Trust Fund and one (1) Fire Protection Facility Development Impact Fee Trust Fund, which shall be an interest bearing account, for the Public Safety Service Area established in Section 9-19-2-3 of this Chapter.

(b) All public safety development impact fees collected shall be promptly deposited in the appropriate Public Safety Development Impact Fee Trust Funds, i.e., the Police Facility Development Impact Fee Trust Fund and the Fire Protection Facility Development Impact Fee Trust Fund and maintained there, including interest thereon, until withdrawn pursuant to this Article.

(c) Funds withdrawn from these accounts must be used in accordance with the provisions of 9-19-2-5 of this Chapter.

Section 9-19-2-5. Use of Funds.

(a) Funds deposited in the Police Facility Development Impact Fee Trust Fund shall be used solely for the purpose of acquiring, equipping, and/or making capital improvements to police protection facilities under the jurisdiction of the City of Gainesville, Hall County, or the State of Georgia, and related expenses as permitted by the Georgia Development Impact Fee Act, and shall not be used for maintenance or operations.

(b) Funds deposited in the Fire Protection Facility Development Impact Fee Trust Fund shall be used solely for the purpose of acquiring, equipping, and/or making capital improvements to fire protection facilities under the jurisdiction of the City of Gainesville, Hall County, or the State of Georgia, and related expenses as permitted by the Georgia Development Impact Fee Act, and shall not be used for maintenance or operations.

(c) In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which public safety development impact fees may be expended, development impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in paragraph (a) and (b) above.

(d) In the event a developer enters into an agreement with the City to construct, fund or contribute system improvements such that the amount of the credit created by such construction, funding or contribution is in excess of the development impact fee otherwise due, the developer shall be reimbursed for such excess construction funding or contribution from development impact fees paid by other development located in the service area which is benefited by such improvements.

(e) Funds may be used to provide refunds as described in Section 9-19-1-12 of this Article.

(f) Funds shall be considered expended on a first in, first out basis.

Section 9-19-2-6. Credits.

Public safety land and/or capital improvements may be offered by the applicant as total or partial payment of the required development impact fee. The applicant must request a public safety development impact fee credit. If the Impact Fee Administrator accepts such an offer, the credit shall be determined and provided in the manner described in Section 9-19-1-14 of this Article.

CHAPTER 9-19-3
PARK AND RECREATION DEVELOPMENT IMPACT FEES

Section 9-19-3-1. Imposition of Park and Recreation Development Impact Fee.
Section 9-19-3-2. Computation of the Amount of Park and Recreation Development Impact Fee.
Section 9-19-3-3. Park and Recreation Service Area Established.
Section 9-19-3-4. Park and Recreation Development Impact Fee Trust Fund Established.
Section 9-19-3-5. Use of Funds.
Section 9-19-3-6. Credits.

Section 9-19-3-1. Imposition of Park and Recreation Development Impact Fee.

(a) Any person who, after the effective date of this Article, seeks to develop land within the City of Gainesville, Georgia, by applying for a residential building permit is hereby required to pay a park and recreation development impact fee in the manner and amount set forth in this Article.

(b) No building permit for any activity requiring payment of a development impact fee pursuant to Section 9-19-3-2 of this Article shall be issued unless and until the park and recreation development impact fee hereby required has been paid.

Section 9-19-3-2. Computation of the Amount of Park and Recreation Development Impact Fee.

At the option of the applicant, the amount of the park and recreation development impact fee may be determined by the following fee schedule.

Cost per Dwelling	$1,129

If a building permit is requested for mixed uses, then the fee shall be determined through using the above schedule by apportioning the space committed to uses specified on the schedule.

Section 9-19-3-3. Park and Recreation Service Area Established.

There is hereby established one (1) Park and Recreation Development Impact Fee Service Area, which shall be the entire incorporated area of the City of Gainesville.

Section 9-19-3-4. Park and Recreation Development Impact Fee Trust Fund Established.

(a) There is hereby established one (1) Park and Recreation Development Impact Fee Trust Fund, which shall be an interest bearing account, for the Park and Recreation Development Impact Fee Service Area established by Section 9-19-3-3 of this Article.

(b) All park and recreation development impact fees collected shall be promptly deposited in the Park and Recreation Development Impact Fee Trust Fund and maintained there, including interest thereon, until withdrawn pursuant to this Article.

(c) Funds withdrawn from this account must be used in accordance with the provisions of Section 9-19-3-5 of this Article.

Section 9-19-3-5. Use of Funds.

(a) Funds collected from park and recreation development impact fees shall be used solely for the purpose of acquiring and/or making capital improvements to park and recreation facilities under the jurisdiction of the City of Gainesville, Hall County, or the State of Georgia, and related expenses as permitted by the Georgia Development Impact Fee Act, and shall not be used for maintenance or operations.

(b) Funds shall be used exclusively for acquisitions, expansions, or capital improvements within the Park and Recreation Development Impact Fee Service Area from which the funds were collected.

(c) In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which park and recreation development impact fees may be expended, development impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in paragraphs (a) and (b) of this section.

(d) In the event a developer enters into an agreement with the City to construct, fund or contribute system improvements such that the amount of the credit created by such construction, funding or contribution is in excess of the development impact fee otherwise due, the developer shall be reimbursed for such excess construction funding or contribution from development impact fees paid by other development located in the service area which is benefited by such improvements.

(e) Funds may be used to provide refunds as described in Section 9-19-1-12 of this Article.

(f) Funds shall be considered expended on a first in, first out basis.

Section 9-19-3-6. Credits.

(a) Park and recreation land and/or capital improvements may be offered by the applicant as partial payment of the required development impact fee. The applicant must request a park and recreation development impact fee credit. If the Impact Fee Administrator accepts such an offer, the credit shall be determined and provided in the manner described in Section 9-19-1-14 of this Article.

(b) An applicant may apply for credit against park and recreation development impact fees otherwise due for private park and/or recreation facilities. In no circumstance shall credit for private park and/or recreation facilities exceed 50% of the park and recreation development impact fees otherwise due. An applicant requesting credit must show that:

1. The private park and/or recreation facility for which credit is sought serves a public recreational need; and

2. The private park and/or recreation facility for which credit is sought is consistent with the Park and Recreation Capital Improvement Element of the City of Gainesville's Comprehensive Plan; and

The request complies with the security provisions set forth in this Section.

ARTICLE 9-20
BUILDING REGULATIONS

CHAPTER 9-20-1	CODES ADOPTED	20-1
CHAPTER 9-20-2	FIRE PREVENTION	20-6
CHAPTER 9-20-3	EXCAVATION AND GRADING	20-11
CHAPTER 9-20-4	STRUCTURES DANGEROUS TO PUBLIC HEALTH	20-13
CHAPTER 9-20-5	BUILDING OFFICIAL	20-22
CHAPTER 9-20-6	PERMITS AND EXEMPTIONS	20-26
CHAPTER 9-20-7	CONSTRUCTION DOCUMENTS	20-29
CHAPTER 9-20-8	TEMPORARY STRUCTURES AND USES	20-34
CHAPTER 9-20-9	FEES	20-35
CHAPTER 9-20-10	INSPECTIONS	20-36
CHAPTER 9-20-11	CERTIFICATE OF OCCUPANCY	20-38
CHAPTER 9-20-12	BUILDING BOARD OF APPEALS	20-40
CHAPTER 9-20-13	VIOLATIONS AND PENALTIES	20-41
CHAPTER 9-20-14	ADDITIONAL PROVISIONS FOR BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY	20-43

CHAPTER 9-20-1
CODES ADOPTED

Section 9-20-1-1. International Property Maintenance Code Adopted.
Section 9-20-1-2. International Building Code Adopted.
Section 9-20-1-3. National Electrical Code Adopted.
Section 9-20-1-4. International Fire Code Adopted.
Section 9-20-1-5. International Fuel Gas Code Adopted.
Section 9-20-1-6. International Mechanical Code Adopted.
Section 9-20-1-7. International Plumbing Code Adopted.
Section 9-20-1-8. International Residential Code Adopted.
Section 9-20-1-9. International Energy Conservation Code Adopted.
Section 9-20-1-10. Swimming Pool Code Adopted.
Section 9-20-1-11. Life Safety Code Adopted.
Section 9-20-1-12. Continuation of Existing Structures.

Section 9-20-1-1. International Property Maintenance Code Adopted.

The edition that is currently adopted and in force of the International Property Maintenance Code, published by the International Code Council, as hereinafter modified, is hereby adopted as the Housing Code of the City and is hereby made a part of this code. A copy of such edition of the International Property Maintenance Code is filed with the Clerk of the City of Gainesville, Georgia.

Section 9-20-1-2. International Building Code Adopted.

That certain document, one copy of which is on file in the office of the Clerk of the City of Gainesville, Georgia, being marked and designated as the International Building Code, as published by the International Code Council and is hereby adopted as the code of the City of Gainesville, Georgia for regulating the design, construction, quality of materials, erection,

installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of buildings and structures in the City of Gainesville, Georgia, and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such International Building Code, current edition adopted by the Board of Community Affairs of the State of Georgia, with Georgia amendments, published by the International Code Council on file in the office of the Clerk of the City of Gainesville, Georgia, are hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

Section 9-20-1-3. National Electrical Code Adopted.

That certain document, one copy of which is on file in the Office of the Clerk of the City of Gainesville, Georgia, being marked and designated as the National Electrical Code, current edition, as adopted by the Board of Community Affairs of the State of Georgia, as published by the National Fire Prevention Association is hereby adopted as the Code of the City of Gainesville, Georgia for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of the building envelope, mechanical, lighting and power systems in the City of Gainesville, Georgia, and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such National Electrical Code, current edition, with Georgia amendments, published by the National Fire Prevention Association, on file in the Office of the Clerk of the City of Gainesville, Georgia, are hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

Section 9-20-1-4. International Fire Code Adopted.

That certain document, one copy of which is on file in the Office of the Clerk of the City of Gainesville, Georgia, being marked and designated as the International Fire Code, current edition adopted by the Board of Community Affairs of the State of Georgia with Georgia amendments, as published by the International Code Council, is hereby adopted as the Code of the City of Gainesville, Georgia for regulating and governing the safeguarding of life and property from fire and explosion, hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Gainesville, Georgia and providing for the issuance of permits or hazardous uses or operations; and each and all of the regulations, provisions, conditions and terms of such fire code on file in the Office of the Clerk of the City of Gainesville, Georgia are hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

Section 9-20-1-5. International Fuel Gas Code Adopted.

That certain document, one copy of which is on file in the Office of the Clerk of the City of Gainesville, Georgia, being marked and designated as the International Fuel Gas Code, current edition, adopted by the Board of Community Affairs of the State of Georgia with Georgia amendments, as published by the International Code Council, Inc., is hereby adopted and the Fuel Gas Code of Gainesville, Georgia; for the control of building and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Fuel Gas Code are hereby referred to, adopted and made a part hereof, as if fully set out in this Ordinance.

Section 9-20-1-6. International Mechanical Code Adopted.

That certain document, one copy of which is on file in the Office of the Clerk of the City of Gainesville, Georgia, being marked and designated as the International Mechanical Code, with Georgia amendments, current edition adopted by the Board of Community Affairs of the State of Georgia, as published by the International Code Council, is hereby adopted as the Code of the City of Gainesville, Georgia, for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems in the City of Gainesville, Georgia and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such International Mechanical Code current edition, with Georgia amendments, published by the International Code Council on file of the Office of the Clerk of the City of Gainesville, Georgia, are hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

Section 9-20-1-7. International Plumbing Code Adopted.

That certain document, one copy of which is on file in the Office of the Clerk of the City of Gainesville, Georgia, being marked and designated as the International Plumbing Code current edition, with Georgia amendments, adopted by the Board of Community Affairs of the State of Georgia, as published by the International Code Council is hereby adopted as the code of the City of Gainesville, Georgia for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems in the City of Gainesville, Georgia and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such International Plumbing Code, current edition, with Georgia amendments, published by the International Code Council on file in the Office of the Clerk of the City of Gainesville, Georgia are hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

Section 9-20-1-8. International Residential Code Adopted.

That certain document, one copy of which is on file in the Office of the Clerk of the City of Gainesville, Georgia, being marked and designated as the International Residential Code, current edition, with Georgia amendments, adopted by the Board of Community Affairs of the State of Georgia, as published by the International Code Council, is hereby adopted as the Code of the City of Gainesville, Georgia for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one and two family dwellings and townhouses not more than three stories in height in the City of Gainesville, Georgia, and providing for the issuance of permits and collection of fees therefore; and each and all regulations, provisions, conditions and terms of such International Residential Code, current edition, with Georgia Amendments, published by the International Code Council on file in the Office of the Clerk of the City of Gainesville, Georgia are hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

Section 9-20-1-9. International Energy Conservation Code Adopted.

That certain document, one copy of which is on file in the Office of the Clerk of the City of Gainesville, Georgia, being marked and designated as the International Energy Conservation Code, current edition, with Georgia amendments, adopted by the Board of Community Affairs of

the State of Georgia, as published by the International Code Council, with Georgia amendments, is hereby adopted as the Code of the City of Gainesville, Georgia, regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of the building envelope, mechanical, lighting and power systems in the City of Gainesville, Georgia, and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such International Energy Conservation Code, current edition, with Georgia amendments, published by the International Code Council on file in the Office of the Clerk of the City of Gainesville, Georgia, are hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

Section 9-20-1-10. Swimming Pool Code Adopted.

That certain document, one copy of which is on file in the Office of the Clerk of the City of Gainesville, Georgia, being marked and designated as the "Standard Swimming Code, with Georgia amendments, current edition adopted by the Board of Community Affairs of the State of Georgia as published by the Southern Building Code Congress International, Inc., Birmingham, Alabama, is hereby adopted as the code of the City of Gainesville, Georgia for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of the swimming pools in the City of Gainesville, Georgia, and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions, and terms of such Standard Swimming Pool Code, current edition adopted by the Board of Community Affairs of the State of Georgia with Georgia amendments, published by the Southern Building Code Congress International, Inc., Birmingham, Alabama, on file in the office of the City Clerk of the City of Gainesville, Georgia, is hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

(a) Previously Existing Pools. Nothing contained herein shall apply to any pool in existence or under construction as of the effective date of this Article, provided, however, that all swimming pools in the City shall comply with Section 315 (Required Enclosure) on or before September 31, 1992.

(b) Abrogation and Greater Restrictions. Should any requirement or design standard of the Standard Swimming Pool Code conflict in any manner with any other law, rule or regulation of any local, state of federal regulation, applicable to the City then the stricter law, rule or regulation shall be applied. It is not intended by this article to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where these articles imposes a greater restriction upon the use of property or premises than is imposed or required by other resolutions, rules and regulations, or by easements, covenants, or agreements, the provisions of this article shall govern.

Section 9-20-1-11. Life Safety Code Adopted.

The edition of the NFPA 101 Life Safety Code that is currently adopted and in force is adopted, save and except such portions as hereinafter deleted, modified or amended of which a copy has been and is now filed in the office of the clerk of the city council, and same is hereby adopted and incorporated as fully as if set out at length herein. The Life Safety Code shall only apply to and govern those buildings and structures listed in the O.C.G.A, Sections 25-2-13 (a) and (b), as amended. The provisions of this Article shall govern all other buildings and structures.

Section 9-20-1-12. Continuation of Existing Structures.

The legal occupancy of any structure existing on the date of adoption of this Article or its predecessor article shall be permitted to continue without change, except as is specifically covered in this Article, the International Property Maintenance Code or the International Fire Code, or as is deemed necessary by the Building Official for the general safety and welfare of the occupants and the public.

CHAPTER 9-20-2
FIRE PREVENTION

Section 9-20-2-1. Fire Limits Established.
Section 9-20-2-2. Penalties for Violating the Fire Code.
Section 9-20-2-3. Bureau of Fire Prevention Established; Duties; Enforcement of Code.
Section 9-20-2-4. Chief of Bureau of Fire prevention; Modification of Code.
Section 9-20-2-5. New Materials, Processes or Occupancies, Which May Require Permits.
Section 9-20-2-6. Smoking in Bed in Hotels Prohibited; Operator to Post Notice of Section Provisions.
Section 9-20-2-7. Smoking in Theaters.
Section 9-20-2-8. Fire Inspection.
Section 9-20-2-9. Removal of Hazard.
Section 9-20-2-10. Firefighting Equipment.
Section 9-20-2-11. Straw, Hay, Lumber, Etc.; Stacking.
Section 9-20-2-12. Gasoline and Oil Storage.
Section 9-20-2-13. Notice for Building or Combustible Materials Declared a Nuisance.

Section 9-20-2-1. Fire Limits Established.

All that portion of the city bounded by the following named streets, alleys, avenues and lanes as hereinafter set forth, is hereby defined and shall hereafter be known as and constitute the fire limits of the city and which is also shown on the fire limits map which is hereby made a part of this Chapter:

> Beginning at the intersection of Academy and E. E. Butler Parkway; thence following the southern right-of-way of Academy Street in a southwesterly direction to its intersection with Jesse Jewell Parkway; thence following the right-of-way line of Jesse Jewell Parkway to its intersection with the right-of-way of the Seaboard Railroad; thence running south along the right-of-way of the Seaboard Railroad to its intersection with Parker Street; thence in an easterly direction along the right-of-way of Parker Street to its intersection with Grove Street; thence in a southerly direction along the right-of-way of Grove Street to its intersection with Banks Street; thence in an easterly direction along the right-of-way of Banks Street to its intersection with Main Street; thence in a northerly direction along the right-of-way of Main Street to its intersection with College Avenue; thence along the right-of-way of College Avenue in an easterly direction to its intersection with E. E. Butler Parkway; thence following the center line of E. E. Butler Parkway including the new alignment of E. E. Butler Parkway in a northerly direction to its intersection with Academy Street and the point of beginning.

All matters pertaining to structural conditions of buildings within the fire limits shall be in compliance with Appendix D of the International Building Code, current edition, adopted by the Department of Community Affairs of the State of Georgia, and which is on file in the Office of the Clerk of the City of Gainesville, Georgia, and hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

City of Gainesville
Official Fire Limits
BRADFORD ST
NORTHSIDE DR
BRENAU AVE
WASHINGTON ST
BOULEVARD
SPRING ST
OAK ST
ACADEMY ST
MAIN ST
MAPLE ST
BROAD ST
RACE ST
E E BUTLER PKWY
GREEN ST
WEST ACADEMY ST
COLLEGE AVE
WEST AVE
EAST AVE
PARKER ST
JESSE JEWELL PKWY
GORDON AVE
GROVE ST
BANKS ST
ATLANTA ST
Legend
Fire Limits Boundary
Parcel Boundary

Section 9-20-2-2. Penalties for Violating the Fire Code.

Any person who shall violate any of the provisions of the fire code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made there under, or who shall build in violation of any detailed statement of specifications or plans submitted and approved there under, or any certificate or permit issued there under, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, and shall be punished as provided in Section 1-1-7 of the Gainesville Code or Ordinances. The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

Section 9-20-2-3. Bureau of Fire Prevention Established; Duties; Enforcement of Code.

(a) The fire prevention code shall be enforced by the bureau of fire prevention in the fire department of the city which is hereby established and which shall be operated under the supervision of the chief of the fire department.

(b) The chief of fire prevention (fire marshal) in charge of the bureau of fire shall be appointed by the city manager.

(c) The chief of the fire department may detail and appoint such members of the fire department as inspectors and technical inspectors as shall from time to time be necessary.

(d) A report of the bureau of fire prevention shall be made annually and transmitted to the fire chief of the city; it shall contain all proceedings under this code, with such statistics as the chief of the fire department may wish to include therein; the chief of the fire department shall also recommend any amendments to the code which, in his judgment, shall be desirable.

Section 9-20-2-4. Chief of Bureau of Fire prevention; Modification of Code.

The chief of the bureau of fire prevention shall have the power to modify any of the provisions of the fire prevention code adopted by this article upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured and substantial justice done. The particulars of such modification, when granted or allowed, and the decision of the chief of the bureau of fire prevention thereon, shall be entered upon the records of the department, and a signed copy shall be furnished the applicant.

Section 9-20-2-5. New Materials, Processes or Occupancies, Which May Require Permits.

The city manager, the chief of the fire department and the chief of the bureau of fire prevention shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those now enumerated in the code adopted by this article. The chief of the bureau of fire prevention shall post such list in a conspicuous place in his office, and distribute copies thereof to interested persons.

Section 9-20-2-6. Smoking in Bed in Hotels Prohibited; Operator to Post Notice of Section Provisions.

(a) It shall be unlawful for any person while he is an occupant of a hotel, rooming house, tourist court or other commercial establishment where rooming accommodations are furnished for hire, to smoke any cigarette, cigar, pipe or other device used for the burning of tobacco or other substances while such person is in bed.

(b) Each operator or owner of any hotel, rooming house, tourist court or other commercial establishment where rooming accommodations are furnished for hire shall post a notice containing the provisions of this section in each room of such establishment.

Section 9-20-2-7. Smoking in Theaters.

(a) The smoking of cigarettes, cigars and pipes by patrons of motion picture theaters in the city in areas within such theaters which have been designated "no smoking" by the chief of the fire department of the city is prohibited.

(b) Any person violating any of the provisions of this section shall be punished as provided in section 1-1-7 of the Gainesville City Code of Ordinances.

Section 9-20-2-8. Fire Inspection.

The chief of fire prevention of the fire department of the city is authorized to inspect any building or premises within the corporate limits of the city for the purpose of ascertaining the condition thereof with reference to the presence, arrangement or deposit of any articles, materials, goods, wares and merchandise which may be combustible or inflammable, or endanger any occupant of or person upon the premises, building or structure, and for the purpose of examining the size, arrangement and efficiency of any and all appliances for protection against fire in or upon such premises, building or structure.

Section 9-20-2-9. Removal of Hazard.

If the chief of fire prevention, upon inspection of any premises, building or structure, shall find any rubbish, debris, waste or inflammable materials therein or thereon, in violation of this article or shall find articles, materials, substances, goods, wares or merchandise so arranged as to increase the risk of fire or to prevent proper access to or exit from premises, building or structure, either for the occupants of the premises or for the members of the fire department, he may order, in writing, which order shall be directed to the owner or occupant of such premises, and it is hereby made the duty of the owner or person in control of the premises to comply with

such order with all reasonable dispatch, the removal of such rubbish, debris, inflammable or combustible materials from such premises, building or structure, or the arrangement and disposition of such goods, wares or merchandise so as to make the premises accessible for firefighting and for exit of persons.

Section 9-20-2-10. Firefighting Equipment.

If the chief of fire prevention shall, upon inspection, determine that the firefighting equipment provided on the premises is inadequate or insufficient, or if he shall find that the equipment for firefighting in the building, premises or structure is not in good working condition, he shall by an order in writing, direct the owner or person in control of the premises to comply with such order to procure such equipment as he may designate, or to put the equipment in working condition with all reasonable dispatch.

Section 9-20-2-11. Straw, Hay, Lumber, Etc.; Stacking.

No hay, grain, straw, rubbish, lumber or other combustible material shall be stacked, piled or placed within the fire limits of the city, except that the same be placed in a building provided for the storage of same and a permit secured therefore from the chief of fire prevention or his representative.

Section 9-20-2-12. Gasoline and Oil Storage.

No person shall store or keep in any building or structure within the fire limits of the city any gasoline, benzene or inflammable fluid in excess of fifty (50) gallons unless the same is stored or kept within such fire limits when contained in steel barrels tightly closed, and in cans, bottles or containers designed for the sale or for the service of motor vehicles.

Section 9-20-2-13. Notice for Building or Combustible Materials Declared a Nuisance.

Any building erected or combustible materials piled contrary to provisions of this Article are declared to be a nuisance; and any hay, grain, straw, rubbish, lumber or other combustible material that may be piled, placed or stacked within said fire limits contrary to this article, shall be and is hereby declared a nuisance, and the chief of fire prevention shall upon information thereof give twenty-four (24) hours' notice to the owner, builder or person in control of the premises of such nuisance, such notice to be in writing, and upon failure of any such persons to comply with such notice, the city shall direct the removal or tearing down of such buildings or structures or piles of hay, grain, straw, rubbish or other combustible materials, and the city shall forthwith execute such order and shall report the cost and expense thereof. Such cost may be collected from the owner, builder or person in control of such nuisance by suit in the name of the city, before any court having jurisdiction. The same may be assessed against the premises upon which such nuisance was located and collected in due course as a special assessment.

CHAPTER 9-20-3
EXCAVATION AND GRADING

Section 9-20-3-1. Purposes.
Section 9-20-3-2. Reference to Regulations.
Section 9-20-3-3. Debris from Construction Sites.
Section 9-20-3-4. Daily Clearing of Debris; Performance Bond.
Section 9-20-3-5. Geologic Report.
Section 9-20-3-6. License Required.

Section 9-20-3-1. Purposes.

Soil erosion and sediment deposition onto lands and into waters in the city are occurring as a result of land clearing, excavation, filling, grading, and construction activities. Such erosion and sediment deposition results in pollution of county waters and damage to domestic agricultural, recreational, fish and wildlife, and other resource uses. This chapter establishes uniform rules and regulations for excavation, filling, and grading activities for all sites with the city and provides for administration and enforcement of such rules and regulations.

Section 9-20-3-2. Reference to Regulations.

The rules and regulations for excavation, filling, and grading activities shall in addition to this chapter include Articles 9-13 and 9-14 of this Unified Land Development Code.

Section 9-20-3-3. Debris from Construction Sites.

A permit issued by the city for excavation, grading, or land development, as required by Chapter 9-13-7 of this Unified Land Development Code, shall require the owner of the property or his representative to prevent the scattering of earth, rock, vegetation and other debris upon public streets, drainage systems, or private property is restricted or disrupted from normal use or operation or in any way damaged, made unsightly or unsafe by the collection or deposit of mud earth, rock, vegetation or other debris originating at or dislodged by clearing, grading, or construction activities at the construction site.

Section 9-20-3-4. Daily Clearing of Debris; Performance Bond.

Land development permits shall further require the property owner or his representative to completely clear, unclog and clean any public street or drainage system so affected by clearing, grading or construction activities at the end of each work day and at such other times as so required by the public works department. The property owner or his representative shall be held responsible for violations of this section for a period of not less than two (2) years after the permit is issued; or, after two (2) years, until such time as the property is returned to a stable condition as determined by the public works department. A certificate of completion shall be issued to the applicant after the official makes the determination. Each applicant will provide a performance bond, letter of escrow, irrevocable letter of credit, or other satisfactory security on a form approved by the city manager to ensure that authorized work is accomplished in accordance with the approved permits. The amount is to be determined by the public works department.

Section 9-20-3-5. Geologic Report.

Unique sites including extreme cuts/fills, rock blasting, faulting, unstable soils, or other similar geotechnical problems may be required to submit a geologic report certified by a professional engineer registered in the State of Georgia. Such report shall address monitoring during construction phrase, if required, and shall comply with the latest edition of the "Manual for Erosion and Sediment Control in Georgia," published by the Georgia Soil and Water Conservation Commission, as amended.

Section 9-20-3-6. License Required.

Contractors or builders conducting excavation, grading, and filling projects in the city that are not exempted under the provisions of the Unified Land Development Code shall comply with Chapter 6-2 of the Gainesville Code of Ordinances.

CHAPTER 9-20-4
STRUCTURES DANGEROUS TO PUBLIC HEALTH

Section 9-20-4-1. Findings of the Existence of Nuisances.
Section 9-20-4-2. Definitions.
Section 9-20-4-3. Maintenance Duties.
Section 9-20-4-4. Appointment of Public Officer.
Section 9-20-4-5. Procedures for Determining Premises to be Unsafe or Unhealthful.
Section 9-20-4-6. Officer Determination of Nuisance.
Section 9-20-4-7. Powers of Public Officers.
Section 9-20-4-8. Service of Complaints.
Section 9-20-4-9. Use of Other Ordinances as Nuisance Abatement Procedures.
Section 9-20-4-10. Injunctions.
Section 9-20-4-11. Taking of Unfit Buildings or Structures by Eminent Domain; Police Power.
Section 9-20-4-12. Authority to Use Revenues, Grants, and Donations to Repair, Close, or Demolish Unfit Buildings or Structures.

Section 9-20-4-1. Findings of the Existence of Nuisances.

(a) The governing authority of the city finds and declares that within the city limits there is the existence or occupancy of dwellings or other buildings or structures which are unfit for human habitation or for commercial, industrial, or business occupancy or use and not in compliance with applicable state minimum standard codes as adopted by ordinance or operation of law or any optional building, fire, life safety, or other codes relative to the safe use of real property and real property improvements adopted by ordinance in the city; or general nuisance law and which constitute a hazard to the health, safety, and welfare of the people of the city and the state; and that a public necessity exists for the repair, closing, or demolition of such dwellings, buildings, or structures.

(b) It is further found and declared that in the city where there is in existence a condition or use of real estate which renders adjacent real estate unsafe or inimical to safe human habitation, such use is dangerous and injurious to the health, safety, and welfare of the people of the city and a public necessity exists for the repair of such condition or the cessation of such use which renders the adjacent real estate unsafe or inimical to safe human habitation. The governing authority of the city finds that there exist in the city dwellings, buildings, or structures which are unfit for human habitation or for commercial, industrial, or business uses due to dilapidation and which are not in compliance with applicable codes; which have defects increasing the hazards of fire, accidents, or other calamities; which lack adequate ventilation, light, or sanitary facilities; or other conditions exist rendering such dwellings, buildings or structure unsafe or unsanitary, or dangerous or detrimental to the health, safety, or welfare, or otherwise inimical to the welfare of the residents of the city, or vacant, dilapidated dwellings, buildings, or structures in which drug crimes are being committed, and private property exists constituting an endangerment to the public health or safety as a result of unsanitary or unsafe conditions to those persons residing or working in the vicinity of the property.

(c) It is the intention of the governing authority that this section shall comply with and does comply with O.C.G.A § 41-2-9(a) as a finding that conditions as set out in OCGA § 41-2-7 exist within the city.

Section 9-20-4-2. Definitions.

Applicable codes: (a) Any optional housing or abatement standard provided in Chapter 2 of Title 8 of the O.C.G.A. as adopted by ordinance or operation of law, or general nuisance law, relative to the safe use of real property; (b) any fire or life safety code as provided for in Chapter 2 of Title 25 of the O.C.G.A.; and (c) any building codes adopted by the city prior to October 1, 1991, or the minimum standard codes provided in O.C.G.A. Chapter 2 of Title 8 after October 1, 1991, provided that such building or minimum standard codes for real property improvements shall be deemed to mean those building or minimum standard codes in existence at the time such real property improvements were constructed unless otherwise provided by law.

City: The City of Gainesville, Georgia.

Closing: Causing a dwelling, building, or structure to be vacated and secured against unauthorized entry.

Drug crime: An act, which is a violation of O.C.G.A. Article 2 of Chapter 13 of Title 16, known as the Georgia Controlled Substances Act.

Dwellings, buildings, or structures: Any building or structure or part thereof used and occupied for human habitation or commercial, industrial, or business uses, or intended to be so used, and includes any outhouses, improvements, and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. The term "dwellings, buildings, or structures" shall not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.

Governing Authority: The city council of the City of Gainesville.

Owner: The holder of the title in fee simple and every mortgagee of record.

Parties in interest:

(a) Persons in possession of said property and premises;

(b) Persons having of record in the city in which the dwelling, building, or structure is located any vested right, title, or interest in or lien upon such dwelling, building, or structure or the lot, tract, or parcel of real property upon which the structure is situated or upon which the public health hazard or general nuisance exists based upon a fifty-year title examination conducted in accordance with the title standards of the State Bar of Georgia;

(c) Persons having paid an occupational tax to the city for a location or office at the subject building or structure; or

(d) Persons having filed a property tax return with the city as to the subject property, building, or structure.

Public authority: Any member of a governing authority, any housing authority officer, or any officer who is in charge of any department or branch of the government of the city, county, or state relating to health, fire, or building regulations or to other activities concerning dwellings, buildings, or structures in the county or municipality.

Public officer: The officer or officers who are authorized by O.C.G.A .§ 41-2-7, § 41-2-8 and §§ 41-2-9 through 41-2-17 and by this Chapter adopted under O.C.G.A. § 41-2-7, § 41-2-8, and §§ 41-2-9 through 41-2-17 to exercise the powers prescribed by this Chapter or any agent or designee of such officer or officers.

Repair: Altering or improving a dwelling, building, or structure so as to bring the structure into compliance with the applicable codes of the city and the cleaning or removal of debris, trash, and other materials present and accumulated which create a health or safety hazard in or about any dwelling, building, or structure.

Resident: Any person residing in the city on or after the date on which the alleged nuisance arose.

Section 9-20-4-3. Maintenance Duties.

It is the duty of the owner of every dwelling, building, structure, or property within the city to construct and maintain such dwelling, building, structure, or property in conformance with applicable codes in force within the city, or such ordinances which regulate and prohibit activities on property and which declare it to be a public nuisance to construct or maintain any dwelling, building, structure or property in violation of such codes or ordinances.

Section 9-20-4-4. Appointment of Public Officer.

The city council shall appoint or designate the chief building inspector, city fire marshal, city fire chief, city police chief, and his/her designees as public officer(s) to exercise the powers prescribed by this Chapter;

Section 9-20-4-5. Procedures for Determining Premises to be Unsafe or Unhealthful.

(a) Whenever a request is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any dwelling, building, or structure is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer shall make an investigation or inspection of the specific dwelling, building, structure, or property.

(b) If the officer's investigation or inspection identifies that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer may issue a complaint in rem against the lot, tract, or parcel of real property

on which such dwelling, building, or structure is situated or where such public health hazard or general nuisance exists and shall cause a summons and a copy of the complaint to be served on the owner and parties in interest in such dwelling, building, or structure.

(c) The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the owner of the parties in interest; state with particularity the factual basis for the action; and contain a statement of the action sought by the public officer to abate the alleged nuisance. The summons shall notify the owner and parties in interest that a hearing will be held before a court of competent jurisdiction as determined by O.C.G.A. § 41-2-5, at a date and time certain and at a place within the city. Such hearing shall be held not less than fifteen (15) days or more than forty-five (45) days after the filing of said complaint in court. The owner and parties in interest shall have the right to file an answer to the complaint and to appear in person or by attorney and offer testimony at the time and place fixed for hearing.

(d) If after such notice and hearing, the court determines that the dwelling, building, or structure in question is unfit for human habitation or is unfit for its current commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the court shall state in writing findings of fact in support such determination and shall issue and cause to be served upon the owner and any parties in interest that have answered the complaint or appeared at the hearing an order:

1. If the repair, alteration, or improvement of the said dwelling, building, or structure can be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to repair, alter, or improve such dwelling, building, or structure so as to bring it into full compliance with the applicable codes relevant to the cited violation and, if applicable, to secure the structure so that it cannot be used in connection with the commission of drug crimes; or

2. If the repair, alteration, or improvement of the said dwelling, building, or structure in order to bring it into full compliance with applicable codes relevant to the cited violations cannot be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to demolish and remove such dwelling, building, or structure and all debris from the property.

   For purposes of this section, the court shall make its determination of reasonable cost in relation the present value of the dwelling, building, or structure without consideration of the value of the land on which the structure is situated; provided, however, that costs of the preparation necessary to repair alter, or improve a structure may be considered. The income and financial status of the owner shall not be factor in the court's determination. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a Georgia appraiser classification as provided in Chapter 39A of Title 43, of the O.C.G.A. qualified building contractors, or

qualified building inspectors without actual testimony presented. Costs of repair, alteration, or improvement of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes relevant to the cited violations in force in the jurisdiction.

(e) If the owner fails to comply with an order to repair or demolish the dwelling, building, or structure, the public officer may cause such dwelling, building, or structure, to be repaired, altered, improved, to be vacated and closed, or demolished. The public officer shall cause to be posted on the main entrance of the building, dwelling, or structure a placard with the following words:

> "This building is unfit for human habitation or commercial, industrial, or business use and does not comply with the applicable codes or has been ordered secured to prevent its use in connection with drug crimes or constitutes and endangerment to the public health or safety as a result of unsanitary or unsafe conditions. The use or occupation of this building is prohibited and unlawful."

(f) If the public officer has the structure demolished, reasonable effort shall be made to salvage reusable materials for credit against the cost of demolition. The proceeds of any moneys received from the sale of salvaged materials shall be used or applied against the cost of the demolition and removal of the structure, and proper records shall be kept showing application of sales proceeds. Any such sale of salvaged materials may be made without the necessity of public advertisement and bid. The public officer and the city are relieved of any and all liability resulting from or occasioned by the sale of any such salvaged materials, including, without limitation, defects in such salvaged materials.

(g) The amount of the cost of demolition, including all court costs, appraisal fees, administrative costs incurred by the tax commissioner, and all other costs necessarily associated with the abatement action, including restoration to grade of the real property after demolition, shall be a lien against the real property upon which such cost was incurred.

1. The Hall County Tax Commissioner shall have the power to attach a lean provided for in this section to the real property upon the filing of a certified copy of the order requiring repair, closure or demolition in the office of the clerk of superior court in Hall County and shall relate back to the date of the filing of the lis pendens notice required under subsection (g) of O.C.G.A. § 41-2-12. The clerk of superior court shall record and index such certified copy of the order in the deed records of Hall County and enter the lien on the general execution docket. The lien shall be superior to all other liens on the property, except liens for taxes to which the lien shall be inferior, and shall continue in force until paid. After filing a certified copy of the order with the clerk of superior court, the public officer shall forward a copy of the order and a final statement of costs to the Hall County Tax Commissioner. Upon receiving the final statement of costs the Hall County Tax Commissioner may collect the amount of the lien in conjunction with the collection of ad valorem taxes on the property and to collect the amount of the lien as if it were a real property ad valorem tax, using all methods available for collection [of the] real property ad valorem tax, including specifically Chapter 4

of Title 48 of the O.C.G.A.; provided, however that the limitation of O.C.G.A. § 48-4-78 which requires twelve (12) months of delinquency before commencing a tax foreclosure shall not apply. The Hall County Tax Commissioner at their discretion remit the amount collected to the city. Thirty (30) days after imposition of the lien, the unpaid lien amount shall bear interest and penalties in the same amount as applicable to interest and penalties on unpaid real property ad valorem taxes.

2. The Hall County Tax Commissioner at their discretion collect and retain an amount equal to the cost of administering a lien authorized by O.C.G.A. § 41-2-7 et seq. unless such costs are waived by resolution of Hall County, Georgia.

3. The city may waive and release any such lien imposed on property upon the owner of such property entering into a contract with the city agreeing to a timetable for rehabilitation of the real property of the dwelling, building, or structure on the property and demonstrating the financial means to accomplish such rehabilitation.

4. Where the abatement action does not commence in the superior court, review of a court order of the municipal court of the city requiring the repair, alteration, improvement, or demolition of a dwelling, building, or structure shall be by direct appeal to the superior court under O.C.G.A. § 5-3-29.

5. The public officers designated herein may issue citations for violations of state minimum standard codes, optional building, fire, life safety, and other codes adopted by ordinance, and conditions creating a public health hazard or general nuisance, and may seek to enforce such citation in court of competent jurisdiction prior to issuing a complaint in rem as provided in this section.

6. Nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

Section 9-20-4-6. Officer Determination of Nuisance.

(a) The public officer may determine, under existing ordinances, that a dwelling, building, or structure is unfit for human habitation or is unfit for its current commercial, industrial, or business use if he/she finds that conditions exist in such building, dwelling, or structure which are dangerous or injurious to the health, safety, or morals of the occupants of such dwelling, building, or structure; of the occupants of neighborhood dwellings, buildings, or structures; or of other residents of the city. Such conditions include the following (without limiting the generality of the foregoing):

1. Defects therein increasing the hazards of fire, accidents or other calamities;

2. Lack of adequate ventilation, light, or sanitary facilities;

3. Dilapidation;

4. Disrepair;

5. Structural defects;

6. Uncleanliness; and

7. Other additional standards, which may from time to time by adopted and referenced herein by ordinance amendment.

(b) The public officer may determine, under existing ordinances, that a dwelling, building, or structure is vacant, dilapidated, and being used in connection with the commission of drug crimes based upon personal observation or report of a law enforcement agency and evidence of drug crimes being committed.

Section 9-20-4-7. Powers of Public Officers.

The public officer(s) designated in this Chapter shall have the following powers:

(a) To investigate the dwelling conditions in the city in order to determine which dwellings, buildings, or structures therein are unfit for human habitation or are unfit for current commercial, industrial, or business use or are vacant, dilapidated, and being used in connection with the commission of drug crimes;

(b) To administer oaths and affirmations, to examine witnesses, and to receive evidence;

(c) To enter upon premises for the purpose of making examinations; provided, however, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(d) To appoint and fix the duties of such officers, agents, and employees as he or she deems necessary to carry out the purposes of this section; and

(e) To delegate any of his or her functions and powers under this section to such officers and agents as he or she may designate.

Section 9-20-4-8. Service of Complaints.

(a) Complaints issued by a public officer pursuant to this chapter shall be served in the following manner. In all cases, a copy of the complaint and summons shall be conspicuously posted on the subject dwelling, building, or structure within three (3) business days of filing of the complaint and at least ten (10) days prior to the date of the hearing. A copy of the complaint and summons shall be served in one (1) of the following ways:

1. Personal service upon each owner and party in interest if such parties are residents of Hall County. Service shall be perfected at least ten (10) days prior to the date of the hearing. Service may be made by the public officer designated to abate nuisances or by any law enforcement officer of the city; and a return of service, filed with the clerk of the appropriate court, shall be deemed sufficient proof that service was perfected;

2. Pursuant to the provisions of Article 5 of Chapter 4 of Title 48 of the O.C.G.A.; or

3. Statutory overnight delivery.

   If any owner or party in interest is a resident of this state but resides outside of the county, service shall be perfected by certified mail or statutory overnight delivery, return receipt requested, to the most recent address shown in the county tax filings and mailed at least fourteen (14) days prior to the date of the hearing.

(b) Nonresidents of this state, whose mailing address is known, shall be served by certified mail or statutory overnight delivery, return receipt requested, mailed at least fourteen (14) days prior to the date of the hearing. For nonresidents whose mailing address is unknown, a notice stating the date, time, and place of the hearing shall be published in the newspaper in which the sheriff's advertisements appear in such Hall County once a week for two (2) consecutive weeks prior to the hearing.

(c) In the event either the owner or any party in interest is a minor, estate, an incompetent person, or person laboring under disabilities, the guardian or other personal representative of such person shall be served and if such guardian or personal representative resides outside the county or is a nonresident of this state, he or she shall be served as provided for in subsection (f)(6) of this section. If such owner or party in interest has no guardian or personal representative, service shall be perfected by serving the judge of the probate court of the county wherein such property is located at least thirty (30) days prior to the date of the hearing which judge shall stand in the place of and protect the rights of such minor, estate, or incompetent person or appoint a guardian ad litem for such person.

(d) In the event of unknown persons or unborn remaindermen who are likely to have any rights in the property or interest or the proceeds thereof, the judge of the probate court of the county wherein such property or interest is located shall be personally served at least thirty (30) days prior to the date of the hearing, and it shall be the duty of the judge of the probate court to stand in the place of the protect the rights of such unknown parties or unborn remaindermen.

(e) In the event the whereabouts of any owner or party in interest is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence or if any owner or party in interest cannot, after due diligence, be served as provided in this section, the public officer shall make an affidavit to that effect and serve by publication in the manner provided in subsection (3) of this paragraph (f), and such publication shall be sufficient proof that service was perfected.

(f) A notice of lis pendens shall be filed in the office of the Clerk of Superior Court of Hall County. Such notice shall have the same force and affect as other lis pendens notices provided by law.

(g) Orders and other filings made subsequent to service of the initial complaint shall be served in the manner provided in this section on the owner and any party in interest who answers the complaint or appears at the hearing. Any party who fails to answer or appear at the hearing shall be deemed to have waived all further notice in the proceedings.

Section 9-20-4-9. Use of Other Ordinances as Nuisance Abatement Procedures.

Nothing in this chapter shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of any charter provision or ordinance or regulation, nor to prevent or punish violations thereof; and the powers conferred by this chapter shall be in addition to and supplemental to the powers conferred by any other law or ordinance.

Section 9-20-4-10. Injunctions.

Any person affected by an order issued by the public officer may petition to the superior court for an injunction restraining the public officer from carrying out the provision of the order and the court may, upon such petition, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that such person shall present such petition to the court within 15 days of the posting and service of the order of the public officer. De novo hearings shall be had by the court on petitions within 20 days. The Court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require; provided, however, that it shall not be necessary to file bond in any amount before obtaining a temporary injunction under this Code section.

Section 9-20-4-11. Taking of Unfit Buildings or Structures by Eminent Domain; Police Power.

Nothing in this Chapter shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of such property by the power of eminent domain under the laws of this state, nor as permitting any property to be condemned or destroyed except in accordance with the police power of this state.

Section 9-20-4-12. Authority to Use Revenues, Grants, and Donations to Repair, Close, or Demolish Unfit Buildings or Structures.

The City is authorized to make such appropriations from its revenues as it may deem necessary and may accept and apply grants or donations to assist it in carrying out the provisions of ordinances adopted in connection with the exercise of the powers granted under this Chapter.

CHAPTER 9-20-5
THE BUILDING OFFICIAL

Section 9-20-5-1. Enforcement and Interpretation.
Section 9-20-5-2. Applications and Permits.
Section 9-20-5-3. Notices and Orders.
Section 9-20-5-4. Inspections.
Section 9-20-5-5. Identification.
Section 9-20-5-6. Right of Entry.
Section 9-20-5-7. Department Records.
Section 9-20-5-8. Duties.
Section 9-20-5-9. Other State Law Authorization.
Section 9-20-5-10. Cooperation of Other Officials.
Section 9-20-5-11. Appointment.
Section 9-20-5-12. Creation of Enforcement Agency.
Section 9-20-5-13. Deputies.
Section 9-20-5-14. Approved Materials and Equipment.
Section 9-20-5-15. Modifications.
Section 9-20-5-16. Alternative Materials and Construction Methods.
Section 9-20-5-17. Tests.

Section 9-20-5-1. Enforcement and Interpretation.

The Building Official is hereby authorized and directed to enforce the provisions of this Article and all of the codes adopted in this Article. The Building Official shall have the authority to render interpretations of this Article and the codes adopted in this Article and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this Article. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

Section 9-20-5-2. Applications and Permits.

The Building Official shall receive applications, review construction documents and issue permits for the erection and alteration, demolition and moving of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this Article and the codes adopted in this Article.

Section 9-20-5-3. Notices and Orders.

The Building Official shall issue all necessary notices or orders to ensure compliance with this Article and the codes adopted in this Article.

Section 9-20-5-4. Inspections.

Inspections required under the provisions of the building code shall be made by the Building Official or his duly appointed assistant. The Building Official may accept reports of inspectors and recognized inspection services after investigation of their qualifications and reliability. Any such reports of inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Building Official is authorized to engage

such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority. No certificate called for by any provision of the building code shall be issued on such reports unless the same are in writing and certified to by a responsible inspector or such service.

Section 9-20-5-5. Identification.

The Building Official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

Section 9-20-5-6. Right of Entry.

Where it is necessary to make an inspection to enforce the provisions of this code, or where the Building Official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this code which makes the structure or premises unsafe, dangerous or hazardous, the Building Official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises were unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Building Official shall have recourse to the remedies provided by law to secure entry.

Section 9-20-5-7. Department Records.

The Building Official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for retention of public records.

Section 9-20-5-8. Duties.

The Building Official shall devote his whole time to the duties of this office. He shall receive applications required by this code, issue permits, and furnish the prescribed certificates. He shall examine premises for which permits have been issued and shall make necessary inspections to see that the provisions of law are complied with and that construction is prosecuted safely. He shall enforce all provisions of the building code and other codes adopted in this Article. He shall, when required by the proper authority, or when the public interest so requires, make investigations in connection with matters referred to in the building code and render written reports on the same. To enforce compliance with law, to remove illegal or unsafe conditions, to secure the necessary safeguards during construction, or to require adequate exit facilities in buildings and structures, he shall issue such notices or orders as may be necessary.

Section 9-20-5-9. Other State Law Authorization.

The City Building Official is authorized to do any act or take any action, which is authorized by the State Construction Industry Licensing Board Act.

Section 9-20-5-10. Cooperation of Other Officials.

The Building Official may request and shall receive so far as may be necessary, in the discharge of his duties, the assistance and cooperation of other officials of the City.

Section 9-20-5-11. Appointment.

The Building Official shall be appointed by the City Manager.

Section 9-20-5-12. Creation of Enforcement Agency.

The department of building safety is hereby created and the official in charge thereof shall be known as the Building Official.

Section 9-20-5-13. Deputies.

In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the City Manager, the Building Official shall have the authority to appoint a deputy building official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the Building Official. For the maintenance of existing properties, see the International Property Maintenance Code.

Section 9-20-5-14. Approved Materials and Equipment.

Materials, equipment and devices approved by the Building Official shall be constructed and installed in accordance with such approval. The use of used materials, which meet the requirements of this code for new materials, is permitted. Used equipment and devices shall not be reused unless approved by the Building Official.

Section 9-20-5-15. Modifications.

Wherever there are practical difficulties involved in carrying out the provisions of this code, the Building Official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Building Official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

Section 9-20-5-16. Alternative Materials and Construction Methods.

The provisions of this Article and the codes adopted in this Article are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this Article or a code adopted here under, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the Building Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this Article and the intent of the applicable code adopted by this Article, and that the material, method or work offered is, for the purpose intended, at least the

equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

Section 9-20-5-17. Tests.

Whenever there is insufficient evidence of compliance with the provisions of this Article, or evidence that a material or method does not conform to the requirements of this Article or the codes adopted here under, or in order to substantiate claims for alternative materials or methods, the Building Official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this Article or by other recognized test standards. In the absence of recognized and accepted test methods, the Building Official shall approve the testing procedures. Tests shall be performed by an approved agency. The Building Official shall retain reports of such tests for the period required for retention of public records.

CHAPTER 9-20-6
PERMITS AND EXEMPTIONS

Section 9-20-6-1. Permits Required.
Section 9-20-6-2. Permit Exemptions Generally.
Section 9-20-6-3. Exemptions from Building Permit.
Section 9-20-6-4. Exemptions from Electrical Permit.
Section 9-20-6-5. Exemption from Gas Code.
Section 9-20-6-6. Exemptions from Mechanical Permit
Section 9-20-6-7. Exemptions from Plumbing Permit.
Section 9-20-6-8. Permit Application Requirements.
Section 9-20-6-9. Action on Permit Application.
Section 9-20-6-10. Time Limitation of Application.
Section 9-20-6-11. Validity of Permit.
Section 9-20-6-12. Expiration.
Section 9-20-6-13. Suspension or Revocation.
Section 9-20-6-14. Placement of Permit.

Section 9-20-6-1. Permits Required.

Any owner or authorized agent who intends 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 a code adopted in this Article, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit.

Section 9-20-6-2. Permit Exemptions Generally

Exemptions from permit requirements of this Article and codes adopted in this Article shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this Article, codes adopted hereunder, or any other laws or ordinances of the City of Gainesville.

Section 9-20-6-3. Exemptions from Building Permit.

Building permits shall not be required for the following:

(a) One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet.

(b) Fences not over 6 feet (1829 mm) high.

(c) Oil derricks.

(d) Retaining walls which are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids.

(e) Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18 927 L) and the ratio of height to diameter or width does not exceed 2 to 1.

(f) Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.

(g) Temporary motion picture, television and theater stage sets and scenery.

(h) Prefabricated swimming pools accessory to a Group R-3 occupancy, as applicable in Section 101.2 which are less than 24 inches (610 mm) deep, do not exceed 5,000 gallons (19 000 L) and are installed entirely above ground.

(i) Shade cloth structures constructed for nursery or agricultural purposes and not including service systems.

(j) Swings and other playground equipment accessory to one- and two-family dwellings.

(k) Window awnings supported by an exterior wall of Group R-3 as applicable in Section 101.2, and Group U occupancies.

(l) Movable cases, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

Section 9-20-6-4. Exemptions from Electrical Permit.

Electrical permits shall not be required for the following:

(a) Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

(b) Radio and television transmitting stations: The provisions of this code shall not apply to electrical equipment used for radio and television transmissions, but does apply to equipment and wiring for power supply, the installations of towers and antennas.

(c) Temporary testing systems: A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

Section 9-20-6-5. Exemption from Gas Code.

Replacement of any minor part of a portable heating appliance that does not alter approval of equipment or make such equipment unsafe is exempt from a gas code permit.

Section 9-20-6-6. Exemptions from Mechanical Permit.

Where equipment and appliance replacements or repairs must be performed in an emergency situation, the permit application shall be submitted with the next working business day of the department of mechanical inspection.

Mechanical permits shall not be required for the following:

(a) Portable heating appliances;

(b) Portable ventilation appliances and equipment;

(c) Portable cooling units;

(d) Steam, hot water or chilled water piping within any heating or cooling equipment or appliances regulated by this code;

(e) The replacement of any minor part that does not alter the approval of equipment or an appliance or make such equipment or appliance unsafe;

(f) Portable evaporative coolers; and

(g) Self-contained refrigeration systems that contain 10 pounds (4.5kg) or less of refrigerant, or that are actuated by motors of 1 horsepower (0.75kW) or less.

Exemption from the permit requirements of this code shall not be deemed to grant authorization for work to be done in violation of the provisions of this code or other laws or ordinances of this jurisdiction.

Section 9-20-6-7. Exemptions from Plumbing Permit.

Plumbing permits shall not be required for the following:

(a) The stopping of leaks in drains, water, soil, waste or vent pipe; provided, however, that if any concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.

(b) The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

Section 9-20-6-8. Permit Application Requirements.

To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished by the department of building safety for that purpose. Such application shall:

(a) Identify and describe the work to be covered by the permit for which application if made.

(b) Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.

(c) Indicate the use and occupancy for which the proposed work is intended.

(d) Be accompanied by construction documents and other information as required by the Building Official.

(e) State the valuation of the proposed work.

(f) Be signed by the applicant, or the applicant's authorized agent.

(g) Give such other data and information as required by the Building Official.

(h) Include payment of a Development Impact Fee is required by Article 9-19 of this Unified Land Development Code. No building permit shall be issued until of unless the Impact Fee Administrator, as established in Article 9-19 of this Unified Land Development Codes, has found the building permit application to be in compliance with said Article 9-19 and has authorized the issuance of said building permit.

Section 9-20-6-9. Action on Permit Application.

The Building Official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the Building Official shall reject such application in writing, stating the reasons therefore. If the Building Official is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the Building Official shall issue a permit therefore as soon as practicable.

Section 9-20-6-10. Time Limitation of Application.

An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the Building Official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be required in writing and justifiable cause demonstrated.

Section 9-20-6-11. Validity of Permit.

The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the Building Official from requiring the correction of errors in the construction documents and other date. The Building Official is also authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances of this jurisdiction.

Section 9-20-6-12. Expiration.

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The Building Official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

Section 9-20-6-13. Suspension or Revocation.

The Building Official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

Section 9-20-6-14. Placement of Permit.

The building permit or copy shall be kept on the site of the work until the completion of the project.

CHAPTER 9-20-7
CONSTRUCTION DOCUMENTS

Section 9-20-7-1. Submittal Documents.
Section 9-20-7-2. Exception
Section 9-20-7-3. Information on Construction Documents.
Section 9-20-7-4. Site Plan.
Section 9-20-7-5. Examination of Documents.
Section 9-20-7-6. Approval of Construction Documents.
Section 9-20-7-7. Previous Approvals.
Section 9-20-7-8. Phased Approved.
Section 9-20-7-9. Design Professional in Responsible Charge.
Section 9-20-7-10. Deferred Submittals.
Section 9-20-7-11. Amended Construction Documents.
Section 9-20-7-12. Retention of Construction Documents.

Section 9-20-7-1. Submittal Documents.

Construction documents, special inspection and structural observation programs, and other data shall be submitted in one or more sets with each application for a permit. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the Building Official is authorized to require additional construction documents to be prepared by a registered design professional.

Section 9-20-7-2. Exception.

The Building Official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that reviewing of construction documents is not necessary to obtain compliance with this code.

Section 9-20-7-3. Information on Construction Documents.

Construction documents shall be dimensioned and drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the Building Official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and relevant laws, ordinances, rules and regulations, as determined by the building official.

(a) Fire protection system shop drawings. Shop drawings for the fire protection system(s) shall be submitted to indicate conformance with this code and the construction documents and shall be approved prior to the start of system installation. Shop drawings shall contain all information as required by the referenced installation standards in Chapter 9.

(b) Means of egress. The construction documents shall show in sufficient detail the location, construction, size and character of all portions of the means of egress in compliance with the provisions of this code. In other than occupancies in Groups

R-2 and R-3 as applicable in Section 101.2 of the International Building Code, the construction documents shall designate the number of occupants to be accommodated on every floor, and in all rooms and spaces.

(c) Exterior wall envelope. Construction documents for all buildings shall describe the exterior wall envelope in sufficient detail to determine compliance with this code. The construction documents shall provide details of the exterior wall envelope as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves, or parapets, means of drainage, water-resistive membrane, and details around openings.

The construction documents shall include manufacturing installation instructions that provide supporting documentation that the proposed penetration and opening details described in the construction documents maintain the weather resistance of the exterior wall envelope. The supporting documentation shall fully describe the exterior wall system, which was tested, where applicable, as well as the test procedure used.

Section 9-20-7-4. Site Plan.

The construction documents submitted with the application for permit shall be accompanied by a site plan showing to scale the size and location of new construction and existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The Building Official is authorized to waive or modify the requirement for a site plan when the application for permit is for alteration or repair or when otherwise warranted.

Section 9-20-7-5. Examination of Documents.

The Building Official shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this Article and other pertinent laws or ordinances.

Section 9-20-7-6. Approval of Construction Documents.

When the Building Official issues a permit, the construction documents shall be approved, in writing or by stamp, as “Reviewed for Code Compliance.” The Building Official shall retain one set of construction documents so reviewed. The other set shall be returned to the applicant, shall be kept at the site of work, and shall be open to inspection by the Building Official or his authorized representative.

Section 9-20-7-7. Previous Approvals.

This Article shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.

Section 9-20-7-8. Phased Approved.

The Building Official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted.

Section 9-20-7-9. Design Professional in Responsible Charge.

(a) When it is required that documents be prepared by a registered design professional, the Building Official shall be authorized to require the owner to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge. The Building Official shall be notified in writing by the owner if the registered design professional in responsible charge is changed or is unable to continue to perform the duties.

(b) The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building.

(c) Where structural observation is required by Section 1709 of the International Building Code, as amended, the inspection program shall name the individual or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur. See also duties specified in Section 1704 of the International Building Code, as amended.

Section 9-20-7-10. Deferred Submittals.

For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted at the time of the application and that are to be submitted to the Building Official within a specified period.

Deferral of any submittal items shall have the prior approval of the Building Official. The registered design professional in responsible charge shall list the deferred submittals on the construction documents for review by the Building Official.

Submittal documents for deferred submittal items shall be submitted to the registered design professional in responsible charge that shall review them and forward them to the Building Official with a notation indicating that the deferred submittal documents have been reviewed and that they have been found to be in general conformance with the design of the building. The deferred submittal items shall not be installed until their design and submittal documents have been approved by the Building Official.

Section 9-20-7-11. Amended Construction Documents.

Work shall be installed in accordance with the reviewed construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as am amended set of construction documents.

Section 9-20-7-12. Retention of Construction Documents.

The Building Official shall retain one set of approved construction documents for a period of not less than 180 days from date of completion of the permitted work, or as required by state or local laws.

CHAPTER 9-20-8
TEMPORARY STRUCTURES AND USES.

Section 9-20-8-1. Generally.
Section 9-20-8-2. Conformance.
Section 9-20-8-3. Temporary Power.
Section 9-20-8-4. Termination of Approval.

Section 9-20-8-1. Generally.

The Building Official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 180 days. The Building Official is authorized to grant extensions for demonstrated cause.

Section 9-20-8-2. Conformance.

Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary equipments of this code as necessary to ensure the public health, safety and general welfare.

Section 9-20-8-3. Temporary Power.

The Building Official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in the NEC Electrical Code.

Section 9-20-8-4. Termination of Approval.

The Building Official is authorized to terminate such permit for a temporary structure or use and to order the temporary structure or use to be discontinued.

CHAPTER 9-20-9
FEES

Section 9-20-9-1. Payment of Fees.
Section 9-20-9-2. Schedule of Permit Fees.
Section 9-20-9-3. Building Permit Valuations.
Section 9-20-9-4. Related Fees.
Section 9-20-9-5. Refunds.

Section 9-20-9-1. Payment of Fees.

A permit shall not be valid until the fees prescribed by law have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

Section 9-20-9-2. Schedule of Permit Fees.

On buildings, structures, electrical, gas, mechanical and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established by the City Council. In addition, if required by Article 9-19 of this Unified Land Development Code, applicants for building permits shall pay a development impact fee as specified in said Article."

Section 9-20-9-3. Building Permit Valuations.

The applicant for a permit shall provide an estimated permit value at time of application. Permit valuations shall include total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems. If, in the opinion of the Building Official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the Building Official. Final building permit valuation shall be set by the Building Official.

Work commencing before permit issuance. Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to an additional fee established by the Building Official that shall be in addition to the required permit fees.

Section 9-20-9-4. Related Fees.

The payment of the fee for the construction, alteration, removal or demolition for work done in connection with or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

Section 9-20-9-5. Refunds.

The Building Official is authorized to establish a refund policy; provided, however, that this shall not authorize the Building Official to establish refund policies for development impact fees collected pursuant to Article 9-19 of this Unified Land Development Code. Refunds of development impact fees shall be authorized only by the Impact Fee Administrator in accordance with applicable provisions of Article 9-19 of this Unified Land Development Code."

CHAPTER 9-20-10
INSPECTIONS

Section 9-20-10-1. Generally.
Section 9-20-10-2. Preliminary Inspection.
Section 9-20-10-3. Required Inspections.
Section 9-20-10-4. Inspection Agencies.
Section 9-20-10-5. Inspection Requests.
Section 9-20-10-6. Approval Required

Section 9-20-10-1. Generally.

Construction or work for which a permit is required shall be subject to inspection by the Building Official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the Building Official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

Section 9-20-10-2. Preliminary Inspection.

Before issuing a permit, the Building Official is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

Section 9-20-10-3. Required Inspections.

The Building Official, upon notification, shall make the inspections set forth in Sections 109.3.1 through 109.3.10 of the Building Code.

(a) Footing or foundation inspection. Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94; the concrete need not be on the job.

(b) Concrete slab or under-floor inspection. Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the sub floor.

(c) Lowest floor elevation. The elevation certification required in Section 1612.5 of the International Building Code, as amended shall be submitted to the Building Official.

(d) Frame inspection. Framing inspections shall be made after the roof deck or sheathing, all framing, fire blocking and bracing are in place and pipes, chimneys

and vents to be concealed are complete and the rough electrical, plumbing, heating wires, pipes and ducts are approved.

(e) Lath or gypsum board inspection. Lath and gypsum board inspections shall be made after lathing and gypsum board, interior and exterior, is in place, but before any plastering is applied or before gypsum board joints and fasteners are taped and finished. Exception: Gypsum board that is not part of a fire-resistive assembly or a shear assembly.

(f) Fire-resistant penetrations. Protection of joints and penetrations in fire-resistance-rated assemblies shall not be concealed from view until inspected and approved.

(g) Other inspections. In addition to the inspections specified above, the Building Official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this code and other laws that are enforced by the department of building safety.

(h) Special inspections. For special inspections, see Chapter 17 of the International Building Code.

(i) Final Inspection. The final inspection shall be made after all work required by the building permit is completed.

Section 9-20-10-4. Inspection Agencies.

The Building Official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

Section 9-20-10-5. Inspection Requests.

It shall be the duty of the holder of the building permit or their duly authorized agent to notify the Building Official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspection of such work for any inspections that are required by this code.

Section 9-20-10-6. Approval Required.

Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the Building Official. The Building Official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or shall notify the permit holder or an agent of the permit holder wherein the same fails to comply with this Article. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the Building Official.

CHAPTER 9-20-11
CERTIFICATE OF OCCUPANCY

Section 9-20-11-1. Use and Occupancy.
Section 9-20-11-2. Change in Use.
Section 9-20-11-3. Certificate Issued.
Section 9-20-11-4. Temporary Occupancy.
Section 9-20-11-5. Revocation.
Section 9-20-11-6. Service Utilities.

Section 9-20-11-1. Use and Occupancy.

No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the Building Official has issued a certificate of occupancy therefore as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.

Section 9-20-11-2. Change in Use.

Changes in the character or use of an existing structure shall not be made except as specified in Chapter 34 of the International Building Code, as amended.

Section 9-20-11-3. Certificate Issued.

After the Building Official inspects the building or structure and finds no violations of the provisions of this code or other laws that are enforced by the department of building safety, the Building Official shall issue a certificate of occupancy that shall contain the following:

(a) The building permit number.

(b) The address of the structure

(c) The name and address of the owner.

(d) A description of that portion of the structure for which the certificate is issued.

(e) A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.

(f) The name of the building official.

(g) The edition of the code under which the permit was issued.

(h) The use and occupancy, in accordance with the provisions of Chapter 3 of the International Building Code, as amended.

(i) The type of construction as defined in Chapter 6 of the International Building Code, as amended.

(j) The design occupant load.

(k) If an automatic sprinkler system is provided, whether the sprinkler system is required.

(l) Any special stipulations and conditions of the building permit.

Section 9-20-11-4. Temporary Occupancy.

The Building Official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The Building Official shall set a time period during which the temporary certificate of occupancy is valid.

Section 9-20-11-5. Revocation.

The Building Official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

Section 9-20-11-6. 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 that is regulated by this code for which a permit is required, until released by the Building Official.

(b) Temporary connection. The Building Official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel or power.

(c) Authority to disconnect service utilities. The Building Official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the codes referenced in case of emergency where necessary to eliminate an immediate hazard to life or property. The Building Official shall notify the serving utility, and wherever 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.

CHAPTER 9-20-12
BUILDING BOARD OF APPEALS

Section 9-20-12-1. Generally.
Section 9-20-12-2. Limitations on Authority.
Section 9-20-12-3. Qualifications.

Section 9-20-12-1. Generally.

In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this code, there shall be and is hereby created a building board of appeals. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business. See Appendix “B” of the I. B. C., current edition, with Georgia amendments, adopted by the Board of Community Affairs of the State of Georgia.

Section 9-20-12-2. Limitations on Authority.

An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted there under have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.

Section 9-20-12-3. Qualifications.

The building board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.

CHAPTER 9-20-13
VIOLATIONS AND PENALTIES

Section 9-20-13-1. Violations.
Section 9-20-13-2. Notices.
Section 9-20-13-3. Stopping Work.
Section 9-20-13-4. Abatement.

Section 9-20-13-1. Violations.

Any person who shall violate any of the provision of this Article or fail to comply therewith, or who shall violate or fail to comply with any order made there under, or who shall build in violation of any detailed statement of specifications or plans submitted and approved there under, or any certificate or permit issued there under, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, and shall be punished as provided in Section 1-1-7 of this Gainesville Code of Ordinances. The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

Section 9-20-13-2. Notices.

Whenever the building inspection department is satisfied that systems, appliances or equipment, or any work in connection therewith that is covered by this Chapter, is being erected, installed, altered or repaired, in violation of the provisions or requirements of this Chapter, or in violation of plans or specifications submitted and approved there under, or a permit issued there under, it shall serve a written notice or order upon the person responsible therefore directing discontinuance of such illegal action and the remedying of the condition that is in violation of the provisions or requirements of this article.

In case such notice or order is not promptly complied with, the building inspection department shall notify the city manager that shall take appropriate action to correct or remove such violation.

Section 9-20-13-3. Stopping Work.

Whenever work is in progress which is, in the opinion of the Building Official, by reason of defective or illegal work in violation of a provision or requirement of this Chapter, the Building Official shall order, in writing, all further work to be stopped and may require suspension of all work until the condition in violation has been corrected.

Section 9-20-13-4. Abatement.

The imposition of the penalties prescribed in subsection (d) of this section shall not preclude the city from instituting an appropriate action or proceeding to prevent the unlawful erection,

installation, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate a violation, or to prevent the use of any systems, appliances or equipment covered by this Chapter, or to prevent any illegal act, conduct, business or use in or about any premises.

CHAPTER 9-20-14
ADDITIONAL PROVISIONS FOR BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

Section 9-20-14-1. Building Permit Required.
Section 9-20-14-2. Lot of Record.
Section 9-20-14-3. Land Development Permit.
Section 9-20-14-4. Environmental Health Approval.
Section 9-20-14-5. Water Supply Approval.
Section 9-20-14-6. Application Requirements for Building Permits.
Section 9-20-14-7. Review of Building Permit Application for Completeness.
Section 9-20-14-8. Review of Building Permit Application.
Section 9-20-14-9. Building Permit Approval.
Section 9-20-14-10. Related Permits.
Section 9-20-14-11. Building Inspection.
Section 9-20-14-12. Certificate of Occupancy Required.
Section 9-20-14-13. Occupancy Without Certificate is Unlawful.
Section 9-20-14-14. Connection to Electric Power.
Section 9-20-14-15. Suspension of Permits and Certificates.

Section 9-20-14-1. Building Permit Required.

A building permit issued by the Building Official is required in advance of the initiation of construction, erection, moving or alteration of any building or structure where the cost of such construction, erection, moving, or alteration, as estimated by the Building Official will be in excess of $300.00. All buildings and structures shall comply with the requirements of this Unified Land Development Code, whether or not a building permit is required.

Building permits for all buildings, structures and interior finishes shall be required and shall be issued after application and demonstration through building plans that the building, structure, or interior finish will meet all applicable requirements of the Life Safety Code and the various health and building codes of the City and as may be applicable.

Section 9-20-14-2. Lot of Record.

Building permits shall only be issued on lots of record, as defined in this Unified Land Development Code. If an application for building permit is received on a tract or parcel that is not a lot of record, the building permit applicant shall be required to subdivide the land in accordance with Article 9-13 of this Unified Land Development Code.

Section 9-20-14-3. Land Development Permit.

Prior to issuance of a building permit, the owner shall have received a land development permit if required by Chapter 9-13-7 of this Unified Land Development Code.

Section 9-20-14-4. Environmental Health Approval.

For any building, structure, or land development activity served by an on-site sewage disposal system, a permit shall be required and must be applied for and approved and issued by the Hall

County Environmental Health Department prior to issuance of a building permit. Said permit may require a plan showing the location of the sewage disposal system and other on-site improvements, in accordance with said Department's regulations.

Section 9-20-14-5. Water Supply Approval.

A building permit shall not be issued prior to issuance of a well permit by the Hall County Environmental Health Department or water meter approved by the Gainesville Public Utilities Department.

Section 9-20-14-6. Application Requirements for Building Permits.

Application for a building permit shall be made to the Building Official. Building permit applications shall include all information necessary as determined by the Building Official for thorough review and approval, and shall specifically include the following:

(a) Application form. Application on the form furnished by the Building Official, requesting issuance of a building permit.

(b) Fee. Payment of the building permit application and review fee, and payment of development impact fee(s) if required by Article 9-19 of this Unified Land Development Code.

(c) Plat or plan. For a single-family detached or two-family dwelling, a plat and one set of plans. For a multi-family or nonresidential building, a site plan upon which has been approved by the Planning Department.

(d) Building plans. Four (4) sets of the building architectural plans and three (3) sets of approved civil drawings from the Department of Planning and Development for principal multi-family or non-residential buildings prepared in conformance with this Unified Land Development Code and the applicable building codes. Plans shall be prepared by or under the supervision of, or reviewed and approved by, an architect registered in Georgia, who shall sign and seal each sheet in the original set of drawings.

(e) Zoning compliance. Prior to issuing a building permit, the Building Official shall require that the applicant for a building permit obtain zoning verification from and review for compliance with this Unified Land Development Code by the Planning Department. A copy of conditions of zoning, special use approval, or variance approval, and verification of zoning compliance shall be submitted, if applicable.

(f) Address. A street address number as assigned by the City.

(g) Septic tank approval by the Hall County Environmental Health Department. Evidence of approval by the Hall County Environmental Health Department if an on-site sewage disposal system has been allowed.

(h) Water meter receipt. Water meter receipt issued by the Public Utilities Department, if connection to city water is involved.

Section 9-20-14-7. Review of Building Permit Application for Completeness.

The application for building permit shall be checked by the Building Official for completeness at the time of submission. Incomplete applications will be returned to the applicant.

Section 9-20-14-8. Review of Building Permit Application.

Within two (2) weeks following receipt of a complete application, the Building Plans Review Officer shall indicate on one (1) copy of the building plans or in writing all comments related to compliance of the building plans with this applicable building codes, and any conditions of zoning, special use, or variance approval, and any other applicable requirements of this Unified Land Development Code. The Building Plans Review Officer shall seek the review by and approval of the State Fire Marshal prior to issuing a building permit. If changes are required to building plans, the owner shall be responsible for compliance with this Article and all building code requirements, regulations, and for the satisfaction of all of the comments of the Building Official and other administrative officers responsible for the review of building permits.

The time frames established by this Chapter for the issuance of building permits shall not apply to the extent that compliance with Article 9-19 of this Unified Land Development Code relative to payment of development impact fees has not been accomplished within the time frames established by this Chapter.

Section 9-20-14-9. Building Permit Approval.

A building permit shall be issued for the building or structure when the owner has addressed the comments to the satisfaction of Building Official, State Fire Marshal, and other administrative officers responsible for the review of building permits, and upon demonstrating that the building or structure conforms with the technical codes adopted and amended by the City under Chapter 5-2 of its Code of Ordinances.

Section 9-20-14-10. Related Permits.

Plumbing, electrical and mechanical permits shall be issued separately by the Building Official or separately identified on the building permit. Such permits must be issued prior to commencement of work by each affected trade.

Section 9-20-14-11. Building Inspection.

Building inspections shall be conducted in accordance with the requirements and procedures of the City.

Section 9-20-14-12. Certificate of Occupancy Required.

A Certificate of Occupancy shall be required and must be issued by the Building Official prior to the occupancy or use of any new or newly renovated building or structure, in accordance with the procedures established in this Chapter. Specifically, a certificate of occupancy shall be required for the following activities (not exhaustive):

(a) Prior to occupancy and use of a building or structure, whether newly constructed or enlarged.

(b) Change in use of existing buildings to uses of a different classification.

(c) Any change in use of a nonconforming use.

Section 9-20-14-13. Occupancy Without Certificate is Unlawful.

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises or parts thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure, until a certificate of occupancy shall have been issued therefore by the Building Official stating that the proposed use of the building or land conforms to the requirements of this Unified Land Development Code and other applicable codes and ordinances adopted by the City.

Section 9-20-14-14. Connection to Electric Power.

Permanent electric power shall not be supplied to any building or structure until a certificate of occupancy shall have been issued and the power company provided with evidence of approval by the Building Official.

Section 9-20-14-15. Suspension of Permits and Certificates.

The Building Official may withhold, revoke, or suspend a building permit or certificate of occupancy when violations occur.

ARTICLE 9-21
BOARDS AND COMMISSIONS

CHAPTER 9-21-1 PLANNING AND APPEALS BOARD 21-1
CHAPTER 9-21-2 HISTORIC PRESERVATION COMMISSION 21-5

CHAPTER 9-21-1
PLANNING AND APPEALS BOARD

Section 9-21-1-1. Establishment and Continuation.
Section 9-21-1-2. Appointments, Terms of Office and Vacancies.
Section 9-21-1-3. Removal.
Section 9-21-1-4. Qualifications of Members and Mandatory Training
Section 9-21-1-5. Officers.
Section 9-21-1-6. Bylaws and Rules of Procedure.
Section 9-21-1-7. Meetings.
Section 9-21-1-8. Quorum.
Section 9-21-1-9. Voting.
Section 9-21-1-10. Secretary and Record of Proceedings.
Section 9-21-1-11. Dissemination and Posting of Actions.
Section 9-21-1-12. Powers and Duties.

Section 9-21-1-1. Establishment and Continuation.

The Planning and Appeals Board, as it existed on the effective date of this ordinance, shall continue in its present form and function. The Planning and Appeals Board shall consist of seven (7) members, who shall be residents of the city.

Section 9-21-1-2. Appointments, Terms of Office and Vacancies.

Members, including the chairperson, shall be appointed by the Governing Body to two-year terms, beginning on December 1st of the calendar year or as otherwise appointed. Members of the board serving on the Board on the effective date of this ordinance shall continue to serve until their term expires and their successors are appointed. When a position becomes vacant before the end of a term, the Governing Body shall appoint a new member for the duration of the term remaining. A member of the Planning and Appeals Board may be appointed to successive terms and shall continue to serve if their time expires until a successor is appointed.

Section 9-21-1-3. Removal.

A member may be removed from the Planning and Appeals Board by a majority vote of the Governing Body for cause, for absenteeism at three (3) successive called or regular meetings or absenteeism at six (6) such meetings in a calendar year, or for other reasons the Governing Body may deem appropriate.

Section 9-21-1-4. Qualifications of Members and Mandatory Training

In addition to being residents of the City, the Governing Body in its appointment of members to the Planning and Appeals Board shall be bound by the following:

(a) Two (2) members of the Planning and Appeals Board, other than the Chairperson, shall have experience or knowledge in the fields of real estate, land development, architectural design, landscape architecture, building construction, planning or a similar profession.

(b) Four (4) members of the Planning and Appeals Board, other than the Chairperson, shall be recognized community leaders having experience or knowledge in representing the interests of citizens, residential areas or non-profit organizations dedicated to public purposes.

(c) The Chairperson shall be a community leader who has demonstrated the ability to conduct meetings, organize debate and to act in the public interest of the City as a whole.

(d) Within one (1) year of initial appointment to the Planning and Appeals Board, the new member shall attend the Community Planning Institute or comparable training as determined by the Director of Planning and Development (adopted by Ordinance 2006-24 dated July 5, 2006).

The Governing Body shall make the sole determination as to the qualifications of any person in meeting the requirements for membership on the Planning and Appeals Board.

Section 9-21-1-5. Officers.

The Chairperson, as appointed by the Governing Body, shall preside over meetings when present. The Planning and Appeals Board shall elect a Vice Chairperson from among its members, who shall serve for one year or until re-elected or until his or her successor is elected. The Vice Chairperson shall preside at meetings in the absence of the Chairperson.

Section 9-21-1-6. Bylaws and Rules of Procedure.

The Planning and Appeals Board may adopt such by-laws, rules or procedures as appropriate and not in conflict with this Unified Land Development Code, the Zoning Procedures Act, or policies adopted by the Governing Body.

Section 9-21-1-7. Meetings.

The Planning and Appeals Board shall meet each month in accordance with the schedule of meeting dates and times approved by the Governing Body. Other meetings of the Planning and Appeals Board shall be held at the call of the Director if there is business to be brought before it, or at such other times as the Planning and Appeals Board may determine. All meetings of the Planning and Appeals Board shall be open to the public.

Section 9-21-1-8. Quorum.

A total of 4 Planning and Appeals Board members present shall constitute a quorum. A majority vote of the quorum shall be necessary to approve any decision or recommendation.

Section 9-21-1-9. Voting.

All Planning and Appeals Board members attending a meeting shall vote on each matter placed before it. A member may abstain from voting only in the instance of a conflict of interest, the nature of which must be stated for the record.

Section 9-21-1-10. Secretary and Record of Proceedings.

The Director of Planning and Development or his or her designee shall serve as secretary to the Planning and Appeals Board. The secretary shall cause summary minutes of its proceedings to be kept, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall cause records of its examinations and other official actions to be kept in the form of tape recordings, all of which shall be of public record.

Section 9-21-1-11. Dissemination and Posting of Actions.

The results of each Planning and Appeals Board meeting as to their actions and recommendations shall be forwarded by the Director of Planning and Development or his or her designee to the Governing Body, and they shall be posted in a public place at the Office of the Planning Department for a period of at least two (2) weeks following the Planning and Appeals Board meeting.

Section 9-21-1-12. Powers and Duties.

The Planning and Appeals Board shall have without limitation the following powers and duties:

(a) Recommendations on comprehensive plan. Review the provisions of the City's Comprehensive Plan from time to time, and to make such recommendations to the Governing Body as it deems appropriate concerning its adoption or amendment.

(b) Recommendations on annexation, rezoning and special use applications. Conduct a public hearing on each application for annexation, rezoning or special use approval, review the application in accordance with the standards and procedures set forth in this Unified Land Development Code and the Zoning Procedures Law (O.C.G.A. 36-66-1 et seq.), and make such recommendations to the Governing Body as it deems appropriate on each application.

(c) Recommendations on text amendments. Conduct a public hearing on proposals to amend any portion of Articles 9-1 through 9-11, Articles 9-16 through 9-18, and Articles 9-21 through 9-22 and 9-24 of this Unified Land Development Code in accordance with the standards and procedures set forth in this Unified Land Development Code and the Zoning Procedures Law (O.C.G.A. 36-66-1 et seq.). The Board may review any such proposed text review and make such recommendation to the Governing Body on such text amendments as it deems appropriate. The Planning and Appeals Board shall also consider text amendments to any other Articles of this Unified Land Development Code, if assigned such role or responsibility by the Governing Body.

(d) Initiation of rezoning applications and text amendments. Initiate on its own motion a zoning change or an amendment to the text of any article of this Unified Land Development Code when, in its determination, such changes are appropriate for consideration. Any initiation by the Planning and Appeals Board must go through the normal public notification and application requirements as stated in Article 9-22 of the Unified Land Development Code.

(e) Decisions on variances. Conduct a public hearing and make a final decision in accordance with the procedures and provisions of this Unified Land Development Code on each application for a zoning variance or flood protection variance.

(f) Decisions on administrative appeals. Conduct a public hearing and make a final decision in accordance with the procedures and provisions of this Unified Land Development Code on each appeal of an administrative decision pursuant to this Code or an interpretation of the provisions of this Code by an administrative officer. In exercising these powers regarding an appeal of an administrative decision, the Planning and Appeals Board may reverse or affirm, wholly or partly, or may modify the order, requirements, decisions or determinations of the administrative official, and to that end shall have the power to direct issuance of a permit.

(g) Other powers. The Planning and Appeals Board shall also have such other powers, duties or responsibilities assigned to it by the Governing Body, explicitly assigned by this Unified Land Development Code, or reasonably implied by Code.

CHAPTER 9-21-2
HISTORIC PRESERVATION COMMISSION

Section 9-21-2-1. Definitions.
Section 9-21-2-2. Establishment and Continuation.
Section 9-21-2-3. Appointments, Qualifications, Terms, Vacancies, Compensation, and Mandatory Training.
Section 9-21-2-4. Disqualification and Removal.
Section 9-21-2-5. Rules and Standards.
Section 9-21-2-6. Meetings.
Section 9-21-2-7. Quorum.
Section 9-21-2-8. Officers.
Section 9-21-2-9. Voting.
Section 9-21-2-10. Conflicts of Interest.
Section 9-21-2-11. Secretary and Records of Proceedings.
Section 9-21-2-12. Dissemination and Posting of Actions.
Section 9-21-2-13. Powers, Duties and Responsibilities.
Section 9-21-2-14. Limitation on Powers.

Section 9-21-2-1. Definitions.

Commission: The Historic Preservation Commission of the City of Gainesville, Georgia.

Designation: a decision by the Governing Body to designate a district or individual landmark as "historic" and thereafter prohibit all material changes in appearance prior to the issuance of a Certificate of Appropriateness.

Historic district: A geographically definable area which contains structures, sites, works of art or a combination thereof which exhibit a special historical, architectural, or environmental character as designated by the Governing Body.

Historic preservation jurisdiction: All properties lying within the municipal limits of the City of Gainesville, Hall County, Georgia.

Historic landmark: An individual structure, site, or work of art which exhibits a special historical, architectural, or environmental character as designated by the Governing Body.

Section 9-21-2-2. Establishment and Continuation.

There is hereby created a commission, the title of which shall be "Gainesville Historic Preservation Commission" (hereinafter referred to as the “Historic Preservation Commission”); which shall be considered a part of the planning functions of the City. The Commission as it existed on the effective date of this Unified Land Development Code shall continue in full force and function.

Section 9-21-2-3. Appointments, Qualifications, Terms, Vacancies and Compensation.

(a) Appointments. The Preservation Commission shall consist of five (5) voting members appointed by the Governing Body. The Governing Body may also appoint

a citizen to serve as an ex-officio, non-voting member who serves in an advisory capacity only.

(b) Qualifications. All members whether voting or ex-officio shall reside within the city limits of Gainesville, and a majority shall be either persons who have demonstrated special interest, experience or education in history, architecture or the preservation of historic resources; or persons who are among professionals in such related disciplines.

(c) Terms of office. Voting members shall serve staggered three-year terms; and may be reappointed. In order to achieve staggered terms, initial appointments shall be: one member for one year; two members for two years; and two members for three years. Historic Preservation Commission members shall serve until their terms expire or until re-appointed or until their successors are appointed. Ex-officio, non-voting members shall serve a one-year term, until their term expires, or until re-appointed or until their successors are appointed.

(d) Vacancies. Should a vacancy exist in the membership, the Historic Preservation Commission shall continue to act with full authority, unless total Commission membership falls below a majority for the five-member board. The Governing Body shall be notified of the vacancy so that an appointment can be made to fill such vacancy for the remainder of the unexpired term.

(e) Compensation. All voting and ex-officio, non-voting members shall serve without compensation.

(f) Mandatory Training: Within one (1) year of initial appointment to the Historic Preservation Commission, the new member shall attend the Historic Preservation Commission Training or comparable training as determined by the Director of Planning and Development (adopted by Ordinance 2006-24 dated July 5, 2006).

Section 9-21-2-4. Disqualification and Removal.

A member may be removed from the Historic Preservation Commission by a majority vote of the Governing Body for cause, for absenteeism at three (3) successive called or regular meetings or absenteeism at six (6) such meetings in a calendar year, for relocation of his or her permanent residence outside the municipal limits of Gainesville, for violation of the Code of Conduct of the Historic Preservation Commission in the consideration of an application for a Certificate of Appropriateness or other responsibility under this Unified Land Development Code, or for other reasons the Governing Body may deem appropriate.

Section 9-21-2-5. Rules and Standards.

The Historic Preservation Commission, upon holding a public hearing and providing an opportunity for the public to comment, shall adopt rules and standards – including design and construction guidelines – for the transaction of business and for consideration of applications; and the Commission shall have the flexibility to adopt rules and standards, including design and construction guidelines, without amendment to this Unified Land Development Code.

Section 9-21-2-6. Meetings.

The Historic Preservation Commission shall provide for the time and place of regular meetings and a method for the calling of special meetings. The latest edition of Robert's Rules of Order shall determine the order of business.

Section 9-21-2-7. Quorum.

A quorum shall consist of a majority of the voting members. Should a vacancy exist in the membership, the Historic Preservation Commission shall continue to act with full authority, unless the number of voting members falls below the majority of members or quorum.

Section 9-21-2-8. Officers.

The Historic Preservation Commission shall select a Chairperson and Vice Chairperson.

The Chairperson shall be elected by the members of the Historic Preservation Commission from among their membership for a one-year term; elections shall be held annually at the first regularly scheduled meeting in July or at the next regular meeting thereafter. The Chairperson shall decide all points of order and procedure, subject to these bylaws and a modified version of the latest edition of *Robert's Rules of Order*.

The Vice Chairperson also shall be elected by the members of the Historic Preservation Commission from among their membership in the same manner as the Chairperson and shall be eligible for re-election. The Vice Chairperson shall serve as Acting Chairperson in the absence of the Chairperson, or when the Chairperson shall refrain from participation due to a conflict of interest, and shall have the same powers and duties as the Chairperson. Upon resignation or disqualification of the Chairperson, the Vice Chairperson shall assume the chairmanship for the remainder of the unexpired term. The Historic Preservation Commission shall elect a new Vice Chairperson at its next regular meeting.

Section 9-21-2-9. Voting.

All Historic Preservation Commission members attending a meeting shall vote on each matter placed before it. A member may abstain from voting only in the instance of a conflict of interest, the nature of which must be stated for the record following the procedures outlined in Section 9-21-2-10 below.

Section 9-21-2-10. Conflicts of interest.

No member shall participate in the consideration of or cast a vote on any issue before the Preservation Commission which involves an ownership, financial or professional interest of that individual or an organization in which that member has an ownership, financial or professional interest or position, or represents. No member shall participate in the consideration of or cast a vote on any matter which provides or could provide financial or professional benefit to that member. When a conflict of interest or the appearance of a conflict of interest arises, the following actions shall be taken:

(a) The individual member shall divulge in a brief statement on the public record the existence of and reasons for the potential conflict and abstain from voting.

(b) The affected member shall not present, vote or discuss the project other than answer a direct question.

Section 9-21-2-11. Secretary and Records of Proceedings.

A public record shall be kept of the Historic Preservation Commission's resolutions, proceedings and actions. The Director of Planning and Development, or his or her designee, shall serve as secretary to the Historic Preservation Commission. The secretary shall cause summary minutes of its proceedings to be kept, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall cause records of its examinations and other official actions to be kept in the form of tape recordings, all of which shall be of public record

Section 9-21-2-12. Dissemination and Posting of Actions.

The results of each Historic Preservation Commission meeting as to their actions and recommendations shall be forwarded by the Director of Planning and Development or his or her designee to the Governing Body, and they shall be posted in a public place at the Office of the Planning Department for a period of at least two (2) weeks following the Historic Preservation Commission meeting.

Section 9-21-2-13. Powers, Duties and Responsibilities.

The Historic Preservation Commission shall have the powers, duties and responsibilities enumerated in this Section. The Planning Department may assist the Historic Preservation Commission in fulfilling its powers, duties and responsibilities listed below, and to that end the Commission may delegate such powers, duties and responsibilities to the Planning Department.

(a) Work with the Planning Department staff, and outside consultant if services of one are retained, to prepare and maintain an inventory of all property within the historic preservation jurisdiction having the potential for designation as historic;

(b) Recommend to the Governing Body specific areas, sites, structures or works of art to be designated by ordinance as historic;

(c) Review applications for Certificates of Appropriateness, and grant or deny such applications in accordance with the provisions of Chapter 9-23-3 of this Unified Land Development Code;

(d) Recommend to the Governing Body that the designation of any area, site, structure or work of art as historic be revoked or removed, in accordance with the provisions of Chapter 9-23-2 of this Unified Land Development Code;

(e) Restore or preserve any historic properties acquired by the City;

(f) Promote the acquisition by the City of façade and conservation easements in accordance with the provisions of the "Georgia Uniform Conservation Easement Act" (O.C.G.A. Section 44-10-1 et seq.);

(g) Assist the Planning Department staff in conducting educational programs on historic properties located within the historic preservation jurisdiction;

(h) Make such investigations and studies of matters relating to historic preservation, including consultation with historic preservation experts;

(i) Upon review, provide a written statement as a Commission to the Planning Department staff concerning the nomination of properties within the City to the National Register of Historic Places;

(j) Perform historic preservation activities as the official agency of the City's historic preservation program; and

(k) Monitor the condition of designated historic properties and individual structures, sites or works of art located within a designated historic district to determine if a property is being allowed to deteriorate by neglect, and to fulfill its charges with regard to deterioration by neglect as assigned to it by this Unified Land Development Code.

The following powers, duties, and responsibilities shall be delegated specifically to the Planning Department staff to perform on behalf of the Historic Preservation Commission:

(a) The Director of Planning and Development, upon approval by the Governing Body and upon recommendation by and on behalf of the Historic Preservation Commission, shall have the authority to accept donations and may expend such finds (and keep records) consistent with historic preservation purposes and objectives, and shall ensure that these funds do not displace appropriated governmental funds if applicable;

(b) Make such investigations and studies of matters relating to historic preservation, including consultation with historic preservation experts;

(c) Conduct educational programs on historic properties located within the historic preservation jurisdiction;

(d) Seek out state and federal funds for historic preservation and make recommendations to the Governing Body concerning the most appropriate uses of any funds acquired;

(e) Submit to the Historic Preservation Section of the State Department of Natural Resources, or its successor, a list of historic districts and properties designated;

(f) Review and make comments, integrating the written statement of the Historic Preservation Commission, to the Historic Preservation Division of the State Department of Natural Resources concerning the nomination of properties within its jurisdiction to the National Register of Historic Places;

(g) Retain the services of an outside consultant or expert to carry out various functions, duties, or responsibilities of the Historic Preservation Commission;

(h) Receive donations, grants, funds or gifts of historic property, and to acquire or sell historic properties upon approval of the Governing Body; and

(i) Enter into negotiations with the owner for the acquisition by gift, purchase, exchange or otherwise of property upon approval of the Governing Body.

Section 9-21-2-14. Limitation on Powers.

The Historic Preservation Commission shall not have the power to obligate the city in any way without the concurrence of the Director of Planning and Development and prior approval of the Governing Body.

ARTICLE 9-22
APPLICATIONS AND PROCEDURES

CHAPTER 9-22-1	DEFINITIONS	22-1
CHAPTER 9-22-2	ZONING CHANGES AND SPECIAL USES	22-3
CHAPTER 9-22-3	ANNEXATIONS	22-16
CHAPTER 9-22-4	TRAFFIC IMPACT ANALYSIS	22-23
CHAPTER 9-22-5	DEVELOPMENT OF REGIONAL IMPACT	22-34
CHAPTER 9-22-6	ZONING VARIANCES	22-36
CHAPTER 9-22-7	APPEAL OF ADMINISTRATIVE DECISION	22-43
CHAPTER 9-22-8	TEXT AMENDMENTS	22-46
CHAPTER 9-22-9	PROCEDURES FOR CALLING AND CONDUCTING PUBLIC HEARINGS	22-50

CHAPTER 9-22-1
DEFINITIONS

Annexation: Annexation is the process by which a parcel of land is transferred from the jurisdiction of unincorporated Hall County to the jurisdiction of the City of Gainesville.

Applicant: A property owner or their authorized representative who has petitioned the City for approval of an application under the terms of this Article.

Application: A petition for approval of an application under the terms of this Article.

Concept Plan: A document submitted with an application regulated by this Article upon which the applicant has shown the intended development and its design. Approval of the application request shall not constitute approval of the concept plan; said plan must be adjusted according to the requirements listed for submittal of civil plans or building plans and reviewed by the appropriate departments for permitting.

Condition of Zoning Approval: A requirement adopted by the Governing Body at the time of approval of a rezoning, Special Use or zoning of annexed lands; placing greater or additional requirements or restrictions on the property than provided in this Unified Land Development Code in order to reduce an adverse impact of the request and to protect the public health, safety, or general welfare.

Director: The Director of the Gainesville Department of Planning and Development.

Presiding Official: The person chairing a meeting of the Planning and Appeals Board or the Governing Body in their official capacity.

Rezoning: An amendment to the Official Zoning Map, or an amendment to an overlay zone boundary, that changes the zoning district or overlay zone of one or more properties specified in an application. Rezoning also includes applications to change conditions of zoning approval.

Special Use: A use which is not automatically permitted by right, but which may be permitted within a zoning district subject to meeting specific requirements of this Unified Land Development Code.

Text Amendment: An amendment to the following articles of this Unified Land Development Code: Articles 9-1 through 9-24.

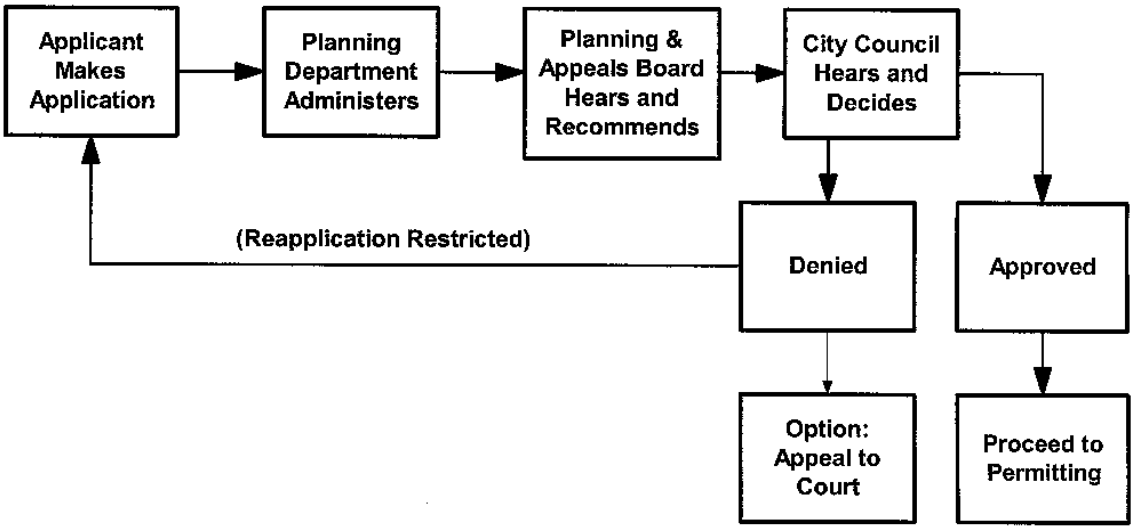
Variance: A relaxation of the terms of this title where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Unified Land Development Code would result in unnecessary and undue hardship, or practical difficulty.

Zoning Change: See definition for Rezoning.

CHAPTER 9-22-2
ZONING CHANGES AND SPECIAL USES

Section 9-22-2-1. Generally.
Section 9-22-2-2. Initiation.
Section 9-22-2-3. Requirements for Submittal.
Section 9-22-2-4. Concept Plan Requirements.
Section 9-22-2-5. Special Application Requirements for Planned Unit Developments.
Section 9-22-2-6. Notice of Public Hearing in Newspaper.
Section 9-22-2-7. Notice of Public Hearing by Sign on Property.
Section 9-22-2-8. Notice to Adjacent Property Owners.
Section 9-22-2-9. Special Notice Requirements.
Section 9-22-2-10. Investigations and Staff Recommendation.
Section 9-22-2-11. Planning and Appeals Board Public Hearing.
Section 9-22-2-12. Criteria to Consider for Rezoning and Special Use Applications.
Section 9-22-2-13. Additional Procedures and Criteria for Planned Unit Developments.
Section 9-22-2-14. Additional Criteria to Consider for Special Use Applications.
Section 9-22-2-15. Withdrawal and Waiting Period for Reapplication.
Section 9-22-2-16. Notice of Public Hearing by the Governing Body.
Section 9-22-2-17. Revision of Concept Plan.
Section 9-22-2-18. Action by Governing Body.
Section 9-22-2-19. Insufficient Basis for Denial.
Section 9-22-2-20. Decisions Involving Constitutional Challenges.
Section 9-22-2-21. Fast Track Process
Section 9-22-2-22. Incorporation Clause.

Overview of Process



Section 9-22-2-1. Generally.

The Official Zoning Map, and Overlay Zone Maps, may be amended from time to time and zoning amendments may be approved for specific properties by the Governing Body under the procedures in this Chapter. In addition, changes in the conditions of approval pertaining to a specific Rezoning or Special Use approval may also be approved by the Governing Body following the procedures in this Chapter. The procedures for Special Uses, which may be approved for specific properties, shall also be as provided in this Chapter.

Section 9-22-2-2. Initiation.

An application for a Rezoning or Special Use for any property or properties in the city may be initiated by the Governing Body, Planning and Appeals Board, owner of the property, or some other person(s) given authorization by property owner to file said application.

Any applicant wishing to submit an application for Rezoning or Special Use must schedule an appointment with the Planning Department staff in order to review the application for completeness. No such application shall be accepted for processing by the Director unless it meets the requirements of this Section. Incomplete or improper applications will be returned to the applicant. The Director is hereby authorized to establish administrative deadlines for the receipt of applications.

Any applicant wishing to file an application for a zoning change related to a planned unit development zoning district must schedule a conference with the Planning Department staff at least fifteen (15) days prior to filing an application and shall also submit the additional application materials specified in Section 9-22-2-5 of this Chapter.

Section 9-22-2-3. Requirements for Submittal.

All applications for a Rezoning or Special Use shall at a minimum consist of the following:

(a) Application form. A completed application. All applications shall be submitted to the Department of Planning and Development on the Department's application forms.

(b) Fee. All applications shall be accompanied by a non-refundable fee as fixed from time to time by the Governing Body. A fee shall not be charged if the Governing Body or the Planning and Appeals Board initiate the application.

(c) Plat or boundary survey. A plat or boundary survey of the property or properties involved in the application. Provide one (1) scaled and folded copy, and one (1) 8.5" x 11" or 11" x 17" reproducible size copy.

(d) Legal description. A paper copy and an electronic copy in Microsoft Word format of the legal description of the property that corresponds with the property or properties shown on the submitted boundary survey/plat.

(e) Written Narrative. A written narrative should indicate at a minimum:

1. The purpose of the request, proposed use, economic and environmental impacts as well as overlay zones or protection areas in which the property is located, such as the North Oconee Water Supply Watershed Protection Overlay Zone.

2. Any planned developments shall include a narrative which fully describes the concept plan and must include at a minimum the proposed use, setbacks, right-of-way widths, building heights, signage, whether the applicant wishes the City to maintain the road(s) as well as identify any overlay zones or protection areas such as the North Oconee Water Supply Watershed Protection Overlay Zone that may affect the use.

(f) Architectural renderings. Architectural renderings for any proposed new construction or exterior alterations of the existing structure(s), including at a minimum:

1. Roof pitch,
2. Materials to be used on exterior,
3. Basic landscaping proposed, and
4. Building elevations.

If the architectural rendering is in a color format or is larger than an 11” x 17” size copy, twenty (20) copies of the colored or large-scale rendering must be submitted with the completed application.

(g) Concept plan. An application for a Rezoning or Special Use approval related to a residential subdivision, multi-family, or nonresidential use or zoning district shall be accompanied by a concept plan if any new construction is proposed or alteration of the site is required under the site or development design standards of this Ordinance. An as-built survey (rather than a concept plan) indicating the most current development conditions must be submitted with those applications regarding existing developments that are not to be altered. The concept plan must be prepared by a professional engineer, or a registered land surveyor; landscape architect; or architect. The concept plan shall meet the requirements of Section 9-22-2-4 of this Chapter. The applicant shall submit twenty (20) scaled and folded copies, folded to fit into an 8” x 10” size envelop, and one 11” x 17” reproducible copy.

(h) Traffic Impact Analysis. Any application for a Rezoning or Special Use which can be reasonably expected to generate 1,000 vehicle trip ends during a single day and/or more than 100 vehicle trips during the morning or afternoon peak hours shall submit a traffic impact analysis as specified in Chapter 9-22-4.

(i) Development of Regional Impact. Any application for a Rezoning or Special Use and development approval that meets or exceeds the thresholds established by the Georgia Department of Community Affairs shall be considered a Development of Regional Impact (DRI), and as such, shall comply with the procedures set forth in Chapter 9-22-5 of this Article.

The Director may request information in addition to that specified in this Section when considered necessary for review of the application by the Governing Body or Planning and Appeals Board.

Anyone filing an application may be exempt from the above submittal requirements of this Section, provided the application is for rezoning to an R-I-A or R-I zoning district, does not involve a subdivision development, and includes the fee, plat or boundary survey, legal description and written narrative.

Section 9-22-2-4. Concept Plan Requirements.

Applications for a Rezoning or Special Use shall include a concept plan drawn to scale on a boundary survey of the tract by a professional architect, a professional engineer, or a registered land surveyor; landscape architect; or architect. The concept plan shall at minimum include thereon the information specified in this Section.

(a) Name, address, and telephone number of the property owner.

(b) Name, address, and telephone number of the applicant.

(c) Date of survey, north point and graphic scale, source of datum, date of plan drawing, and revision dates, as appropriate.

(d) Proposed use of the property.

(e) Location (Land District and Land Lot) and size of the property in acres (or in square feet if less than an acre).

(f) Location map of the property in relation to the surrounding area with regard to well-known landmarks such as arterial streets or railroads. Location maps must be drawn at a scale sufficient to show clearly the information required, but not less than one inch equal to 2,000 feet. U.S. Geological Survey maps may be used as a reference guide.

(g) Zoning district classification of the subject property and all adjacent properties, and zoning district boundaries as appropriate.

(h) Natural features within the property, including drainage channels, bodies of water, wooded areas and other significant natural features such as rock outcroppings. On all water courses entering or leaving the property, the direction of flow shall be indicated. The 100-year flood plain, if any, shall be outlined.

(i) Man-made features within and adjacent to the property, including existing streets and names, city and county political boundary lines, and other significant information such as location of bridges, utility lines, existing buildings to remain, and other features as appropriate to the nature of the request.

(j) The proposed project layout including:

1. For subdivisions, approximate lot lines and street right-of-way lines, along with the front building setback line on each lot.
2. For multi-family and nonresidential development projects, the approximate outline and location of all buildings, and the location of all minimum building setback lines, outdoor storage areas, buffers, parking areas and driveways.

(k) The proposed phasing of the development if it is proposed to be built in sections.

(l) A statement as to the source of domestic water supply.

(m) A statement as to the provision for sanitary sewage disposal.

(n) The approximate location of proposed stormwater detention facilities.

(o) Such additional information as may be useful to permit an understanding of the proposed use and development of the property.

Section 9-22-2-5. Special Application Requirements for Planned Unit Developments.

Applications for rezoning to the PUD, Planned Unit Development district, or applications for a zoning amendment of an existing PUD; shall in addition to the other requirements specified in this Chapter, include the following:

(a) Binding Concept Plan. Unless specifically approved otherwise, the concept plan shall become a condition of zoning approval and must be followed.

(b) Architectural Elevations. Applications shall include perspective front, side, and rear elevation drawings of representative building types. These drawings shall indicate general architectural characteristics. If the PUD is approved, architectural elevations submitted as part of the application shall be considered binding unless specifically noted otherwise in the approval.

(c) Land Uses and Development Summary. The application shall include a list of all land uses proposed to be included in the PUD, the total land area devoted to each of the land uses proposed, the percentage of the total land area within the PUD devoted to each proposed land use, the number of residential units by type, floor area for each type of dwelling unit (typical, or a range as appropriate), density, and the total square footage of buildings devoted to non-residential uses. In addition, the application shall contain a development schedule indicating the approximate dates for beginning and completing the project, or each phase if the development is to be phased, and the extent of development and types of land uses in each phase.

(d) Dimensional Requirements. The application shall contain all dimensional requirements that are proposed to apply within the PUD, including minimum lot sizes, minimum lot widths, maximum building coverage, front, side and rear building setbacks, and maximum heights. Such proposed dimensional requirements shall be presented in a table on the development plan or in the written text accompanying the application. The application should indicate dimensional provisions for those items specified in Tables 9-5-2 and 9-6-2 of this Unified Land Development Code, to the extent they apply to the uses proposed.

(e) Improvement Requirements Comparison. The application shall contain descriptions of improvements to be constructed within the PUD, such as but not limited to street types, right-of-way widths, pavement widths, sidewalk locations and dimensions, and other improvements. Such proposed improvements shall be presented in a table on the development plan or in the written text accompanying the application that shows the proposed improvements in comparison with improvements that would be required otherwise without approval of a PUD. To the extent they can be shown at the time of development plan approval, environmental quality standards should be incorporated in the development application, particularly as they relate to storm water runoff, stream protection, and tree protection.

(f) Private Restrictions. PUDs that have commonly owned facilities and space shall have private restrictions and covenants established which shall be subject to the approval of the City Attorney and the Director. The developer of a PUD involving commonly owned facilities and space shall submit, along with the development plan application, a declaration of covenants, conditions, and restrictions and articles of incorporation and by-laws for the property owners or home owners association. The

declaration shall confer membership to the owner of property subject to assessment by the association, provide for voting rights in the association with suggestions for the division of power between the developer and the property owners, and provide for maintenance assessments, among other things. The Director may waive the requirements of this paragraph when, in his or her opinion, an applicant submits a letter that demonstrates his or her intent to comply with these requirements and addresses any particular issues associated with maintenance of common grounds.

(g) Community Benefit Statement. The applicant shall submit a written statement identifying the relative benefits that will accrue to the community as a result of the property being developed under PUD provisions. Benefits to the community include mixed land uses that reduce vehicle trips, open spaces provided and linked to larger open space networks, natural features retained, and quality architectural designs provided. This statement is a developer's opportunity to define why the PUD proposal merits approval and how it will serve the community better than a conventional development.

Section 9-22-2-6. Notice of Public Hearing in Newspaper.

Before the Governing Body may take final action on a proposed Rezoning or Special Use application, the Planning and Appeals Board shall hold a public hearing on the proposal. At least fifteen (15) days but not more than forty-five (45) days prior to the public hearing before the Planning and Appeals Board, notice shall be published in a newspaper of general circulation within the city. The published notice shall be prepared by the Planning Department and shall include the location of the property, the present zoning classification of the property, the proposed Rezoning or Special Use requested, and the date, time, and place of the public hearing before the Planning and Appeals Board. Notice of the date, time, and place of the public hearing before the Governing Body shall also be provided.

Section 9-22-2-7. Notice of Public Hearing by Sign on Property.

At least fifteen (15) days but not more than forty-five (45) days prior to the public hearing, the City shall post a sign or signs stating the date, time and place of the public hearing before the Planning and Appeals Board, the present zoning classification and the proposed zoning change or the proposed Special Use. One such sign shall be placed in a conspicuous location along each street frontage of the property for which the Rezoning or Special Use has been requested. If the property has no street frontage, the sign shall be placed on each street from which access will be gained to the property. Notice of the date, time, and place of the public hearing before the Governing Body shall also be provided.

Section 9-22-2-8. Notice to Adjacent Property Owners.

At least ten (10) days prior to the Planning and Appeals Board public hearing, the applicant shall cause a notice to be mailed to all persons owning property located abutting or across any street from the property that is the subject matter of the Rezoning or Special Use application. The written notice shall be mailed to the property owners as such names and addresses appear on the County's ad valorem tax records. The notice shall state the date, time, place and purpose of the hearing by the Planning and Appeals Board. Notice of the date, time, and place of the public hearing before the Governing Body shall also be provided.

Section 9-22-2-9. Special Notice Requirements.

Pursuant to the specific requirements of the Zoning Procedures Law (O.C.G.A. 36-66-6), when a proposed Rezoning or Special Use application relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency, the Director shall ensure that the additional public notice requirements of O.C.G.A. 36-66-6 are met.

Section 9-22-2-10. Investigations and Staff Recommendation.

Within a reasonable period of time after acceptance of a complete application, the Director may but shall not be required to send the application or notice thereof out for review by internal municipal departments and external agencies as may be appropriate. Any written comments received in a timely manner as a result of such review shall be submitted for consideration to the Planning and Appeals Board and Governing Body, or summarized in a memorandum. Any such comments shall become public records.

The Director may but shall not be required to investigate and make a recommendation regarding a Rezoning or Special Use application. Any such investigation and recommendation shall if in writing be made available to the applicant and Planning and Appeals Board prior to its public hearing and shall become public records. Copies of the Director's findings and recommendations, if provided, shall be available no later than the time of the Planning and Appeals Board's public hearing on the matter.

Section 9-22-2-11. Planning and Appeals Board Hearing and Recommendation.

The Planning and Appeals Board shall convene a public hearing on the Rezoning or Special Use application as provided in the public notice. The public hearing shall follow policies and procedures which govern calling and conducting public hearings established in Chapter 9-22-9 of this Unified Land Development Code. The Planning and Appeals Board shall have sixty-five (65) calendar days from the date of its public hearing within which to submit its recommendation on the Rezoning or Special Use application. The Planning and Appeals Board may submit any additional report it deems appropriate. The recommendations of the Planning and Appeals Board shall have an advisory effect only and shall not be binding on the Governing Body.

Section 9-22-2-12. Criteria to Consider for Applications.

The Planning and Appeals Board and the Governing Body shall consider the following standards in considering any Rezoning, Zoning Amendment, or Special Use application, giving due weight or priority to those factors that are appropriate to the circumstances of each proposal:

(a) Is the proposed use suitable in view of the zoning and development of adjacent and nearby property?

(b) Will the proposed use adversely affect the existing use or usability of adjacent or nearby property?

(c) Is the proposed use compatible with the purpose and intent of the Comprehensive Plan?

(d) Are their substantial reasons why the property cannot or should not be used as currently zoned?

(e) Will the proposed use cause an excessive or burdensome use of public facilities or services, including but not limited to streets, schools, water or sewer utilities, and police or fire protection?

(f) Is the proposed use supported by new or changing conditions not anticipated by the Comprehensive Plan or reflected in the existing zoning on the property or surrounding properties?

(g) Does the proposed use reflect a reasonable balance between the promotion of the public health, safety, morality, or general welfare and the right to unrestricted use of property?

Section 9-22-2-13. Additional Procedures and Criteria for Planned Unit Developments.

In addition to the requirements for a Rezoning or Special Use specified in Section 9-22-2-3 of this Chapter, approval proceedings for PUD rezoning/Zoning Amendment and development approval shall include the following:

(a) Preapplication Conference. At least fifteen (15) calendar days prior to filing a formal application for a PUD, the applicant is required to confer with the Director or representative of the Planning and Development Department in order to review the general character of the plan and to obtain information on the nature and extent of the proposed development.

(b) Criteria for Approval. In considering and acting upon applications for PUDs, the Planning and Appeals Board and the Governing Body shall consider and base their recommendation and decision, respectively, on the following criteria (not all inclusive), and any other factors it may consider appropriate in reaching such a decision:

(1) Consistency with the comprehensive plan of the city.

(2) The extent to which the proposed mix of land uses is appropriate in terms of location and character.

(3) The extent to which the development is compatible with surrounding properties. Compatibility can be achieved by ensuring that the overall scale and design of development does not overwhelm or otherwise detract from the established character of the neighborhood or surroundings. The PUD zoning district is not intended to allow for the intrusion of incompatible land uses into single-family neighborhoods that create negative land use impacts.

(4) The extent to which the proposed architectural features of buildings within the development are harmonious.

(5) The adequacy of open spaces, play areas and recreation facilities that are provided for the needs of the development occupants.

(c) Revisions. Amendments to approved Planned Unit Development rezoning and development applications, including those approved prior to the adoption of this Chapter, shall be permitted but governed by this Chapter.

(d) Land Development Plans. Upon approval of a PUD rezoning and development application by the Governing Body, the developer may apply for land development permit approval.

(e) Permits and Certificates. No building permit or certificate of occupancy shall be issued for a building, structure, or use, nor shall any excavation, grading, or land disturbance applications be approved, for any Planned Unit Development that has not been approved in accordance with the provisions of this Chapter. The Director shall authorize the issuance of building permits for buildings and structures in the area covered by the approved development if they are in substantial conformity with the approved development, after improvements are installed in accordance with applicable improvement requirements, and if found to be in conformance with all other applicable regulations. The Director shall authorize the issuance of a certificate of occupancy for any completed building, structure, or use located in the area covered by the Planned Unit Development approval if it conforms to the requirements of the approved development and all other applicable regulations. After completion of a Planned Unit Development, the use of land and construction, modification, or alteration of any buildings, structures, or uses within the area covered by the Planned Unit Development shall continue to be regulated by the approved development plan.

Section 9-22-2-14. Additional Criteria to Consider for Special Use Applications.

The Planning and Appeals Board and the Governing Body shall consider the following standards in considering any Special Use application, giving due weight or priority to those factors that are appropriate to the circumstances of each proposal:

(a) The type of street providing access to the subject property is adequate to serve the proposed Special Use.

(b) Access into and out of the property adequately provides for traffic and pedestrian safety, the anticipated volume of traffic flow, and access by emergency vehicles.

(c) Public facilities such as schools, water or sewer utilities, and police or fire protection are adequate to serve the Special Use.

(d) Refuse, service, parking and loading areas on the property are located and screened to protect other properties in the area from such adverse effects as noise, light, glare or odor.

(e) The hours and manner of operation of the Special Use have no adverse effects on other properties in the area.

(f) The height, size and location of the buildings or other structures proposed on the property are compatible with the height, size or location of buildings or other structures on neighboring properties.

Section 9-22-2-15. Withdrawal and Waiting Period for Reapplication.

A Rezoning or Special Use application may be withdrawn at any time at the discretion of the person or entity initiating such a request upon notice to the Director, up until the public hearing by the Planning and Appeals Board is closed.

If the applicant withdraws the application prior to the publication of notice for public hearing before the Planning and Appeals Board, the application shall be withdrawn administratively by the Director without restriction on the refiling of a proposed zoning change or Special Use on the property in the future.

If the applicant withdraws the application after notice has been published or is irretrievably set for publication but the application has not been heard by the Planning and Appeals Board, the application shall be withdrawn administratively by the Director and an application for Rezoning or Special Use on the property may not be resubmitted for six (6) months from the date of withdrawal.

If the request for withdrawal is made at the Planning and Appeals Board public hearing on the case, the request may be approved by a majority vote of the Board, but an application for a rezoning or Special Use on the property may not be resubmitted for six (6) months from the date of withdrawal.

If the request for withdrawal is made by the applicant following the Planning and Appeals Board hearing, the application shall remain on the Governing Body public hearing agenda and the withdrawal request shall be considered for approval or denial, with or without prejudice, by the Governing Body.

If denied, a Rezoning or Special Use request affecting the same property shall not be reconsidered for a period of six (6) months from the date of denial.

Section 9-22-2-16. Notice of Public Hearing by the Governing Body.

The Governing Body shall hold a public hearing on the Rezoning or Special Use application. If the Planning and Appeals Board makes a recommendation on the Rezoning or Special Use application at the date of its public hearing or within a time frame sufficient for the public hearing by the Governing Body to be held as scheduled, the Governing Body shall proceed with the advertised public hearing.

If the Planning and Appeals Board does not make a recommendation on the Rezoning or Special Use application before the scheduled and advertised public hearing to be held by the Governing Body, the Director shall schedule a new date for the public hearing by the Governing Body and will provide notice of said rescheduled public hearing at least fifteen (15) days but not more than forty-five (45) days prior to the public hearing. Said notice shall be accomplished by notice in a newspaper of general circulation in the city, posting of a sign on the property, and notice to adjacent property owners just the same as required by this Chapter for the initial application.

Section 9-22-2-17. Revision of Concept Plan.

A concept plan that is part of a Rezoning or Special Use application may be revised and resubmitted by the applicant during the process. In no event shall a revised concept plan that is resubmitted by an applicant be accepted or considered less than ten (10) calendar days prior to the public hearing by the Governing Body. At its discretion, the Governing Body may refer an application involving a concept plan revised after its consideration by the Planning and Appeals Board back to the Planning and Appeals Board for additional study and recommendation.

Section 9-22-2-18. Action by Governing Body.

No action shall be taken on a Rezoning or Special Use application by the Governing Body until it has received a recommendation by the Planning and Appeals Board, or upon the expiration of the sixty-five (65) day review period of the Planning and Appeals Board. In rendering a decision on a Rezoning or Special Use application, the Governing Body shall consider all information supplied by the applicant, the Director, and the Planning and Appeals Board, any information presented at the public hearing of the Planning and Appeals Board, and information gained at its own public hearing.

After conducting a public hearing, in taking action on an application, the Governing Body may:

(a) Approve the application as submitted by ordinance which requires two readings for a Rezoning application and one reading for a Special Use application.

(b) Approve the application with conditions which requires two readings for a Rezoning application and one reading for a Special Use application.

(c) Deny the proposal, which shall not require a second reading.

(d) Table the proposal for consideration at its next scheduled meeting.

(e) Refer the application back to the Planning and Appeals Board for further consideration, with notice of public hearings before the Planning and Appeals Board and Governing Body, the same as required for the initial application.

(f) Refer the application back to the Planning and Appeals Board for further consideration, without the requirement to hold public hearings and provide notice thereof.

Section 9-22-2-19. Insufficient Basis for Denial.

Applications for a Rezoning and Special Use shall not be required to demonstrate compliance with all applicable regulations of this Unified Land Development Code for land development permits or building permits. The Planning and Appeals Board shall not base its recommendation to deny a Rezoning or Special Use application, and the Governing Body shall not base its denial of a Rezoning or Special Use application, on the failure of a Rezoning or Special Use application to demonstrate compliance with land development permitting requirements including but not limited to tree protection, stormwater management, and flood plain regulations.

Section 9-22-2-20. Decisions Involving Constitutional Challenges.

In ruling on any Rezoning in which the applicant has brought a constitutional challenge to the existing zoning classification, the Governing Body shall pay particular attention to the following criteria which have been applied by Georgia Courts in zoning matters:

1. Existing uses and zoning of the subject and nearby property;

2. The extent to which property values are diminished by the particular zoning restrictions;

3. The extent to which the destruction of property values, if any, promotes the healthy, safety, morals or general welfare of the public;

4. The relative gain to the public, as compared to the hardship, if any, imposed upon the individual property owner;

5. The suitability of subject property for zoned purposes;

6. The length of time the property, if vacant, has been vacant as zoned considered in the context of land development in the areas and the vicinity of the property.

The existing zoning classification shall be considered presumptively valid and it shall be the responsibility of the applicant to present evidence that rebuts this presumption. If the Governing Body determines, from the evidence presented, that the existing zoning classification is unduly burdensome to the applicant and is not offset by the considerations of the public's health, safety, morals and general welfare, and considerations of the integrity of this Unified Land Development Code and of the official zoning map, the Governing Body may impose upon said property any appropriate zoning classification, including conditions, which might be consistent with these considerations and the criteria described in this Chapter.

Section 9-22-2-21. Fast Track Process.

The Governing Body may, in its judgment in cases involving redevelopment or extraordinary economic development, pass a motion in a regular meeting, which provides for an expediting of the procedures for rezoning applications and Special Uses established in this Chapter, including the following:

(a) The separate public hearing required by the Planning and Appeals Board may be combined with the public hearing before Governing Body.

(b) Application requirements specified in this Chapter may be waived, in order to expedite the review and public hearing process.

Such a fast track process, if exercised, shall not be inconsistent with the Zoning Procedures Act, O.C.G.A. § 36-66. seq. In opting to use this fast track approval process, the Governing Body may instruct the Director to notify the public and seek input on the matter by other means.

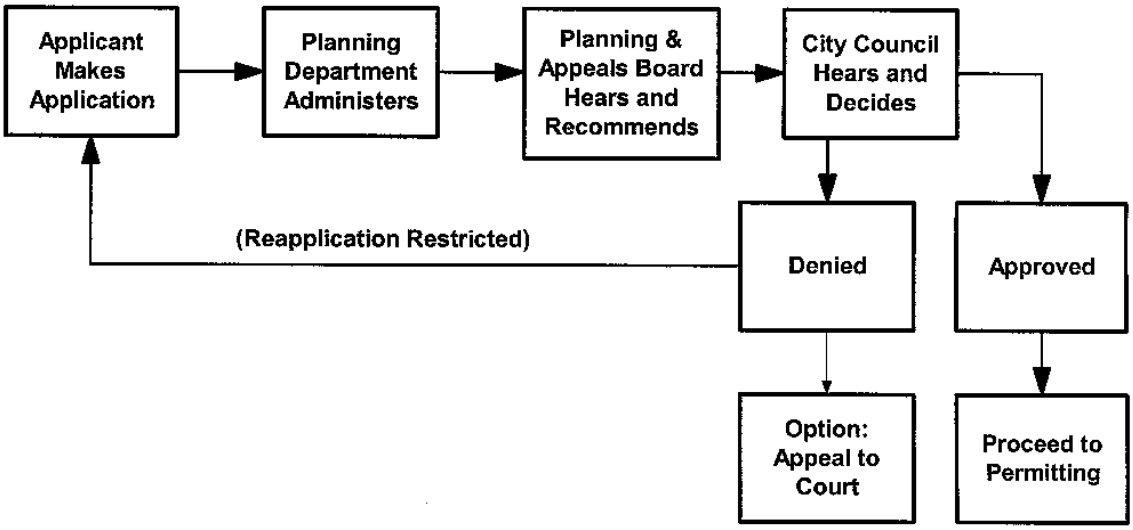
Section 9-22-2-22. Incorporation Clause.

This Chapter is intended to comply with the provisions of the Georgia Zoning Procedures Law, O.C.G.A. § 36-66. seq., which Act is incorporated by reference in its entirety into this ordinance. Where any provision of this Chapter is in conflict with any provision of the Law, the Law shall control. Or where this Chapter is incomplete in having failed to incorporate a provision necessarily required for the implementation of the Law, such provision of the Law, so as to meet the mandate of the Law, shall be fully complied with, except that where an application to annex property into the city is initiated by the governing body, only those notice requirements and public hearing procedures set forth in O.C.G.A. § 36-66-4(d) shall be required for zoning of property to be annexed into the city, notwithstanding any other procedures or requirements set forth in this Code.

CHAPTER 9-22-3
ANNEXATIONS

Section 9-22-3-1. Generally.
Section 9-22-3-2. Initiation.
Section 9-22-3-3. Withdrawal and Waiting Period for Reapplication.
Section 9-22-3-4. Requirements for Submittal.
Section 9-22-3-5. Specifications for Concept Plans.
Section 9-22-3-6. Special Application Requirements for Planned Unit Developments.
Section 9-22-3-7. Process for Annexation.
Section 9-22-3-8. Criteria to Consider for Annexation.
Section 9-22-3-9. Additional Procedures and Criteria for Planned Unit Developments.
Section 9-22-3-10. Effective Date.
Section 9-22-3-11. Issuance of Permits.
Section 9-22-3-12. Existing Nonconforming Use.
Section 9-22-3-13. Conformity with this Ordinance.

Overview of Process



Section 9-22-3-1. Generally.

An area proposed for annexation into the city shall first be considered for zoning prior to its annexation. Consideration of the zoning shall be subject to the same procedures, standards, and requirements for any Rezoning or Special Use as contained in Chapter 9-22-2, except as specifically modified by this Chapter.

Section 9-22-3-2. Initiation.

An application for annexation for any property or properties contiguous to the city may be initiated by the Governing Body, Planning and Appeals Board, owner of the property, or some other person(s) given authorization by property owner to file said application. Unless initiated by the Governing Body or the Planning and Appeals Board, all such applications shall be initiated by the owner of a majority interest in the property affected.

Any applicant wishing to submit an application for annexation must schedule an appointment with the Planning Department staff in order to review the application for completeness. No such application shall be accepted for processing by the Director unless it meets the requirements of this Section. Incomplete or improper applications will be returned to the applicant. The Director is hereby authorized to establish administrative deadlines for the receipt of applications.

Any applicant wishing to file an application for a planned unit development zoning district must schedule a conference with the Planning Department staff at least fifteen (15) days prior to filing an application and shall submit the additional application materials required for a PUD district as outlined in Chapter 9-22-2 for a zoning change application.

Section 9-22-3-3. Withdrawal and Waiting Period for Reapplication.

Any applicant wishing to withdraw a proposed annexation request shall comply with the withdrawal procedures as outlined in Chapter 9-22-2 for Rezoning applications and Special Use with the exception that there shall be no waiting period for reapplication upon withdrawal or denial of an annexation request.

Section 9-22-3-4. Requirements for Submittal.

Applications for annexation shall include the following requirements:

(a) Application form. A completed application. All applications shall be submitted to the Department of Planning and Development on the Department's application forms.

(b) Fee. All applications shall be accompanied by a non-refundable fee as fixed from time to time by the Governing Body. A fee shall not be charged if the Governing Body or the Planning and Appeals Board initiate the application.

(c) U.S. Department of Justice Data. Data as required on a form that is part of the application form provided by the Planning Department.

(d) Letter of Cost Estimate. A letter of cost estimate must be obtained from the City Public Utilities Department if an applicant wishes to have the City share in the cost of sanitary sewer line extension.

(e) Plat or boundary survey. A plat or boundary survey of the property or properties involved in the application. Provide one (1) scaled and folded copy, and one (1) 8.5" x 11" or 11" x 17" reproducible size copy.

(f) Legal description. A paper copy and an electronic copy in Microsoft Word format of the legal description of the property that corresponds with the property or properties shown on the submitted boundary survey/plat.

(g) Written Narrative. A written narrative should indicate at a minimum:

1. The purpose of the request, proposed use, economic and environmental impacts as well as overlay zones or protection areas in which the property is located, such as the North Oconee Water Supply Watershed Protection Overlay Zone.

2. Any planned developments shall include a narrative which fully describes the concept plan and must include at a minimum the proposed use, setbacks, right-of-way widths, building heights, signage, whether the applicant wishes the City to maintain the road(s) as well as identify any overlay zones or protection areas such as the North Oconee Water Supply Watershed Protection Overlay Zone that may affect the use.

(h) Architectural renderings. Architectural renderings for any proposed new construction or exterior alterations of the existing structure(s), including at a minimum:

1. Roof pitch,
2. Materials to be used on exterior,
3. Basic landscaping proposed, and
4. Building elevations.

If the architectural rendering is in a color format or is larger than an 11" x 17" size copy, twenty (20) copies of the colored or large-scale rendering must be submitted with the completed application.

(i) Concept plan. An application for annexation approval related to a residential subdivision, multi-family, or nonresidential use or zoning district shall be accompanied by a concept plan if any new construction is proposed or alteration of the site is required under the site or development design standards of this Ordinance. An as-built survey (rather than a concept plan) indicating the most current development conditions must be submitted with those applications regarding existing developments that are not to be altered. The concept plan must be prepared by a professional engineer, or a registered land surveyor; landscape architect; or architect. The concept plan shall meet the requirements of Section 9-22-3-5 of this Chapter. The applicant shall submit twenty (20) scaled and folded copies, folded to fit into an 8" x 10" size envelop, and one (1) 11" x 17" reproducible copy.

(j) Traffic Impact Analysis. Any annexation application which can be reasonably expected to generate 1,000 vehicle trip ends during a single day and/or more than 100 vehicle trips during the morning or afternoon peak hours shall submit a traffic impact analysis as specified in Chapter 9-22-4. The cost of conducting the Traffic Impact Analysis as well as any improvements put forth in the recommendations shall be the financial responsibility of the applicant. No application shall be accepted nor

advertised for a public hearing by the Planning Department until such time as the Transportation Impact Study, if required, has been completed and submitted to the Planning Department

(k) Development of Regional Impact. Any annexation application that would result in a zoning or development approval that meets or exceeds the thresholds established by the Georgia Department of Community Affairs shall be considered a Development of Regional Impact (DRI), and as such, shall comply with the procedures set forth in Chapter 9-22-5 of this Article.

The Director may request information in addition to that specified in this Section when considered necessary for review of the application by the Governing Body or Planning and Appeals Board.

Anyone filing an application may be exempt from the above submittal requirements of this Section, provided the application is for annexation with a zoning classification of R-I-A or R-I, does not involve a subdivision development, and includes the fee, plat or boundary survey, legal description and written narrative.

Section 9-22-3-5. Specifications for Concept Plans.

The concept plan shall show the following, as appropriate to the annexation requested:

(a) Name, address and telephone number of the property owner.

(b) Name, address and telephone number of the applicant.

(c) Date of survey, north point and graphic scale, source of datum, date of plan drawing, and revision dates, as appropriate.

(d) Proposed use of the property.

(e) Location (Land District and Land Lot) and size of the property in acres (or in square feet if less than an acre).

(f) Location map of the property in relation to the surrounding area with regard to well-known landmarks such as arterial streets or railroads. Location maps must be drawn at a scale sufficient to show clearly the information required, but not less than one inch equal to 2,000 feet. U.S. Geological Survey maps may be used as a reference guide.

(g) Zoning district classification of the subject property and all adjacent properties, and zoning district boundaries as appropriate.

(h) Natural features within the property, including drainage channels, bodies of water, wooded areas and other significant natural features such as rock outcroppings. On all water courses entering or leaving the property, the direction of flow shall be indicated. The 100-year flood plain, if any, shall be outlined.

(i) Man-made features within and adjacent to the property, including existing streets and names, city and county political boundary lines, and other significant information

such as location of bridges, utility lines, existing buildings to remain, and other features as appropriate to the nature of the request.

(j) The proposed project layout including the following:

1. For subdivisions, approximate lot lines and street right-of-way lines, along with the front building setback line on each lot;

2. For multi-family and non-residential development projects, the approximate outline and location of all buildings, and the location of all minimum building setback lines, outdoor storage areas, buffers, parking areas, and driveways.

(j) The proposed phasing of the development if it is proposed to be built in sections.

(k) A statement as to the source of domestic water supply.

(l) A statement as to the provision for sanitary sewage disposal.

(m) The approximate location of proposed stormwater detention facilities.

(n) Such additional information as may be useful to permit an understanding of the proposed use and development of the property.

Section 9-22-3-6. Special Application Requirements for Planned Unit Developments.

Applications for annexation with a zoning classification of PUD, Planned Unit Development district shall in addition to the other requirements specified in this Chapter include those additional application materials required for a PUD district as outlined in Chapter 9-22-2.

Section 9-22-3-7. Process for Annexation.

In addition to the process and procedures for a Rezoning or Special Use request as outlined in Chapter 9-22-2 of this Unified Land Development Code, there are additional steps to be taken when processing applications for annexation.

(a) Upon or following the date of notice to the County of the proposed annexation as required under O.C.G.A. 36-36-6, the Governing Body shall initiate the zoning of the property to be annexed or consider an application for a zoning submitted by or on behalf of the owner of such property under the provisions of this Chapter.

(b) The Planning and Appeals Board and the Governing Body shall conduct their public hearings on the zoning prior to the annexation of the land into the city. Notice of such hearing shall be provided under the provisions of Chapter 9-22-2 for a Rezoning or Special Use; provided further that the notice shall be published in a newspaper of general circulation in the county.

(c) If the annexation request is denied, any action by the Governing Body on the zoning shall be null and void.

(d) Furthermore, there are mandatory reports required that must be submitted to local, state and federal agencies. Such reports and documents shall be prepared by and submitted by the Planning Department on behalf of the applicant.

Section 9-22-3-8. Criteria to Consider for Annexation.

The Planning and Appeals Board and the Governing Body shall consider the following standards in considering any annexation proposal, giving due weight or priority to those factors that are appropriate to the circumstances of each proposal. In addition, any application that proposes a change in the conditions of approval previously established by the Governing Body through action on an annexation shall be reviewed in light of the standards set forth in this Section, as appropriate.

(a) Is the proposed use suitable in view of the zoning and development of adjacent and nearby property?

(b) Will the proposed use adversely affect the existing use or usability of adjacent or nearby property?

(c) Is the proposed use compatible with the purpose and intent of the Comprehensive Plan?

(d) Are their substantial reasons why the property cannot or should not be used as currently zoned?

(e) Will the proposed use cause an excessive or burdensome use of public facilities or services, including but not limited to streets, schools, water or sewer utilities, and police or fire protection?

(f) Is the proposed use supported by new or changing conditions not anticipated by the Comprehensive Plan or reflected in the existing zoning on the property or surrounding properties?

(g) Does the proposed use reflect a reasonable balance between the promotion of the public health, safety, morality, or general welfare and the right to unrestricted use of property?

Section 9-22-3-9. Additional Procedures and Criteria for Planned Unit Developments.

In addition to the requirements for annexation applications specified in this Chapter, approval proceedings for annexation with PUD zoning/development approval shall comply with the additional procedures and criteria for PUD zoning/development as outlined in Chapter 9-22-2 for a zoning change.

Section 9-22-3-10. Effective Date.

The zoning of property hereafter annexed shall become effective on the day the zoning is approved by the Governing Body, on the date that the annexation becomes effective, or where a county has interposed an objection pursuant to O.C.G.A. 36-36-11, the date provided for in paragraph (8), subsection (b) of O.C.G.A. Section 36-36-11, whichever is later.

Section 9-22-3-11. Issuance of Permits.

No application for a land development or building permit shall be filed on newly annexed property until the first of the month following the effective date of the annexation approval

Section 9-22-3-12. Existing Nonconforming Use.

Any use existing at the time of annexation approval on property annexed by the city which does not comply with the use provisions of the city's zoning district assigned to said annexed property shall be considered a nonconforming use which shall be governed by Chapter 9-11-3 of this Unified Land Development Code.

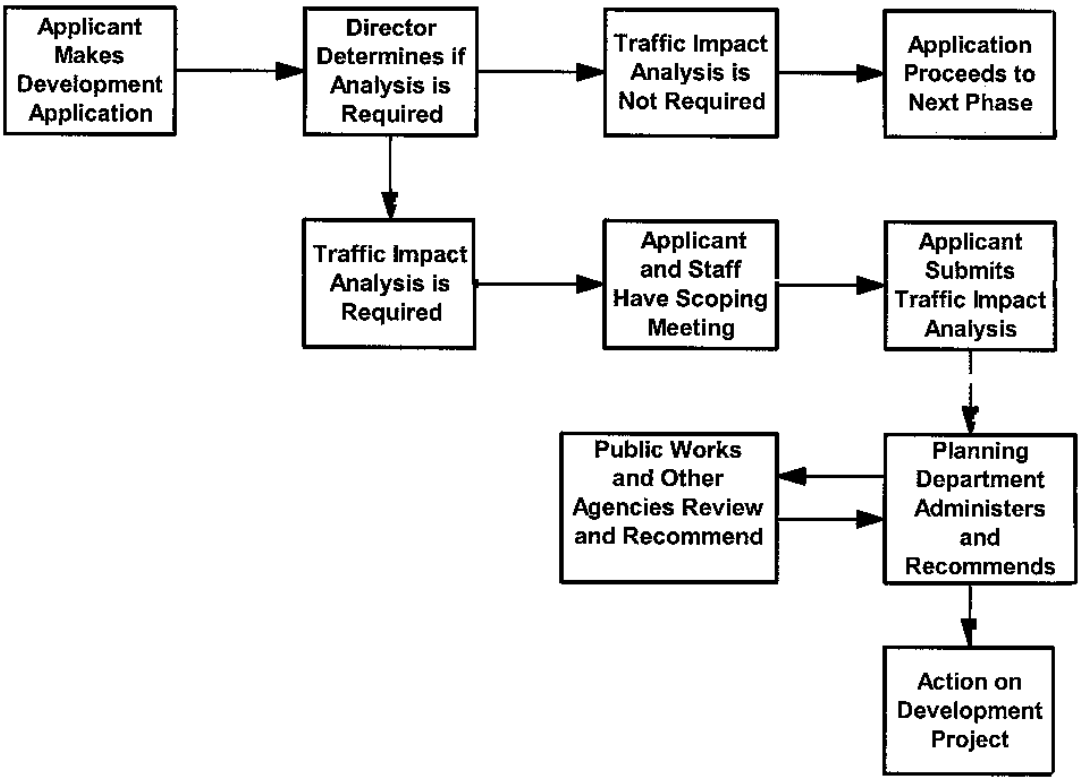
Section 9-22-3-13. Conformity with This Ordinance.

Lands hereafter annexed into the city limits shall, upon the effective date of such annexation, be subject to all applicable procedural and substantive requirements of this Ordinance as now or hereafter amended. Any new use of an annexed property after zoning approval shall only be permitted if it conforms to all applicable provisions of this Ordinance.

CHAPTER 9-22-4
TRAFFIC IMPACT ANALYSIS

Section 9-22-4-1. Purpose and Intent.
Section 9-22-4-2. Objectives.
Section 9-22-4-3. Definitions.
Section 9-22-4-4. Thresholds of Applicability.
Section 9-22-4-5. Exemptions.
Section 9-22-4-6. Trip Generation Data.
Section 9-22-4-7. Determination of Applicability.
Section 9-22-4-8. Cases Where Data Are Not Available.
Section 9-22-4-9. Specifications for Peak-Hour Trip Generation Studies.
Section 9-22-4-10. Scoping Meeting.
Section 9-22-4-11. Required Contents of a Traffic Impact Study.
Section 9-22-4-12. Additional Technical Specifications.
Section 9-22-4-13. Costs and Fees.
Section 9-22-4-14. Submittal and Review of Study.
Section 9-22-4-15. Recommendations for Mitigation of Impacts.
Section 9-22-4-16. Determination of Project and System Improvements.
Section 9-22-4-17. Conditions of Development Approval for Project Improvements.
Section 9-22-4-18. System Improvements.
Section 9-22-4-19. Appeal.

Traffic Impact Analysis Process



Section 9-22-4-1. Purpose and Intent.

Understanding the demands placed on the community's transportation network by development is an important dimension of assessing the overall impacts of development proposals. All development generates traffic, and it may generate enough traffic to create congestion and thus require the community to invest more capital funds into the transportation network in the form of new roads, traffic signals, and intersection improvements. Traffic congestion results in a number of problems, including economic costs due to delayed travel times, air pollution and accidents. A traffic impact analysis is a mechanism for the city to foresee the demands a development proposal will place on the transportation network.

Section 9-22-4-2. Objectives.

The City of Gainesville finds that requiring a traffic impact analysis for proposed developments that meet certain thresholds will help to achieve the following objectives:

(a) Forecast additional traffic associated with new development, based on accepted practices.

(b) Determine the improvements that are necessary to accommodate the new development.

(c) Allow the city to assess the impacts that a proposed development may have and assist the city in making decisions regarding development proposals.

(d) Help to ensure safe and reasonable traffic conditions on streets after the development is complete.

(e) Reduce the negative impacts created by developments by helping to ensure that the transportation network can accommodate the development.

(f) Protect the substantial public investment in the street system.

(g) Provide information relevant to citywide comprehensive planning, transportation planning, transit planning, and the provision of programs and facilities for traffic safety, road improvements, transportation demand management, pedestrian access, and other transportation system considerations.

Section 9-22-4-3. Definitions.

Director of Public Works: The Director of the Public Works Department of the City of Gainesville, or his or her designee.

Discretionary development proposal: Any application for a rezoning, preliminary plat, Special Use permit, final design plan approval, or Certificate of Appropriateness. For purposes of this Unified Land Development Code, a determination of applicability shall be made at the first discretionary development proposal encountered.

Horizon Year: Unless otherwise specified or approved by the Director of Public Works, the horizon year shall be twenty years into the future from the year during which a traffic impact study is being prepared.

Internal trips: Trips that are made within a multi-use or mixed-use development, by vehicle or by an alternate mode such as walking.

Level of Service (LOS): A quantitative and qualitative measure of how well traffic flows on a given street or highway. Level of Service relates to such factors as highway width, number of lanes, percentage of trucks, total traffic volume, turning movements, lateral clearances, grades, sight distance, capacity in relation to volume, travel speed, and other factors which affect the quality of flow. Level of Service is typically summarized by letter grades described as follows:

Level "A" is a condition with low traffic volumes, high speeds, and free-flow conditions.

Level "B" is a condition with light traffic volumes, minor speed restrictions, and stable flow.

Level "C" is a condition with moderate traffic volumes, where speed and maneuvering are restricted to a limited degree by the amount of traffic.

Level "D" is a condition with heavy traffic operating at tolerable speeds, although temporary slowdowns in flow may occur.

Level "E" is a condition of very heavy flow and relatively low speeds. Under Level "E" the traffic is unstable and short stoppage may occur.

Level "F" is a condition of extremely heavy flow, with frequent stoppage and very slow speeds. It is an unstable traffic condition under which traffic often comes to a complete halt.

New trips: Total vehicle trips, minus pass-by trips, minus internal trips if applicable.

Pass-by trips: Vehicle trips which are made by traffic already using the adjacent roadway and entering the site as an intermediate stop on the way to another destination.

Peak hour: 7:00 a.m. to 8:00 a.m., or 8:00 a.m. to 9:00 a.m., or the highest four fifteen minute increments within such time period for the a.m. peak hour; 4:00 p.m. to 5:00 p.m., 5:00 p.m. to 6:00 p.m., or the highest four fifteen-minute increments within such a time period for the p.m. peak hour.

Peak-hour trip generation study: A study by a qualified professional of one or more actual developments of similar land use and development characteristics which provides empirical data on the actual number of trips entering and exiting said development(s) during the a.m. and p.m. peak hour. A peak-hour trip generation study shall consist of a.m. and p.m. peak hour traffic counts by direction (entering and exiting) on at least three separate weekdays if the study is based on only one similar development, or at least one a.m. and p.m. traffic count for three different actual developments. The results of actual traffic counts from peak-hour trip generation studies may be adjusted to discount pass-by trips as provided in this Chapter.

Professionally accepted: Published by the Institute of Transportation Engineers; or prepared by a qualified professional under work supervised by the City of Gainesville or Hall County, or prepared by a qualified professional and accepted by the Director of Public Works.

Qualified professional: For purposes of conducting traffic impact analyses as may be required by this Chapter, a qualified professional shall mean a registered professional engineer with experience in traffic engineering. For purposes of conducting peak hour trip generation studies,

a qualified professional shall mean a registered professional engineer with experience in traffic engineering, or another professional approved by the Director of Public Works based on education and experience to conduct such trip generation studies.

Traffic impact analysis: A study, conducted by a qualified professional, which assesses the effects that a discretionary development proposal's traffic will have on the transportation network in a community or portion thereof. Traffic impact studies vary in their range of detail and complexity depending on the type, size, and location of the proposed development.

Trip: A single or one-directional travel movement with either the origin or destination of the trip inside the study site.

Trip generation: An estimate of the number of vehicle trips that will be generated due to the new development, which is calculated based on the type and amount of land uses in the proposed development and professionally accepted trip generation rates for each such land use. Trip generation may be expressed on an average daily basis or average peak hour (a.m., p.m.), or both.

Section 9-22-4-4. Thresholds of Applicability.

A traffic impact study shall be required for any discretionary development proposal which can be reasonably expected to generate 1,000 vehicle trip ends during a single day and/or more than 100 vehicle trips during the morning or afternoon peak hours, as determined by professionally acceptable information as provided in this Chapter.

Section 9-22-4-5. Exemptions.

(a) A traffic impact analysis is not required if a discretionary development proposal is initiated by the Governing Body or the Planning and Appeals Board.

(b) A discretionary development proposal may be exempted from the traffic impact study requirement by the Director of Public Works if a prior traffic impact study for the subject property has been submitted to the city or is available from Hall County and the proposed development is substantially similar to that for which the prior traffic impact study was conducted.

Section 9-22-4-6. Trip Generation Data.

The source for trip generation rates for the purposes of this Ordinance shall be "*Trip Generation*" published by the Institute of Transportation Engineers (ITE), most recent edition, unless otherwise approved by the Director of Public Works. Final determinations of whether this Chapter applies shall be made based on application of data from ITE *Trip Generation*, which may change from time to time, or as otherwise approved by the Director of Public Works.

Section 9-22-4-7. Determination of Applicability.

At the time a discretionary development proposal is filed, or during any pre-application meeting if possible, the Director of Planning and Development shall determine whether a traffic impact analysis shall be required according to this Chapter. The Director of Planning and Development shall calculate the expected trip generation of the proposed development using professionally accepted trip generation rates or other data and compare it to the thresholds specified in this

Chapter to determine whether a traffic impact analysis is required. The Director of Public Works shall assist in this effort by providing the Director of Planning and Development with any updated information available on trip generation rates.

Applicants for discretionary development proposals shall provide sufficient information about the development proposal (e.g., number of dwelling units, square footage of buildings, number of employees, land area of the development, etc.) for the Director of Planning and Development to apply professionally accepted trip generation rates to the proposed development. The Director of Planning and Development shall not accept a discretionary development proposal for processing unless it contains the data on the proposed development necessary to apply available trip generation rates. Further, no application for a discretionary development proposal shall be accepted nor advertised for a public hearing until such time as the Transportation Impact Study, if required, has been completed and submitted in accordance with this Chapter.

Section 9-22-4-8. Cases Where Data Are Not Available.

In the event that information submitted by the applicant of the discretionary development proposal is sufficient to calculate the trip generation that would be expected to result from the proposed development, but trip generation rates or other data are not available or in sufficient quantity of studies to make a determination of applicability under the terms of this Chapter, this Section shall apply.

(a) The Director of Planning and Development shall first consult with the Director of Public Works to determine if: (1) professionally acceptable trip generation rates applicable to the subject development exist from other reputable sources, such as the *Journal of the Institute of Transportation Engineers*; (2) other trip generation studies of similar developments are available; or (3) professionally acceptable trip generation rates for one or more similar land uses can be used in making the determination of applicability. If the Director of Public Works is able to provide such information and determines it is professionally reputable, then the Director of Planning and Development shall use said data as may be interpreted by the Director of Public Works to make the determination of applicability. The Director of Planning and Development and Director of Public Works shall have no more than ten (10) working days to comply with the provisions of this Section, when it applies.

(b) In the event the Director of Planning and Development is unable to make a determination of applicability after consulting with the Director of Public Works pursuant to Section, the Director shall notify the proposed applicant in writing that professionally accepted trip generation rates are not available for purposes of making a determination of applicability.

(c) Upon receipt of notice described in this Section, the applicant for a discretionary development proposal shall have thirty (30) days to have a qualified professional prepare and submit a peak-hour trip generation study as defined by this Chapter.

Section 9-22-4-9. Specifications for Peak-Hour Trip Generation Studies.

(a) Discounting of pass-by trips. The peak-hour trip generation study may subtract from the empirical data on actual vehicle trips those trips that are reasonably considered to be “pass-by” trips as defined by this Chapter, using professionally accepted

assumptions about the percent of pass-by trips approved by the Director of Public Works.

(b) Reduction for internal trips in multi-use or mixed use developments. In calculating the new trips generated from a proposed development containing multiple uses or mixed uses, a qualified professional with the approval of the Director of Public Works may apply a percentage reduction to the total vehicle trips shown in any peak hour trip generation study to account for internal trips, as defined in this Chapter, so as to account for (discount) the number of internal trips reasonably expected to occur in such multi-use or mixed use development. Said reduction shall not exceed twenty-four percent (24%) of total trips generated.

Section 9-22-4-10. Scoping Meeting.

Once it is determined that a traffic impact analysis is required, a scoping meeting may be held with the developer or his or her consultant and the appropriate representatives of the city public works department and if appropriate, the planning and development department. It will be the responsibility of the developer or his or her consultant to initiate this meeting. The purpose of this meeting is to discuss the availability of site-specific information concerning the development, available forecasts of traffic volumes, and to ensure the applicant understands the content requirements for traffic impact analyses.

Section 9-22-4-11. Required Contents of a Traffic Impact Study.

A traffic impact analysis must evaluate the adequacy of the existing transportation system to serve the proposed development and determine the expected effects of the proposed development on the transportation system. The traffic impact study must provide adequate information for city staff to evaluate the development proposal and, when appropriate, recommend conditions of approval.

The qualified professional preparing the traffic impact study is encouraged to coordinate preparation with city staff and staff from other jurisdictions, as appropriate, to ensure that all necessary components are included in the traffic impact study and to reduce revision and review time.

In order to be reviewed, the traffic impact study shall include at least the following minimum components:

(a) Title Page. A title page listing the name of the proposed development and its location.

(b) Table of Contents. A table of contents outlining the study shall be provided.

(c) Certification. The study shall be signed and stamped by a qualified professional.

(d) Executive Summary. An executive summary, discussing the development, the major findings of the analysis, and any recommendations made by the qualified professional.

(e) Vicinity Map. A vicinity map showing the location of the proposed project in relation to the transportation system of the area.

(f) Study Area Map. A map of the traffic impact study area. For purposes of this Chapter, the traffic impact analysis area shall be determined according to trip generation rates as follows. In the event there is a difference as a result of applying peak and total trips, the more restrictive requirement (larger study area) shall apply.

Study Area Size Requirements

Peak Hour Trips Generated	Daily Trips Generated	Distance from Perimeter of Proposed Development Along Roads
100 - 150	1,000 – 1,500	½ mile
151 - 500	1,501 – 5,000	1 mile
501 – 1,000	5,001 – 10,000	2 miles
1001 or more	10,001 or more	3 miles

(g) Inventory of Transportation Facilities in the Study Area. A description of transportation facilities in the study area, including roadway names, locations and functional classifications, intersection lane configurations and traffic control (including signal timing), existing rights-of-ways, transit routes and stops (if any), pedestrian and bicycle facilities, and planned transportation system improvements. An existing lane configuration sketch shall be submitted for all roadways and intersections within the study area.

(h) Concept Plan and Development Data. A complete description of the proposed development, including a concept plan, with the best available information as to the nature and size of each proposed use, and the proposed location and traffic control of all proposed access points, including the distance from all proposed access points to adjacent accesses and/or streets, including those across a street right-of-way from the subject development.

(i) Existing Traffic Volumes. Peak and total daily traffic volumes on all arterial, collector, and local streets within the study area. Traffic counts should, as a rule, not be more than one year old when the report is prepared. Traffic counts between one and three years old may be used if factored to the current year. Traffic counts older than three years will not be accepted.

(j) Facility Performance. Existing performance of the transportation system, including Levels of Service (LOS) and Volume/Capacity ratios (V/C) for all intersections and road segments as appropriate within the study area.

(k) Trip Generation. Complete trip generation figures for all aspects of the proposed development. The source for trip generation rates shall be "*Trip Generation*" published by the Institute of Transportation Engineers (ITE), most recent edition, unless otherwise approved by the Director of Transportation. For developments expected to generate more than thirty (30) trucks per day, the trip generation data shall include separate figures for trucks. If phased development is proposed, the study shall include projections for the year that each phase of the development is planned to be complete. The traffic impact analysis shall also include trip generation data for any pending and approved developments that would affect the study area.

The city shall facilitate the review of applicable files by a qualified professional to determine the names and development characteristics of pending and approved developments in the study area.

(l) Trip Distribution and Assignment. Trip distribution for the proposed development. For developments expected to generate more than thirty (30) truck trips per day, the study shall include separate trip distribution figures for trucks.

(m) Forecast Traffic Volumes Without the Development. Forecast traffic volumes without the development, on all arterial, collector, and local roads within the study area, in the year that the proposed development is planned to commence, and in the horizon year. Qualified professionals should consult city public works department staff for information to determine the most appropriate sources or methods of determining future traffic volumes. If phased development is proposed, the traffic impact study shall include projections for the year that each phase of the development is planned to be complete.

(n) Forecast Performance Without the Development. Forecast performance, including Levels of Service (LOS) and Volume/Capacity ratios (V/C) of the transportation system without the development in the year that each phase is planned to be complete and in the horizon year.

(o) Forecast Traffic Volumes With the Development. Forecast traffic volumes with the development, on all arterial, collector, and local roads within the study area, in the year that the proposed development is planned to commence, and in the horizon year.

(p) Forecast Performance With the Development. Forecast performance, including Levels of Service (LOS) and Volume/Capacity ratios (V/C) of the transportation system with the development in the year that each phase is planned to be complete and in the horizon year.

(q) Sight Distance. A safety analysis of the site accesses, and an assessment whether adequate sight distances are provided at driveways and streets abutting the development.

(r) Operational Characteristics. Analysis of prevailing operating speeds, if significantly different than speed limits, right and left turn lane warrants, queue lengths, acceleration and deceleration lanes including lengths and tapers, throat lengths, channelization, and other characteristics of the site accesses, which exist and may be needed, as appropriate. The traffic impact analysis shall address whether driveways and intersections are located and spaced safely and designed to accommodate expected traffic volumes and maneuvers. The operational characteristics analysis shall also evaluate the turning and traveling characteristics of the vehicles that will be using the proposed development and the adequacy of the geometrics of the existing and proposed roadway (public and/or private) configurations to accommodate these characteristics.

(s) On-site Circulation. The traffic impact analysis shall address whether on-site vehicular and pedestrian circulation and parking layouts are safe and efficient.

(t) Significant Impacts. Analysis as appropriate of any potential adverse or controversial effects of the proposed development on the transportation system in the area. Examples of possible effects include, but are not limited to, infiltration of non-residential traffic into residential neighborhoods, traffic noise, creation of potential for traffic violations, conflicting turning movements with other driveways, any new pedestrian or bicycle transportation needs arising from the development, etc.

(u) Mitigation Measures. Listing of all intersections and road segments that are forecasted to be Level of Service "E" and "F" in the horizon year, or if phased, in the years that each phase is planned to be complete, and an identification and description of specific mitigation measures including signal, turn lane, or other warrant analyses as appropriate and necessary to bring these intersections and road segments into compliance with a Level of Service "D" or other city-adopted Level of Service for said road segment or intersection.

(v) Drawing of improvements. If roadway improvements are needed, the study shall show a drawing at an engineering scale of one inch equals twenty feet (1" = 20') for all recommended lane configurations.

(w) Signalization. If signalization is warranted by the traffic signal warrants outlined in the Manual on Uniform Traffic Control Devices (MUTCD), a warrant analysis shall also be conducted as a part of the traffic impact analysis. If a traffic signal is warranted, the warrant package in the study shall show a drawing at an engineering scale of one inch equals twenty feet (1" = 20') detailing the signal design and phasing plans.

(x) Costs. The estimated costs associated with implementing all such mitigation measures shall be provided in the traffic impact analysis. The traffic impact analysis may take into account any city/county/state approved roadway, traffic signalization, and other improvements in determining mitigation measures and providing recommendations.

(y) References. A listing of all technical documents and resources cited or consulted in preparing the traffic impact analysis.

(z) Technical Appendix. Relevant technical information, including but not limited to: copies of raw traffic count data used in the analysis, calculation sheets and/or computer software output for all LOS and V/C calculations in the analysis, and warrant worksheets for signals, turn lanes, signal phasing, etc. used in the analysis.

Section 9-22-4-12. Additional Technical Specifications.

The Director of Public Works is further authorized to promulgate and require the use of additional technical specifications for conducting traffic impact analyses, which shall be consistent with analysis methods included in the most recent *Highway Capacity Manual*, *Manual on Uniform Traffic Control Devices*, and/or *Traffic Access and Impact Studies for Site Development: A Recommended Practice* (Washington, DC: Institute of Transportation Engineers, 1991), as may be amended or republished from time to time.

Section 9-22-4-13. Costs and Fees.

The city assumes no liability for any costs or time delays (either direct or consequential) associated with the preparation and review of traffic impact analyses. There shall be no application review fee for a traffic impact study.

Section 9-22-4-14. Submittal and Review of Study.

The applicant for the proposed development or the qualified professional shall submit one electronic copy of the traffic impact study and technical appendix, five (5) paper copies of the traffic impact analysis, and one paper copy of the technical appendix to the Director of Planning and Development. The Director of Planning and Development shall transmit the electronic copy, four (4) paper copies of the traffic impact study and the paper copy of the technical appendix to the Director of Public Works, who may at his or her discretion submit copies of the report to applicable review agencies such as the Georgia Department of Transportation, the Metropolitan Planning Organization, or an adjacent local jurisdiction. Within ten (10) working days of receipt of a traffic impact analysis, the Director of Public Works shall review all calculations and analyses and determine if they are complete, reasonable, understandable, consistent, and fully explained. The conclusions presented in the traffic impact analysis shall be consistent with and supported by the data, calculations, and analyses in the report. Calculations, graphs, tables, data, and/or analysis results that are contrary to good common sense or not consistent with and supported by the data will not be accepted. In such events, the Director of Public Works shall return the traffic impact analysis to the development applicant for correction.

Section 9-22-4-15. Recommendations for Mitigation of Impacts.

Within ten (10) working days of receipt of a completed traffic impact study, the Director of Public Works shall complete his or her review the study and submit to the Director of Planning and Development all recommendations for mitigation measures as stated in the traffic impact study and include any interpretations or recommended conditions of approving the discretionary development proposal that will mitigate traffic impacts of the proposed development.

Section 9-22-4-16. Determination of Project and System Improvements.

Upon receipt of the recommendations of the Director of Public Works with regard to the traffic impacts of the discretionary development proposal, the Director of Planning and Development shall determine which mitigation measures constitute “project” improvements and which mitigation measures constitute “system” improvements within the context of the Georgia Development Impact Fee Act of 1990.

In the event that a particular improvement is called for in the traffic impact study or recommended by the Director of Public Works, and the Director of Planning and Development is unable to uniquely attribute the recommendation as a project or system improvement or finds that such improvement has characteristics of both a project improvement and a system improvement, the Director of Planning and Development with the assistance of the Director of Public Works if necessary shall determine the proportion of the cost of such improvement that can reasonably be attributed to the development as a project improvement, and the portion of such improvement that can reasonably be considered a system improvement.

Section 9-22-4-17. Conditions of Development Approval for Project Improvements.

Upon the determination of project improvements needed to mitigate the traffic impacts of the discretionary development proposal as provided in this Chapter, the Director of Planning and Development shall recommend that the project improvements be completed by the developer as conditions of approval of the discretionary development proposal.

Section 9-22-4-18. System Improvements.

When the Director of Public Works recommends improvements as a condition of a development proposal that the Director determines are wholly or partially "system" improvements, the Director of Planning and Development may include such recommendations in the recommended conditions of approval for the discretionary development application. The development applicant and the city in the case of system improvements shall have the following options:

(a) The applicant for a discretionary development proposal may voluntarily agree to pay for the cost of providing the system improvements, or a pro-rated share of the cost of said system improvements that are reasonably attributed to the subject development, as determined by the city.

(b) In the case of an application for discretionary development proposal before the Governing Body, the city may find that the proposed development will provide substantial adverse impacts on the transportation system. The city may find further that the existing transportation system is insufficient to serve the proposed development and that the city is unable to provide adequate transportation facilities within a reasonable amount of time after the impacts of said development would occur. Given such findings, the Governing Body may reduce the development density or intensity to the degree that the impacts of the development proposal do not degrade transportation facilities below accepted Level of Service Standards, require a phasing of the development in a manner that adequate public facilities will be provided publicly or privately, or in cases where such other alternatives do not address the adverse impacts, deny an application for a discretionary development proposal.

Section 9-22-4-19. Appeal.

An applicant for a discretionary development proposal may appeal a decision of the Director of Public Works or the Director of Planning and Development in the administration and interpretation of this Chapter to the Planning and Appeals Board as an Appeal of an Administrative Decision as provided in this Unified Land Development Code.

CHAPTER 9-22-5
DEVELOPMENT OF REGIONAL IMPACT

Section 9-22-5-1. Definitions.
Section 9-22-5-2. Applicability.
Section 9-22-5-3. Jurisdiction.
Section 9-22-5-4. Procedures.

Section 9-22-5-1. Definitions.

Initial DRI information form: A form intended to identify basic information about a proposed development of regional impact on which a local government is being requested to take action, and which provides information to the Regional Development Center (RDC). This form notifies the RDC of a potential development of regional impact in order for the RDC to meet its responsibilities within the DRI review process.

DRI Review initiation request form: A form intended to provide additional information about the proposed project to the Regional Development Center (RDC), the submission of which serves as an official request that the DRI review process be started by the RDC.

Regional Development Center: The Georgia Mountains Regional Development Center.

Section 9-22-5-2. Applicability.

This Chapter shall apply when an applicant (industry, business, or developer) requests some type of local government action related to a project, such as, but not limited to, a request for a zoning change or Special Use, zoning variance, permit, hookup to a water or sewer system, master or site plan approval, or entering into a contract, and it appears that the proposed development (or, for multi-phased projects, the complete development) meets the threshold(s) of a development of regional impact, according to “Rules of Georgia Department of Community Affairs, Chapter 110-12-3, Developments of Regional Impact, Effective July 1, 2001, as may be amended from time to time.

Section 9-22-5-3. Jurisdiction.

If a proposed development project is to be located in more than one jurisdiction and, in total, the proposed development meets or exceeds a DRI threshold; the local government in which the largest portion of the project is to be located is responsible for initiating the DRI review process.

Section 9-22-5-4. Procedures.

The application procedures established in Chapter 9-22-2 and Chapter 9-22-3 will be modified by this Chapter in cases where a Rezoning or Special Use application, or an annexation application respectively, fits the definition of a “development of regional impact.” Developments of regional impact will be processed according to procedures of the Georgia Department of Community Affairs as described in “Rules of Georgia Department of Community Affairs, Chapter 110-12-3, Developments of Regional Impact, effective July 1, 2001, as may be amended from time to time.

When an application is received for development that meets or exceeds the thresholds established for that development type and thus constitutes a “development of regional impact” according to the aforementioned Rules of the Georgia Department of Community Affairs, the city will follow the procedures identified in said administrative rules which are summarized here.

When an application for a development of regional impact is received, the Director on behalf of the city will complete an “Initial DRI Information” form and a “DRI Review Initiation Request” form. Each of these two forms may be submitted to the Regional Development Center simultaneously, provided the city has all necessary project-related information.

The city shall not take any official legislative or administrative action to advance or further a DRI project until the review process identified under the DRI review procedure specified in “Rules of Georgia Department of Community Affairs, Chapter 110-12-3, Developments of Regional Impact, Effective July 1, 2001,” as may be amended from time to time, is completed. The city may undertake preliminary staff administrative functions associated with a proposed DRI including, but not limited to, project evaluation/assessment, site visits, and placing consideration of the application on a future agenda for formal action, if required. The city shall not take any official action related to such a project until the DRI review process is completed and the city has had adequate time to consider the DRI review comments.

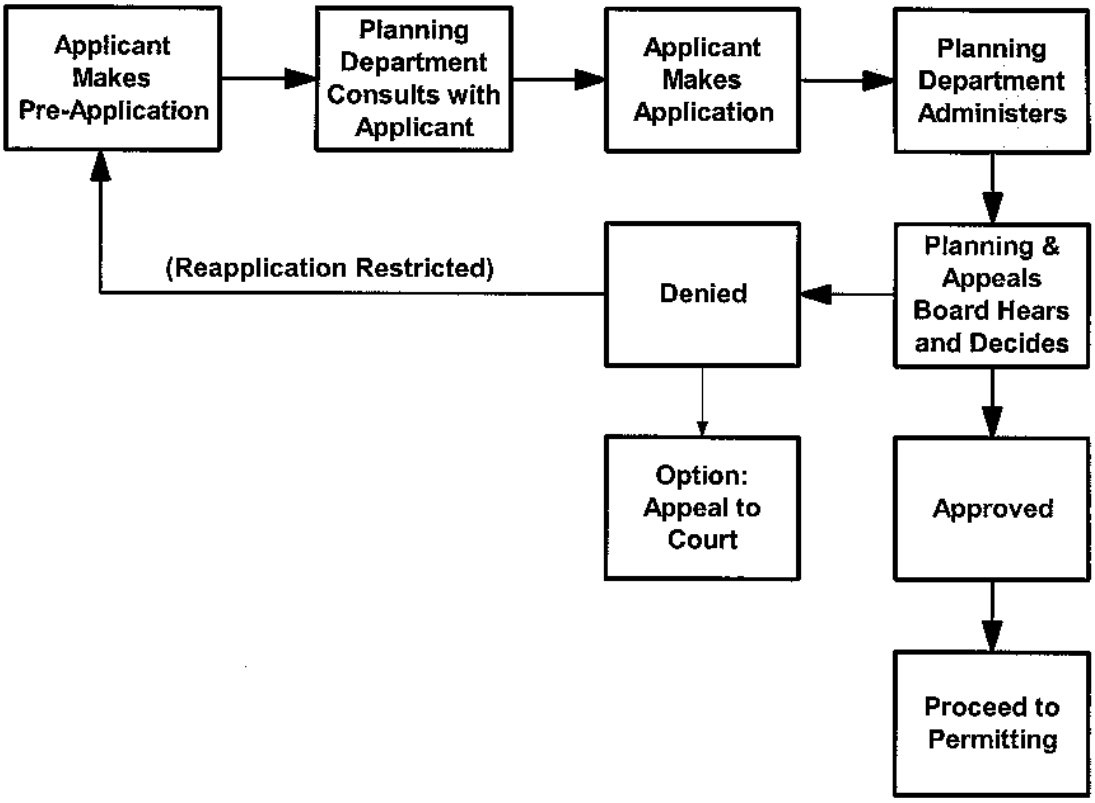
After the DRI review process is completed, the city may proceed with whatever action it deems appropriate regarding the proposed project, although it is encouraged to take the public finding and additional comments into consideration as it makes its decision.

If the project receives a negative public finding from the Regional Development Center and the city approves said project or takes action to advance said project, the city shall notify the Regional Development Center and the Georgia Department of Community Affairs of its action and identify all local requirements it has placed on the development that could mitigate any negative findings identified in the DRI review process.

CHAPTER 9-22-6
ZONING VARIANCES

Section 9-22-6-1. Generally.
Section 9-22-6-2. Initiation.
Section 9-22-6-3. Waiting Period for Reapplication.
Section 9-22-6-4. Requirements for Submittal.
Section 9-22-6-5. Specifications for Concept Plans.
Section 9-22-6-6. Notice of Public Hearing in Newspaper.
Section 9-22-6-7. Notice of Public Hearing By Sign on Property.
Section 9-22-6-8. Notice to Adjacent Property Owners.
Section 9-22-6-9. Investigations and Staff Recommendation.
Section 9-22-6-10. Planning and Appeals Board Hearing and Action.
Section 9-22-6-11. Criteria to Consider for Variance Applications.
Section 9-22-6-12. Withdrawal of Application.
Section 9-22-6-13. Provisions That Cannot be Varied.
Section 9-22-6-14. Duration of Validity.

Overview of Zoning Variance Process



Section 9-22-6-1. Generally.

Persons may seek relief from compliance with the zoning-related requirements of this Unified Land Development Code pursuant to this Chapter when the strict application would create a particular and unique hardship, by filing an application for variance with the Director of Planning and Development for consideration by the Planning and Appeals Board in accordance with this Chapter. Such relief may be granted only to the extent necessary to alleviate such unnecessary hardship and not as a convenience neither to the applicant nor to gain any advantage or interest over similarly zoned properties.

Section 9-22-6-2. Initiation.

An application for a zoning variance for any property or properties in the city may be initiated by the Governing Body, Planning and Appeals Board, owner of the property, or some other person(s) given authorization by property owner to file said application.

Any applicant wishing to submit an application for a zoning variance request must schedule an appointment with the Planning Department staff in order to review the application for completeness. No such application shall be accepted for processing by the Director unless it meets the requirements of this Section. Incomplete or improper applications will be returned to the applicant. The Director is hereby authorized to establish administrative deadlines for the receipt of applications.

Section 9-22-6-3. Waiting Period for Reapplication.

If **denied**, a variance request affecting the same property shall not be reconsidered for a period of twelve (12) months from the date of denial; provided, however, that the Planning and Appeals Board may reduce the waiting period under extenuating circumstances or on its own motion. A request to reduce the waiting period must be asked for and acted upon by the Planning and Appeals Board during the public hearing at which the request was first considered.

Section 9-22-6-4. Requirements for Submittal.

Applications for zoning variance shall include the following:

(a) Application form. A completed application. All applications shall be submitted to the Department of Planning and Development on the Department's application forms.

(b) Fee. All applications shall be accompanied by a non-refundable fee as fixed from time to time by the Governing Body. A fee shall not be charged if the Governing Body or the Planning and Appeals Board initiate the application.

(c) Plat or boundary survey. A plat or boundary survey of the property or properties involved in the application. Provide one (1) scaled and folded copy, and one (1) 8.5" x 11" or 11" x 17" reproducible size copy.

(d) Statement of Hardship. Form with various questions to be answered by an applicant in a manner describing how each situation applies to the application. The applicant may complete the questions on the form provided with the application, or the applicant can type the answers on a separate sheet of paper as part of the written narrative, identifying each component as such.

(e) Written Narrative. A written narrative should indicate at a minimum: the purpose of the request, proposed use, economic and environmental impacts as well as overlay zones or protection areas in which the property is located, such as the North Oconee Water Supply Watershed Protection Overlay Zone.

(f) Architectural renderings. Architectural renderings for any proposed new construction or exterior alterations of the existing structure(s), including at a minimum:

1. Roof pitch,
2. Materials to be used on exterior,
3. Basic landscaping proposed, and
4. Building elevations.

If the architectural rendering is in a color format or is larger than an 11” x 17” size copy, nine (9) copies of the colored or large-scale rendering must be submitted with the completed application.

(g) Concept plan. An application for a zoning variance approval related to a residential subdivision, multi-family, or non-residential use or zoning district shall be accompanied by a concept plan if any new construction is proposed or alteration of the site is required under the site or development design standards of this Ordinance. An as-built survey (rather than a concept plan) indicating the most current development conditions must be submitted with those applications regarding existing developments that are not to be altered. The concept plan must be prepared by a professional engineer, or a registered land surveyor; landscape architect; or architect. The concept plan shall meet the requirements of Section 9-22-6-5 of this Chapter. The applicant shall submit nine (9) scaled and folded copies, folded to fit into an 8” x 10” size envelop, and one 11” x 17” reproducible copy.

The Director may request information in addition to that specified in this Section when considered necessary for review of the application by the Governing Body or Planning and Appeals Board.

Section 9-22-6-5. Specifications for Concept Plans.

The concept plan shall show the following, as appropriate to the variance requested:

(a) Name, address and telephone number of the property owner.

(b) Name, address and telephone number of the applicant.

(c) Date of survey, north point and graphic scale, source of datum, date of plan drawing, and revision dates, as appropriate.

(d) Proposed use of the property.

(e) Location (Land District and Land Lot) and size of the property in acres (or in square feet if less than an acre).

(f) Location map of the property in relation to the surrounding area with regard to well-known landmarks such as arterial streets or railroads. Location maps must be drawn at a scale sufficient to show clearly the information required, but not less than one inch equal to 2,000 feet. U.S. Geological Survey maps may be used as a reference guide.

(g) Zoning district classification of the subject property and all adjacent properties, and zoning district boundaries as appropriate.

(h) Natural features within the property, including drainage channels, bodies of water, wooded areas and other significant natural features such as rock outcroppings. On all water courses entering or leaving the property, the direction of flow shall be indicated. The 100-year flood plain, if any, shall be outlined.

(i) Man-made features within and adjacent to the property, including existing streets and names, city and county political boundary lines, and other significant information such as location of bridges, utility lines, existing buildings to remain, and other features as appropriate to the nature of the request.

(j) The proposed project layout including:

1. For residential development projects, approximate lot lines and street right-of-way lines, along with the building setback lines.

2. For multi-family and non-residential development projects, the approximate outline and location of all buildings, and the location of all minimum building setback lines, outdoor storage areas, buffers, parking areas, and driveways.

(k) The proposed phasing of the development if it is proposed to be built in sections.

(l) A statement as to the source of domestic water supply.

(m) A statement as to the provision for sanitary sewage disposal.

(n) The approximate location of proposed stormwater detention facilities.

(o) Such additional information as may be useful to permit an understanding of the proposed use and development of the property.

Section 9-22-6-6. Notice of Public Hearing in Newspaper.

Before the Planning and Appeals Board may take final action on a proposed variance application, the Planning and Appeals Board shall hold a public hearing on the proposal. At least fifteen (15) days but not more than forty-five (45) days prior to the public hearing before the Planning and Appeals Board, notice shall be published in a newspaper of general circulation within the city. The published notice shall be prepared by the Planning Department and shall include the location of the property, the present zoning classification of the property, the variance requested, and the date, time, and place of the public hearing before the Planning and Appeals Board.

Section 9-22-6-7. Notice of Public Hearing By Sign on Property.

At least fifteen (15) days but not more than forty-five (45) days prior to the public hearing, the City shall post a sign or signs stating the date, time and place of the public hearing before the Planning and Appeals Board, the present zoning classification and the proposed variance. One such sign shall be placed in a conspicuous location along each street frontage of the property for which the variance has been requested. If the property has no street frontage, the sign shall be placed on each street from which access will be gained to the property.

Section 9-22-6-8. Notice to Adjacent Property Owners.

At least ten (10) days prior to the Planning and Appeals Board public hearing, the applicant shall cause a notice to be mailed to all persons owning property located abutting or across any street from the property that is the subject matter of the variance application. The written notice shall be mailed to the property owners as such names and addresses appear on the County's ad valorem tax records. The notice shall state the date, time, place and purpose of the hearing by the Planning and Appeals Board.

Section 9-22-6-9. Investigations and Staff Recommendation.

Within a reasonable period of time after acceptance of a complete application, the Director may but shall not be required to send the application or notice thereof out for review by internal municipal departments and external agencies as may be appropriate. Any written comments received in a timely manner as a result of such review shall be submitted for consideration to the Planning and Appeals Board and Governing Body, or summarized in a memorandum. Any such comments shall become public records.

The Director may but shall not be required to investigate and make a recommendation regarding the variance application. Any such investigation and recommendation if in writing be made available to the applicant and Planning and Appeals Board prior to its public hearing and shall become public records. Copies of the Director's findings and recommendations, if provided, shall be available no later than the time of the Planning and Appeals Board's public hearing on the matter.

Section 9-22-6-10. Planning and Appeals Board Hearing and Action.

The Planning and Appeals Board shall convene a public hearing on the variance application as provided in the public notice. The public hearing shall follow policies and procedures which govern calling and conducting public hearings established in Chapter 9-22-9 of this Unified Land Development Code. The Planning and Appeals Board shall have sixty-five (65) calendar days from the date of its public hearing within which to take final action on the variance application.

In rendering a decision on a variance application, the Planning and Appeals Board shall consider all information supplied by the applicant, the Director, and any information presented at the public hearing of the Planning and Appeals Board. After conducting a public hearing, in taking action on an application, the Planning and Appeals Board may:

(a) Approve the application as submitted.

(b) Approve the application with conditions.

(c) Deny the proposal.

(d) Table the proposal for consideration at its next scheduled meeting, provided that it acts within its allotted sixty-five (65) day review period.

The action of the Planning and Appeals Board on the variance application shall be final; provided, however, that any person adversely affected by any determination made by the Planning and Appeals Board relative to the approval or denial of a variance application may appeal such determination to a court of competent jurisdiction in the manner provided by law.

Section 9-22-6-11. Criteria to Consider for Variance Applications.

The Planning and Appeals Board shall consider the following standards in considering any variance application, giving due weight or priority to those factors that are appropriate to the circumstances of each proposal:

(a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography; and,

(b) The application of the Unified Land Development Code to this particular piece of property would create an unnecessary hardship; and,

(c) There are conditions that are peculiar to the property which adversely affect its reasonable use or usability as currently zoned.

(d) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Ordinance.

(e) There must be a proved hardship by showing beyond a doubt the inability to make a reasonable use of the land if the zoning ordinance were applied literally.

(f) The hardship cannot be self-created; e.g., as in a case where the lot was purchased with the knowledge of an existing restriction.

Section 9-22-6-12. Withdrawal of Application.

A variance application may be withdrawn at any time at the discretion of the person or entity initiating such a request upon notice to the Director, up until the public hearing by the Planning and Appeals Board is closed.

If the applicant withdraws the application prior to the publication of notice for public hearing before the Planning and Appeals Board, the application shall be withdrawn administratively by the Director without restriction on the refiling of a proposed variance on the property in the future.

If the applicant withdraws the application after notice has been published or is irretrievably set for publication but the application has not been heard by the Planning and Appeals Board, the application shall be withdrawn administratively by the Director and an application for variance on the property may not be resubmitted for six (6) months from the date of withdrawal.

If the request for withdrawal is made at the Planning and Appeals Board public hearing on the case, the request may be approved by a majority vote of the Board, but an application for a

variance on the property may not be resubmitted for twelve (12) months from the date of withdrawal. However, that the Planning and Appeals Board may reduce the waiting period under extenuating circumstances or on its own motion. A request to reduce the waiting period must be asked for and acted upon by the Planning and Appeals Board during the public hearing at which the request was first considered.

Section 9-22-6-13. Provisions That Cannot be Varied.

In no case shall a variance be granted for any of the following:

(a) A condition created by the applicant, including the result of an unwise investment decision or real estate transaction.

(b) A change in the conditions of approval imposed through a rezoning application approved by the Governing Body.

(c) Reduction of a minimum lot size required by a zoning district.

(d) Use of land or buildings or structures that is not permitted by the zoning district that is applicable to the property.

(e) Any increase in the number of dwelling units or nonresidential building floor area otherwise permitted by the zoning district that is applicable to the property.

Section 9-22-6-14. Duration of Validity.

Approval of a zoning variance on a property located within the City shall be in full force and effect upon its approval by the Planning and Appeals Board and shall be effective for a period of twelve (12) months. If no action is taken by the applicant to implement the purpose of the application within twelve (12) months from the date of approval, said approval shall become null and void. A zoning variance shall be specific to the request made by the current applicant and shall not stay with the property, as is the case for a zoning change.

CHAPTER 9-22-7
APPEAL OF ADMINISTRATIVE DECISION

Section 9-22-7-1. Appeal as a Remedy.
Section 9-22-7-2. Initiation.
Section 9-22-7-3. Administrative Resolution.
Section 9-22-7-4. Requirements for Submittal.
Section 9-22-7-5. Public Notice and Public Hearing.
Section 9-22-7-6. Stay of Proceedings.
Section 9-22-7-7. Decision.
Section 9-22-7-8. Effect.

Section 9-22-7-1. Appeal as a Remedy.

Persons may appeal to the Planning and Appeals Board for relief when aggrieved by an action or an interpretation of an administrative official of the City made under this Unified Land Development Code. All such requests for relief shall be taken as an appeal to the Planning and Appeals Board, as provided in this Chapter.

Section 9-22-7-2. Initiation.

Appeals of an administrative decision may be initiated by any person aggrieved by a decision made under this Unified Land Development Code or by an officer or department head of the City. Such appeal shall be initiated within fifteen (15) days of the action or decision appealed from by filing with the Director of Planning and Development an application for an appeal of an administrative decision specifying the grounds thereof. If the person aggrieved by an action within this Unified Land Development Code does not initiate an appeal within fifteen (15) days, then the decision of the administrative official shall stand, and no further administrative remedy shall be available under this Ordinance

Any applicant wishing to submit an application for an appeal of administrative decision must schedule an appointment with the Planning Department staff in order to review the application for completeness. No such application shall be accepted for processing by the Director unless it meets the requirements of this Section. Incomplete or improper applications will be returned to the applicant. The Director is hereby authorized to establish administrative deadlines for the receipt of applications.

Section 9-22-7-3. Administrative Resolution.

The Director of Planning and Development will attempt to resolve the issue within fifteen (15) days of receipt of the notice of appeal. Unresolved issues will be referred to the Planning and Appeals Board for final action.

Section 9-22-7-4. Requirements for Submittal.

To initiate an appeal, an application must be submitted to the Planning Department which shall include at minimum the following:

(a) Application form. A completed application. All applications shall be submitted to the Department of Planning and Development on the Department's application forms.

(b) Fee. All applications shall be accompanied by a non-refundable fee as fixed from time to time by the Governing Body. A fee shall not be charged if the Governing Body or the Planning and Appeals Board initiate the application.

(c) Written narrative. A written narrative explaining the request and purpose for the appeal.

The Planning Department in reviewing an application shall also be authorized to require any supporting information necessary to review an administrative decision on the record necessary to resolve the request for appeal. These may include but are not limited to plat or boundary survey, architectural renderings, or concept plan or as-built surveys. When the appeal application is referred to the Planning and Appeals Board, the applicant shall be required to submit a sufficient number of scaled and reproducible size copies of such supporting documentation as determined by the Planning Department.

Section 9-22-7-5. Public Notice and Public Hearing.

An application for an appeal approval shall comply with the public notice and public hearing process as described in Chapter 9-22-2 of this Unified Land Development Code for a Rezoning or Special Use request, with the exception that a decision by the Planning and Appeals Board shall constitute final action.

Section 9-22-7-6. Stay of Proceedings.

The filing of a completed application for an appeal of an administrative decision stays all legal proceedings in furtherance of the action appealed from, unless the officer or department head from whom the appeal is made certifies to the Planning and Appeals Board, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed unless the applicant for appeal of an administrative decision gains a restraining order which must be granted by a court of competent jurisdiction.

Section 9-22-7-7. Decision.

The Planning and Appeals Board shall make findings and render a decision after the initial public hearing on the appeal application. The Planning and Appeal Board's Secretary shall notify the applicant, in writing, of its decision within five (5) days after the Board has rendered its decision.

The Planning and Appeals Board may affirm, overrule or modify, in whole or in part, the rulings of an administrative officer's decision or interpretation pursuant to this Unified Land Development Code. In cases where an appeal is granted, the Planning and Appeals Board may direct the issuance of land development permits or building permits, not otherwise inconsistent with this Unified Land Development Code or other ordinance adopted by the Governing Body.

A decision of the Planning and Appeals Board pursuant to this Chapter shall constitute final action and may be appealed only to a court of competent jurisdiction in the manner provided by law.

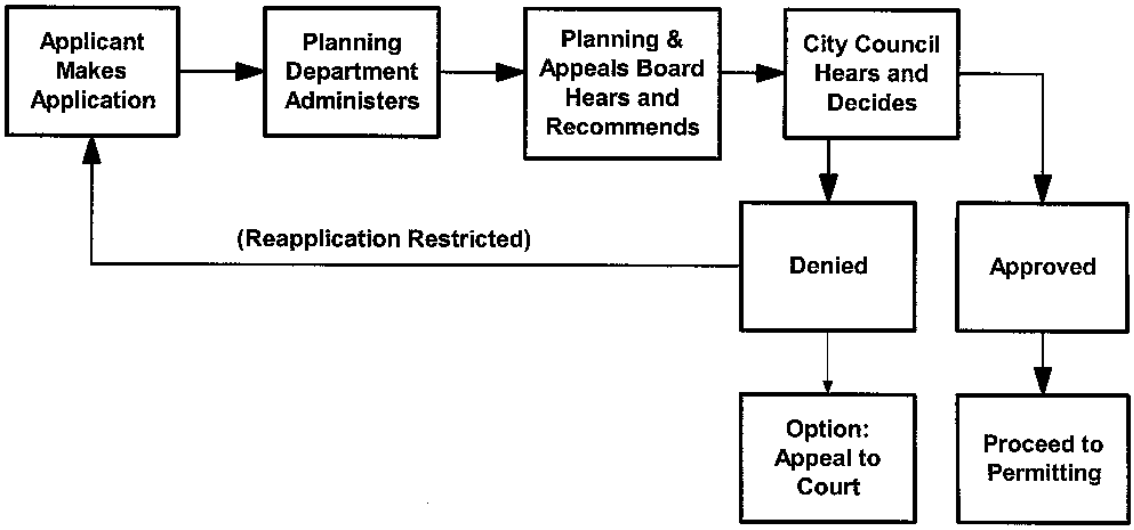
Section 9-22-7-8. Effect.

Approval of an appeal on a property located within the City shall be in full force and effect upon its approval by the Planning and Appeals Board. An appeal approved by the Planning and Appeals Board on a property located within the City shall be effective for that specific request and applicant. Approval of said appeal shall not be transferable. (Language from current Code in amendment for applications adopted last year)

CHAPTER 9-22-8
TEXT AMENDMENTS

Section 9-22-8-1. Applicability.
Section 9-22-8-2. Initiation.
Section 9-22-8-3. Application Requirements.
Section 9-22-8-4. Notice of Public Hearings.
Section 9-22-8-5. Criteria to Consider for Text Amendments.
Section 9-22-8-6. Appointed Board Hearing and Recommendation.
Section 9-22-8-7. Action by Governing Body.
Section 9-22-8-8. Withdrawal of Application.
Section 9-22-8-9. Effect.
Section 9-22-8-10. Waiting Period for Reapplication.

Overview of Process



Section 9-22-8-1. Applicability.

This Ordinance may be amended from time to time in whole or in part by the Governing Body under the provisions of this Section.

Section 9-22-8-2. Initiation.

A text amendment may be initiated by the Governing Body, Planning and Appeals Board, or Historic Preservation Commission by a majority vote of those voting, or by the Director or other City departmental director.

Section 9-22-8-3. Application Requirements.

A pre-application meeting with the Director is required prior to filing a text amendment. Applications for text amendments shall require submittal of the following:

(a) Application form. A completed application. All applications shall be submitted to the Department of Planning and Development on the Department's application forms, including signed and notarized signature of property owner.

(b) Fee. All applications shall be accompanied by a non-refundable fee as fixed from time to time by the Governing Body. A fee shall not be charged if the Governing Body or the Planning and Appeals Board initiate the application.

(c) Letter of intent. A written narrative describing the purpose of the request and addressing how the proposed application meets the criteria to consider for text amendments as specified in Section 9-22-2-5.

(d) Disclosure. A statement of disclosure complying with O.C.G.A. 36-67-1, "Conflict of Interest in Zoning Actions," if not incorporated into the required application form.

In cases where an applicant is proposing a text amendment to modify an existing zoning district or create a new zoning district, and where the applicant also desires to rezone property to the modified or new zoning district, the two applications shall not be considered concurrently.

Section 9-22-8-4. Notice of Public Hearings.

Before the Governing Body may take final action on a proposed text amendment, the Planning and Appeals Board or Historic Preservation Commission shall hold a public hearing on the proposal. At least fifteen (15) days but not more than forty-five (45) days prior to the public hearing before the Planning and Appeals Board or Historic Preservation Commission, notice shall be published in a newspaper of general circulation within the city. The published notice shall be prepared by the Planning Department and shall include the nature of the proposed text amendment, and the date, time and place of the public hearing before the Planning and Appeals Board or Historic Preservation Commission. Notice of the date, time, and place of the public hearing before the Governing Body shall also be included in the notice.

Section 9-22-8-5. Criteria to Consider for Text Amendments.

The Governing Body, Planning and Appeals Board, or Historic Preservation Commission shall consider the following standards for text amendments, giving due weight or priority to those standards that are appropriate to the circumstances of each proposal:

(a) The extent to which the proposed text amendment is consistent with the purpose and intent of this Unified Land Development Code.

(b) The extent to which the proposed text amendment is compatible with the purpose and intent of the Comprehensive Plan.

(c) Whether the proposed text amendment adequately addresses new or changing conditions in the city.

(d) Whether the proposed text amendment is needed to properly implement the Comprehensive Plan.

(e) The extent to which the proposed text amendment promotes the public health, safety, morality or general welfare of the city.

Section 9-22-8-6. Appointed Hearing and Recommendation.

The Planning and Appeals Board or Historic Preservation Commission shall convene a public hearing on the text amendment as provided in the public notice. The public hearing shall follow policies and procedures which govern calling and conducting public hearings established in Chapter 9-22-9 of this Unified Land Development Code. The Planning and Appeals Board or Historic Preservation Commission shall have sixty-five (65) calendar days from the date of its public hearing within which to submit its recommendation on the text amendment. The Planning and Appeals Board or Historic Preservation Commission may submit any additional report it deems appropriate. The recommendations of the Planning and Appeals Board or Historic Preservation Commission shall have an advisory effect only and shall not be binding on the Governing Body.

Section 9-22-8-7. Action by Governing Body.

The Governing Body shall hold a public hearing on the text amendment. In rendering a decision on any such text amendment, the Governing Body shall consider all information supplied by the applicant, Director and the Planning and Appeals Board or Historic Preservation Commission, any information presented at the public hearing of the Planning and Appeals Board, and information gained at its own public hearing. The Governing Body shall either approve or disapprove of the application, or it may modify the text amendment language as proposed or recommended and approve the text amendment as modified.

Section 9-22-8-8. Withdrawal of Application.

Any application for a text amendment may be withdrawn at any time at the discretion of the person or entity initiating such a request upon notice to the Director, up until the public hearing by the Planning and Appeals Board or Historic Preservation Commission is closed.

Section 9-22-8-9. Effect.

Approval of a text amendment shall be in full force and effect upon its approval or upon the stated effective date thereof, and shall thereupon apply to every property for which a use has not been established or for which a building permit or development permit may subsequently be requested.

For a property on which a use, building, structure or other improvements existed in conformity with this Unified Land Development Code prior to the effective date of a text amendment affecting the property, any such use, building, structure or other improvements no longer in conformance shall be governed under the provisions for nonconformities in Article 9-11 of this Unified Land Development Code. Construction of any use, building, structure, or other improvements for which a building permit has been issued in conformity with this Unified Land Development Code prior to the effective date of a text amendment may continue to completion as though no change had occurred and, upon completion, shall be governed under the provisions for nonconformities in Article 9-11 of this Unified Land Development Code, as applicable.

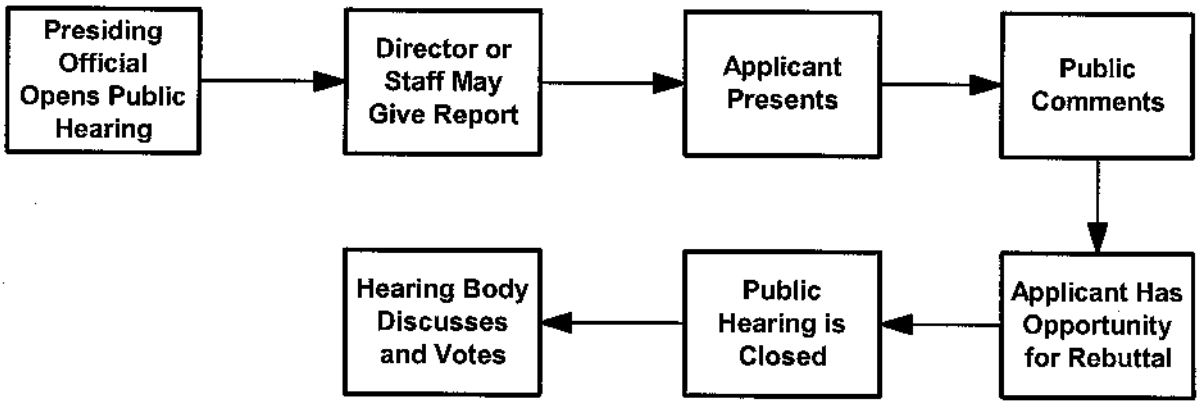
Section 9-22-8-10. Waiting Period for Reapplication.

There shall be no waiting period for reapplication of text amendments.

CHAPTER 9-22-9
PROCEDURES FOR CALLING AND CONDUCTING PUBLIC HEARINGS

Section 9-22-9-1. Applicability.
Section 9-22-9-2. Presiding Official.
Section 9-22-9-3. Opening of Public Hearing.
Section 9-22-9-4. Report of Director.
Section 9-22-9-5. Applicant.
Section 9-22-9-6. Public.
Section 9-22-9-7. Applicant's Rebuttal.
Section 9-22-9-8. Close of Hearing.
Section 9-22-9-9. Decision.
Section 9-22-9-10. Planning and Appeals Board Special Provisions.
Section 9-22-9-11. Historic Preservation Commission Special Provisions.

Public Hearing Process



Section 9-22-9-1. Applicability.

Any public hearing required by this Article shall be called and convened at the scheduled time and place, and it shall be conducted in accordance with the procedures of this Chapter. For purposes of this Chapter, the term "hearing body" shall refer to the Governing Body, the Planning and Appeals Board, and the Historic Preservation Commission. Nothing contained in this Chapter shall be construed as prohibiting a presiding official or hearing body from conducting a public hearing in a fair, orderly, and decorous manner.

Section 9-22-9-2. Presiding Official.

The presiding officer shall preside over the public hearing as follows:

(a) Governing Body. In the case of a Governing Body, the Mayor shall have authority to preside but may delegate the presiding official's duties to the City Attorney. In the absence of the Mayor, the Mayor Pro Tempore shall have authority to preside but may delegate the presiding official's duties to the City Attorney. In the absence of both the Mayor and Mayor Pro Tempore, another member of the Governing Body shall be have authority to preside but may delegate the presiding official's duties to the City Attorney.

(b) Planning and Appeals Board. In the case of the Planning and Appeals Board, the chairperson of said Board shall preside, or in the absence of the chairperson, the vice chairperson if designated, or if neither is present to preside, another member of the Board shall be designated to preside.

(c) Historic Preservation Commission. In the case of the Historic Preservation Commission, the chairperson of said Commission shall preside, or in the absence of the chairperson, the vice chairperson if designated, or if neither is present to preside, another member of the Commission shall be designated to preside.

Section 9-22-9-3. Opening of Public Hearing.

The presiding official shall indicate that a public hearing has been called on one or more applications made pursuant to this Article, shall summarize the processes required by this Chapter, and shall open the public hearing. Thereupon, the presiding official shall call the first case and the hearing body shall consider each application on an individual basis in succession as printed on the published agenda or as otherwise approved by the hearing body; provided, however, that the presiding officer may at his or her discretion call and consider more than one application simultaneously when more than one application involves the same piece of property, and when proceedings would be efficiently completed by combining separately required public hearings and discussing more than one scheduled matter as a single group of applications.

Section 9-22-9-4. Report of Director.

Upon opening the public hearing, the presiding official shall, unless he or she elects to summarize and present information about the application personally, recognize the Director or designee of the Planning and Development Department, who shall provide a summary of the application and present any recommendations or results of investigations. In the case of public hearings before a Governing Body, unless a member of the Planning and Appeals Board or Historic Preservation Commission is present and is authorized and willing to speak for the

Board on the subject application, the Director shall also summarize the recommendations made by the Planning and Appeals Board or Historic Preservation Commission. Any member of the hearing body upon recognition by the presiding official may ask questions of the Director or designee or other city official, or Planning and Appeals Board or Historic Preservation Commission representative providing the report or recommendations.

Section 9-22-9-5. Applicant.

When an individual application comes up for hearing, the presiding official may ask for a show of hands of those persons who wish to appear in support of the application. If it appears that the number of persons wishing to appear in support of the application is in excess of that which may reasonably be heard, the presiding official may request that a spokesperson for the group be chosen to make presentations. Following the report of the Director or designee, the presiding official shall recognize the applicant or his or her agent, spokesperson, or each of them, who shall present and explain the application.

There shall be a minimum time period of ten (10) minutes per application at the public hearing for the proponents to present data, evidence, and opinions; the hearing body shall not be obligated to provide the full ten-minute period to the proponents if they elect not to use that much time. Any member of the hearing body upon recognition by the presiding official may ask questions of the applicant or agent of the applicant, or both. Time devoted to questions and answers will not be counted against any time limitations that have been imposed on presentations.

Section 9-22-9-6. Public.

At the conclusion of the applicant's presentation, the presiding official shall initiate the public comment portion of the public hearing. When an individual application comes up for review, the presiding official may ask for a show of hands of those persons who wish to ask questions, make comments, and/or appear in opposition to the application. If it appears that the number of persons wishing to ask questions, make comments, or appear in opposition to the application is in excess of that which may reasonably be heard, the presiding official may request that a spokesperson for the group be chosen to make presentations and ask questions, or appear in opposition. There shall be a minimum time period of ten (10) minutes per application at the public hearing for the opponents to present data, evidence, and opinions and ask questions; the hearing body shall not be obligated to provide the full ten-minutes per application to the opponents if they elect not to use that much time.

Prior to speaking, each speaker will identify him or herself and state his or her current address. Each speaker shall speak only to the merits of the proposed application under consideration and shall address his or her remarks only to the hearing body. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed application under consideration. The presiding official may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate this procedure.

The hearing body will consider the questions raised during the public portion of the hearing and may elect to answer questions following the speakers, or it may defer questions to the applicant to be answered during rebuttal. Any member of the hearing body upon recognition by the presiding official may ask questions of a member of the public giving testimony. Time devoted to

questions and answers will not be counted against any time limitations that have been imposed on presentations.

Section 9-22-9-7. Applicant's Rebuttal.

At the conclusion of public testimony, or upon the expiration of time allotted for public testimony, the applicant or his or her agent, or both, shall be allowed a short opportunity for answer questions, rebut the testimony of the public, and provide final comments and remarks. The time devoted to any such rebuttal shall be counted toward the total ten (10) minutes allotted to the applicant if a time limit is set by the presiding official.

Any member of the hearing body upon recognition by the presiding official may ask questions of the applicant, his or her agent, or both. Time devoted to questions and answers will not be counted against any time limitations that have been imposed on presentations.

Section 9-22-9-8. Close of Hearing.

After the foregoing procedures have been completed, the presiding official will indicate that the public hearing is closed. Upon the closing of the public hearing, the applicant or his agent and any member of the public shall no longer address the hearing body in any way, including hand waving or motions for attention; provided, however, that at any time considered appropriate the presiding official may reopen the public hearing for a limited time and purpose.

Section 9-22-9-9. Decision.

After the public hearing is closed, the hearing body may either vote upon the application or may delay its vote to a subsequent meeting, subject to the limitations of this Article, provided that notice of the time, date and location when such application will be further considered shall be announced at the meeting during which the public hearing is held.

After hearing evidence, in making a decision, the hearing body shall apply the evidence to the criteria specified in this Article, as appropriate given the type of application. It will not be required that the hearing body consider every criterion given the type of application. It shall be the duty of the applicant to carry the burden of proof that approval of the proposed application will promote the public health, safety, morality or general welfare.

If the hearing body determines from the evidence presented by the applicant has shown that the proposed application promotes the health, safety, morals, and general welfare under applicable criteria, then the application shall be granted, subject to those reasonable conditions as may be imposed by the hearing body on its own initiative or as may be recommended by the Planning and Appeals Board or the Director. Otherwise, such application shall be denied. In cases where one or more companion applications are submitted and the Governing Body attaches conditions to the application, such conditions shall unless otherwise specifically stated otherwise become conditions of approval for each companion application.

Section 9-22-9-10. Planning and Appeals Board Special Provisions.

In the case of the Planning and Appeals Board, the following provisions shall apply to its decision making:

(a) A total of 4 Planning and Appeals Board members present shall constitute a quorum. A majority vote of quorum shall be necessary to approve any decision or recommendation.

(b) If a motion to recommend approval of an application fails, the application is automatically recommended for denial. If a motion to recommend denial of an application fails, another motion would be in order.

(c) A tie vote on a motion to recommend approval of an application shall be deemed a recommendation for denial of the application. A tie vote on any other motion shall be deemed to be no action, and another motion would be in order.

(d) If no action is taken on an application, it will go forward to the Governing Body with no recommendation.

Section 9-22-9-11. Historic Preservation Commission Special Provisions.

In the case of the Historic Preservation Commission, the following provisions shall apply to its decision making:

(a) A motion to recommend approval or denial of a designation application, or a motion to approve or deny a Certificate of Appropriateness, must be approved by an affirmative vote of at least three (3) members in order for the motion to be approved.

(b) A recommendation to approve or deny a proposed ordinance for designation shall be made by the Historic Preservation Commission within fifteen (l5) days following the public hearing, and shall be in the form of an ordinance to the Governing Body.

(c) The Historic Preservation Commission shall hold a public hearing and act upon all proposed Certificates of Appropriateness within forty-five (45) days of receipt of a complete application. Should a request for a Certificate of Appropriateness be tabled, the forty-five (45) day period will start over to allow time for the applicant to modify an application for a Certificate of Appropriateness.

ARTICLE 9-23
HISTORIC PRESERVATION APPLICATIONS AND PROCEDURES

CHAPTER 9-23-1	DEFINITIONS	23-1
CHAPTER 9-23-2	DESIGNATIONS	23-4
CHAPTER 9-23-3	CERTIFICATES OF APPROPRIATENESS	23-13
CHAPTER 9-23-4	UNDUE HARDSHIP	23-22

CHAPTER 9-23-1
DEFINITIONS

Alteration: A visible change to the exterior of a structure; or work which impacts any exterior architectural feature. Alteration includes construction, reconstruction, introduction or removal of any building or building element.

Certificate of appropriateness: A document that is evidence of the approval by the Historic Preservation Commission (or in the case of minor projects, by the Director of Planning and Development) for a person to make a material change in the appearance of a designated historic property or property located within a designated historic district.

Character-defining: An element whose design and material is associated with the age and style of a building and helps define its architectural style; parts of a structure that make it distinctive.

Commission: The Historic Preservation Commission of the City of Gainesville, Georgia.

Design guidelines: Standards (not laws) that are an extension of the Secretary of the Interior's Standards for Rehabilitation used for evaluating proposed changes to locally designated historic landmarks or buildings, structures, site features, and other exterior elements of properties located within a locally designated historic district.

Designation: A decision by the Gainesville City Council to designate an individual landmark or district as "historic" and thereafter prohibit all exterior material changes in appearance prior to the issuance of a Certificate of Appropriateness.

Exterior architectural features: The architectural style and general design of the exterior of a structure including, but not limited to, the kind or texture of the building material and the type and style of all windows, doors, signs and other appurtenant architectural fixtures, features, details or elements relative to the foregoing.

Exterior environmental features: All those aspects of the landscape or the development of a site which affect the historical character of the property, including but not limited to walls, fences, signs or other appurtenant elements thereof including any improvement, grading or alteration of the land.

Georgia Historic Preservation Act: The state enabling legislation which authorizes communities in Georgia to establish a local historic preservation commission, and establishes minimum standards for local jurisdiction historic resources protection that is not tied to the exercise of zoning power. The Georgia Historic Preservation Act provides a benchmark against which each local governing jurisdiction may either evaluate existing preservation policy or formulate a preservation policy tailored to local needs.

Historic district: A geographically definable area which contains structures, sites, works of art or a combination thereof which exhibit a special historical, architectural, or environmental character as designated by the Governing Body.

Historic fabric: Materials original to a building or structure.

Historic landmark: An individual structure, site, or work of art which exhibits a special historical, architectural, or environmental character as designated by the Governing Body.

In-kind: Using the exact same material when replacing a damaged architectural element.

Integrity: The state of being unimpaired – both a building and its setting. Authenticity of a property's historic identity, evidenced by the survival of physical characteristics (i.e. location, setting, design, materials and workmanship) that existed during the property's historic period.

Major work project: Unless further clarified in the approved design and construction guidelines, this involves a change in the appearance of a structure or site and is more substantial in nature than routine maintenance or minor work projects.

Material change in appearance: A change that will affect either the exterior architectural features or exterior environmental features of an historic property or any structure, site or work of art within an historic district, and may include any one or more of the following:

(a) A reconstruction or alteration of the size, shape, or façade of an historic property, including any of its architectural elements or details;

(b) Demolition or relocation of a historic structure;

(c) Commencement of excavation for construction purposes;

(d) A change in the location of advertising or parking area visible from the public right-of-way; or

(e) The erection, alteration, restoration, or removal of any building or other structure within an historic property or district, including walls, fences, steps and pavements, or other appurtenant features, except exterior paint alterations.

Minor work project: Unless further clarified in the approved design and construction guidelines, this involves a change that goes beyond ordinary maintenance but does not constitute a significant or character-altering change in the appearance of a structure or site.

Ordinary or routine maintenance: Any action performed in order to preserve historic materials and other elements – including minor replacement of materials in-kind provided that no change in the design or general appearance is made to a structure or site.

Preservation: The sustaining of the existing form, integrity and material of a building or structure; and the existing form and landscaping of a site.

Rehabilitation or renovation: Returning a structure or property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those components that are significant to the historical, architectural and cultural values.

Remodel: To alter a structure in a way that may or may not be sensitive to the preservation of its significant architectural forms and features.

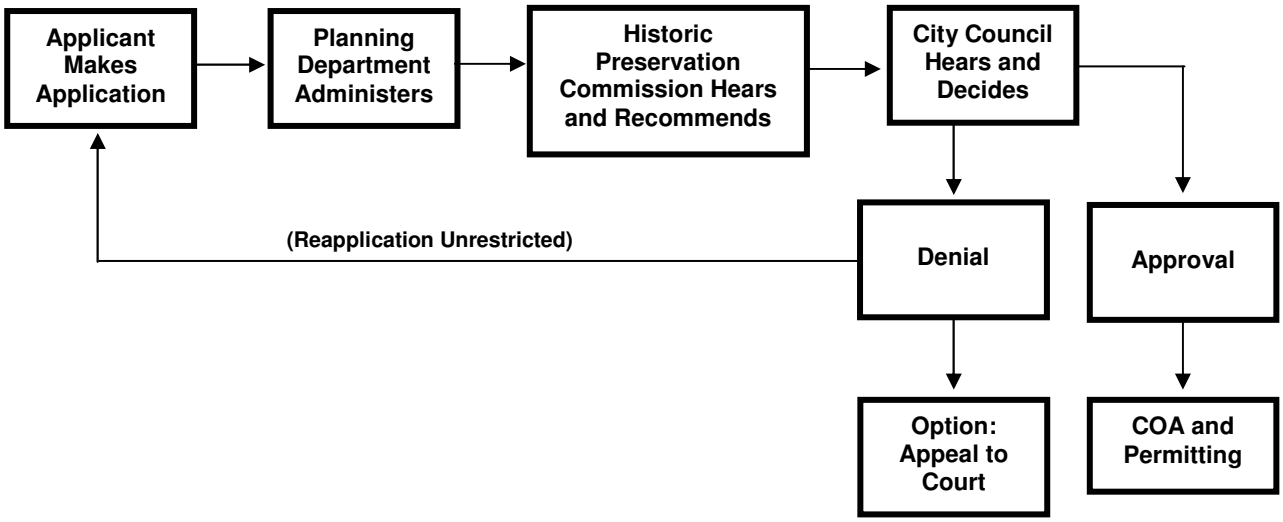
Restoration: Accurately recovering the form and details of a structure and its setting as it appeared at a particular time in history by removing recent work and/or replacing missing earlier work.

Work project: Any work performed to maintain and repair an existing structure or site and landscape feature; or any work performed to replace an existing structure or site and landscape feature, or component of such; or any work to build new construction (additions, infill, outbuildings, fences, etc.).

CHAPTER 9-23-2
DESIGNATIONS

Section 9-23-2-1. Generally.
Section 9-23-2-2. Initiation.
Section 9-23-2-3. Requirements for Submittal.
Section 9-23-2-4. Notice of Public Hearing by the Historic Preservation Commission.
Section 9-23-2-5. State Documentation Report; Investigations and Staff Findings.
Section 9-23-2-6. Criteria to Consider for Designations.
Section 9-23-2-7. Criteria to Consider for Amendments or Renunciation.
Section 9-23-2-8. Investigations and Staff Findings.
Section 9-23-2-9. Historic Preservation Commission Hearing and Recommendation.
Section 9-23-2-10. Notice of Public Hearing by Governing Body.
Section 9-23-2-11. Action by Governing Body and the Designation Ordinance.
Section 9-23-2-12. Duties of the Director Following Action by Governing Body.
Section 9-23-2-13. Withdrawal.
Section 9-22-2-14. Incorporation Clause.

Overview of Designations



Section 9-23-2-1. Generally.

The purpose of this Chapter, and other historic preservation related chapters of this Unified Land Development Code, is to establish a uniform procedure for use in providing for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, landscape features and works of art having a special historical, architectural, cultural or aesthetic interest or value. An individual landmark or a group of properties comprising a district may be designated as local historic landmarks and districts, respectively, under the procedures in this Chapter.

The Historic Preservation Overlay Zone and Historic Preservation Overlay Zone Maps, as described in Chapter 9-8-8 of this Unified Land Development Code, may be amended from time to time to include new or separate, noncontiguous designated historic districts, to modify existing local historic districts, to designate historic landmarks, or for other reason, provided that such amendment conforms to the provisions of this Chapter and O.C.G.A. Section 44-10-26 as applicable.

If an ordinance for designation is being considered, the Governing Body shall have the power to suspend or issue a moratorium on applications for alteration or demolition involving a property or properties under consideration for designation; in which case, no building or demolition permits shall be issued until the final designation status is determined.

Section 9-23-2-2. Initiation.

Local designations for either districts or individual landmarks may be proposed to be established, or to be rescinded, by the Governing Body, the Historic Preservation Commission, or property owner(s). Local designations shall be considered as amendments to the Historic Preservation Overlay Zone as described in Chapter 9-8-8.

An application for designation shall be accompanied by such drawings, photographs or plans as required by Section 9-23-2-3, or as may be required by the Director or Historic Preservation Commission. Any applicant wishing to submit an application for a designation request must schedule an appointment with the Planning Department staff in order to review the application for completeness. No such application shall be accepted for processing by the Director unless it meets the requirements of this Chapter. Incomplete or improper applications will be returned to the applicant. The Director is hereby authorized to establish administrative deadlines for the receipt of applications.

Section 9-23-2-3. Requirements for Submittal.

All applications for designations shall at a minimum consist of the following:

(a) Districts.

(1) Application form. A completed application. All applications shall be submitted to the Department of Planning and Development on the Department's application forms.

(2) Boundary map. Provide a map of the proposed district, showing property boundary lines and the proposed district boundary line as well as streets and street names. This map should include the proposed name of the district.

Indicate the historic or common name of each site. Maps can be a copy of the tax map, or the applicant can obtain a map of the general area from the Planning Department upon an appointment and for a fee

(3) List of current property owners and occupants. Provide a list of all current property owners and occupants, including name and mailing address, for the properties to be designated as a district. A paper copy and an electronic copy in Microsoft Excel format.

(4) Petition of support. A form included as part of the official designation application form provided by the Planning Department. The petition requires the name, contact information, and signature of property owners in support of the request. It is encouraged that the applicant obtain the support of at least fifty percent (50%) of the property owners within the proposed district.

(5) Photographs. Provide two clear sets of recent photographs of at least 4" x 6" in size. The photographs can be black and white or color. Polaroids will not be accepted. Provide photographs of a structure representative of each architectural style within the proposed district as follows:

a. Provide one photograph of each elevation with text identifying the view (e.g. "south elevation" or "main entry").

b. Provide two (2) perspective photographs (i.e. Photo looking at the front of the structure, including some of the front lawn area and any other unique feature).

c. Provide additional photographs of garages, outbuildings, or other significant feature that will aid the visual representation and architectural significance of the district.

d. Type the following information on a self-adhesive label and attach it to the back of each photograph: common name of property, street address and tax parcel number, name of photographer, date of photo, and view and direction.

(6) Written statements. On the "Written Statements" form included with the application form provided by the Planning Department (or as typed on a separate attachment), provide detailed information with respect to the significance of the district, description of the proposed district, history of the proposed district, and statement of justification.

(b) Individual landmarks.

(1) Application form. A completed application. All applications shall be submitted to the Department of Planning and Development on the Department's application forms.

(2) Plat/boundary survey. Provide a plat/boundary survey that is prepared by a registered land surveyor and depicts at a minimum the property boundary lines, all existing structures, and street names.

(3) Legal description. Legal description with the metes and bounds that corresponds with the said plat or boundary survey. A paper copy and an electronic copy in Microsoft Word format of the legal description must be submitted.

(4) Copy of grant deed. Provide a copy of the grant deed which verifies current ownership. Such information should match the information held to be true by the Hall County Tax Assessor's Office.

(5) Photographs. Provide two clear sets of recent photographs of at least 4x6 in size, following the guidelines outlined in this Section for district designations.

(6) Written statements. On the "Written Statements" form included with the application form provided by the Planning Department (or as typed on a separate attachment), provide detailed information with respect to the significance of the district, description of the proposed district, history of the proposed district, and statement of justification.

The Director may request information in addition to that specified in this Section when considered necessary for review of the application by the Governing Body or Historic Preservation Commission.

Section 9-23-2-4. Notice of Public Hearing by Historic Preservation Commission.

(a) Notice in the Newspaper. Before the Governing Body may take final action on a designation application, the Historic Preservation Commission shall hold a public hearing on the proposal. At least ten (10) days but not more than twenty (20) days prior to the public hearing before the Historic Preservation Commission, notice shall be published at least three (3) times in a newspaper of general circulation within the city. The published notice shall be prepared by the Planning Department and shall include a general description of the location(s) to be considered for designation, total acreage, and the date, time, and place of the public hearing before the Historic Preservation Commission.

(b) Notice to Owners and Occupants of Properties Proposed for Designation. At least ten (10) days but not more than twenty (20) days prior to the public hearing before the Historic Preservation Commission, the Planning Department shall mail written notice of the public hearing to all owners and occupants of such properties. Notice sent via the United States Mail to the last-known owner and current occupant of the property shall constitute legal notification to the owner and occupant under this Chapter. The notice shall state the date, time, place and purpose of the hearing by the Historic Preservation Commission.

Section 9-23-2-5. State Documentation Report; Investigations and Staff Findings.

(a) State Documentation Report. The Director or designee, on behalf of the Historic Preservation Commission, shall prepare a formal report at least thirty (30) days prior to the Historic Preservation Commission holding a public hearing and making a recommendation on a designation application. Said report, a copy of which shall be provided to the Georgia State Historic Preservation Division of the State Department of Natural Resources, shall be used to educate the community and to provide a permanent record of the designation, and shall consist of the following:

(1) A physical description,

(2) A statement of the historical, architectural, cultural or aesthetic significance,

(3) A map showing district boundaries and classification of individual properties therein in accordance with the criteria outlined in Section 9-23-2-6, or showing boundaries of individual historic landmarks,

(4) A statement justifying district or individual property boundaries; and

(5) Representative photographs.

(b) Investigations and Staff Findings.

(1) Within a reasonable period of time after acceptance of a complete application, the Director may but shall not be required to send the application or notice thereof out for review by internal municipal departments and external agencies as may be appropriate. Any written comments received in a timely manner as a result of such review shall be submitted for consideration to the Historic Preservation Commission and Governing Body, or summarized in a memorandum. Any such comments shall become public records.

(2) The Director may but shall not be required to investigate and write a report of findings regarding the designation application. Any such investigation and report of findings shall if in writing be made available to the applicant and Historic Preservation Commission prior to its public hearing and shall become public records. Copies of the Director's report of findings, if provided, shall be available no later than the time of the Historic Preservation Commission's public hearing on the matter.

Section 9-23-2-6. Criteria to Consider for Designations.

The Director, the Historic Preservation Commission, and Governing Body shall consider the following standards in considering any designation application, giving due weight or priority to those factors that are appropriate to the circumstances of each proposal:

(a) Criteria for selection of historic district.

(1) A historic district is a geographically definable area, which contains structures, sites, works of art or a combination thereof, which:

a. Exhibits a significant historical, architectural, cultural or environmental character or value;

b. Represents one or more periods, styles or types of architecture typical of one or more eras in the history; and

c. Constitutes a visibly perceptible section of the municipality or county by reason of above.

(2) Boundaries. Boundaries of a historic district shall be specified on tax maps; and shall be shown on the Official Zoning Map of the City. Boundaries shall be included in the separate ordinances designating local districts; boundaries specified in legal notices shall coincide with the boundaries proposed for designation.

(3) Evaluation of properties within historic districts. Individual properties within districts proposed for designation shall be classified as

a. Historic: an individual property that is more than fifty years old and contributes to the historic district;

b. Non-historic: an individual property less than fifty years old that possesses an architectural character which does not contribute nor detract from the district; or that is associated with an event or person of historic or cultural significance; or

c. Intrusive: an individual property that is less than fifty years old, and does not contribute to the historical character of the district.

d. Vacant: an individual property that contains no buildings or other structures.

(b) Criteria for selection of a historic landmark.

(1) A historic landmark is an individual structure, site or work of art, including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation for one or more of the reasons listed below:

a. It is an outstanding example of a structure representative of an era;

b. It is one of the few remaining examples of a past architectural style;

c. It is a site or structure associated with an event or person of historic or cultural significance; or

d. It is a site of natural or aesthetic value that is continuing to contribute to the historical or cultural development and heritage.

(2) Boundaries. Boundaries of a historic landmark shall be clearly defined for individual properties on tax maps; and shall be shown on the Official Zoning Map of the City.

(3) Evaluation of individual landmarks.

a. Historic: an individual property that is more than fifty years old and contributes to the historic district;

b. Non-historic: an individual property less than fifty years old that possesses an architectural character which does not contribute nor

detract from the district; or that is associated with an event or person of historic or cultural significance; or

c. Intrusive: an individual property that is less than fifty years old, and does not contribute to the historical character of the district.

d. Vacant: an individual property that contains no buildings or other structures.

Section 9-23-2-7. Criteria to Consider for Amendments or Renunciation.

Upon a written application of a party of interest and thirty (30) day written notice to all necessary agencies, the Governing Body may amend or rescind the designation of a historic district or landmark following a public hearing and upon the finding that the district or landmark fails to comply with the designation criteria outlined in Section 9-23-2-6 of this Chapter.

A request to amend or rescind the historic designation shall follow the procedures outlined in Section 9-23-2-2 of this Chapter for initiating an application for designation. The written application shall state why the designated district or landmark fails to comply with the designation criteria; the burden of proof shall be upon the applicant to show that the designation by the Governing Body fails to comply with the designation criteria. The applicant or Historic Preservation Commission may appeal the decision made by the Governing Body to amend or rescind the designation to a court of competent jurisdiction in the manner provided by law.

Section 9-23-2-8. Investigations and Staff Findings.

Within a reasonable period of time after acceptance of a complete application, the Director may but shall not be required to send the application or notice thereof out for review by internal municipal departments and external agencies as may be appropriate. Any written comments received in a timely manner as a result of such review shall be submitted for consideration to the Historic Preservation Commission and the Governing Body, or summarized in a memorandum. Any such comments shall become public records.

The Director may but shall not be required to investigate and write a report of findings regarding the application for designation. Any such investigation and report of findings shall if in writing be made available to the applicant and Historic Preservation Commission prior to its public hearing and shall become public records. Copies of the Director's report of findings, if provided, shall be available no later than the time of the Historic Preservation Commission's public hearing on the matter.

Section 9-23-2-9. Historic Preservation Commission Hearing and Recommendation.

The Historic Preservation Commission shall convene a public hearing on the designation application as provided in the public notice. The public hearing shall follow policies and procedures which govern calling and conducting public hearings established in Chapter 9-22-9 of this Unified Land Development Code.

In rendering a decision on a designation application, the Historic Preservation Commission shall consider all information supplied by the applicant, the Director, and any information presented at the public hearing of the Historic Preservation Commission. A recommendation to approve or deny the proposed ordinance for designation shall be made by the Historic Preservation

Commission within fifteen (15) days following the public hearing. The Historic Preservation Commission may submit any additional report it deems appropriate. The recommendations of the Historic Preservation Commission shall have an advisory effect only and shall not be binding on the Governing Body.

Section 9-23-2-10. Notice of Public Hearing by Governing Body.

(a) Notice in the Newspaper. At least ten (10) days but not more than twenty (20) days prior to the public hearing before the Governing Body, notice shall be published at least three (3) times in a newspaper of general circulation within the city. The published notice shall be prepared by the Planning Department and shall include a general description of the location(s) to be considered for designation, total acreage, and the date, time, and place of the public hearing before the Governing Body.

(b) Notice to Owners and Occupants of Properties Proposed for Designation. At least ten (10) days but not more than twenty (20) days prior to the public hearing before the Governing Body, the Planning Department shall mail written notice of the public hearing to all owners and occupants of such properties in the form of an action letter stating the action taken by the Historic Preservation Commission. Notice sent via the United States Mail to the last-known owner and current occupant of the property shall constitute legal notification to the owner and occupant under this Chapter. The notice shall state the date, time, place and purpose of the hearing by the Governing Body.

Section 9-23-2-11. Action by Governing Body and the Designation Ordinance.

Following the receipt of the Historic Preservation Commission's recommendation and a public hearing; the Governing Body may approve the designation application, approve the application with conditions or amendments, deny the application, allow for withdrawal of the application, table the application, or refer the application for designation back to the Historic Preservation Commission for further consideration. The applicant or the Historic Preservation Commission may appeal the decision made by the Governing Body to adopt or reject the designation ordinance to a court of competent jurisdiction in the manner provided by law.

Any ordinance designating a district or individual landmark as historic shall:

(a) Include a description of boundaries for a proposed historic district and a list of properties located therein; or a description of the proposed individual historic landmark;

(b) Set forth the names of the owners of the designated properties;

(c) Require that a Certificate of Appropriateness be obtained from the Historic Preservation Commission prior to any exterior material change in appearance of a structure or site of the designated property; and

(d) Require that the district or landmark be shown on the Official Zoning Map.

Section 9-23-2-12. Duties of the Director Following Action by Governing Body.

Within thirty (30) days immediately following the adoption of the ordinance for designation by the Governing Body, the Director shall notify the owner and occupants of each designated historic property, or individual landmark, of said designation. Said notice shall apprise the owners and occupants of the necessity of obtaining a Certificate of Appropriateness prior to undertaking any work project involving an exterior material change in appearance of a structure or the site. The Director also shall notify all necessary agencies within the City of the ordinance for designation.

Section 9-23-2-13. Withdrawal.

A designation application may be withdrawn at any time at the discretion of the person or entity initiating such a request upon notice to the Director, up until the public hearing by the Historic Preservation Commission is closed without restriction on the refiling of said designation application.

The application may be withdrawn administratively by the Director at any point during the public hearing process without restriction on the refilling of said designation application, whether or not in the form of a modified version.

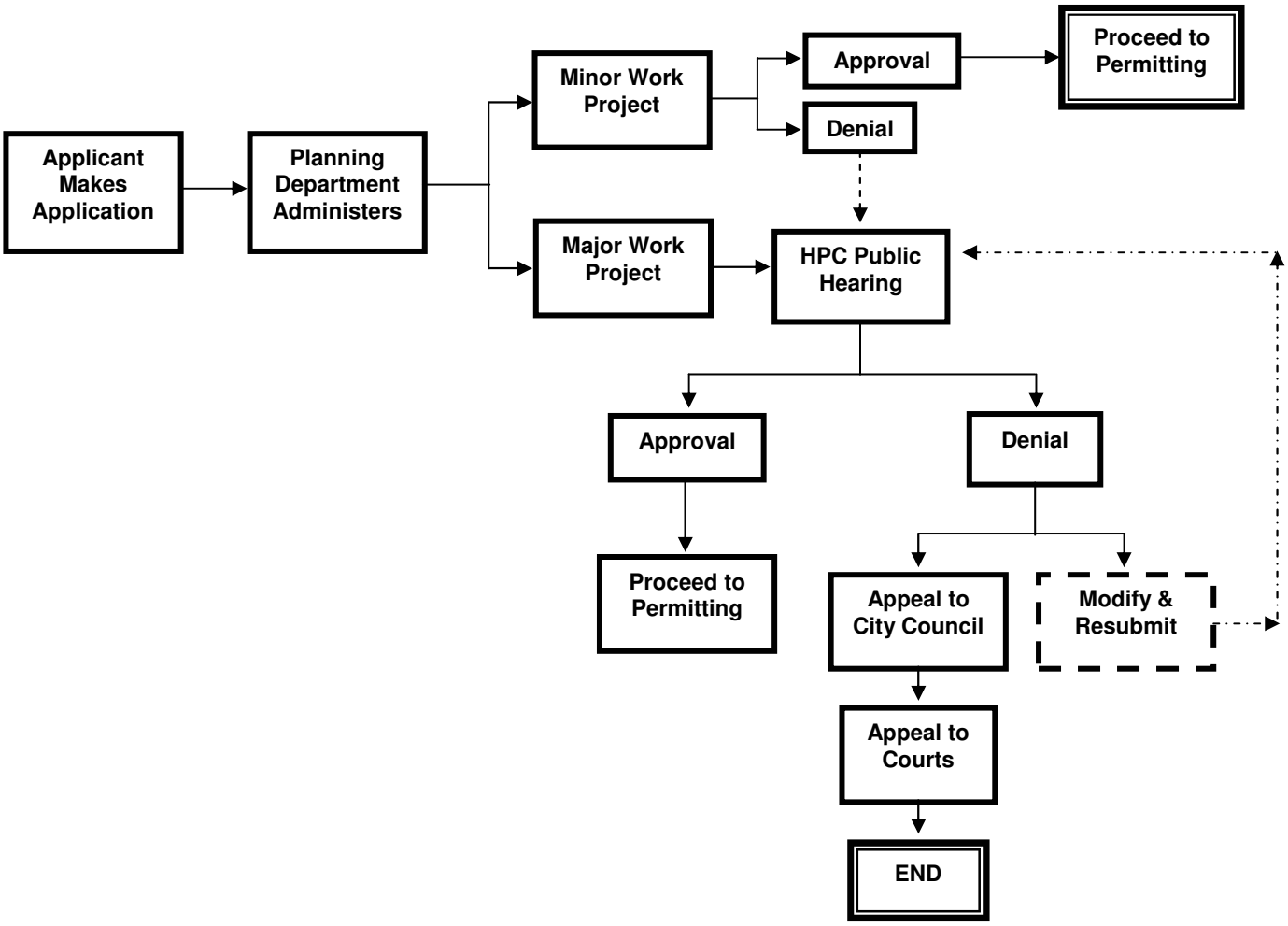
Section 9-23-2-14. Incorporation Clause.

This Chapter is intended to comply with the provisions of the Georgia Historic Preservation Act, O.C.G.A. § 44-10-20 et. seq., which Act is incorporated by reference in its entirety into this Chapter. Where any provision of this Chapter is in conflict with any provision of the Act, the Act shall control. Or where this Chapter is incomplete in having failed to incorporate a provision necessarily required for the implementation of the Act, such provision of the Act, so as to meet the mandate of the Act, shall be fully complied with.

CHAPTER 9-23-3
CERTIFICATES OF APPROPRIATENESS

Section 9-23-3-1. Generally.
Section 9-23-3-2. Initiation, Issuance and Technical Assistance.
Section 9-23-3-3. Major Work Projects vs. Minor Work Projects.
Section 9-23-3-4. Requirements for Submittal.
Section 9-23-3-5. Notice of Public Hearing by the Historic Preservation Commission.
Section 9-23-3-6. Investigations and Staff Findings.
Section 9-23-3-7. Criteria to Consider for Certificates of Appropriateness.
Section 9-23-3-8. Historic Preservation Commission Hearing and Action.
Section 9-23-3-9. Conformance with Certificate of Appropriateness .
Section 9-23-3-10. Notice of Approval and Duration of Validity.
Section 9-23-3-11. Appeals.
Section 9-23-3-12. Withdrawal.
Section 9-23-3-13. Exemptions.
Section 9-23-3-14. Incorporation Clause.

Overview of Certificates of Appropriateness



Section 9-23-3-1. Generally.

The purpose of this Chapter is to establish a uniform procedure for use in providing for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, landscape features and works of art having a special historical, architectural, cultural or aesthetic interest or value.

After the designation of a historic district or landmark, no material change in the exterior appearance of the structure or the site of such property shall be made, or be permitted to be made by the owner or occupant, until an application for a Certificate of Appropriateness has been submitted to the Planning Department and approved by the Historic Preservation Commission for major work projects, or, in the case of minor work projects, by the Director.

Section 9-23-3-2. Initiation, Issuance and Technical Assistance.

(a) Initiation.

(1) An application for a Certificate of Appropriateness for any property or properties locally designated as historic may be initiated by the Governing Body, Historic Preservation Commission, the owner or an occupant of the property, or some other person(s) given authorization by property owner to file said application. An application for a Certificate of Appropriateness shall be accompanied by such drawings, photographs or plans as required by Section 9-23-3-4, or as may be required by the Director or Historic Preservation Commission.

(2) Any applicant wishing to submit an application for a Certificate of Appropriateness request must schedule an appointment with the Planning Department staff in order to review the application for completeness. No such application shall be accepted for processing by the Director unless it meets the requirements of this Chapter. Incomplete or improper applications will be returned to the applicant. The Director is hereby authorized to establish administrative deadlines for the receipt of applications.

(b) Issuance.

(1) Alterations and new construction. The Historic Preservation Commission, or the Director in the case of a minor work project, shall issue a Certificate of Appropriateness for alterations or new construction if the proposed plans and specifications conform in design, building materials, setback and landscaping as specified in the adopted design and construction guidelines for locally designated historic districts and landmarks.

(2) Demolition or relocation. No demolition or relocation shall be allowed prior to the issuance of a Certificate of Appropriateness. An application for a Certificate of Appropriateness involving demolition or relocation shall be accompanied by both pre- and post-demolition (or relocation) plans for review by the Historic Preservation Commission.

(3) Interior alterations. In its review of applications for Certificates of Appropriateness, the Historic Preservation Commission, or the Director in the case of a minor work project, shall not consider the interior design or other use

that has no effect on exterior architectural features. This Chapter does apply if the interior revisions materially impact the exterior architectural character.

(c) Technical Assistance. The Historic Preservation Commission may seek technical advice from the Planning Department and from outside its members. The Director, in the case of minor work projects, may seek technical advice from the Historic Preservation Commission or outside agencies.

Section 9-23-3-3. Major Work Projects vs. Minor Work Projects.

Major and minor work projects shall be further clarified in the approved design and construction guidelines, but are generally defined as follows:

(a) Major work projects. A major work project involves a change in the appearance of a building, structure or site and is more substantial in nature than routine maintenance or a minor work project.

(b) Minor work projects. A minor work project involves a change that goes beyond ordinary maintenance but does not constitute a significant or character-altering change in the appearance of a building, structure or site.

All Certificates of Appropriateness for major work projects shall be reviewed and approved by the Historic Preservation Commission as contained in this Chapter. All Certificates of Appropriateness for minor work projects shall be administratively reviewed and approved by the Director in accordance with the approved design and construction guidelines and this Ordinance. The Director shall refer minor work projects to the Historic Preservation Commission for review and approval if it is determined that the proposed work project involves alterations, additions, or removals that are substantial, or do not meet the adopted design and construction guidelines, and/or are of a precedent-setting nature.

In those instances where there is no clear determination of what is considered a major work project versus what is considered a minor work project, as further defined in the approved design and construction guidelines; the Director of Planning and Development shall have the authority to make the determination.

Section 9-23-3-4. Requirements for Submittal.

All applications for Certificates of Appropriateness shall at a minimum consist of the following:

(a) Pre-filing conference. An applicant must schedule an appointment for a pre-filing conference with the Planning Department staff.

(b) Application form. A completed application. All applications shall be submitted to the Department of Planning and Development on the Department's application forms.

(c) Application fee. All applications shall be accompanied by a non-refundable fee as fixed from time to time by the Governing Body.

(d) Written description. A written narrative detailing the proposed work project, indicating the reason why the work project is being proposed. Include a description of existing site conditions, an explanation of how such conditions will be changed, an

explanation of how the work will be performed, and a description of materials to be used.

(e) Copy of the recorded grant deed. A copy of the recorded grant deed confirming current ownership by applicant or person(s) giving authorization for the application to be made.

(f) Boundary survey/plat. A plat or boundary survey of the property or properties involved in the application.

(g) Photographs. Provide one clear set of 4x6 size recent photographs of the existing building(s) and site. The photographs can be black and white, or color. Polaroids will NOT be accepted. Type the following information on a self-adhesive label and attach it to the back of each photograph: common name of property, street address and tax parcel number, date of photo, and view/direction.

(h) Architectural drawings.

(1) Additions and new construction. Architectural drawings of all elevations, providing eight (8) copies if drawn in color or if of a size larger than 8.5x11 (only for additions and other new construction work projects). Provide two (2) copies of colored or large-scale size documents involving a minor work project. Architectural drawings stamped by a registered architect shall be required for an addition or new building exceeding 5,000 square feet in size.

(2) Signs. Provide a scaled, color rendering of new signage or proposed changes to existing signage, indicating the height and structural supports of the sign, the materials, and illumination. On the plat/boundary survey submitted, locate and label any proposed freestanding signage, indicating the distance from the right-of-way.

(3) Fences or walls. Provide a structural plan for any fence or wall, indicating the height, color and materials to be used.

(i) Concept plan and landscape plan. A scaled size concept plan, indicating the location of new construction or site changes and existing mature and newly proposed trees and other landscaping, shall be submitted with all applications for a Certificate of Appropriateness. For major work projects, provide eight (8) copies if drawn in color or if of a size larger than 8.5x11. Provide two (2) copies of colored or large-scale size plans involving a minor work project. Said plans must be stamped by a registered engineer, land surveyor, or landscape architect if the work project involves an addition or other new construction exceeding 5,000 square feet in size.

(j) Floor plan. A floor plan for any addition or new construction shall be submitted. For major work projects, provide eight (8) copies if drawn in color or if of a size larger than 8.5x11. Provide two (2) copies of colored or large-scale size plans involving a minor work project. Said floor plan must be stamped by a registered architect if the work project involves an addition or other new construction exceeding 5,000 square feet in size, demolition or relocation.

(k) Pre- and post demolition (relocation) plans. Applications involving demolition or relocation shall be accompanied by both pre- and post-demolition (relocation) plans for review by the Historic Preservation Commission. Provide eight (8) scaled and folded copies, folded to fit into an 8" x 10" size envelop, and one 11" x 17" reproducible copy. Said plans must be stamped by a registered engineer or land surveyor.

(1) Pre-plans shall indicate the as-built conditions of the site, depicting the existing floor plan, trees and other landscaping, and other site features; and shall include architectural elevations stamped by a registered architect.

(2) Post-plans shall indicate the proposed structural and site changes, including the proposed floor plan, tree and landscape plan, and architectural elevations stamped by a registered architect.

(l) Documentation of earlier historic appearance. Provide written documentation, and drawings or photographs when available, of the earlier historic appearance of a building or structure, or site (Restoration projects only).

(m) Report from certified expert. A report from a certified arborist or forester confirming a mature tree proposed for removal is dead or diseased (only for a minor work project involving the removal of a dead or diseased tree, or a tree that poses of public safety hazard).

Section 9-23-3-5. Notice of Public Hearing by the Historic Preservation Commission.

Before the Historic Preservation Commission may take final action on a proposed Certificate of Appropriateness application, the Historic Preservation Commission shall hold a public hearing on the proposal. At least fifteen (15) days prior to the review of such applications, notice of the hearing shall be given in the following manner:

(a) Published in the local newspaper. The published newspaper notice shall be prepared by the Planning Department and shall include the location of the property, the nature of the proposed work project, and the date, time, and place of the public hearing before the Historic Preservation Commission.

(b) Notice sign. Written upon a notice sign which is to be placed on the subject property by the City at least fifteen (15) days prior to the public hearing. The notice sign, which shall state the date, time and place of the public hearing before the Historic Preservation Commission, shall be placed in a conspicuous location along each street frontage of the property for which the Certificate of Appropriateness has been requested. If the property has no street frontage, the sign shall be placed on each street from which access will be gained to the property.

(c) Notice letters. Written notice shall be mailed to the owner and occupant of the subject property and to owners of property or properties located within the locally designated district, or to the owners of property adjoining a locally designated landmark. The notice shall state the date, time, place and purpose of the hearing by the Historic Preservation Commission.

Section 9-23-3-6. Investigations and Staff Findings.

Within a reasonable period of time after acceptance of a complete application, the Director may but shall not be required to send the application or notice thereof out for review by internal municipal departments and external agencies as may be appropriate. Any written comments received in a timely manner as a result of such review shall be submitted for consideration to the Historic Preservation Commission, and the Governing Body in the case of an appeal, or summarized in a memorandum. Any such comments shall become public records.

The Director may but shall not be required to investigate and write a report of findings regarding the application for a Certificate of Appropriateness. Any such investigation and report of findings shall if in writing be made available to the applicant and Historic Preservation Commission prior to its public hearing and shall become public records. Copies of the Director's report of findings, if provided, shall be available no later than the time of the Historic Preservation Commission's public hearing on the matter.

Section 9-23-3-7. Criteria to Consider for Certificates of Appropriateness.

The Historic Preservation Commission shall issue a Certificate of Appropriateness for alterations or new construction if the proposed plans and specifications conform in design, building materials, placement and orientation, and landscaping as specified in the adopted design and construction guidelines and if the process and procedures specified in this Chapter are complied with. In making this determination, the Historic Preservation Commission shall consider the following, in addition to any other pertinent factors:

(a) The historical, environmental and architectural value and significance;

(b) The architectural style; general design and arrangement, texture and material of the architectural features involved; and

(c) The relationship thereof to the exterior architectural style and pertinent features of other structures located in the immediate vicinity.

No demolition or relocation shall be allowed prior to the issuance of a Certificate of Appropriateness, and the Historic Preservation Commission shall not grant Certificates of Appropriateness for demolition or relocation without reviewing both the pre- and post- demolition or relocation plans as part of the application. Upon receipt of an application for a Certificate of Appropriateness for demolition or relocation, the Historic Preservation Commission shall apply the procedures set forth in this Chapter to determine whether to deny the application or issue a Certificate of Appropriateness for demolition or relocation.

Section 9-23-3-8. Historic Preservation Commission Hearing and Action.

The Historic Preservation Commission shall hold a public hearing and act upon all proposed Certificates of Appropriateness referred to it (i.e., excluding minor work projects) within forty-five (45) days of receipt of a complete application. The property owner or applicant shall have an opportunity to speak at the public hearing.

(a) Historic Preservation Commission action. The Historic Preservation Commission shall approve the Certificate of Appropriateness as proposed, approve the application with modifications, or deny the request.

(1) Approval. The Historic Preservation Commission shall approve, or approve with modifications, an application and issue a Certificate of Appropriateness if it finds that the proposed material changes in the exterior appearance of the building, structure or site would not adversely affect the historical, architectural, aesthetic, cultural or environmental character or value of the historic district or individual landmark.

(2) Denial. The Historic Preservation Commission shall deny a Certificate of Appropriateness if it finds that the proposed material changes in exterior appearance of the building, structure or site would adversely affect the historical, architectural, aesthetic, cultural or environmental character or value of the historic district or individual landmark.

(b) Deadline for action. Failure of the Historic Preservation Commission to hold a public hearing and act upon the request within the said forty-five (45) days shall constitute approval of the Certificate of Appropriateness.

If the Historic Preservation Commission denies an application for a Certificate of Appropriateness, the Historic Preservation Commission shall state on the public record its reasons for denial. The Director shall mail to the applicant and/or property owner a written action letter, stating the Historic Preservation Commission's reasons for denial; as well as keep a record of such action and reasons. If the Historic Preservation Commission denies the request for a Certificate of Appropriateness, no building permit shall be issued in those cases in which an exterior material change would require the issuance of a building permit.

Section 9-23-3-9. Conformance with Certificate of Appropriateness.

All work performed pursuant to an issued Certificate of Appropriateness shall conform to the requirements of such certificate. In the event work performed is not in accordance with such certificate, the appropriate City department on behalf of the Historic Preservation Commission shall issue a cease and desist order and all work shall cease.

The Governing Body, or the Historic Preservation Commission upon authorization by the Governing Body, shall be authorized to institute appropriate action in a court of competent jurisdiction in order to: prevent any exterior material change in appearance of a designated historic district or landmark, except those changes made in compliance with the provisions and authority of this Chapter, and to prevent any illegal act with respect to such historic district or landmark.

Section 9-23-3-10. Notice of Approval and Duration of Validity.

Notice of the issuance or denial of a Certificate of Appropriateness shall be sent by United States mail to the owner, occupant and/or applicant. Such notice of approval shall be posted in the form of a sticker on the land development and building permit signs posted on a site undergoing alterations requiring such permits. The design and color of said approval sticker shall be at the discretion of the Director.

A Certificate of Appropriateness shall expire unless construction is commenced within six (6) months of the date of issuance. Certificates of Appropriateness shall be issued for a period of eighteen (l8) months and are renewable upon a showing of cause.

Section 9-23-3-11. Appeals.

Any person adversely affected by any determination made by the Historic Preservation Commission relative to the issuance or denial of a Certificate of Appropriateness may appeal such determination to City Council. The Governing Body may approve, modify, or deny the determination made by the Historic Preservation Commission if the Governing Body finds that the Historic Preservation Commission abused its discretion in reaching its decision, or finds that the determination is unfounded by the provisions of this Ordinance and the adopted design and construction guidelines, and/or are contrary to applicable law.

An application for appeal must be filed within fifteen (l5) days after notification is sent of the Historic Preservation Commission's determination. The application for appeal shall include the reasons for why the determination or decision is unsupported by the provisions of this Ordinance, the adopted design and construction guidelines, and/or are contrary to applicable law.

Appeals from a decision of the Governing Body may be taken to a court of competent jurisdiction in the manner provided by law.

Section 9-23-3-12. Withdrawal.

An application for Certificate of Appropriateness may be withdrawn at any time at the discretion of the person or entity initiating such a request upon notice to the Director, up until the public hearing by the Historic Preservation Commission is closed without restriction on the refiling of said designation application.

The application may be withdrawn administratively by the Director at any point during the public hearing process without restriction on the refilling of said Certificate of Appropriateness application, whether or not in the form of a modified version.

Section 9-23-3-13. Exemptions.

(a) Department of Transportation. The Georgia Department of Transportation and any of its contractors, including the City of Gainesville and Hall County; performing work funded by the Georgia Department of Transportation; are exempt from the provisions of this Chapter, as provided by the "Georgia Historic Preservation Act" (O.C.G.A. Sec. 44-10-27G).

(b) City of Gainesville. The City of Gainesville is exempt from the requirement of obtaining Certificates of Appropriateness; provided that the Governing Body shall notify the Historic Preservation Commission forty-five (45) days prior to an activity that would otherwise require a Certificate of Appropriateness and allow the Historic Preservation Commission an opportunity to comment.

Section 9-23-3-14. Incorporation Clause.

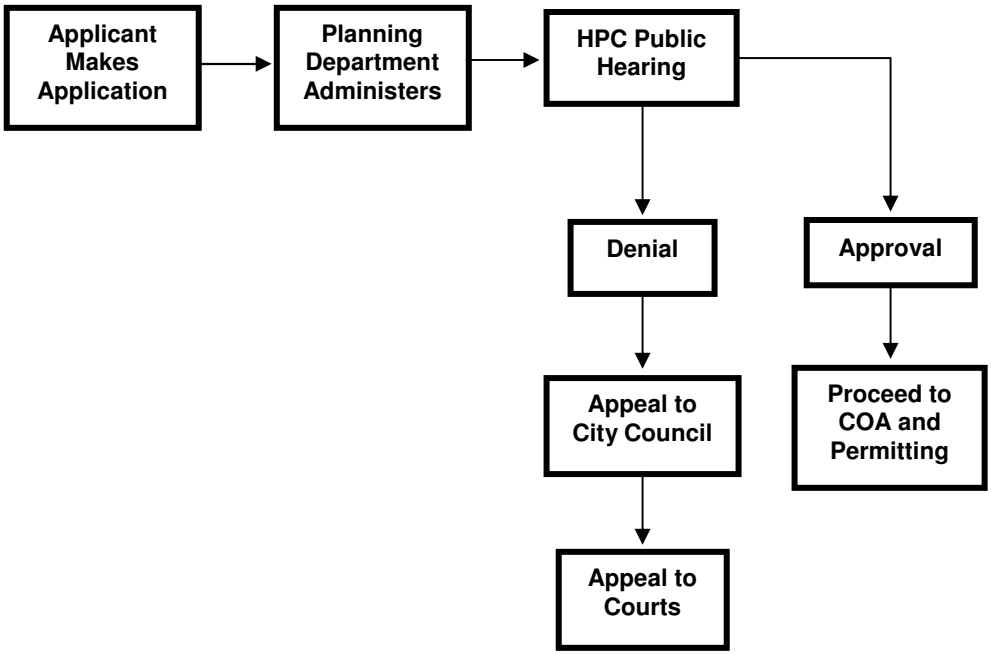
This Chapter is intended to comply with the provisions of the Georgia Historic Preservation Act, O.C.G.A. § 44-10-20 et. seq., which Act is incorporated by reference in its entirety into this Chapter. Where any provision of this Chapter is in conflict with any provision of the Act, the Act shall control. Or where this Chapter is incomplete in having failed to incorporate a provision

necessarily required for the implementation of the Act, such provision of the Act, so as to meet the mandate of the Act, shall be fully complied with.

CHAPTER 9-23-4
UNDUE HARDSHIP

Section 9-23-4-1. Generally.
Section 9-23-4-2. Initiation.
Section 9-23-4-3. Requirements for Submittal
Section 9-23-4-4. Notice of Public Hearing by the Historic Preservation Commission.
Section 9-23-4-5. Historic Preservation Commission Hearing and Action.
Section 9-23-4-6. Effect and Duration of Validity.
Section 9-23-4-7. Appeals.

Overview of Undue Hardship



Section 9-23-4-1. Generally.

Persons may appeal to the Historic Preservation Commission for relief when compliance with the requirements of this Article and other article related to the Historic Preservation Overlay Zone would create a particular and undue hardship.

An undue hardship shall not be a situation of the person's own making. Such relief may be granted only to the extent necessary to alleviate such unnecessary hardship and not as a convenience neither to the applicant or owner, nor to gain any advantage or interest over similarly designated properties.

Section 9-23-4-2. Initiation.

An application for an undue hardship variance for any property located within a designated district, or for any designated landmark, may be initiated by the Governing Body, Historic Preservation Commission, the owner or an occupant of the property, or some other person(s) given authorization by property owner to file said application. An application for an undue hardship variance shall be accompanied by such documentation as required by Section 9-23-4-3, or as may be required by the Director or Historic Preservation Commission.

Any applicant wishing to submit an application for an undue hardship must schedule an appointment with the Planning Department staff in order to review the application for completeness. No such application shall be accepted for processing by the Director unless it meets the requirements of this Chapter. Incomplete or improper applications will be returned to the applicant. The Director is hereby authorized to establish administrative deadlines for the receipt of applications.

Section 9-23-4-3. Requirements for Submittal.

To initiate an application for undue hardship, an application must be submitted to the Planning Department which shall include at minimum the following:

(a) Application form. A completed application. All applications shall be submitted to the Department of Planning and Development on the Department's application forms.

(b) Fee. All applications shall be accompanied by a non-refundable fee as fixed from time to time by the Governing Body.

(c) Written narrative. A written narrative explaining the purpose and intent of the application, detailing the undue hardship. If the undue hardship involves economic reasons, a financial analysis indicating how compliance with the provisions of this Article and other articles related to the Historic Preservation Overlay Zone imposes an undue economic hardship.

The Historic Preservation Commission in reviewing an application for undue hardship shall also be authorized to require any additional supporting information necessary to review an application for undue hardship. These may include but are not limited to a boundary survey/plat, architectural renderings, or a concept plan or an as-built survey.

Section 9-23-4-4. Notice of Public Hearing by the Historic Preservation Commission.

Before the Historic Preservation Commission may take final action on an application for undue hardship, the Historic Preservation Commission shall hold a public hearing on the proposal. At least fifteen (15) days prior to the review of such applications, notice of the hearing shall be given in the following manner:

(a) Published in the local newspaper. The published newspaper notice shall be prepared by the Planning Department and shall include the location of the property, the nature of the request, and the date, time, and place of the public hearing before the Historic Preservation Commission.

(b) Notice letters. Written notice shall be mailed to the owner and occupant of the subject property and to owners of property or properties located within the locally designated district, or to the owners of property adjoining a locally designated landmark. The notice shall state the date, time, place and purpose of the hearing by the Historic Preservation Commission.

Section 9-23-4-5. Historic Preservation Commission Hearing and Action.

An undue hardship variance may be granted in whole or in part, or with conditions, in such an individual case of unnecessary hardship upon a finding by the Historic Preservation Commission that compliance with such provision will result in a hardship to the property or owner that is substantially unwarranted by the protection of the public health, safety or general welfare, and the need for consistency among all properties similarly designated and of:

(a) A similar historical, environmental and architectural value and significance;

(b) Architectural style, general design and arrangement, texture and material of the architectural features involved; and

(c) The relationship thereof to the exterior architectural style and pertinent features of other structures located in the designated district or upon the designated landmark.

In no case shall an undue hardship variance be granted by the Historic Preservation Commission for a condition created by the applicant, including the result of an unwise investment decision or real estate transaction.

Section 9-23-4-6. Effect and Duration of Validity.

Approval of an application for an undue hardship variance on a property located within the City shall be in full force and effect upon its approval by the Historic Preservation Commission and shall be effective for a period of twelve (12) months. If no action is taken by the applicant to implement the purpose of the application within twelve (12) months from the date of approval, said approval shall become null and void.

An undue hardship variance shall be specific to the request made by the current applicant and shall not stay with the property, as is the case for designation.

Section 9-23-4-7. Appeals.

Any person adversely affected by any determination made by the Historic Preservation Commission relative to the issuance or denial of an undue hardship may appeal such determination to Governing Body. The Governing Body may approve, modify, or deny the determination made by the Historic Preservation Commission if the Governing Body finds that the Historic Preservation Commission abused its discretion in reaching its decision, or finds that the determination is unfounded by the provisions of this Ordinance and are contrary to applicable law.

An application for appeal must be filed within fifteen (l5) days after notification is sent of the Historic Preservation Commission's determination. The application for appeal shall include the reasons for why the determination or decision is unsupported by the provisions of this Ordinance and are contrary to applicable law.

Appeals from a decision of the Governing Body may be taken to a court of competent jurisdiction in the manner provided by law.

ARTICLE 9-24
ADMINISTRATION AND ENFORCEMENT

CHAPTER 9-24-1	ADMINISTRATION	24-1
CHAPTER 9-24-2	ENFORCEMENT	24-6
CHAPTER 9-24-3	ADMINISTRATIVE VARIANCES	24-9

CHAPTER 9-24-1
ADMINISTRATION

Section 9-24-1-1. Fees.
Section 9-24-1-2. Right to Inspect.
Section 9-24-1-3. Director of Planning and Development.
Section 9-24-1-4. Director of Public Works.
Section 9-24-1-5. Director of Public Utilities.
Section 9-24-1-6. Building Official.

Section 9-24-1-1. Fees.

From time to time, the Governing Body may adopt fees for the issuance of permits, the submission of applications, the provision of inspections, and such other activities and authorizations as regulated by this Unified Land Development Code.

Section 9-24-1-2. Right to Inspect.

No person shall refuse entry or access to any authorized representative or agent of the City, inspections personnel of the City or County, the Georgia Soil and Water Conservation Commission, the Hall County Soil and Water Conservation District, or the Georgia Environmental Protection 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.

Section 9-24-1-3. Director of Planning and Development.

The Director of Planning and Development or designee shall have all the necessary powers explicitly provided or reasonably implied in connection with the administration of this Unified Land Development Code, including but not limited to those enumerated in this Section. Where such provisions indicate the Director of Planning and Development has the authority to review and approve a given application or activity, said authority shall also include the denial of such application or activity.

(a) Schedules. To adopt schedules of dates, times and places as appropriate and necessary for the processing of applications established by this Unified Land Development Code.

(b) Administrative procedures and forms. To prepare administrative procedures, guidelines, application forms, to tend to other administrative details not inconsistent with the provisions of this Unified Land Development Code, and to implement the provisions of this Unified Land Development Code.

(c) Approval of preliminary and final plats. To review and approve preliminary plats and final plats as also specifically provided in Section 9-13-1-2 of this Unified Land Development Code.

(d) Land Development Plans. To review and approve or deny land development plans and issue or refuse to issue land development permits in accordance with Chapter 9-13-7 of this Unified Land Development Code.

(e) Home occupations. To review and approve home occupations as specifically provided in Section 9-10-4-12 of this Unified Land Development Code.

(f) Special temporary outdoor events. To review and authorize, and to issue permits for special temporary outdoor events as provided in Section 9-10-8-2 of this Unified Land Development Code.

(g) Nonconforming situations. To compel an applicant to completely correct or reduce the noncompliance of nonconforming situations, pursuant to authority and subject to the limitations of Chapter 9-11-5 of this Unified Land Development Code.

(h) Modify and extend application requirements. To waive certain requirements, and to require additional information be submitted, for applications submitted pursuant to Article 9-22 and Article 9-23 of this Unified Land Development Code.

(i) Public notices. To provide notices or require the notice of applications submitted pursuant to Article 9-22 and Article 9-23 of this Unified Land Development Code.

(j) Recommendations on applications. To provide recommendations on annexation, rezoning and special use applications to the Planning and Appeals Board and Governing Body, as may be appropriate, and as authorized in Article 9-22 of this Unified Land Development Code. Also, the Director may provide findings or recommendations regarding zoning variances to the Planning and Appeals Board.

(k) Certificates of Appropriateness. To review, approve, and issue Certificates of Appropriateness for minor work projects and to provide findings and if appropriate recommendations to the Historic Preservation whether to issue Certificates of Appropriateness for major work projects pursuant to Chapter 9-23-1 of this Unified Land Development Code.

(l) Permits for tree removal. To issue permits when required for the removal of certain trees as specified in Section 9-16-5-7 of this Unified Land Development Code.

(m) Secretary, Planning and Appeals Board. To serve as secretary to the Planning and Appeals Board, as provided in Section 9-21-1-10 of this Unified Land Development Code, or to appoint a Planning Commission Clerk or other designee to serve in such capacity.

(n) Inspections and investigations. To conduct such investigations as he or she may reasonably deem necessary to assure or compel compliance with the requirements and provisions of this Unified Land Development Code, even if such responsibilities are delegated to code enforcement officers or other administrative or enforcement officers of the City.

(o) Enter property. To enter at reasonable times upon any property for purposes of investigation, inspection and enforcement.

(p) Enforcement. To enforce any and all provisions of this Unified Land Development Code.

(q) Delegation. To delegate the functions and responsibilities of the Director's position to other personnel in the Planning and Development Department.

(r) Interpretation. To interpret the provisions of this Unified Land Development Code, as provided in Section 9-2-1-1 of this Unified Land Development Code. Also, when the administrative or enforcement responsibilities of this Article are in question, the Director of Planning and Development shall make such interpretation.

(s) Maintain official zoning maps and overlay zone maps. To maintain and update the Official Zoning Map of the City as provided in Section 9-4-1-3 and Overlay Zone maps of the City as provided in Section 9-4-2-3 of this Unified Land Development Code.

(t) Determine zoning boundaries. To determine the location of the boundary of zoning districts and overlay zones when the exact location cannot be determined, as provided in Section 9-4-3-7 of this Unified Land Development Code.

(u) Administrative variances. To review and approve applications for administrative variances, as provided under Chapter 9-24-3 of this Unified Land Development Code and as specifically provided in any other Chapters or Sections of this Unified Land Development Code not specifically referenced in said Chapter.

Section 9-24-1-4. Director of Public Works.

The Director of Public Works shall have all the necessary powers explicitly provided in connection with the administration of this Unified Land Development Code, as they pertain to functions assigned to said Director, including but not limited to those enumerated in this Section. Where such provisions indicate the Director of Public Works has the authority to review and approve a given application or activity, said authority shall also include the denial of such application or activity.

(a) Inspection. To 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 all applicable provisions of this Unified Land Development Code.

(b) Delegation. To delegate the functions and responsibilities to other personnel in the Public Works Department.

(c) Land Development Plans. To review land development plans and review streets and non-utility related public improvements and recommendations for acceptance of public improvements by the Governing Body as provided in Article 9-13 of this Unified Land Development Code.

(d) Promulgation of Additional Technical Standards. To promulgate additional technical standards and construction specifications for land development improvements not already specified by this Unified Land Development Code, including but not limited to streets, storm drainage systems, driveways, curb cuts, and parking lots, as specifically provided in Section 9-13-1-2 of this Unified Land Development Code.

(e) Traffic impact analyses. To administer the provisions of Chapter 9-22-5 of this Unified Land Development Code regarding the technical review of traffic impact analyses, and to promulgate and require the use of additional technical specifications for conducting traffic impact analyses, as provided in Section 9-22-5-12 of this Unified Land Development Code.

(f) Flood hazard area regulations. To fulfill the functions and duties assigned under Article 9-15 of this Unified Land Development Code relative to flood plain management regulations.

(g) Enforcement. To enforce those provisions of this Unified Land Development Code that relate to the primary activities of the Director of Public Works.

(h) Airport zones. To direct a property owner to that a tree or structure that violates airport overlay zone requirements be removed or modified to the extent necessary to comply with the applicable height limit, as provided in Section 9-8-1-9 of this Unified Land Development Code; and to review and recommend variances with regard to airport overlay zone requirements as provided in 9-8-1-11 of this Unified Land Development Code.

(i) Administrative variances. To review and approve applications for administrative variances, pursuant to Chapter 9-24-3 of this Unified Land Development Code, but only as explicitly permitted in this Unified Land Development Code.

Section 9-24-1-5. Director of Public Utilities.

The Director of Public Utilities shall have all the necessary powers explicitly provided in connection with the administration of this Unified Land Development Code, as they pertain to functions assigned to said Director, including but not limited to those enumerated in this Section. Where such provisions indicate the Director of Public Utilities has the authority to review and approve a given application or activity, said authority shall also include the denial of such application or activity.

(a) Approval of Public Utilities. To review and approve the design of public utilities for subdivisions and land developments.

(b) Inspection. To periodically inspect the sites of utility installations for which permits have been issued to determine if the activities are being conducted in accordance with all applicable provisions of this Unified Land Development Code.

(c) Delegation. To delegate the functions and responsibilities to other personnel in the Public Utilities Department.

(d) Promulgation of Additional Technical Standards. The Director of Public Utilities is authorized to promulgate additional technical standards and construction

specifications for land development improvements not already specified by this Unified Land Development Code, including but not limited to water and sanitary sewer systems and utilities.

(e) Enforcement. To enforce those provisions of this Unified Land Development Code that relate to the primary activities of the Director of Public Utilities.

Section 9-24-1-6. Building Official.

The Building Official shall have all the necessary powers explicitly provided in connection with the administration of this Unified Land Development Code, as they pertain to functions assigned to the Building Official, including but not limited to the following:

(a) Building permits and certificates of occupancy. To review, approve, and issue building permits and certificates of occupancy, and to administer all provisions of Article 9-20 of this Unified Land Development Code.

(b) Delegation. To delegate the functions and responsibilities to one or more building inspectors.

(c) Enforcement. To enforce those provisions of this Unified Land Development Code that relate to the primary activities of the Building Official.

CHAPTER 9-24-2
ENFORCEMENT

Section 9-24-2-1. Complaints.
Section 9-24-2-2. Enforcement Responsibilities Generally.
Section 9-24-2-3. Enforcement Responsibilities Specifically.
Section 9-24-2-4. Enforcement Techniques.
Section 9-24-2-5. Written Notice to Comply.
Section 9-24-2-6. Stop Work Order.
Section 9-24-2-7. Injunction.
Section 9-24-2-8. Revocation of Permit or License.
Section 9-24-2-9. Bond Forfeiture.
Section 9-24-2-10. Withholding of Utility Service.
Section 9-24-2-11. Refusal of Plat Recording.
Section 9-24-2-12. Citation.
Section 9-24-2-13. Other Necessary Actions.
Section 9-24-2-14. Penalties for Violation.

Section 9-24-2-1. Complaints.

Whenever a violation of this Unified Land Development Code occurs or is alleged to have occurred, any person may file a written complaint with the designated code enforcement officer of the City. Such complaint shall state clearly and fully the causes and bases of the complaint. The designated Code Enforcement Officer shall record properly such complaint, investigate, and take action thereon as may be appropriate to enforce this Unified Land Development Code.

Section 9-24-2-2. Enforcement Responsibilities Generally.

If, through inspection, it is deemed that a person engaged in land-disturbing, development, building construction, or use or other activities has failed to comply with any provision of this Unified Land Development Code, the City through the appropriate official as provided in this Article shall enforce the provisions of this Unified Land Development Code as more fully set forth in this Chapter.

The Director of Planning and Development, the Director of Public Works, the Director of Public Utilities, and the Building Official shall have responsibilities and the authority to enforce the provisions of this Unified Land Development Code as provided in this Chapter. City Marshals, code enforcement officers, land development inspectors, planners, utility inspectors, and building inspectors, if delegated such responsibilities, shall have such authority and responsibility to enforce the provisions of this Unified Land Development Code assigned to the officer delegating such authority.

Section 9-24-2-3. Enforcement Responsibilities Specifically.

Without limiting the generality of this Chapter, enforcement responsibilities are logically divided into different activities regulated under this Unified Land Development Code. It is the intent of this Chapter to assign enforcement responsibilities to the administrative personnel who has primary review responsibility for that particular activity, but that intent shall not preclude one or more administrative officers assigned enforcement responsibilities by this Article from enforcing a provision of this Unified Land Development Code that is not a primary review responsibility.

Section 9-24-2-4. Enforcement Techniques.

Administrative officers shall have at their disposal the enforcement techniques provided in this Chapter, subject to the limitations specified in this Chapter.

Section 9-24-2-5. Written Notice to Comply.

When violations are discovered, a written notice to comply shall be served upon the owner of the property, his authorized agent or the person or persons in charge of the activity on the property. Each of these persons shall be assumed to be individually responsible for compliance with this Unified Land Development Code.

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 violating activity fails to comply within the time specified, he shall be deemed in violation of this Unified Land Development Code.

Section 9-24-2-6. Stop Work Order.

Upon notice from the City, work on any project that is being done contrary to the provisions of this Unified Land Development Code 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 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 in the opinion of the Director of Planning and Development, Director of Public Works, or Building Official an emergency exists (whichever has enforcement responsibilities), no written notice shall be required.

Such stop work order may be lifted at such time as the enforcing Officer is satisfied that a good faith effort is being made to comply with applicable provisions of this Unified Land Development Code. Nothing shall prevent said Officer from reissuing a stop work order where warranted.

Section 9-24-2-7. Injunction.

The City through authorized personnel may issue an injunction to cause a violation of this Unified Land Development Code to cease or to be corrected.

Section 9-24-2-8. Revocation of Permit or License.

The City may suspend or invalidate existing land development permits and building permits in order to enforce the provisions of this Unified Land Development Code.

The City is authorized and directed to deny and withhold permits or permissions on any new project or application pursuant to this Unified Land Development where the applicant, applicant's business or agent has failed or refused to comply with this Unified Land Development Code.

The City may revoke business registrations, work permit or other authorization for the unlawful conduct of any activities within the jurisdictional boundaries of the City.

Section 9-24-2-9. Bond Forfeiture.

The City may deem that a person required to post a bond (e.g., performance bond or landscape bond) pursuant to this Unified Land Development Code is in violation of the provisions of this Unified Land Development Code and may find a violator of this Code to have forfeited such bond. The City may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to bring the unlawful activity into compliance.

Section 9-24-2-10. Withholding of Utility Service.

The City may request or direct an applicable utility service provider to withhold utility service to any property on which a violation is alleged to have occurred.

Section 9-24-2-11. Refusal of Plat Recording.

The City may request or direct the Clerk of Superior Court to refuse or deny the recording of a final subdivision plat that is found to be in violation of this Unified Land Development Code.

Section 9-24-2-12. Citation.

The City shall have authority to issue citations and to prosecute violations before a court of competent jurisdiction.

Section 9-24-2-13. Other Necessary Actions.

Administrative officers with authority and responsibility for enforcement as described in this Article shall be authorized to take any other appropriate or necessary action to ensure compliance with or to prevent violation of the provisions of this Unified Land Development Code.

Section 9-24-2-14. Penalties for Violation.

Any person found guilty of violating any provision of this Unified Land Development shall, upon conviction by the Municipal Court of Gainesville, be punished as provided in Section 1-1-7 of the Gainesville Code of Ordinances. Violations of this Unified Land Development Code may be tried upon citation with or without a prosecuting attorney as well as upon accusations.

CHAPTER 9-24-3
ADMINISTRATIVE VARIANCES

Section 9-24-3-1. Authority.
Section 9-24-3-2. Administrative Variances by the Director of Planning and Development.
Section 9-24-3-3. Administrative Variances by the Director of Public Works.
Section 9-24-3-4. Requirements for Administrative Variance Applications.
Section 9-24-3-5. Review for Completeness.
Section 9-24-3-6. Criteria for Approval of Administrative Variances.
Section 9-24-3-7. Decision.
Section 9-24-3-8. Notice of Action.
Section 9-24-3-9. Finality and Variance Remedy.
Section 9-24-3-10. Records.

Section 9-24-3-1. Authority.

The Director of Planning and Development shall have the authority to upon application grant or deny administrative variances from certain provisions of this Unified Land Development Code as enumerated in this Article, where in his or her opinion, the intent of this Code can be achieved and equal performance obtained by granting an administrative variance.

Section 9-24-3-2. Administrative Variances by the Director of Planning and Development.

In addition to any other administrative variances specifically authorized by this Unified Land Development Code, the following provisions of this code may be administratively varied by the Director of Planning and Development, subject to the specific limitations of this Section. Where this Section omits specific reference to the Director of Planning and Development's authority to grant an administrative variance, and such authority is clearly evident in a provision of this Unified Land Development Code, the omission from this Section shall not be construed as limiting the Director's authority.

(a) Front building setback for a principal building, reduction not to exceed seven (7) feet.

(b) Side building setback for a principal building, reduction not to exceed three (3) feet.

(c) Rear building setback for a principal building, reduction not to exceed five (5) feet.

(d) Setback for an accessory building, reduction not to exceed two (2) feet.

(e) Maximum building coverage, maximum impervious surface coverage, not to exceed five percent (5%) above the applicable maximum. This provision shall not apply in the North Oconee Water Supply Watershed overlay zone.

(f) Maximum height of a building, not to exceed five (5) feet above the applicable maximum. This provision shall not apply to height limits imposed in the Airport Overlay Zones.

(g) Minimum open space, reduction of not more than ten percent (10%) of total minimum required landscaped open space. For example, a minimum open space requirement

of 20 percent (20%) of the lot can not be reduced administratively below ten percent (10%) by the Director.

(h) Landscape strip minimum widths, reduction not to exceed twenty percent (20%) of the minimum required width. For example, if the minimum landscape strip width is ten feet (10'), the Director may authorize a reduction to no less than eight feet (8'). The director may also authorize an average width of landscape strip rather than a minimum.

(i) The required number of parking spaces, reduction not to exceed twenty percent (20%) below the minimum required, and addition not to exceed ten percent (10%) above the maximum permitted number of spaces.

Section 9-24-3-3. Administrative Variances by the Director of Public Works.

This Unified Land Development Code authorizes the Director of Public Works in certain instances to vary or waive requirements (as distinguished from design variances as specified in Article 9-13 of this Unified Land Development Code). In such instances, the Director of Public Works may exercise such authority upon application for such an administrative variance to the Director of Planning and Development, which shall be forwarded to the Public Works Director for review and approval, conditional approval, or disapproval, in accordance with the provisions of this Chapter.

Section 9-24-3-4. Requirements for Administrative Variance Applications.

To initiate an application for administrative variance, an application must be submitted to the Planning Department which shall include at minimum the following:

(a) A completed application form supplied by the Department and a statement of hardship form included with application form must be completed by the applicant.

(b) A non-refundable fee as fixed from time to time by the Governing Body.

(c) A written narrative explaining and justifying the request;

(d) Plat or boundary survey. One (1) scale copy and one (1) 8.5" x 11" or 11" x 17" reproducible size copy of a plat or boundary survey of the property or properties involved in the application.

The Planning Department in reviewing an application shall also be authorized to require any supporting information necessary to review an administrative variance on the record necessary to resolve the request for relief. These may include but are not limited to architectural renderings, concept plans or as-built surveys.

Section 9-24-3-5. Review for Completeness.

The Planning Department shall review the application for completeness within ten (10) days of the published closing date. Incomplete or improper applications will be returned to the applicant.

Section 9-24-3-6. Criteria for Approval of Administrative Variances.

In acting upon applications for administrative variances, the Director of Planning and Development (or, if he or she has jurisdiction, the Director of Public Works) shall consider whether one or more of the following condition(s) exist to justify or provide grounds for disapproval of said request:

(a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, location within or near environmentally sensitive area, or topography; and,

(b) The application of the Unified Land Development Code to this particular piece of property would create an unnecessary hardship; and,

(c) There are conditions that are peculiar to the property which adversely affect its reasonable use or usability as currently zoned.

Section 9-24-3-7. Decision.

In rendering a decision on an administrative variance application, the Director of Planning and Development (or, if he or she has jurisdiction, the Director of Public Works) shall consider all information supplied by the applicant. Within twenty-one (21) calendar days of receipt of a completed application for administrative variance, the Director of Planning and Development may:

(a) Approve the application as submitted; or

(b) Approve the application with conditions; or

(c) Deny the application.

Section 9-24-3-8. Notice of Action.

Notice of the action on an administrative variance shall be sent by United States mail to the applicant. If the application for administrative variance is denied, the reasons for denial shall be stated in the notice of action.

Section 9-24-3-9. Finality and Variance Remedy.

The action of the Director of Planning and Development on the administrative variance application (or, if he or she has jurisdiction, the Director of Public Works) shall be final and may not be appealed as an administrative decision pursuant to Chapter 9-22-7 of this Unified Land Development Code; provided, however, that any person who is denied an application for administrative variance pursuant to this Chapter may file an application for variance with the Planning and Appeals Board pursuant to Chapter 9-22-6 of this Unified Land Development Code.

Section 9-24-3-10. Records.

The Director of Planning and Development shall keep public records of all administrative variances applied for and granted pursuant to this Chapter.