AGENDA
COUNCIL MEETING
4040 S. BERKELEY LAKE RD.
BERKELEY LAKE, GEORGIA 30096
NOVEMBER 19, 2026

7:00 PM Work Session
8:00 PM Formal Session

Citizens are encouraged to offer comments on issues of concern as agenda items are reached and at the end of the meeting for all other issues. Please limit citizen comments to 2 minutes. Longer citizen comments are welcome in writing and will be added to the official record of this meeting.

WORK SESSION

CALL TO ORDER

AGENDA

PUBLIC HEARING

a) 2027 Proposed Budget
b) O-26-263 An Ordinance to
    a. Adopt a Unified Development Ordinance
    b. Adopt a Zoning Map
    c. Adopt Standard Drawings
    d. Carry forward prior zoning conditions
    e. Amend Chapters 26, 32, 34, 42 ,70 ,77
    f. Delete Chapters 58, 62 and 78 and Section 2-153

CONSENT AGENDA

a) Minutes of October 28, 2026, Council Meeting
b) Minutes of October 28, 2026, Council Work Session
c) Financial Statements of September, 2026 - Unaudited

OLD BUSINESS

a) 2027 Proposed Budget
b) O-26-263 An Ordinance to
    a. Adopt a Unified Development Ordinance
    b. Adopt a Zoning Map
    c. Adopt Standard Drawings
    d. Carry forward prior zoning conditions
    e. Amend Chapters 26, 32, 34, 42 ,70 ,77
    f. Delete Chapters 58, 62 and 78 and Section 2-153

NEW BUSINESS

a) 2027-2029 Landscape Contract Award

Requests for reasonable accommodations required by individuals to fully participate in any open meeting, program, or activity of the City of Berkeley Lake government should be made at least five days prior to the event by contacting the ADA Coordinator at 770-368-9484.

b) Waste Management Temporary Fuel Surcharge
c) Moratorium on Zoning Actions

EXECUTIVE SESSION ***(if needed)***

CITIZEN COMMENTS

ADJOURNMENT

Requests for reasonable accommodations required by individuals to fully participate in any open meeting, program, or activity of the City of Berkeley Lake government should be made at least five days prior to the event by contacting the ADA Coordinator at 770-368-9484.

SPECIAL CALLED COUNCIL MEETING
4040 SOUTH BERKELEY LAKE ROAD
BERKELEY LAKE, GEORGIA 30096
DRAFT MINUTES
OCTOBER 28, 2026

ATTENDANCE

Mayor: Lois Salter
Council Members: Skip Dahlstrom, Bill Lacy, Bill Lyons, Chip McDaniel and Rebecca Spitler
City Officials: Leigh Threadgill - City Administrator, and Dick Carothers – City Attorney

Members of the Public: 3 Members of the Press: 0

CALL TO ORDER

Salter called the meeting to order at 8:02 PM. A quorum of council members was in attendance.

AGENDA

McDaniel made a motion to approve the agenda as submitted. Lacy seconded the motion. All council members were in favor and the motion passed.

PUBLIC HEARING

Salter noted that there were no public hearings.

CONSENT AGENDA

Salter noted the following as items on the consent agenda and solicited a motion:

a) Minutes of October 15, 2026, Council Meeting
b) Minutes of October 15, 2026, Council Work Session

Lyons made a motion to approve all items on the consent agenda. Spitler seconded the motion. All were in favor and the motion passed.

OLD BUSINESS

Salter noted that there was no old business.

NEW BUSINESS

a) O-26-264 2027 Proposed Budget

Threadgill: O-26-264 is the proposed budget for 2027. This measure as presented anticipates no increase in the real property tax millage rate for 2027 over the rollback rate for 2026 and is presented for first read consideration after having been reviewed and recommended by the Finance Committee. Staff requests that you schedule a public hearing to receive citizen comments to be held on November 19th.

Lacy made a motion to place O-26-264, an ordinance to establish the budget for the year 2027, to repeal conflicting ordinances, to provide for an effective date and for other purposes, on first read and to schedule a public hearing on the matter for Thursday, November 19th at 8:00 PM. Dahlstrom seconded the motion. All council members were in favor and the motion passed.

b) O-26-263 An Ordinance to
   a. Adopt a Unified Development Ordinance
   b. Adopt a Zoning Map
   c. Adopt Standard Drawings
   d. Carry forward prior zoning conditions
   e. Amend Chapters 26, 32, 34, 42, 70, 77
   f. Delete Chapters 58, 62 and 78 and Section 2-153

Threadgill: This is the culmination of a project that has been going on for a couple of years to rewrite the City of Berkeley Lake's zoning and development regulations. The deliverable before you has been vetted through a public process, including stakeholder interviews, public meetings and public hearings, steering committee review and feedback, and Planning & Zoning commission review and recommendation. It is presented for first read consideration with a recommendation for approval by the Planning & Zoning Commission. Staff requests that you schedule a public hearing to receive comments to be held on November 19th.

Spitler made a motion to place O-26-263, an ordinance to adopt a Unified Development Ordinance, Zoning Map and Standard Drawings as well as the other changes outlined in the agenda, on first read and to schedule a public hearing on the matter for Thursday, November 19th at 8:00 PM. McDaniel seconded the motion. All were in favor and the motion passed.

PUBLIC COMMENTS

Andy Anderson, 334 Lakeshore Drive, noted that he works with city staff during the day and sees a lot of staff hours spent on items that are not city-related, which he feels is a waste of tax money. His family owns three properties on Lakeshore Drive and pays a fair amount of taxes to the city, county and state. He noted that wildlife is not a city issue: dead animals are handled by

the county and live animals by the state. He asked that animal-related issues no longer be brought to the city, as they are not the city's role and are a waste of money and staff time.

ADJOURNMENT

There being no further business to discuss, Dahlstrom moved to adjourn. Lyons seconded the motion. All were in favor and the motion passed.

Salter adjourned the meeting at 8:07 PM.

Submitted by:

_____

Leigh Threadgill, City Clerk

DRAFT

SPECIAL CALLED COUNCIL WORK SESSION
4040 SOUTH BERKELEY LAKE ROAD
BERKELEY LAKE, GEORGIA 30096
DRAFT MINUTES
OCTOBER 28, 2026

ATTENDANCE

Mayor: Lois Salter
Council Members: Skip Dahlstrom, Bill Lacy, Bill Lyons, Chip McDaniel and Rebecca Spitler
City Officials: Leigh Threadgill - City Administrator and Dick Carothers – City Attorney

Members of the Public: 3 Members of the Press: 0

WORK SESSION

Salter asked Threadgill to review the agenda with the council.

Threadgill reviewed the budget and the 2026 Unified Development Ordinance adoption processes. Threadgill presented training materials related to Planning and Zoning.

The work session was adjourned.

Submitted by:

_____
Leigh Threadgill, City Clerk

DRAFT

City of Berkeley Lake

Budget vs. Actuals: Budget_FY26_P&L - FY26 P&L

January - September, 2026

	TOTAL			
	ACTUAL	BUDGET	OVER BUDGET	% OF BUDGET
Income				
100 100 General	1,072,132.62	1,587,856.00	-515,723.38	67.52 %
320 320 SPLOST Income	426,544.29	2,125,743.00	-1,699,198.71	20.07 %
Total Income	**$1,498,676.91**	**$3,713,599.00**	**$ -2,214,922.09**	**40.36 %**
GROSS PROFIT	**$1,498,676.91**	**$3,713,599.00**	**$ -2,214,922.09**	**40.36 %**
Expenses				
1 Gen Govt	351,269.88	607,035.00	-255,765.12	57.87 %
2 Judicial	3,535.50	9,449.00	-5,913.50	37.42 %
3 Public Safety	115,541.61	175,421.00	-59,879.39	65.87 %
4 Public Works	192,708.43	547,645.00	-354,936.57	35.19 %
6 Culture and Recreation	11,572.75	23,915.00	-12,342.25	48.39 %
7 Housing and Development	125,130.22	224,390.00	-99,259.78	55.76 %
SPLOST Expenses	517,374.34	2,125,743.00	-1,608,368.66	24.34 %
Total Expenses	**$1,317,132.73**	**$3,713,598.00**	**$ -2,396,465.27**	**35.47 %**
NET OPERATING INCOME	**$181,544.18**	**$1.00**	**$181,543.18**	**18,154,418.00 %**
NET INCOME	**$181,544.18**	**$1.00**	**$181,543.18**	**18,154,418.00 %**

City of Berkeley Lake

Income & Expense

September 2026

	TOTAL
Income	
100 100 General	43,120.86
320 320 SPLOST Income	45,676.25
Total Income	**$88,797.11**
GROSS PROFIT	**$88,797.11**
Expenses	
1 Gen Govt	35,869.65
2 Judicial	75.00
3 Public Safety	12,896.33
4 Public Works	4,738.21
6 Culture and Recreation	2,155.00
7 Housing and Development	21,413.83
SPLOST Expenses	1,265.00
Total Expenses	**$78,413.02**
NET OPERATING INCOME	**$10,384.09**
NET INCOME	**$10,384.09**

City of Berkeley Lake

Balance Sheet

As of September 30, 2026

	TOTAL
ASSETS	
Current Assets	
Bank Accounts	
Debt Service Fund	0.00
General Fund	5,180,304.43
SPLOST Fund	1,189,530.85
Suspense 1.11.1000	0.00
Total Bank Accounts	**$6,369,835.28**
Accounts Receivable	
Accounts Rec 1.11.1900.1	9,762.46
Total Accounts Receivable	**$9,762.46**
Other Current Assets	
1.11.27 Grant Receivable	0.00
Accounts Rec - SPLOST 1.11.2000	87,868.18
AccountsRec-OtherTax1.11.1900.2	0.00
Franchise Tax Rec 1.11.1550	108,000.00
Interest Receivable 1.11.1400	0.00
Prepaid Expense 1.11.3600	2,752.87
Prepaid items 1.11.3800	5,158.33
QuickBooks Tax Holding Account	1,291.78
Taxes Receivable 1.11.1600	407,955.50
Undeposited Funds 1.11.1114	400.00
Total Other Current Assets	**$613,426.66**
Total Current Assets	**$6,993,024.40**
Fixed Assets	
8.11.7600 Construction in Progress	237,612.00
Building & Improvements 1.11.7400	1,643,589.08
Computer Equipment 1.11.6700	48,172.61
Furniture & Fixtures 8.11.7700	71,493.47
Land 8.11.7100	9,183,321.74
Machinery & Equipment 1.11.6500	173,026.24
Total Fixed Assets	**$11,357,215.14**
Other Assets	
Accum amort - bond cost	0.00
Amt avail 4 debt svc 9.11.9100	0.00
Bond issuance cost	0.00
Loan Receivable - Facilities	0.00
Loan Receivable - Paving	0.00
To be prov 4 debt 1.11.7500	0.00
Total Other Assets	**$0.00**
TOTAL ASSETS	**$18,350,239.54**

City of Berkeley Lake

Balance Sheet

As of September 30, 2026

	TOTAL
LIABILITIES AND EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
Accounts Payable 1.12.1100	1,932.13
Operating AP	0.00
SPL2005 Admin Facil- City H-AP*	0.00
SPLOST account - Suntrust-AP*	0.00
Total Accounts Payable	**$1,932.13**
Credit Cards	
Anderson Credit Card (8186)	74.26
BOZEMAN, MARTY (0241)	0.00
Hiller Credit Card (8402)	1,421.51
Hunter Credit Card (0891)	169.13
Threadgill Credit Card (3322)	795.59
Wilhite Credit Card (1132)	0.00
Total Credit Cards	**$2,460.49**
Other Current Liabilities	
*Sales Tax Payable	0.00
1.12.1600 SBITA - Contracts Payable	9,297.00
1.12.28 Bonds payable - current	0.00
Accounts Payable Accruals-L*	0.00
Accounts payable-L 1.12.1100.2	0.00
Accrued Expenses 1.12.1150	0.00
Accrued Interest Payable	0.00
Accrued Salaries 1.12.1200	0.00
Accrued SPLOST Expenses 2.12.1250	0.00
Deferred revenue 1.12.2500	377.07
Direct Deposit Payable	-0.01
MyGov	20.00
Payroll Liabilities	66.10
PR Tax Payable - Fed 1.12.1300	0.00
PR Tax Payable - State 1.12.1310	1,291.78
PTO Accrual	20,882.99
Regulatory Fees Payable	10,275.89
Retainage Payable	0.00
Total Other Current Liabilities	**$42,210.82**
Total Current Liabilities	**$46,603.44**

City of Berkeley Lake

Balance Sheet

As of September 30, 2026

	TOTAL
Long-Term Liabilities	
Gen Oblig Bond Payable1.12.3000	0.00
GOB Payable - 2009 1.12.3000.2	0.00
GOB Payable - 2011 1.12.3000.3	0.00
GOB Payable - 2012 1 12.3000.4	0.00
SPLOST Loan Payable - Paving	0.00
SPLOST Loan Payable Facilities	0.00
Total Long-Term Liabilities	**$0.00**
Total Liabilities	**$46,603.44**
Equity	
Fund Bal Unrsvd 1.13.4220	5,222,954.22
Investmt in fixedassets 1.13.4K	11,118,230.85
Opening Bal Equity	0.00
Reserve for prepaids 1.13.4125	5,158.33
Reserved for Debt Service	0.00
Restricted for Debt Svc 1.13.4105	0.00
Restricted4CapitalProj 1.13.4155	1,600,554.94
Retained Earnings 1.13.3000	175,193.58
Net Income	181,544.18
Total Equity	**$18,303,636.10**
TOTAL LIABILITIES AND EQUITY	**$18,350,239.54**

STATE OF GEORGIA
COUNTY OF GWINNETT

O-26-264

ORDINANCE

AN ORDINANCE TO ESTABLISH A BUDGET FOR THE YEAR 2027; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Be it ordained by the Mayor and the City Council of the City of Berkeley Lake that the 2027 Budget shall be appropriated as follows:

Revenues		
	General	1,396,718
	SPLOST	1,562,985
	Total Revenues	$2,959,703
Expenditures		
	General Government	673,962
	Judicial	9,449
	Public Safety	176,501
	Public Works	245,852
	Culture & Recreation	56,549
	Housing & Development	234,405
	Additions to General Reserves	0
	SPLOST – Public Works	922,059
	SPLOST – Admin Facilities	326,793
	SPLOST – Public Safety	230,419
	SPLOST – Rec Facilities	57,464
	SPLOST – Addition to Reserves	26,250
	Total Expenditures	$2,959,703

All ordinances and parts of ordinances in conflict herewith are repealed to the extent of any such conflict. This ordinance shall be effective upon adoption by the Council of the City of Berkeley Lake.

So ordained, this ____th day of December 2026.

ATTEST:

_____
Lois D. Salter, Mayor

_____
Leigh Threadgill, City Clerk

First Read: October 28, 2026
Second Read/Hearing: November 19, 2026
Adoption:

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2027 Budget - Proposed

	2026 Budget	2026 Forecast	2027 Budget	2027 vs 2026 Budget
100 General	1,282,428	1,454,005	1,396,718	8.9%
100 Reserves	305,425	27,946	-	-100.0%
320 SPLOST	520,479	575,419	566,669	8.9%
320 Reserves	1,605,264	364,202	996,316	-37.9%
Total Revenue	**3,713,596**	**2,421,572**	**2,959,703**	-20.3%
General Government	607,034	511,534	673,962	11.0%
Judicial	9,449	5,870	9,449	0.0%
Public Safety	175,421	162,949	176,501	0.6%
Public Works	547,645	253,082	245,852	-55.1%
Culture & Recreation	23,915	17,129	56,549	136.5%
Housing & Development	224,390	178,173	234,405	4.5%
General Expenses	**1,587,853**	**1,128,737**	**1,396,717**	-12.0%
SPLOST Public Works	1,538,435	904,896	922,059	-40.1%
SPLOST Admin Facilities	335,821	29,000	326,793	-2.7%
SPLOST Public Safety	191,678	-	230,419	20.2%
SPLOST Rec Facilities	47,809	5,725	57,464	20.2%
SPLOST Expenses	**2,113,743**	**939,621**	**1,536,735**	-27.3%
Total Expenses	**3,701,596**	**2,068,358**	**2,933,452**	-20.8%
Addition to General Reserves	(0)	353,215	1	
Addition to SPLOST Reserves	12,000	(0)	26,250	

City of Berkeley Lake - 2027 Proposed Budget Highlights

Please be advised of the following items of note regarding the proposed 2027 budget:

Revenues

1) The proposed budget anticipates no increase in the real property tax millage rate for 2027 over the rollback rate for 2026.
2) *Natural Gas* franchise tax revenue has been increased by $8,216 or 26% based on current year pacing.
3) *Insurance Premium tax* has been increased by $26,621 or 14% based on revenue received for 2025.
4) *Motor Vehicle Title Ad Valorem Taxes* have been reduced $16,593 or 13% based on current year pacing.
5) *Interest Revenues* have been increased $87,796 or 109% based on current year pacing.

Expenses

1) A total of ~$18,500 in *Contingency* funds has been distributed across several departments.
2) *Housing and Development* expenses are increasing 4.5% to fund completion and implementation of the code update project and implementation of the Peachtree Industrial Boulevard corridor plan.
3) *Public Works* costs have decreased 55% because the engineer determined it was premature to dredge the pond located at 443 Lakeshore Dr.
4) The *Culture and Recreation* line is increasing 137% due to the following:
    a. A projected increase in the landscaping contract
    b. Increase in professional services for design and installation of replacement gateway signs
5) *General Government* expenses are increasing 11% due to the following:
    a. Increases in vendor costs for accounting and payroll services
    b. Increases in IT vendor costs - VC3 and MyGov
    c. Increase in tax billing and collection services
    d. The majority of the increase is due to the purchase of software to replace QuickBooks, MyGov, spreadsheets and standalone databases
6) *General Government, Public Safety, and Housing and Development* all include 4% increases to staff salaries to offset increased cost of living.

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CITY OF BERKELEY LAKE

Code Updates

CITY OF BERKELEY LAKE UDO
EXISTING CODE INCORPORATION

October 13, 2026

To Adopt	Notes
Appendix A: Unified Development Ordinance	
Official Zoning Map	
Standard Drawings	
Conditional zoning to carry forward	
To Amend	
Ch. 26. Environment	To delete provisions moved to UDO (i.e. Post Development Stormwater)
Ch. 32. Greenspace	To delete Art. II Conservation Subdivision
Ch. 34. Licensing	To add adult business standards as Division 6 of Article II, Businesses Regulated
Ch. 42. Natural Resources	To delete all State of Georgia model ordinances moved to UDO (Articles II-VIII), leaving Article IX Water Conservation Measures
Ch. 70. Streets, Curbs, Sidewalks	To add reference to UDO and delete standards moved Standard Drawings
Ch. 77. Standards for Wireless Communication Facilities	To add reference to UDO use table
To Delete	
Sec. 2-153 of Art. 6 of Ch. 2 Administration	
Ch. 58. Septic	
Ch. 62. Signs	
Ch. 78. Zoning	

O-26-263

AN ORDINANCE TO ADOPT A NEW UNIFIED DEVELOPMENT ORDINANCE THAT WILL UPDATE AND REPLACE THE CURRENT ZONING ORDINANCE (CHAPTER 78 OF THE CODE OF THE CITY OF BERKELEY LAKE) TO READOPT THE EXISTING ZONING MAP AS PART OF THE NEW UNIFIED DEVELOPMENT ORDINANCE; TO AMEND THE TEXT OF OTHER SPECIFIC DEVELOPMENT, DESIGN AND OTHER SECTIONS OF THE CODE OF THE CITY OF BERKELEY LAKE, GEORGIA; TO CONSOLIDATE SAID OTHER SPECIFIC SECTIONS AS WELL AS THE ZONING ORDINANCE SO AS TO CREATE A CONSOLIDATED ORDINANCE TO BE KNOWN AS THE UNIFIED DEVELOPMENT ORDINANCE OF THE CITY OF BERKELEY LAKE, GEORGIA; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

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WHEREAS, the 2024 Comprehensive Plan established specific Principles, Goals, and Tasks for the City of Berkeley Lake; and

WHEREAS, many of the Goals and Tasks in the 2024 Comprehensive Plan require significant updates to the City's zoning and development regulations to implement; and

WHEREAS, many current zoning and development regulations are decades old and do not align with current needs or best practices; and

WHEREAS, current zoning and development regulations are often difficult to administer; and

WHEREAS, significant public input, including a stakeholder committee, public meetings, community open houses, and web-based surveys guided the creation of a unified development ordinance that combines all development and zoning regulations into a single document. so as to align them with the 2024 Comprehensive Plan; and

WHEREAS, said unified development ordinance will promote the Comprehensive Plan and assorted other plans; and

WHEREAS, said unified development ordinance will promote the health, safety, morals, order, prosperity and the general welfare of present and future inhabitants of the City of Berkeley Lake; and

WHEREAS, required public hearings were held by the Planning Commission of the City of Berkeley Lake and the City Council for proposed changes to the text of the Zoning Ordinance of

the City of Berkeley Lake, all in compliance with the Zoning Procedures Law as well as provisions of said Zoning Ordinance; and

WHEREAS, the Berkeley Lake City Council wishes to approve the proposed amendments;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Berkeley Lake, Georgia, and it is hereby ordained by authority of the same, as follows:

SECTION 1.

That the text of Chapter 78, Zoning, of the Code of the City of Berkeley Lake, Georgia, as amended, is hereby deleted and replaced as set forth in Exhibit "A" attached hereto, entitled "The Unified Development Ordinance of the City of Berkeley Lake", and that said Exhibit "A" is hereby adopted and incorporated into this Ordinance by this reference.

SECTION 2.

That the Official Zoning Map established in Chapter 78, Zoning, of the Code of the City of Berkeley Lake, Georgia, as amended, is hereby further amended and re-codified as set forth in Exhibit "B" attached hereto, entitled "The Official Zoning Map of the City of Berkeley Lake", and that said Exhibit "B" is hereby adopted and incorporated into this Ordinance by this reference.

SECTION 3

That Chapter 2 (Administration)is hereby amended to delete Sec. 2-153 (Planning and zoning commission), which is now incorporated into Article 10 of The Unified Development Ordinance.

SECTION 4.

That Chapter 58 (Septic Systems), and Chapter 62 (Signs) are hereby deleted and replaced as set forth in Exhibit "A" attached hereto, entitled "The Unified Development Ordinance of the City of Berkely Lake", and that said Exhibit "A" is hereby adopted and incorporated into this Ordinance by this reference.

SECTION 5.

That Article II of Chapter 34 (Licensing and Business Regulation) is hereby amended to add a new Division 6 (Sexually Oriented Businesses) as set forth in Exhibit "C", and that said Exhibit "C" is hereby adopted and incorporated into is Ordinance by this reference.

SECTION 6.

That Chapter 70 (Streets, Curbs and Sidewalks) is hereby amended and re-codified as set forth in Exhibit "D" attached hereto", and that said Exhibit "D" is hereby adopted and incorporated into this Ordinance by this reference.

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SECTION 7.

That Chapter 77 (Standards for Wireless Communication Facilities) is hereby amended and re-codified as set forth in Exhibit "E" attached hereto", and that said Exhibit "E" is hereby adopted and incorporated into this Ordinance by this reference.

SECTION 8.

That Chapter 42 (Natural Resources) is hereby amended and re-codified as set forth in Exhibit "F" attached hereto", and that said Exhibit "F" is hereby adopted and incorporated into this Ordinance by this reference.

SECTION 9.

That Chapter 26 (Environment) is hereby amended and re-codified as set forth in Exhibit "G" attached hereto, and that Exhibit "G" is hereby adopted and incorporated into this Ordinance by reference.

SECTION 10.

That Chapter 32 (Greenspace) is hereby amended and re-codified as set forth in Exhibit "H" attached hereto, and that Exhibit "H" is hereby adopted and incorporated into this Ordinance by reference.

SECTION 11.

That all current conditions of rezoning on any parcel in the City introduced and adopted before the effective date of this ordinance remain, except as otherwise expressly provided herein, are repealed upon the adoption of this ordinance; and that the zoning condition(s) found in the rezoning ordinances in Exhibit "I" attached hereto are hereby incorporated by reference into this ordinance as if said conditions contained in those rezoning ordinance were set out at length in this ordinance. Said listed rezoning ordinances are and are hereby made a public record. Notice is hereby given that the listed rezoning ordinances are accessible to members of the public, including but not limited to, those who are, or may be, affected by the zoning condition(s) therein, for public inspection in the office of the City Clerk by requesting a certified copy of those rezoning ordinances.

SECTION 12.

That all special uses previously authorized by ordinance but not in operation at the time of the adoption of this ordinance are repealed upon the adoption of this ordinance and that for all special uses previously authorized by ordinance and lawfully in operation at the time of the adoption of this ordinance, the special uses may continue subject to compliance with any zoning conditions set forth within such ordinance granting the special use permit, including any previous zoning conditions set forth in prior use permits referenced therein. Notice is hereby given that the listed special use permit ordinances are accessible to members of the public, including but not limited to, those who are, or may be, affected by the zoning condition(s) therein, for public inspection in

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the office of the City Clerk by requesting a certified copy of those special use permit ordinances.

SECTION 13.

That Modified Gwinnett County Department of Planning and Development standard drawings and Berkeley Lake Standard Drawings standard drawings are as set forth in Exhibit "J", and that said Exhibit "J" is hereby adopted and incorporated into this Ordinance by this reference.

SECTION 14.

That all Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

SECTION 15.

That this Ordinance shall become effective upon adoption.

Adopted this ____ day of _____, 20XX.

Attest: _____

Leigh Threadgill
City Clerk

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CITY OF BERKELEY LAKE

Code Updates

CITY OF BERKELEY LAKE UDO
EXHIBIT LIST

October 13, 2026

Exhibit A	Unified Development Ordinance
Exhibit B	Official Zoning Map
Exhibit C	Chapter 34, Article II, Division 6 (Sexually Oriented Businesses)
Exhibit D	Chapter 70 (Streets, Curbs and Sidewalks)
Exhibit E	Chapter 77 (Standards for Wireless Communication Facilities)
Exhibit F	Chapter 42 (Natural Resources)
Exhibit G	Chapter 26 (Environment)
Exhibit H	Chapter 32 (Greenspace)
Exhibit I	Existing Zoning Conditions Carried Forward
Exhibit J	Standard Drawings

City of Berkeley Lake, Georgia

APPENDIX A

Unified Development Ordinance

October 22, 2026

V4 DRAFT

REDLINED FROM V3

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Article 1. General Provisions

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Article 1. General Provisions

Sec. 1.1. Legal Requirements

1.1.1. Short Title

This Appendix A of the Code of the City of Berkeley Lake shall be known and may be cited as "the Unified Development Ordinance of the City of Berkeley Lake, Georgia," and is referred to or cited as "this UDO."

1.1.2. Effective Date

The effective date of this UDO is the date of its adoption by the City Council.

1.1.3. Purpose

This UDO is intended to guide the future growth of the City of Berkeley Lake in accordance with the Comprehensive Plan.

1.1.4. Intent

A. This UDO is intended to balance conservation and development by:

1. Ensuring conservation of land and natural resources, including Lake Berkeley and the tributaries that empty into it.
2. Promoting the preservation and enhancement of the tree canopy.
3. Guiding development in established neighborhoods that preserves and reinforces their unique characteristics.
4. Promoting development and redevelopment in existing commercial and industrial areas that enhance their function as gateways to the city and amenities to its established neighborhoods.
5. Providing standards for compatible transitions of use, building scale, and height between existing and new developments.
6. Providing clear and consistent procedures for appropriate and effective public involvement in land use and development decisions.

B. This UDO is intended to achieve design excellence in the built environment by:

1. Providing building and site design standards that address the public aspects of private development and how building form, placement, and uses contribute to the quality of the public realm.
2. Providing parking and access standards that appropriately balance pedestrian and vehicular needs and result in safe pedestrian environments of the highest quality.

3. Promoting quality landscape and building design that advance the function and beauty of the city.

C. This UDO is intended to guide Berkeley Lake's prosperous and sustainable future by:

1. Providing clear regulations and processes that result in predictable, efficient, and coordinated development review.
2. Promoting conservation of land, energy, and natural resources.
3. Promoting sustainable building and site design practices.
4. Expanding housing options outside of established neighborhoods.
5. Expanding the tax base, especially within commercial and industrial areas.
6. Providing standards for interconnected streets and development patterns that support all modes of travel.

1.1.5. Authority

This UDO is adopted under the authority of the Constitution of the State of Georgia and laws enacted in accordance with the Constitution, including but not limited to:

A. O.C.G.A. Title 36, Chapter 66. Zoning Procedures; and

B. O.C.G.A. Title 44, Chapter 2. Recordation and Registration of Deeds and Other Instruments.

1.1.6. Application

A. Territorial Application

This UDO applies to all land, uses, buildings, and structures within the corporate boundaries of the City.

B. General Application

In interpreting and applying this UDO, its provisions are the minimum requirements for the promotion and protection of the public health, safety, and welfare.

C. Required Conformance

All buildings, structures or land, in whole or in part, must only be:

1. Used or occupied in conformance with this UDO; and
2. Erected, built, moved, enlarged or structurally altered in conformance with this UDO.

D. Control Over Less Restrictive Private Agreements

This UDO does not nullify any private agreement or covenant. However, where this UDO is more restrictive than a private agreement or covenant, this UDO controls. The City will not enforce any private agreement or covenant.

E. Control Over Less Restrictive Laws and Regulations

If any condition or requirement imposed by this UDO is more restrictive than a condition or requirement imposed by any other law, rule or regulation of any kind, the more restrictive condition or requirement governs.

F. Conflicting UDO Provisions

If any standard or requirement imposed by this UDO (including any condition of zoning, special use permit, or variance approval) contains an actual, implied or apparent conflict, the more restrictive standard or requirement controls.

G. References to Other Laws

Whenever a provision of this UDO refers to any other part of the Berkeley Lake City Code or to any other law, the reference applies to any subsequent amendment of that law.

H. Text and Graphics

Illustrations, photographs, and graphics are included in this UDO to illustrate the intent and requirements of the text. In the case of a conflict between the text of this UDO and any illustrations, the text governs.

I. Severability

If any Article, Section, Sub-section, Paragraph, Sub-paragraph, Sentence, or Clause of this UDO is adjudged by any court of competent jurisdiction to be invalid, that judgment does not affect, impair, invalidate or nullify the remainder of this UDO. The effect of the judgment is confined to the Article, Section, Sub-section, Paragraph, Sub-paragraph, Sentence, or Clause immediately involved in the controversy in which judgment or decree was rendered.

1.1.7. Zoning Compliance Law

A. This UDO is crafted as a series of ~~articles~~Articles and Sections.

B. ~~Article 1 through Article 7 and Article 10, as well as those definitions in Article 11 that constitute, by reference, text of these~~The following Articles~~,~~ and Sections are ~~all~~ intended to constitute a zoning ordinance within the meaning of O.C.G.A. § 36-66-1, et seq~~.~~ .:

1. Article 1 through Article 6;
2. Article 7, except Sec. 7.5 (Signs);
3. Article 10; and
4. Article 11 definitions that constitute, by reference, text of the Articles and Sections specified above

~~B.~~ Changes to the text of these Articles and Sections, as well as official zoning map amendments and other zoning actions addressed in those Articles and Sections, must comply with the procedures specified in ~~Sec. 10.3 (Legislative Review).~~Sec. 10.3 (Legislative Review).

C. The remaining ~~articles~~Articles and Sections are not intended to constitute a zoning ordinance and may be amended using the City's general procedures for ordinance amendments.

Sec. 1.2. Zoning Districts

1.2.1. Establishment of Zoning Districts

In order to carry out the intent and purpose of this UDO, the City of Berkeley Lake, Georgia, is divided into the following zoning and special districts:

Residential Districts		**Formerly**
R-1	Single-Family Residential	R-100, Gwinnett Co. R-100
R-2	Cottage Residential	RMD
R-3	Age-Restricted Residential	New
Mixed-Use and Business Districts		**Formerly**
C-1	Neighborhood Business	C-1, Gwinnett Co. C-1
C-2	General Business	Gwinnett Co. C-2
O-I	Office-Institutional	O-I, Gwinnett Co. O-I
MX-1	Neighborhood Mixed-Use	New
MX-2	Corridor Mixed-Use	New
M-1	Light Industrial	M-1, Gwinnett Co. M-1, Gwinnett Co. M-2
Special and Overlay Districts		
[Reserved]		

Sec. 1.3. Official Zoning Map

1.3.1. Official Zoning Map Established

A. The Official Zoning Map for the City of Berkeley Lake is incorporated and made part of this UDO.

B. The original Official Zoning Map must be kept on file with the City Clerk. The map must:

1. Indicate the date of adoption;
2. Be signed by the Mayor, attested by the City Clerk; and
3. Bear the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in the City of Berkeley Lake Unified Development Ordinance," together with the map's date of adoption and notation of any map amendments.

C. The City Council may, from time to time, readopt the Official Zoning Map.

D. The Official Zoning Map may be kept electronically in a Geographic Information System (GIS). Any copy of the Official Zoning Map published on the web or otherwise portrayed electronically does not constitute the original Official Zoning Map.

E. The Director may make paper copies of the Official Zoning Map available to the public for a fee.

1.3.2. Interpretation of District Boundaries

Where uncertainty exists with respect to the location of the boundaries of any zoning district, the following rules apply:

A. Where a zoning district boundary line is shown as approximately following a corporate limits line, a land lot line, a lot line, or the centerline of a street or county road, then such lines will be construed to be the zoning district boundary line.

B. Where a zoning district boundary line is shown as being set back from a street or county road and approximately parallel thereto, then such zoning district boundary line must be construed as being at the scaled distance from the centerline of the street or county road and as being parallel thereto.

C. Where a zoning district boundary line divides a lot, the location of the line will be the scaled distance from the lot lines. In this situation, the requirements of the zoning district in which the greater portion of the lot lies apply to the balance of the lot, except that such extension will not include any part of a lot that lies more than 50 feet beyond the zoning district boundary line.

D. Where a through lot fronts on two approximately parallel streets and is divided by a zoning district boundary line paralleling the streets, the restrictions of the zoning district in which each frontage of the through lot lies apply to that portion of the through lot.

Article 2. Rules Applicable to Zoning Districts

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Article 2. Rules Applicable to Zoning Districts~~Rules Applicable to Zoning Districts~~

Sec. 2.1. Site Standards

2.1.1. Applicability

A. This Sec. 2.1 applies to all sites, as follows:

1. Site standards apply based on the requirements of the applicable zoning district.
2. Existing sites may not be modified so that one or more standards of this UDO are not maintained, unless a relief is granted in accordance with Article 10.

B. This Sec. 2.1 does not apply when a portion of a site is acquired for a public purpose.

2.1.2. Site

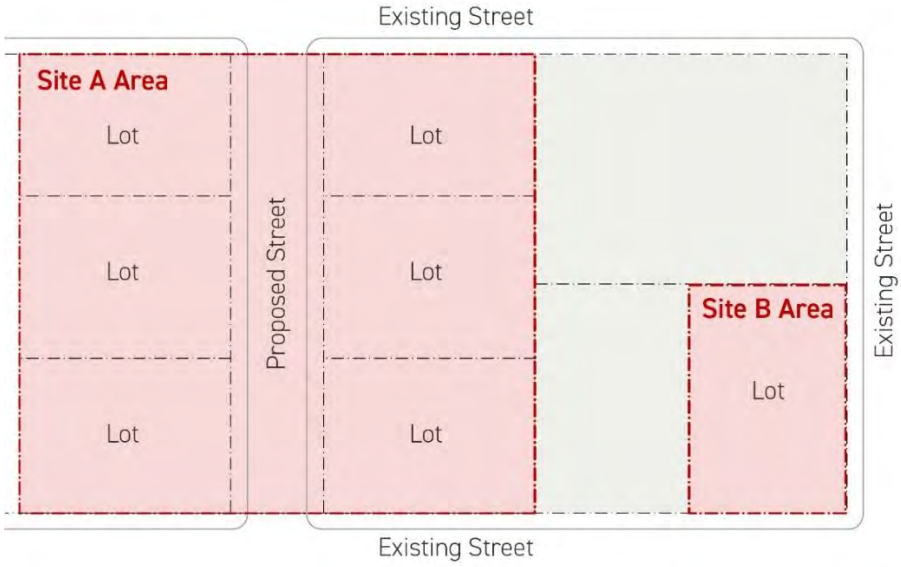
A site is any lot or group of contiguous lots owned or controlled by the same person or entity, assembled for the purpose of a single development.

2.1.3. Site Area

Site area is the cumulative area of all contiguous existing or proposed lots that make up the site. Site area excludes existing and proposed public rights-of-way.

2.1.4. Site Frontage

Site frontage is the portion of a site adjacent to a single public street.



2.1.5. Open Space

A. General Provisions

1. **Open Spaces**

   Open space is the percentage of site area provided for outdoor gathering and recreation, environmental protection, landscaping, or visual appeal.

2. **Types of Open Space**

   Open space includes the following types:

   a. **Greenspace.** Open space that remains undeveloped and natural except for the provision of non-motorized passive recreation opportunities such as running, walking, biking, and similar outdoor activities; and

   b. **Amenity space.** Open space built for gathering, recreation, or play, such as plazas, fountains, outdoor dining, parks, sports fields, seating areas, playgrounds, swimming pools, and similar areas.

B. Greenspace

Greenspace, as a percentage of required open space, must be provided as follows:

Site Type	Required Greenspace
Undeveloped (< 20% developed)	50% of required open space
Partially developed (20% to 80% developed)	G = (U ÷ S) x 0.5 G = minimum percentage of required open space that must be greenspace U = undeveloped site area (in sf.) S = Total site area (in sf.)
Developed (> 80% developed)	None required
Example On a 10-acre site, where 4 acres are undeveloped, at least 20% of the required open space must be greenspace, calculated as follows: 20% = (4 ÷ 10) x 0.5	

C. Open Space Requirements

1. All open space must have a minimum dimension of 15 feet by 15 feet.
2. Required landscape strips, buffers, stream buffers, wetlands, and floodplains may count toward open space requirements when they meet the minimum dimension specified above.
3. Ponds (including stormwater retention ponds), lakes, and similar permanent water bodies do not count toward open space requirements.
4. Stormwater management facilities, or portions of facilities, only count toward open space requirements when they meet the following standards:

   a. Facilities will be considered amenity space when built for gathering, recreation, or play, such as plazas, fountains, outdoor dining, parks, sports fields, seating areas, playgrounds, and similar areas.

b. Facilities must be designed and stamped by a Landscape Architect licensed in the State of Georgia;

c. Facilities may not contain any exposed concrete. This includes exposed concrete located in detention ponds, spillways, or basins;

d. Facilities may not be fenced, walled, or enclosed by retaining walls over 30 inches in height;

e. Facilities may count toward no more than 20% of the required open space; and

f. Stormwater retention ponds never count toward open space requirements, as specified in Sec. 2.1.5.C.3 above.

Sec. 2.2. Lot Standards

2.2.1. Applicability

A. This Sec. 2.2 applies to all lots, as follows:

1. Lot standards apply based on the requirements of the applicable zoning district.
2. Existing lots may not be modified so that one or more standards of this UDO are not maintained, unless a relief is granted in accordance with Article 10.

B. This Sec. 2.2 does not apply to the following:

1. When a portion of a lot is acquired for a public purpose.
2. When a lot is served by a septic tank and a larger site or lot is required by the Environmental Health Section for safe drinking water and septic tank operation.
3. When a lot is used exclusively for common areas, open spaces, private streets, private alleys, or stormwater facilities.
4. When a lot is used exclusively for project entrance signs or entrance landscape features and all the following are met:
   a. The lot is located at a vehicular entrance to a subdivision;
   b. The subdivision has a mandatory homeowners' association (or nonresidential equivalent) that is responsible for maintaining the lot in perpetuity;
   c. At least 6 feet of right-of-way is provided from the back of the curb to the lot line; and
   d. Landscape plantings are not allowed in the right-of-way, except within a streetscape planter in accordance with Sec. 8.4.2 (Streetscape Required).

2.2.2. General Provisions

A. Lot

A lot is a developed or undeveloped tract of land in one ownership, legally transferable as a single unit of land.

B. Types of Lots

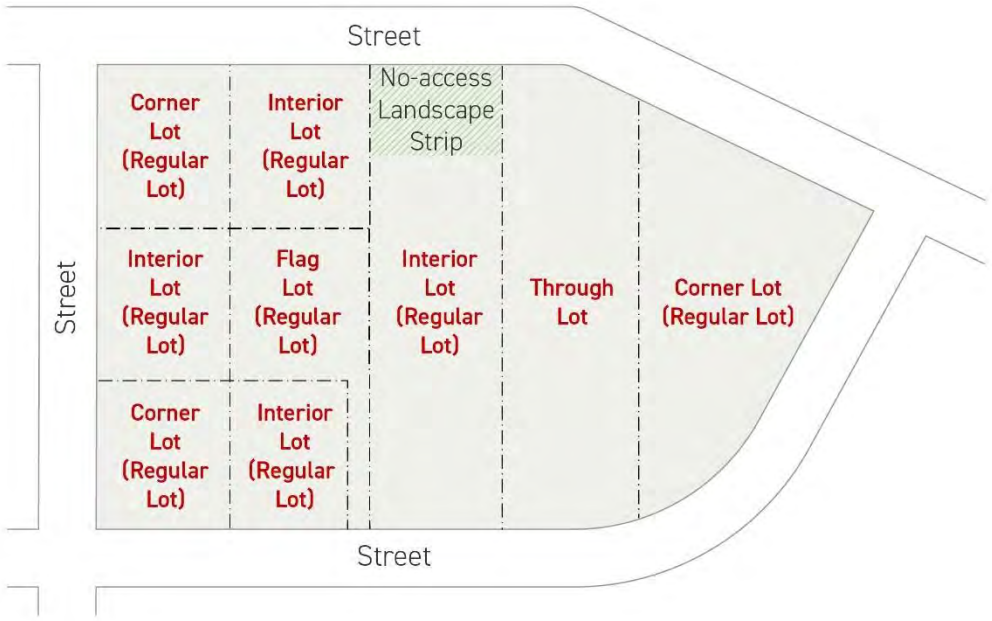
Lot types include the following:

1. **Corner Lot.** Any lot with frontage on two streets at their intersection.
2. **Flag lot.** A lot that does not meet the minimum frontage or width requirements and where access to the street is by a narrow right-of-way or driveway. Flag lots are not allowed.
3. **Interior Lot.** A lot with frontage on only one street.

4. **Through Lot.** A lot, other than a corner lot, that has frontage on two or more streets. However, a lot is not considered a through lot if all but one of its street frontages are subject to a no-access landscape strip in accordance with Sec. 7.3.2.E.
5. **Landlocked Lot.** A lot that does not have any frontage.

C. Regular Lots

Corner lots and interior lots are also classified as regular lots for certain purposes as shown below.



D. Lot Area

1. Lot area is the total square footage within the boundaries of a lot. Lot area excludes existing and proposed public rights-of-way.
2. When a zoning district has no minimum standard and refers to the site standard, the requirement is calculated as if the entire site was a single lot.

E. Lot Frontage

1. Lot frontage is the portion of a lot adjacent to a street or specified courtyard for a cottage court.
2. Every building lot must have at least 50 feet of frontage on a public street, or on a private street built to public standards, or on a specified courtyard for a cottage court, except when less frontage is allowed by zoning district regulations.
3. When a zoning district has no minimum standard and refers to the site standard, the requirement is calculated as if the entire site was a single lot.

F. Lot Depth

Lot depth is the mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

G. Lot Width

Lot width is the horizontal distance between the side lot lines measured along the setback or building line as established by this UDO.

H. Nonconforming Lots of Record

See Sec. 10.10.2 (Nonconforming Lots)

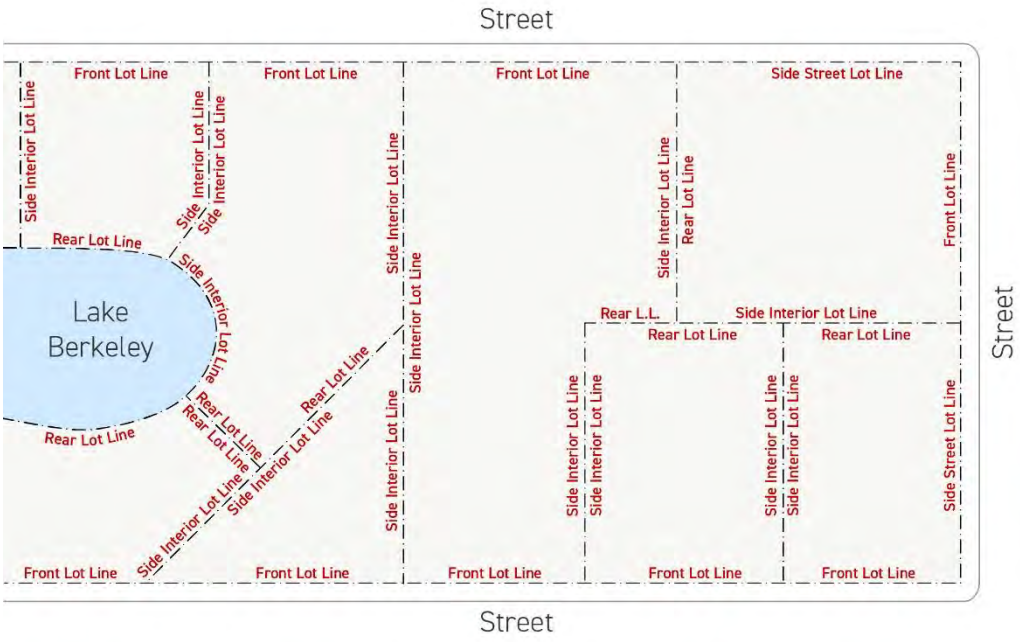
I. Lot Line

1. A lot line is a line bounding a lot that divides one lot from another lot, street, or any other public or private space.
2. A single lot line may consist of multiple continuous line segments, such as where a lot line is defined by a stream or shoreline.

J. Types of Lot Lines

Each lot line may have only one designation and must be designated as one of the following:

1. Front lot line;
2. Side street lot line;
3. Rear lot line; or
4. Side interior lot line.



K. Front Lot Line

A lot line meeting any of the following criteria will be designated as a front lot line:

1. On interior lots, the lot line abutting a street.
2. On through lots, the two shortest lot lines abutting a street.

3. On corner lots, the shortest lot line abutting a street.

L. Side Street Lot Line

On corner lots, side street lot lines include any lot line abutting a street that is not a front lot line.

M. Rear Lot Line

1. Rear lot lines include any lot line that is most distant from a front lot line.
2. A lot may have no more than one rear lot line.
3. In the case of three-sided lots, there is no rear lot line.
4. In the case of through lots, a lot may have no rear lot line.
5. Where no lot line is clearly opposite to the front lot line or where there are multiple front lot lines, the lot line having the highest portion of its length serving as the rear lot line of abutting lots is the rear lot line.

N. Side Interior Lot Line

Side interior lot lines include any lot line not designated as a front, side street, or rear lot line.

O. Street Lot Line

Any lot line abutting a street.

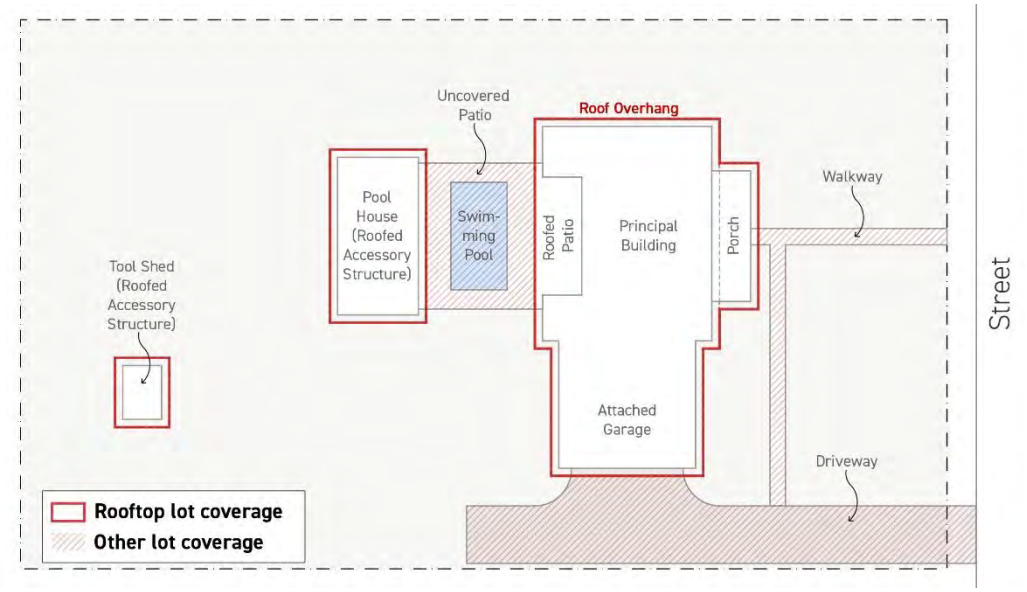
2.2.3. Coverage

A. Lot Coverage

Lot coverage is the percentage of lot area, excluding any streetscape easements provided in accordance with Sec. 8.4.2.A.7, that includes:

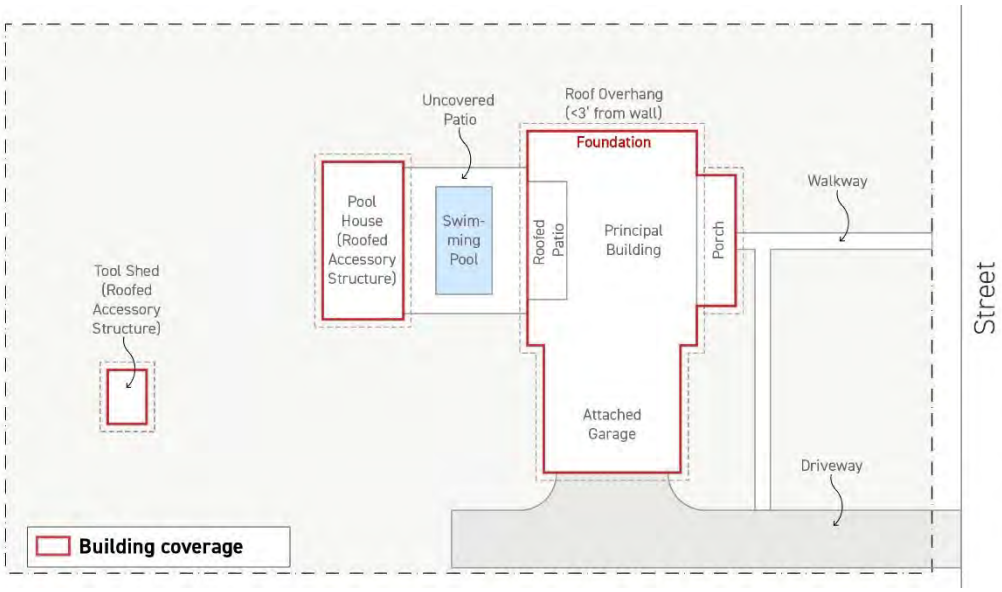
1. The horizontal area of rooftops of all principal buildings and any permanently roofed accessory structures, except as exempted under Sec. 2.2.3.A.4 below;
2. The horizontal area of any parking areas, driveways, walkways and paths, steps, terraces, uncovered patios and decks, swimming pools, tennis courts, artificial turf, compacted gravel, dense graded aggregate, and any similar feature, except as exempted under Sec. 2.2.3.A.4 below; and
3. The horizontal area of any other impervious surfaces.
4. Lot coverage specifically excludes:
    a. Pea stone, unless used in parking areas or driveways; and
    b. Organic mulch; and
    c. Up to combined total of 1,000 square feet of one or more of the following:
        i. Artificial turf; or

ii. Portions of elevated structures, such as decks, ramps, boardwalks, and bridges, that have at least 6 inches of clearance between the underside of the structure and the natural ground surface below. The ground surface below must remain pervious and may not be paved or otherwise covered with an impervious material.



B. Building Coverage

1. Building coverage is the percentage of lot area that is covered by buildings or permanent roofed/covered structures.
2. Building coverage is measured by adding together the cumulative footprints of all buildings and covered structures on a lot, then dividing by the total lot area.
3. Building coverage does not include:
   a. Architectural details and roof projections, such as roof overhangs and balconies, that are less than 3 feet from the nearest wall, column, spanning beam, or other structural element
   b. Structures or portions of an uncovered structure less than 4 feet in height, measured from adjacent finished grade, and flatwork. Examples of uncovered structures less than 4 feet in height could include, but are not limited to, patios, decks, and stoops.



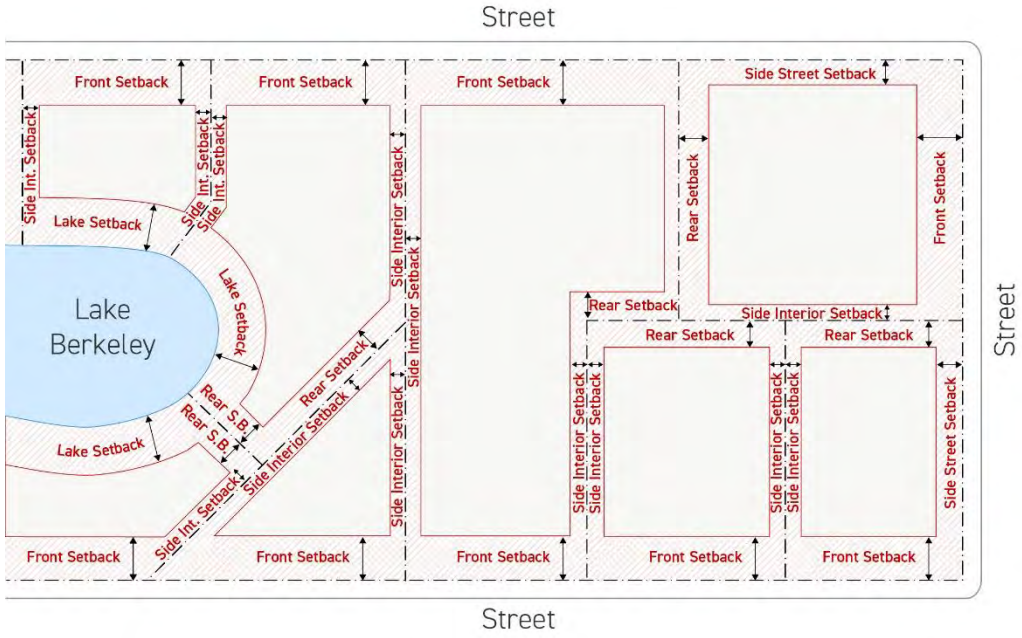
2.2.4. Setbacks

A. Setback

A setback is the minimum distance a building or structure must be placed from a property line, street, or other designated area.

B. Types of Setbacks

1. There are five types of setbacks:
    a. Front setback
    b. Side street setback
    c. Side interior setback
    d. Rear setback
    e. Lake setback
2. Setbacks apply to both principal and accessory buildings or structures, except where it explicitly states otherwise in this UDO.
3. Lake setbacks apply abutting Lake Berkeley, even when the setback could otherwise be considered a front, side, or rear setback.



C. Measurement of Setbacks

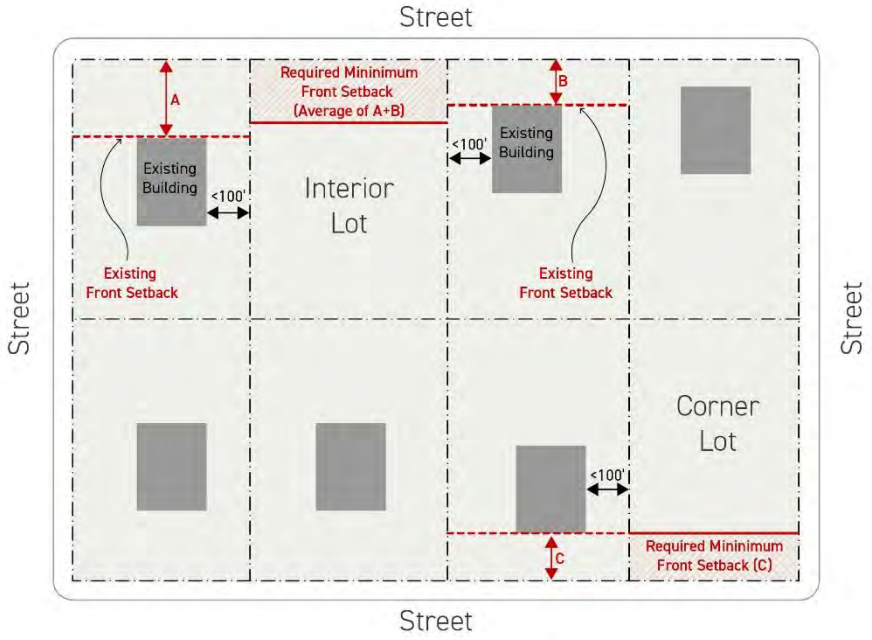
Setbacks are measured as follows:

1. All setbacks are measured at a right angle (perpendicular) to the applicable reference line.
2. A front setback is measured inward from the front lot line.
3. A side street setback is measured from the side street lot line.
4. A side interior setback is measured inward from the side interior lot line.
5. A rear setback is measured inward from the rear lot line.
6. A lake setback is measured inward from the Lake Berkeley shoreline at mean water level. For purposes of this measurement, the shoreline location shown on a survey prepared by a licensed professional surveyor will be considered the shoreline at mean water level. The survey must be submitted to the Director for review and confirmation. The Director may require additional documentation or field verification to confirm its accuracy.
7. Where street right-of-way dedication occurs, setbacks are measured from the final lot line.
8. Where a streetscape easement is provided in accordance with Sec. 8.4.2.A.7, the setback is measured from the easement.

D. Average Front Setbacks

The minimum front setback required by a zoning district does not apply if nearby existing buildings on the same side of the street, within the same block, and within the same zoning district have front setbacks less than required, as follows:

1. When a building is proposed on an interior lot that is within 100 feet of existing buildings on both sides and both existing buildings have front setbacks less than required, the required minimum front setback is the average existing front setback of the two adjacent buildings; or
2. When a building is to be erected on a corner lot that is within 100 feet of an existing building that has a front setback less than required on one side only, the required minimum front setback is the existing front setback of the adjacent building.



E. Setback Standards

1. All principal and accessory structures must be located at or behind the required zoning district setbacks, except when otherwise specifically stated in this UDO.
2. No principal or accessory structure may extend into a required easement or public right-of-way, unless otherwise specifically stated by this UDO.

F. Setback Encroachments

1. Limited Encroachments

a. The following may encroach into a required setback to the extent specified below, but never into a required buffer or landscape strip that may coincide with a setback:

	Front Setback	Side Street Setback	Side Interior, Rear Setback	Lake Setback
Architectural Details (all districts) Examples include bay windows, belt courses, chimneys, cornices, lintels, pediments, pilasters, and sills.				
Allowed encroachment (max.)	3’	3’	3’	3’
Distance from the lot line (min)	n/a	n/a	n/a	n/a

	Front Setback	Side Street Setback	Side Interior, Rear Setback	Lake Setback
Nonresidential District Entry Features Examples include canopies, unenclosed decks, covered entrances, covered walkways, and unenclosed balconies.				
Allowed encroachment (max.)	No max.	No max.	3’	3’
Distance from lot line (min)	n/a	n/a	n/a	n/a
Residential District Entry Features Examples include unenclosed decks, unenclosed stoops, unenclosed porches, and unenclosed balconies.				
Allowed encroachment (max.)	10’	3’	3’	3’
Distance from lot line (min.)	50% required setback	50% required setback	50% required setback	n/a
Roof Projections (all districts) Examples include awnings, canopies, eaves, gutters, and roof overhangs.				
Allowed encroachment (max.)	3’	3’	3’	3’
Distance from lot line (min.)	n/a	n/a	n/a	n/a
Accessory Structures (all districts)				
Mechanical equipment up to 4 feet high Examples include HVAC condensers and pool equipment.				
Allowed encroachment (max.)	None	5’	5’	5’
Distance from lot line (min)	n/a	n/a	n/a	n/a
Other accessory uses and structures (all districts)				
Only as specified in Sec. 6.8 (Accessory Uses)				

b. Allowed encroachment is measured outward from the required setback.

c. Distance from lot line is measured inward from the applicable lot line.

d. No encroachment is ever allowed within the specified minimum distance from the lot line.

2. **Unlimited Encroachments**

The following may encroach into a required setback to the extent necessary to perform their proper function, but never into a required buffer that may coincide with a setback:

a. Accessibility ramps and lifts, and fire escapes.

b. Covered unoccupied structures located entirely below grade. Examples include cisterns, footings, and stormwater storage.

c. Equipment related to public or utility operating systems, including related wires, conduits, and pipes. Examples include hydrants, transformers, utility cabinets, water utility devices, cable television, or phone boxes.

d. Permanent or movable furniture. Examples include benches, tables, firepits, and bike parking racks.

e. Plants. Examples include trees, shrubs, flowers, herbs, vegetables, grasses, ferns, mosses, and associated gardens, planters, and raised planting beds, if applicable.

f. Sidewalks, multi-use paths, pedestrian walkways, and pedestrian ramps.

g. Signs in accordance with Sec. 7.5 (Signs~~Signs~~).

h. Stormwater devices including underground detention and low-impact development (LID) stormwater devices.

i. Mailboxes, birdbaths, statuary, bird feeders, and similar features up to 4 feet high.

j. Light fixtures up to 15 feet high.

k. Natural and artificial lakes and ponds.

l. Parking lots and driveways, except where Sec. 7.1.9 (Restriction on Parking and Loading in Front and Side Street Yards~~Restriction on Parking and Loading in Front and Side Street Yards~~) applies.

m. Walls and fences in accordance with Sec. 2.4 (Walls and Fences).

n. Other accessory uses in accordance with Sec. 6.8 (Accessory Uses).

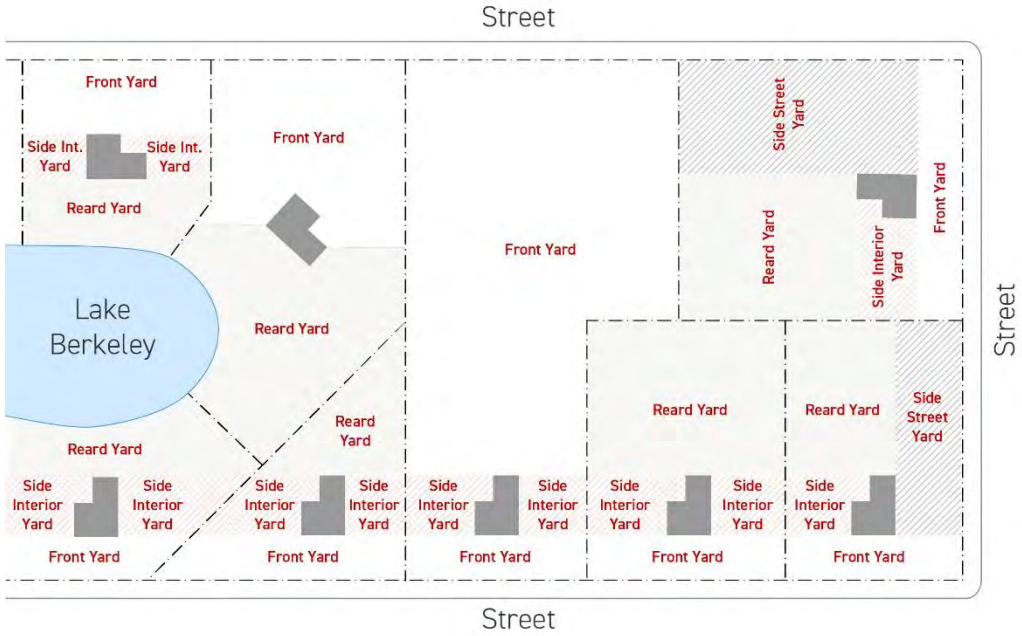
2.2.5. Yards

A. Yard

A yard refers to all portions of a lot between the building facade and a lot line that is unoccupied and unobstructed from the ground upward, except as otherwise provided in this UDO.

B. Types of Yards

1. All portions of a lot between the building facade and a lot line must fall within one of the following yard designations:
   a. Front yard;
   b. Side street yard;
   c. Rear yard; or
   d. Side interior yard.
2. Yard designations are determined in the following order: (1) front yard; (2) side street yard, if any; (3) rear yard, if any; and (4) side interior yards, if any.



C. Front Yard

1. All portions of a lot between a front lot line and a primary structure street-facing exterior wall will be designated as a front yard for the full width of the lot.
2. Any portion of a lot that is designated as a front yard may not be designated as any other yard.
3. For lots with no primary structure, the front yard includes only portions of the lot included in the required front setback.

D. Side Street Yard

1. All portions of a lot between a side street lot line and a primary structure exterior wall facing a side street lot line will be designated as a side street yard for the full depth of the lot.
2. A side street yard does not include any portion of a lot that may be designated as a front yard.
3. Any portion of a lot that is designated as a side street yard may not be designated as a rear yard or a side interior yard.
4. For lots with no primary structure, the side street yard includes only portions of the lot included in the required side street setback.

E. Rear Yard

1. All portions of a lot between a rear lot line and a primary structure exterior wall facing the rear lot line will be designated as a rear yard for the full width of the lot.
2. On a regular lot with no rear lot line, all portions of a lot behind a primary structure will be designated as a rear yard for the full width of the lot.
3. A rear yard does not include any portion of a lot that may be designated as a front yard or side street yard.

4. Any portion of a lot that is designated as a rear yard may not be designated as a side interior yard.

F. Side Interior Yard

1. All portions of a lot between a side interior lot line and a primary structure will be designated as a side interior yard.
2. Any portion of a lot that does not meet the criteria for any other yard will be designated as a side interior yard.

G. Yard Standards

When a zoning district specifies yard standards, one or more of the following apply:

1. **Parking not allowed.** The entire yard must meet the standards of Sec. 7.1.9 (Restriction on Parking and Loading in Front and Side Street Yards~~Restriction on Parking and Loading in Front and Side Street Yards~~).
2. **Landscaping required.** In addition to any otherwise required landscape strip, the entire yard must provide:
   a. An additional landscape strip planted to Type A or Type C standards, in accordance with Sec. 7.3.2;
   b. Amenity space in accordance with Sec. 2.1.5.A; or
   c. Any combination of the two.
3. **Exceptions.** Yard standards do not prohibit authorized driveways, walkways, or signs in a front yard unless otherwise specified by this UDO.

Sec. 2.3. Building Standards

2.3.1. Applicability

A. This Sec. 2.3 applies to all buildings, as follows:
   1. Building standards apply based on the requirements of the applicable zoning district.
   2. Existing buildings may not be modified so that one or more standards of this UDO are not maintained, unless a relief is granted in accordance with Article 10.

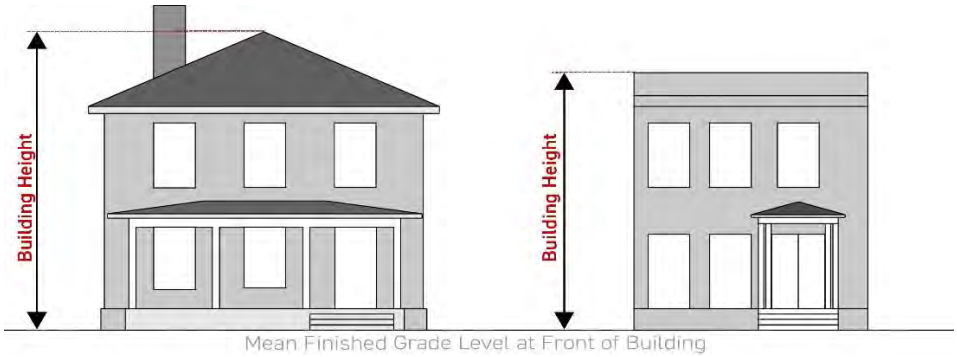
2.3.2. Building Height

A. Applicability

No building, portion of a building, or structure may exceed the maximum number of feet or stories allowed in the zoning district.

B. Height in Feet

1. Building height in feet is the vertical distance from the mean finished grade level to the highest point of the roof or parapet, unless otherwise specified in zoning district regulations. Building height in feet is measured at the front of the building, unless otherwise specified in zoning district regulations.



2. Building height in feet specifically excludes the following:
   a. Broadcast towers and wireless communications facilities.
   b. Cupolas, weathervanes, chimneys, and similar architectural features, or satellite dishes or other necessary mechanical rooftop appurtenances, which extend 12 feet or less above the allowable building height.
   c. Flagpoles which are 80 feet in height or less.
   d. Steeples, domes, belfries, or ornamental towers which are 100 feet in height, or less.
   e. Water towers, smokestacks, conveyors, derricks, and similar utility or industrial structures which are 75 feet in height, or less.

C. Height in Stories

Building height in stories is measured as the number of stories above finished grade. Where a building contains portions of differing height, building height is measured separately for each portion of the building.

D. Ground Story Height

1. Ground story height is measured from the top of the finished floor of the ground story to the top of the finished floor of the story above.
2. When there is no story above, ground story height is measured from the top of the finished floor of the ground story to the bottom of the roof structure above.

2.3.3. Floor Area

A. Floor area is the sum of the gross horizontal areas of all stories of a building, measured from the exterior faces of the exterior walls or from the centerline of the party walls.

B. Floor area includes basements, interior balconies and mezzanines, finished attics, elevator shafts and stairwells (measured per story), and enclosed porches.

C. Floor area does not include unfinished attics and all garages.

2.3.4. Transparency

A. Transparency is the minimum percentage of street-facing facade area that must consist of window or door glass.

B. Transparency is measured from the top of the finished floor to the top of the finished floor above.

C. When there is no floor above, transparency is measured from the top of the finished floor to the top of the wall plate.

D. When an upper story is within a roof structure (such as a gabled or mansard roof) or consists of unoccupiable space (such as a tower or cupola), transparency standards do not apply to that story.

E. Glass used to satisfy transparency requirements must meet the following standards:

1. Glass must provide views into the interior of the building, except as otherwise specified in this Paragraph E.

2. Glass must meet the following manufacturer's transparency specifications:

	Transparency Specifications	
	Visible Light Transmittance	**External Reflectance**
Ground Story	More than 60%	Less than 20%
Upper Story	More than 30%	Less than 40%

3. Glass may be temporarily covered by operable window treatments, such as curtains or blinds.

4. Glass may be obscured by fixed exterior facade screens, but screens may not obscure more than 25% of the transparent area of the story. This standard does not apply to operable exterior shutters.

5. Interior walls and other permanent interior visual obstructions may not be located within 5 feet of the window or door opening used to meet the transparency requirement, except as specified in Sec. 2.3.4.G below.

6. Adhesive film, paint, fabric, paper, and other materials may not be affixed to the glass surface and no other opaque or semi-opaque material may be installed in a way that prevents visibility into the building interior, except as otherwise allowed for authorized window signs.

F. Exterior burglar bars, steel gates, and steel roll-down doors or shutters are prohibited on a street-facing facade.

G. Interior security grates and interior window displays located less than 5 feet from a window opening may count toward the required transparency area, provided the grates or display areas obscure no more than 25% of the transparent area of the overall window.

2.3.5. Blank Wall Width

A. Blank wall width means the width of ground story facades without window or door openings.

B. Blank wall width standards apply based on the requirements of the applicable zoning district.

C. Blank wall width standards only apply to the ground story of street-facing facades.

D. Windows and doors meeting the standards of Sec. 2.3.4 (Transparency) on applicable ground story facades may be separated by a distance no greater than the maximum blank wall width specified by the zoning district.

2.3.6. Pedestrian Access

A. Pedestrian access means that a building provides safe and convenient pedestrian facilities connecting from a building door to a nearby streetscape.

B. When a zoning district requires pedestrian access, the following applies:

1. Ground-story household living uses along a street-facing facade must provide pedestrian access for each dwelling unit.

2. Ground-story retail, food and beverage, and personal service uses along a street-facing facade must provide pedestrian access for each tenant space.

3. All other ground-story uses along a street-facing facade must provide pedestrian access for each building.

C. A door and walkway providing pedestrian ingress and egress from each unit, use, or building to the adjacent streetscape is required to meet each pedestrian access requirement.

D. On buildings located at street corners:

1. For individual dwelling units, a door and walkway may be provided on either street to satisfy the pedestrian access requirements of both streets; or

2. For all other uses, an angled or mitered door and walkway may be provided at the corner of a building to satisfy the pedestrian access requirement of both streets.

E. Doors and walkways used to meet pedestrian access requirements must always be operable to residents and operable to customers, visitors, and employees when the use is open. Additional doors and walkways from another street, open space, or internal parking area are allowed, but must have the same or shorter hours of operability as the street-facing door and walkway.

F. Walkways used to meet pedestrian access requirements must meet the following standards:

1. Walkways must be at least 3 feet wide for residential uses and at least 6 feet wide for nonresidential uses.

2. Walkways must be designed so that the walking distance from any door to the closest streetscape along a public street does not exceed 300% of the straight-line distance, unless the pre-development elevation difference between the streetscape and the proposed building

entrance exceeds 4 feet. When this occurs, there is no maximum walkway length, but the walkway must still connect directly to the adjacent street and not to another street.

3. Where walkways cross internal driveways, walkways must include raised walkways to slow traffic and provide safe access.
4. Where walkways are adjacent to parking spaces, curbs must be installed in the parking spaces to prevent vehicular encroachment into the walkway.
5. Stairs or ramps may be used in place of a walkway where otherwise permitted by law.

Sec. 2.4. Walls and Fences

2.4.1. Applicability

A. This Sec. 2.4 applies to all walls and fences in all zoning districts, except as specified in Sec. 2.4.1.B below.

B. This Sec. 2.4 does not apply to barriers erected for erosion and sedimentation control, tree protection, safety or security during construction or land disturbance activities.

2.4.2. Wall

A wall is a freestanding vertical structure intended to enclose, separate, or screen areas of land. A wall contains more than 50% opaque surface area, measured across the vertical plane of the structure, including supporting posts or columns. The term “wall” does not include retaining walls.

2.4.3. Fence

A fence is a freestanding structure, other than a wall, constructed of wood, metal, vinyl, wire, or similar materials, intended to enclose, separate, or screen areas of land. A fence contains up to 50% opaque surface area, measured across the vertical plane of the structure, including supporting posts or columns.

2.4.4. Residential Districts

The allowed height of a wall or fence is as follows:

A. Rear and side yard: 8’ max.

B. Front yard: 4’ max.

2.4.5. Nonresidential Districts

A. Except within the M-1 district, the allowed height of a wall or fence is as follows:

1. Rear and side yard: 8’ max.
2. Front yard: not allowed

B. Within the M-1 district, the allowed height of a wall or fence is as follows:

1. Rear and side yard: 8’ max.
2. Front yard: 8’ max. and only allowed if the standards in Clause 3” immediately below are met.
3. A wall or fence in the front yard is only allowed if:
    a. The fence or wall is at least 5 feet from the front lot line;
    b. The area between the wall or fence and the front lot line is planted with a landscape strip consisting of one tree and eight shrubs for each 50 linear feet of strip length; and
    c. The remaining ground area is sodded, seeded or hydroseeded with grass or planted with groundcover species or provided with other landscaping material, or any combination thereof.

2.4.6. Materials

A. Chain-link fencing is not allowed in front yards or side street yards.

B. Barbed wire is allowed only as follows:

1. On top of fences in the M-1 district; and
2. When the barbed wire is at least 6 feet above natural grade.

C. Walls and fences must be built of brick, masonry, stone, metal, wood, rigid plastic, composite or fiberglass, or other weather and decay-resistant materials designed for permanent outdoor use.

D. Wood fences must be built of cedar, redwood, pressure-treated pine or other decay-resistant wood.

E. Fences must not be built from razor wire, filter fabric, plastic sheeting, plywood, or materials originally intended for other purposes.

F. Fences must be installed so that posts and lateral supports are not on the side of the fence facing an adjacent property or public right-of-way, unless exposed on both sides.

G. Concrete block must have a decorative treatment applied to any side facing adjacent property or public right-of-way.

H. Temporary fences built of light-duty wire or plastic mesh are allowed in residential districts for residential garden uses.

Sec. 2.5. Visibility Triangle

2.5.1. Visibility Triangle Required

Where property adjoins an intersection of two streets, unobstructed sight distance is required within a visibility triangle to ensure that safe and adequate sight distance is provided.

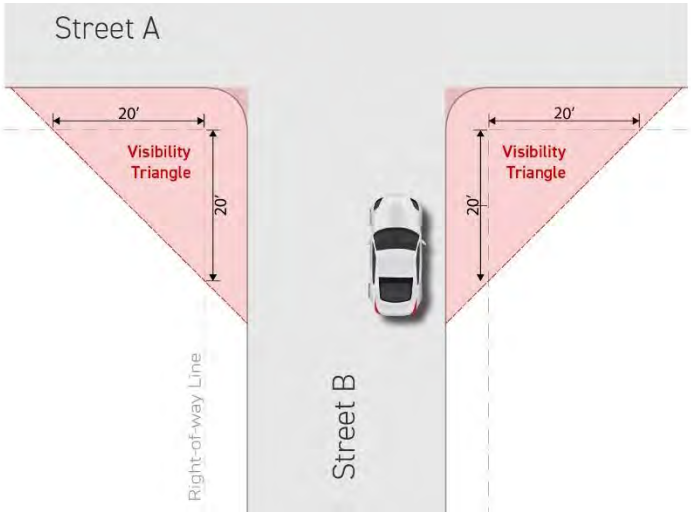
2.5.2. Obstructions Prohibited

No fence, wall, retaining wall, structure, shrubbery, trees, light, or other permanent or temporary obstruction to vision is allowed in the visibility triangle between 3 feet and 10 feet above the roadway surface.

2.5.3. Visibility Triangle Area

A. Applied to lots, the visibility triangle is the area formed at an intersection of two rights-of-way, whose two sides are 20 feet, measured along the right-of-way line of the streets, and whose third side is a diagonal line connecting the two sides.

B. Applied to rights-of-way, the visibility triangle includes the area specified for lots plus the portion of the right-of-way between that triangle and the curb, with the diagonal line extended directly to each curb.



Sec. 2.6. Architectural Standards

2.6.1. Applicability

This Sec. 2.6 applies in all zoning districts unless otherwise specified in this UDO.

A. Application Requirements

1. Building plans submitted as an application for a building permit must clearly indicate the proposed building materials for each facade as described in this Section. The plans must also clearly show the location and calculate the percentages of all building materials per facade.
2. Groups of buildings on the same site may be reviewed and permitted as a single application. This is encouraged to minimize the number of reviews required and to allow for originality and design flexibility.

2.6.2. General Provisions

A. Applicability

This Sec. 2.6.2 applies in all zoning districts, except R-1 and R-2, unless otherwise specified in this UDO.

B. Exterior Wall Finish Materials

Only the following exterior wall finish materials (excluding foundations, architectural accents, windows, and doors) are allowed:

1. Full-depth brick where each brick is placed on the exterior wall during construction, but not including half-depth brick, thin brick, or simulated brick veneers
2. Stone, including unpainted natural stone, unpainted cast stone with the appearance of natural stone, and unpainted terra cotta
3. True hard coat stucco
4. Concrete block, which must be painted
5. Split-face block
6. Painted concrete masonry units (CMU), which may not be used on a street-facing exterior wall
7. Wood, including natural wood or cement-based artificial wood siding
8. Shingles, including wood or cement-based shakes and shingles
9. Tilt/architectural precast concrete
10. Glass

C. Roofs

1. Pitched roofs, if provided, must be symmetrically sloped no less than 5:12, except that roofs for front porches and attached sheds may be sloped no less than 2:12.
2. Flat roofs must be enclosed by parapets a minimum of 42 inches high, or as required to conceal mechanical equipment by Sec. 7.2.3.D (Screening, Roof Mounted Equipment).
3. Roofs may have no roll roofing that is visible from ground level along any adjacent lot line.

2.6.3. Residential Standards

A. Applicability

This Sec. 2.6.3 applies to residential uses in the R-1 and R-2 zoning districts, unless otherwise specified in this UDO.

B. Prohibited Exterior Wall Finish Materials

The following exterior wall finish materials (excluding architectural accents, windows, and doors) are not allowed:

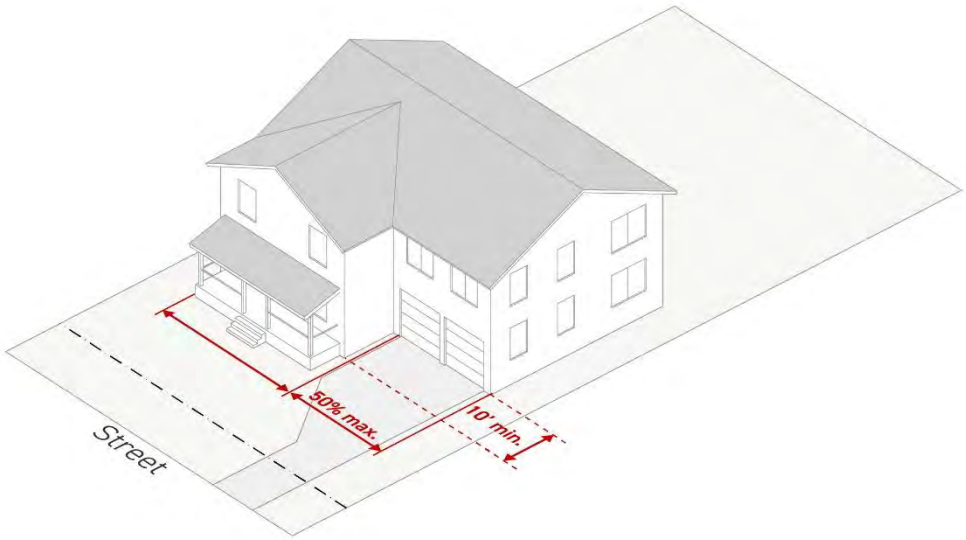
1. Metal
2. Plywood (including T1-11)
3. Vinyl

C. Foundation

1. Foundations must be built as a distinct building element that is finished in a different material than the exterior wall.
2. Exposed above-ground foundations must be coated or faced in cement, true hard coat stucco, brick, manufactured stone, or natural stone to contrast with facade materials.

D. Residential Garages and Carports

1. These residential garage and carport standards standard do not apply to any residential uses that existed on the effective date of this UDO.
2. Residential garage doors that face a street and carport vehicular entrances that face a street must be located at least 10 feet behind the front wall plane of the dwelling unit, not including front porches.
3. Attached residential garage doors that face a street and attached carport vehicular entrances that face a street may not exceed 50% of the overall width of the front wall plane of the dwelling unit.



Article 3. Residential Districts

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Article 3. Residential Districts

Sec. 3.1. General Provisions

3.1.1. Purpose

The purpose of each residential district is as follows:

A. **R-1 Single-Family Residential**

The R-1 district is intended to provide a suitable open character for single-family detached dwellings at low densities. The district also includes community facilities and open uses which serve the residents of this district or benefit from an open residential environment.

B. **R-2 Cottage Residential**

The R-2 district is intended to provide a mixed residential area for single-family, two-family, and cottage court uses.

C. R-3 Age-Restricted Residential

The R-3 district is intended to serve the housing needs of persons who are 55 years of age or older by allowing a mix of age-restricted housing types and requiring community open spaces.

3.1.2. Limits on Rezoning

A. R-2 Cottage Residential

No land zoned R-1 may be rezoned to the R-2 District.

B. R-3 Age-Restricted Residential

No land zoned R-1 may be rezoned to the R-3 District.

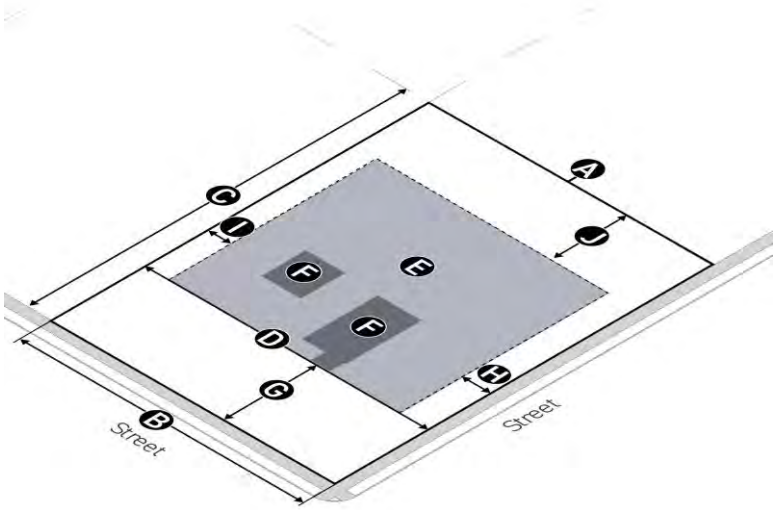
3.1.3. Use Standards

See Sec. 6.1 (Use Table).

Sec. 3.2. R-1 Single-Family Residential

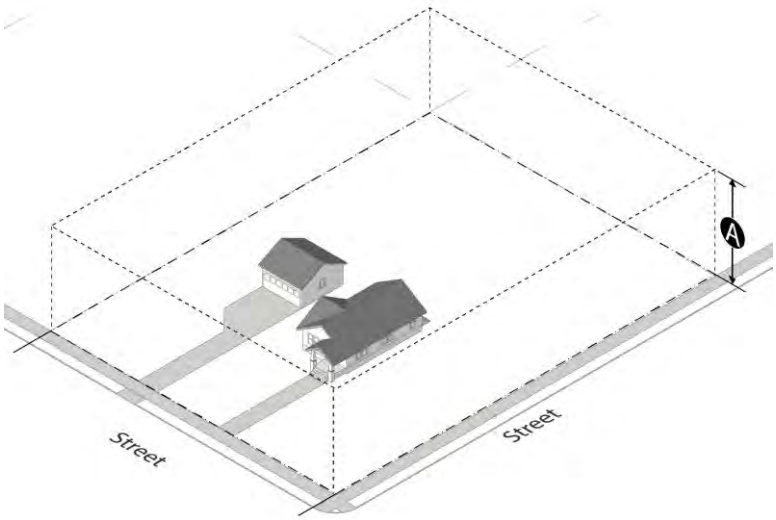
3.2.1. Dimensional Standards

A. Lot Standards



Lot Standards	See Sec. 2.2
Ⓐ **Lot area** (min.)	28,050 sf.
Ⓑ **Lot frontage** (min.)	50’
Ⓒ **Lot depth** (min.)	200’
Ⓓ **Lot width at building line** (min.)	100’
Ⓔ **Lot coverage** (max.)	30%
Ⓕ **Building coverage** (max.)	
General, unless specified below	15%
Level lot: all structures <25’ high	20%
Downward sloping lot: all structures <25’ in front and <35’ rear	20%
Upward sloping lot: all structures <35’ in front and <25’ rear	20%
Setbacks	
Ⓖ Front setback (min.)	50’
Ⓗ Side street setback (min.)	15’
Ⓘ Side interior setback (min.)	12.5’
Ⓙ Rear setback (min.)	40’
Lake setbacks (min.)	
General	40’
Septic system	50’

B. Building Standards

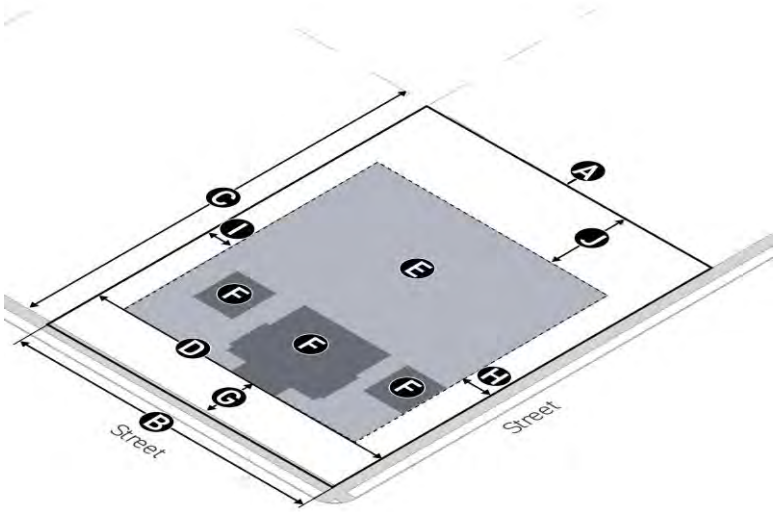


Building Standards		See Sec. 2.3
Ⓐ	**Building height** (max. stories / feet)	
	Level lot	35’ at front elevation (measured from grade to the highest point of the structure)
	Downward sloping lot	35’ at front elevation and 45’ at rear elevation (both measured from grade to the highest point of the structure)
	Upward sloping lot	45’ at front elevation and 35’ at rear elevation (both measured from grade to the highest point of the structure)
	Dwelling unit floor area (min.)	2,000 sf.
Ⓑ	**Pedestrian access**	Required for nonresidential uses only

Sec. 3.3. R-2 Cottage Residential

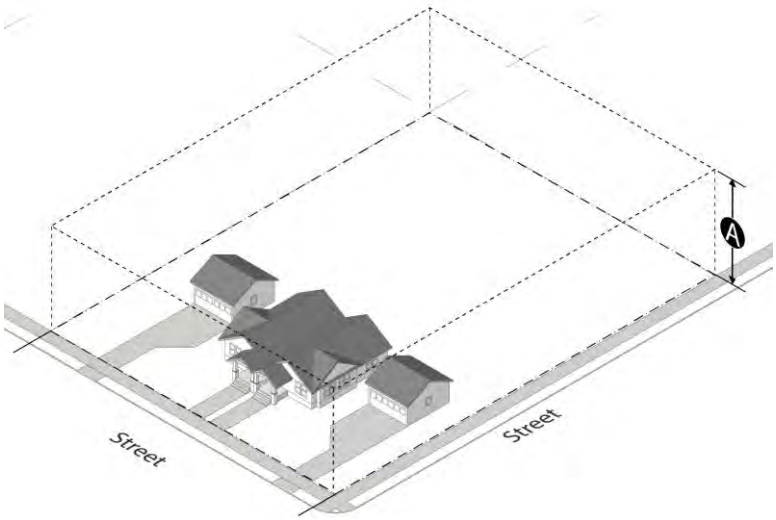
3.3.1. Dimensional Standards

A. Lot Standards



Lot Standards	See Sec. 2.2
Ⓐ **Lot area** (min.)	28,050 sf.
Ⓑ **Lot frontage** (min.)	50’
Ⓒ **Lot depth** (min.)	200’
Ⓓ **Lot width at building line** (min.)	100’
Ⓔ **Lot coverage** (max.)	50%
Ⓕ **Building coverage** (max.)	35%
Setbacks	
Ⓖ Front setback (min.)	25’
Ⓗ Side street setback (min.)	15’
Ⓘ Side interior setback (min.)	12.5’
Ⓙ Rear setback (min.)	40’

B. Building Standards

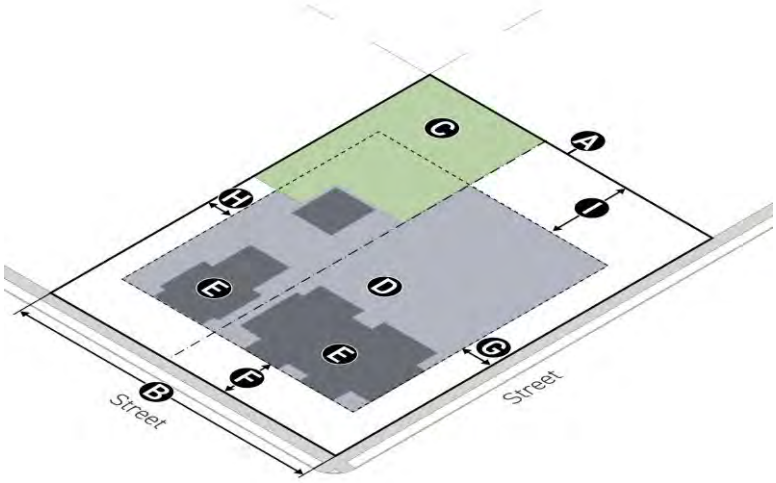


Building Standards	See Sec. 2.3
Ⓐ **Building height** (max.)	35’
Dwelling unit floor area (min.)	1,000 sf.
Ⓑ **Pedestrian access**	Required

Sec. 3.4. R-3 Age-Restricted Residential

3.4.1. Dimensional Standards

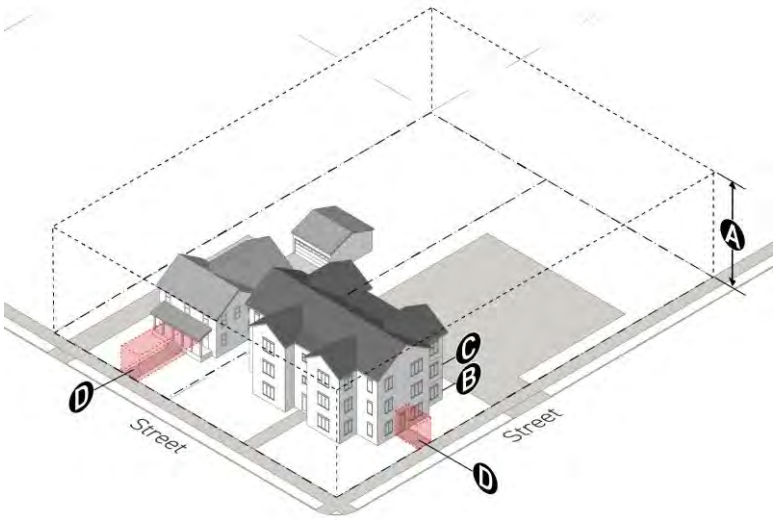
A. Site and Lot Standards



Site Standards	See Sec. 2.1
Ⓐ **Site area** (min.)	28,050 sf.
Ⓑ **Site frontage** (min.)	150’
Ⓒ **Open space** (min.)	20%
Lot Standards	See Sec. 2.2
Lot area (min.)	None (see site standards)
Lot frontage (min.)	None (see site standards)
Ⓓ **Lot coverage** (max.)	50%
Ⓔ **Building coverage** (max.)	35%
Setbacks [1]	
Ⓕ Front setback (min.)	25’
Ⓖ Side street setback (min.)	15’
Ⓗ Side interior setback (min.)	12.5’
Ⓘ Rear setback (min.)	40’
Yards	
Front, side street yard	Parking not allowed; Landscaping required

Table Note:
1. Calculated based on the site. There are no setback requirements within the site.

B. Building Standards



Building Standards	See Sec. 2.3
Ⓐ **Building height** (max. stories / feet)	3 stories / 50’
Dwelling unit floor area (min.)	450 sf.
Ⓑ **Transparency, ground story** (min.)	15%
Ⓒ **Transparency, upper story** (min.)	10%
Ⓓ **Pedestrian access**	Required

Article 4. Mixed-Use and Business Districts

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Article 4. Mixed-Use and Business Districts~~Mixed-Use and Business Districts~~

Sec. 4.1. General Provisions

4.1.1. Purpose

The purpose of each mixed-use and business district is as follows:

A. **C-1 Neighborhood Business**

The C-1 district is intended to meet the commercial needs of nearby residents. Uses within this district are intended to offer neighborhood-oriented goods and services, with careful consideration given to the residential character of surrounding areas.

B. C-2 General Business

The C-2 district is intended to provide commercial uses along major streets that serve the entire City and nearby areas. Commercial uses offer a more intensive range of goods and services than are allowed in the C-1 district.

C. MX-1 Neighborhood Mixed-Use

The MX-1 district is intended to provide a compatible mix of residential, public and institutional, and commercial uses within compact, walkable developments located near existing R-1 neighborhoods. Dimensional and use standards are designed to ensure compatibility with adjacent neighborhoods. The district is also intended to encourage efficient use of land and infrastructure and to support activity centers, corridors, and redevelopment areas.

D. MX-2 Corridor Mixed-Use

The MX-2 district is intended to provide a compatible mix of residential, public and institutional, and commercial uses within compact, walkable developments along major corridors~~.~~, but not adjacent to existing R-1 neighborhoods. The district is also intended to encourage efficient use of land and infrastructure and support activity centers, corridors, and redevelopment areas.

E. O-I Office-Institutional

The O-I District is established to provide a location for offices, institutions, and limited related retail business and service activities.

F. **M-1 Light Industrial**

The M-1 District is intended to provide a range of industrial and compatible nonresidential uses that can meet a high use standards and that occur generally within completely enclosed buildings. The district is also intended to limit industrial operations and processes to those that are not objectionable by reason of the emission of noise, vibrations, smoke, dust, gas, fumes, odors, radiation, or use of other noxious matter and that do not create fire or explosion hazards or other objectionable conditions.

4.1.2. Limits on Rezoning

A. MX-1 Neighborhood Mixed-Use

No land zoned R-1 may be rezoned to the MX-1 District.

B. MX-2 Corridor Mixed-Use

1. No land zoned R-1 may be rezoned to the MX-2 District.

~~2. No land north of Peachtree Industrial Boulevard may be rezoned to the MX-2 District.~~

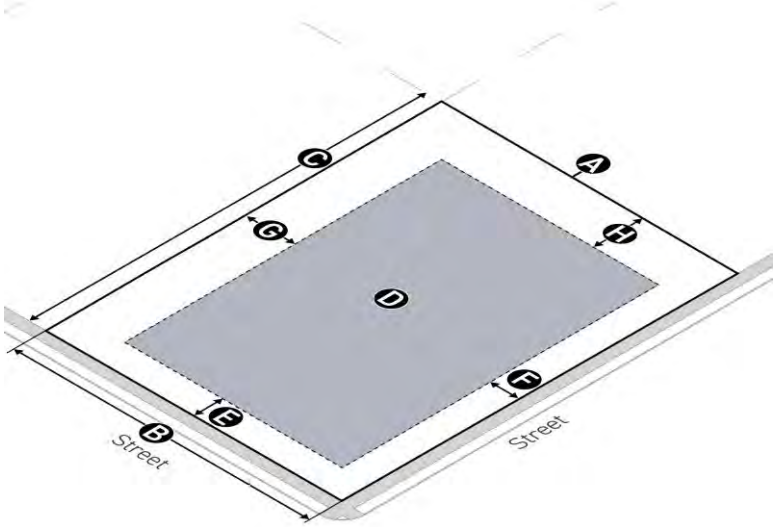
4.1.3. Use Standards

See Sec. 6.1 (Use Table).

Sec. 4.2. C-1 Neighborhood Business

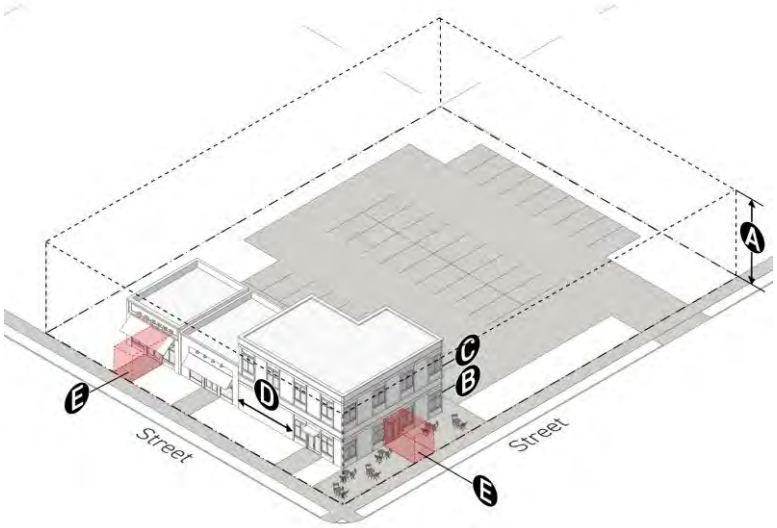
4.2.1. Dimensional Standards

A. Site and Lot Standards



Lot Standards	See Sec. 2.2
Ⓐ **Lot area** (min.)	No minimum
Ⓑ **Lot frontage (min.)**	150’
Ⓒ **Lot depth** (min.)	200’
Ⓓ **Lot coverage** (max.)	80%
Setbacks	
Ⓔ Front setback (min.)	15’
Ⓕ Side street setback (min.)	15’
Ⓖ Side interior setback (min.)	25’
Ⓗ Rear setback (min.)	25’
Yards	
Front, side street yard	Parking not allowed; Landscaping required

B. Building Standards

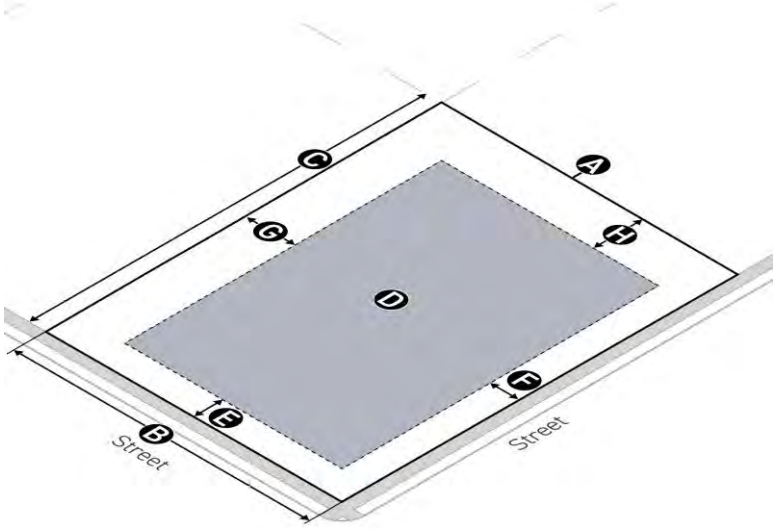


Building Standards	See Sec. 2.3
Ⓐ **Building height** (max. stories / feet)	2 stories / 40’
Ⓑ **Transparency, ground story** (min.)	
Public and institutional uses	15%
All other uses	50%
Ⓒ **Transparency, upper story** (min.)	10%
Ⓓ **Blank wall width (max.)**	35’
Ⓔ **Pedestrian access**	Required

Sec. 4.3. C-2 General Business

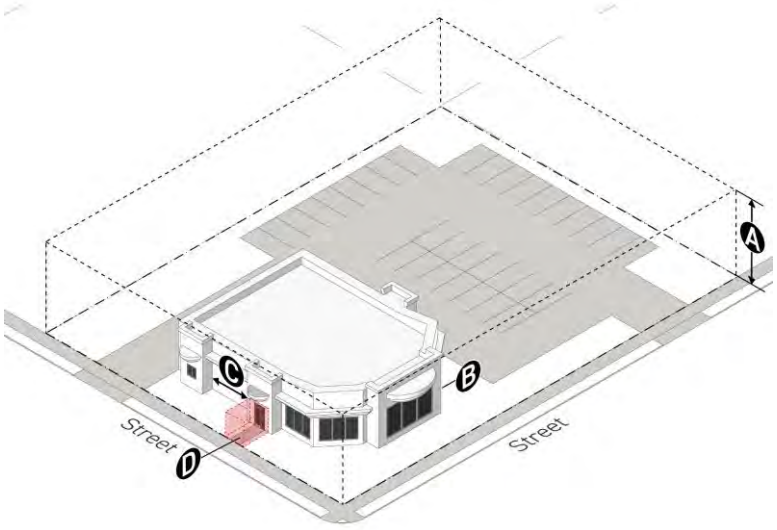
4.3.1. Dimensional Standards

A. Site and Lot Standards



Lot Standards	See Sec. 2.2
Ⓐ **Lot area** (min.)	No minimum
Ⓑ **Lot frontage (min.)**	150’
Ⓒ **Lot depth** (min.)	200’
Ⓓ **Lot coverage** (max.)	80%
Setbacks	
Ⓔ Front setback (min.)	15’
Ⓕ Side street setback (min.)	15’
Ⓖ Side interior setback (min.)	25’
Ⓗ Rear setback (min.)	25’
Yards	
Front, side street yard	Parking not allowed; Landscaping required

B. Building Standards

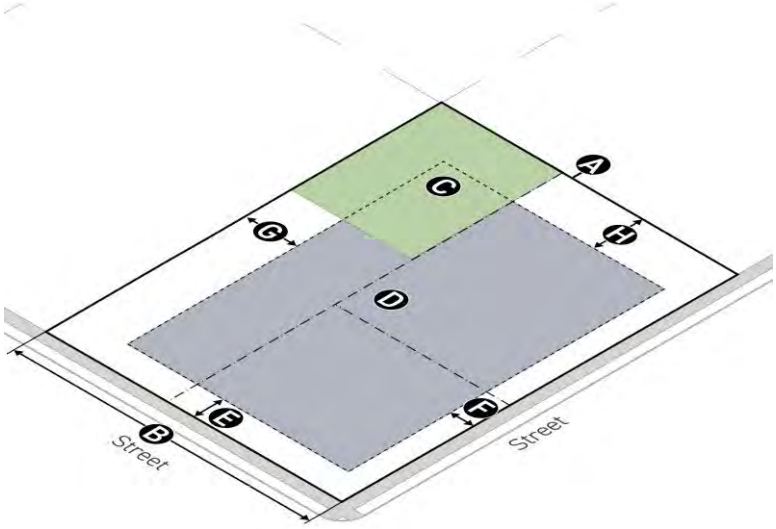


Building Standards	See Sec. 2.3
Ⓐ **Building height** (max. stories / feet)	2 stories / 40’
Ⓑ **Transparency, ground story** (min.)	
Public and institutional uses	15%
All other uses	50%
Transparency, upper story (min.)	10%
Ⓒ **Blank wall width (max.)**	35’
Ⓓ **Pedestrian access**	Required

Sec. 4.4. MX-1 Neighborhood Mixed-Use

4.4.1. Dimensional Standards

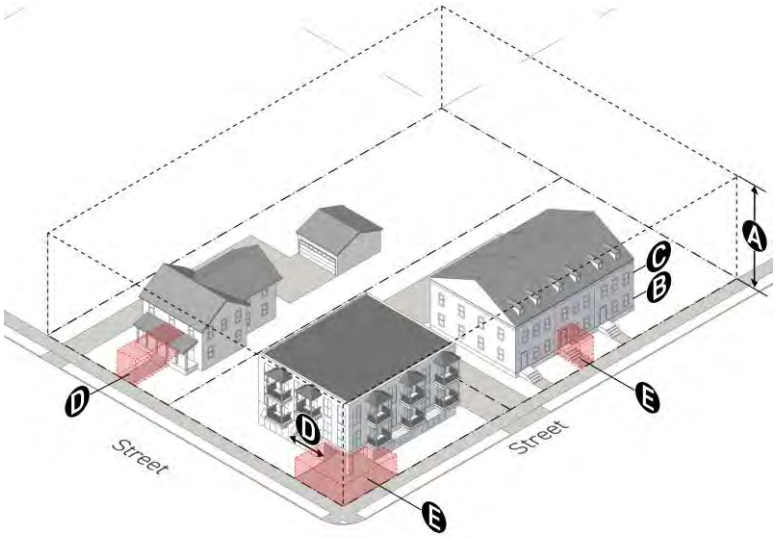
A. Site and Lot Standards



Site Standards	See Sec. 2.1
Ⓐ **Site area** (min.)	2 ac.
Ⓑ **Site frontage** (min.)	150’
Ⓒ **Open space** (min.)	20%
Lot Standards	See Sec. 2.2
Lot area (min.)	None (see site standards)
Lot frontage (min.)	None (see site standards)
Ⓓ **Lot coverage** (max.)	80%
Setbacks [1]	
Ⓔ Front setback (min.)	15’
Ⓕ Side street setback (min.)	12’
Ⓖ Side interior setback (min.)	25’
Ⓗ Rear setback (min.)	25’
Yards	
Front, side street yard	Parking not allowed; Landscaping required

Table Note:
1. Calculated based on the site. There are no setback requirements within the site.

B. Building Standards

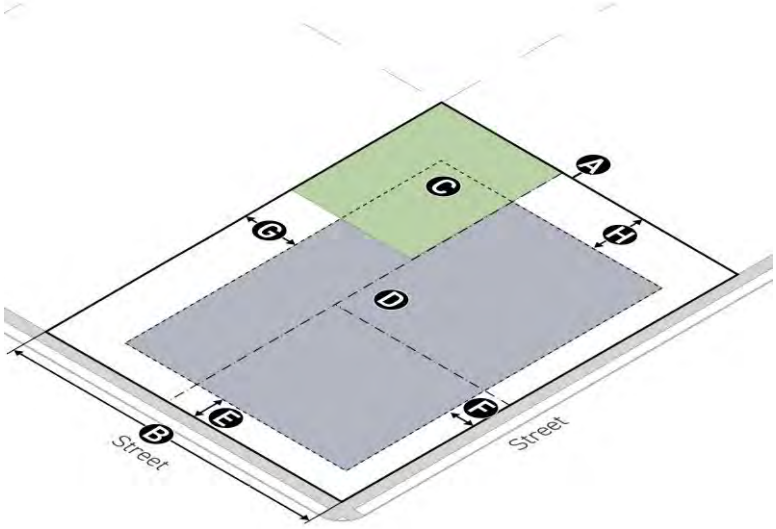


Building Standards	See Sec. 2.3
Ⓐ **Building height** (max. stories / feet)	3 stories / 50’
Dwelling unit floor area (min.)	750 sf.
Ⓑ **Transparency, ground story** (min.)	
Residential use, public and institutional use	15%
All other uses	65%
Ⓒ **Transparency, upper story** (min.)	10%
Ⓓ **Blank wall width (max.)**	25’
Ⓔ **Pedestrian access**	Required

Sec. 4.5. MX-2 Corridor Mixed-Use

4.5.1. Dimensional Standards

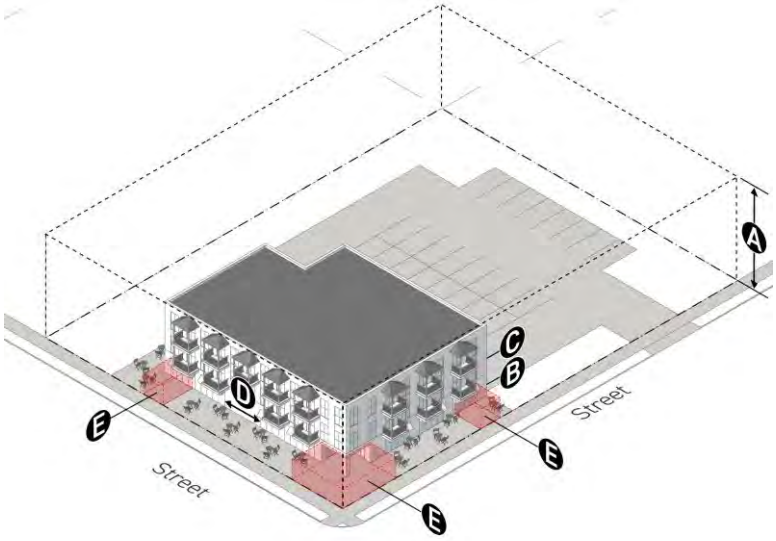
A. Site and Lot Standards



Site Standards	See Sec. 2.1
Ⓐ **Site area** (min.)	2 ac.
Ⓑ **Site frontage** (min.)	150’
Ⓒ **Open space** (min.)	20%
Lot Standards	See Sec. 2.2
Lot area (min.)	None (see site standards)
Lot frontage (min.)	None (see site standards)
Ⓓ **Lot coverage** (max.)	80%
Setbacks [1]	
Ⓔ Front setback (min.)	15’
Ⓕ Side street setback (min.)	12’
Ⓖ Side interior setback (min.)	25’
Ⓗ Rear setback (min.)	25’
Yards	
Front, side street yard	Parking not allowed; Landscaping required

Table Note:
1. Calculated based on the site. There are no setback requirements within the site.

B. Building Standards

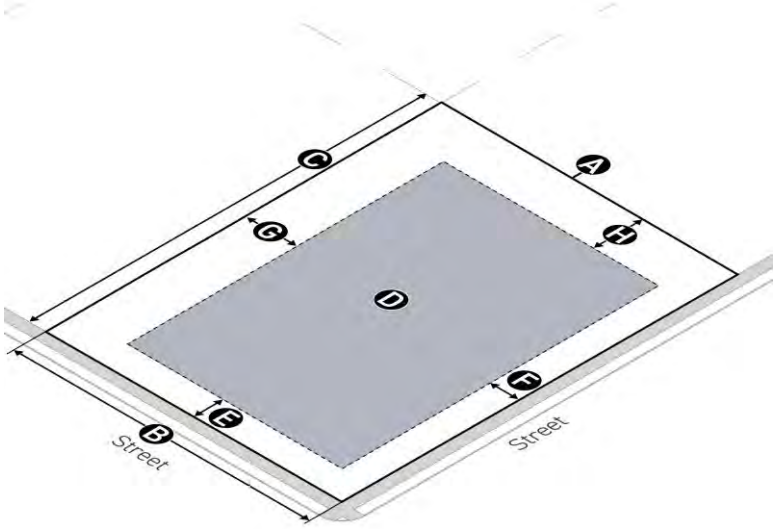


Building Standards	See Sec. 2.3
Ⓐ **Building height** (max. stories / feet)	3 stories / 50’
Dwelling unit floor area (min.)	750 sf.
Ⓑ **Transparency, ground story** (min.)	
Residential use, public and institutional use	15%
All other uses	65%
Ⓒ **Transparency, upper story** (min.)	10%
Ⓓ **Blank wall width (max.)**	25’
Ⓔ **Pedestrian access**	Required

Sec. 4.6. O-I Office-Institutional

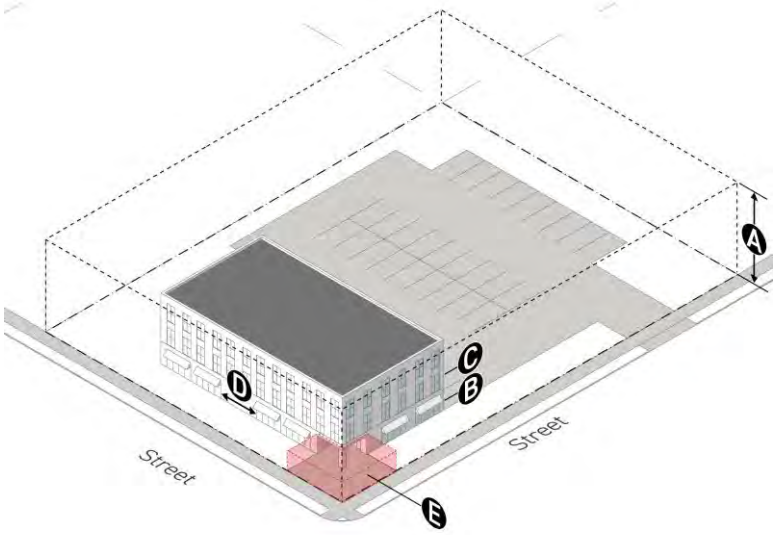
4.6.1. Dimensional Standards

A. Site and Lot Standards



Lot Standards	See Sec. 2.2
Ⓐ **Lot area** (min.)	No minimum
Ⓑ **Lot frontage (min.)**	150’
Ⓒ **Lot depth** (min.)	200’
Ⓓ **Lot coverage** (max.)	80%
Setbacks	
Ⓔ Front setback (min.)	15’
Ⓕ Side street setback (min.)	15’
Ⓖ Side interior setback (min.)	25’
Ⓗ Rear setback (min.)	25’

B. Building Standards

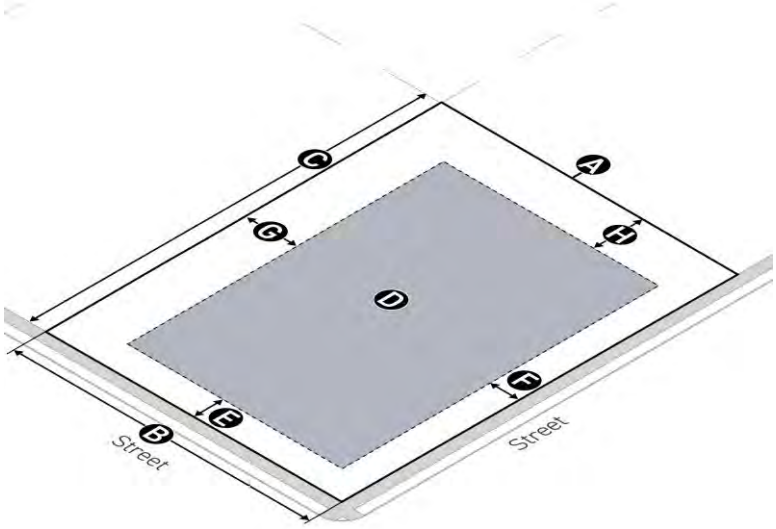


Building Standards	See Sec. 2.3
Ⓐ **Building height** (max. stories / feet)	2 stories / 40’
Ⓑ **Transparency, ground story** (min.)	
Public and institutional uses	15%
All other uses	50%
Ⓒ **Transparency, upper story** (min.)	10%
Ⓓ **Blank wall width (max.)**	35’
Ⓔ **Pedestrian access**	Required

Sec. 4.7. M-1 Light Industrial

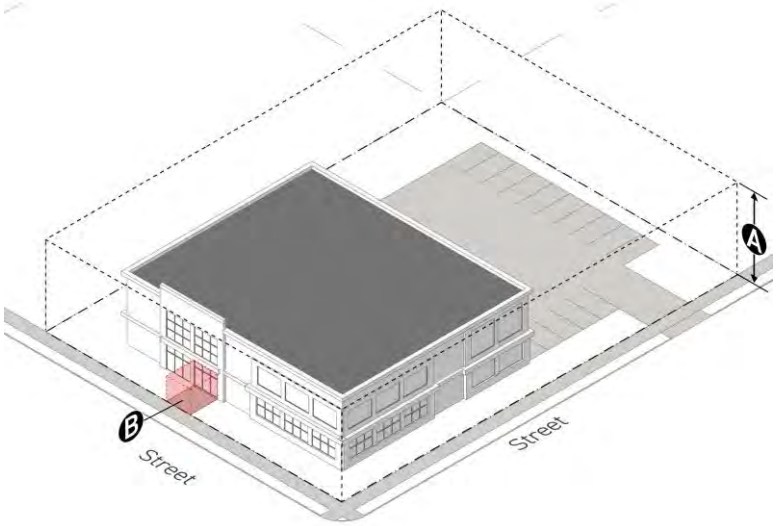
4.7.1. Dimensional Standards

A. Lot Standards



Lot Standards	See Sec. 2.2
Ⓐ **Lot area** (min.)	1 ac.
Ⓑ **Lot frontage** (min.)	150’
Ⓒ **Lot depth** (min.)	200’
Ⓓ **Lot coverage** (max.)	80%
Setbacks	
Ⓔ Front setback (min.)	15’
Ⓕ Side street setback (min.)	15’
Ⓖ Side interior setback (min.)	25’
Ⓗ Rear setback (min.)	25’

B. Building Standards



Building Standards	See Sec. 2.3
Ⓐ **Building height** (max. stories / feet)	2 stories / 40’
Ⓑ **Pedestrian access**	Required

Article 5. Special Purpose Districts

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Article 5. Special Purpose Districts~~Special Purpose Districts~~

Sec. 5.1. [RESERVED]

Article 6. Use Provisions

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Article 6. Use Provisions~~Use Provisions~~

Sec. 6.1. Use Table

6.1.1. Use Table Interpretation

A. Allowed Use

P = A by-right allowed use.

P* = A by-right allowed use, provided it meets the use standards in the right-hand column of the use table.

The use is also subject to all other applicable requirements of this UDO.

B. Special Use (S)

S = A use that is only allowed with a special use permit.

S* = A use that is only allowed with a special use permit, provided it meets the use standards in the right-hand column of the use table.

The use is also subject to all other applicable requirements of this UDO.

C. Use Not allowed

-- = A use that is not allowed.

6.1.2. Use Table

P = Allowed Use S = Allowed by special use permit * = Use Standards Apply -- = Use Not Allowed										
	Residential Districts			**Mixed-Use and Business Districts**						
Use Category Specific Use	**R-1**	**R-2**	**R-3***	**C-1**	**C-2**	**MX-1***	**MX-2***	**O-I**	**M-1***	**Definition/ Standards**
RESIDENTIAL USES										
HOUSEHOLD LIVING										Sec. 6.4.1
Single-family dwelling	P	P	P	--	--	P	P	--	--	Sec. 6.4.1.A
Two-family dwelling	--	P	P	--	--	P	P	--	--	Sec. 6.4.1.B
Cottage court	--	P*	P*	--	--	P*	P*	--	--	Sec. 6.4.1.C
Townhouse dwelling	--	--	P	--	--	P	P	--	--	Sec. 6.4.1.D
Multifamily dwelling	--	--	S	--	--	S*	S*	--	--	Sec. 6.4.1.E

P = Allowed Use S = Allowed by special use permit * = Use Standards Apply -- = Use Not Allowed										
	Residential Districts			**Mixed-Use and Business Districts**						
Use Category Specific Use	**R-1**	**R-2**	**R-3***	**C-1**	**C-2**	**MX-1***	**MX-2***	**O-I**	**M-1***	**Definition/ Standards**
GROUP LIVING										Sec. 6.4.2
Community residence	P	P	P	--	--	P	P	P	--	Sec. 6.4.2.A
General supervised group living	--	--	S	--	--	S	S	P	--	Sec. 6.4.2.B~~6.4.2.A~~
Boardinghouse, rooming house	--	--	--	--	--	--	--	--	--	Sec. 6.4.2.C~~6.4.2.B~~
Maternity supportive housing	P	P	P	--	--	P	P	P	--	Sec. 6.4.2.D~~6.4.2.C~~
PUBLIC AND INSTITUTIONAL USES										
CIVIC USES										Sec. 6.5.1
Community center, private	P*	P*	P*	P	P	P	P	--	--	Sec. 6.5.1.A
Public use	S*	S*	S*	S*	S*	S*	S*	S*	S*	Sec. 6.5.1.B
Religious assembly	P*	P*	P*	P	P	P	P	P	--P	Sec. 6.5.1.C
PRIVATE EDUCATION USES										Sec. 6.5.2
General private education	--	--	--	--	S*	S*	S*	--	--	Sec. 6.5.2.A
Commercial school	--	--	--	--	P	P	P	--	--	Sec. 6.5.2.B
Day care center	--	--	--	P	P	P	P	P	S	Sec. 6.5.2.C
UTILITY USES										Sec. 6.5.3
Minor utility	P*	P*	P*	P*	P*	P*	P*	P*	P*	Sec. 6.5.3.A
Major utility	--	--	--	--	--	--	--	--	P*	Sec. 6.5.3.B
Broadcast tower	--	--	--	P	--	--	--	--	P	Sec. 6.5.3.C
Wireless communications facility	--	--	--	P*	P*	--	--	--	P*	Sec. 6.5.3.D
COMMERCIAL USES										
ENTERTAINMENT AND RECREATION USES										Sec. 6.6.1
General indoor recreation and entertainment	--	--	--	S	P	P	P	--	--	Sec. 6.6.1.A
General outdoor recreation and entertainment	--	--	--	--	S	S	S	--	--	Sec. 6.6.1.B
Club, private	--	--	--	P	P	P	P	P	--	Sec. 6.6.1.C
Convention hall or event facility	--	--	--	S	P	S	S	--	--	Sec. 6.6.1.D
Hookah bar or lounge	--	--	--	--	--	--	--	--	--	Sec. 6.6.1.E
FOOD AND BEVERAGE USES										Sec. 6.6.2

P = Allowed Use S = Allowed by special use permit * = Use Standards Apply -- = Use Not Allowed										
	Residential Districts			**Mixed-Use and Business Districts**						
Use Category Specific Use	**R-1**	**R-2**	**R-3***	**C-1**	**C-2**	**MX-1***	**MX-2***	**O-I**	**M-1***	**Definition/ Standards**
General food and beverage	--	--	--	P	P	P	P	--	--	Sec. 6.6.2.A
Bakery, wholesale	--	--	--	P*	P*	P*	P*	--	P	Sec. 6.6.2.B
Food caterer	--	--	--	S	P	--	--	--	P	Sec. 6.6.2.C
LODGING USES										Sec. 6.6.3
General lodging	--	--	--	--	P*	P*	P*	--	--	Sec. 6.6.3.A
Extended stay hotel	--	--	--	--	--	--	--	--	--	Sec. 6.6.3.B
Short-term rental	--	--	--	--	--	--	--	--	--	Sec. 6.6.3.C
MEDICAL USES										Sec. 6.6.4
General Medical	--	--	--	P	P	P	P	P	P	Sec. 6.6.4.A
Hospital	--	--	--	--	S	--	--	S	--	Sec. 6.6.4.B
Medical Laboratory	--	--	--	--	P	--	--	P	P	Sec. 6.6.4.C
OFFICE USES										Sec. 6.6.5
General office	--	--	--	P	P	P	P	P	P	Sec. 6.6.5.A
Radio and television studio	--	--	--	--	P	P	P	P	P	Sec. 6.6.5.B
PERSONAL SERVICE USES										Sec. 6.6.6
General personal service uses	--	--	--	P	P	P	P	--	--	Sec. 6.6.6.A
Animal care, indoor	--	--	--	P	P	P	P	P	P	Sec. 6.6.6.B
Animal care, outdoor	--	--	--	S*	S*	--	--	--	P*	Sec. 6.6.6.C
Body art studio	--	--	--	--	P*	--	--	--	--	Sec. 6.6.6.D
Copy and print business	--	--	--	P	P	P	P	P	P	Sec. 6.6.6.E
Funeral home (without crematorium)	--	--	--	--	P	--	--	P	P	Sec. 6.6.6.F
Funeral home (with crematorium)	--	--	--	--	--	--	--	--	S	Sec. 6.6.6.F
Furniture or major appliance repair	--	--	--	--	--	--	--	--	P	Sec. 6.6.6.G
Health club	--	--	--	P	P	P	P	--	S	Sec. 6.6.6.H
Instructional studio	--	--	--	P	P	P	P	--	S	Sec. 6.6.6.I
Massage therapy business	--	--	--	P*	P*	P*	P*	--	--	Sec. 6.6.6.J
Taxidermy	--	--	--	--	--	--	--	--	P	Sec. 6.6.6.K
RETAIL USES										Sec. 6.6.7
General retail uses	--	--	--	P	P	P	P	--	--	Sec. 6.6.7.A

P = Allowed Use S = Allowed by special use permit * = Use Standards Apply -- = Use Not Allowed										
	Residential Districts			**Mixed-Use and Business Districts**						
Use Category Specific Use	**R-1**	**R-2**	**R-3***	**C-1**	**C-2**	**MX-1***	**MX-2***	**O-I**	**M-1***	**Definition/ Standards**
Alternative financial institution	--	--	--	--	--	--	--	--	--	Sec. 6.6.7.B
Auction facility	--	--	--	--	--	--	--	--	--	Sec. 6.6.7.C
Consumer fireworks sales facility	--	--	--	--	S*	--	--	--	--	Sec. 6.6.7.D
Convenience store	--	--	--	--	--	--	--	--	--	Sec. 6.6.7.E
Department store	--	--	--	--	P	--	--	--	--	Sec.6.6.7.F
Furniture store	--	--	--	--	P	--	--	--	--	Sec. 6.6.7.G
Home improvement	--	--	--	P*	P	--	--	--	--	Sec. 6.6.7.H
Package store	--	--	--	--	P*	P*	P*	--	--	Sec. 6.6.7.I
Plant nursery	--	--	--	P*	P	P*	P	--	P	Sec. 6.6.7.J
Retail bank	--	--	--	--	P	P	P	P	--	Sec. 6.6.7.K
Second-hand store	--	--	--	--	S	--	--	--	--	Sec. 6.6.7.L
Small discount variety store	--	--	--	--	S	--	--	--	--	Sec. 6.6.7.M
Vape or CBD shop	--	--	--	--	--	--	--	--	--	Sec. 6.6.7.N
Vehicle parts store	--	--	--	--	S	--	--	--	P	Sec. 6.6.7.O
SEXUALLY ORIENTED BUSINESS USE										Sec. 6.6.8
Sexually Oriented Business	--	--	--	--	--	--	--	--	~~P*~~ --	~~Sec. 6.6.8.A~~Sec. 6.6.8.B
VEHICLE SALES AND SERVICE USES										Sec. 6.6.8
General vehicle sales and service uses	--	--	--	--	--	--	--	--	--	Sec. 6.6.9.A
Car wash	--	--	--	--	--	--	--	--	--	Sec. 6.6.9.B
Fuel sales	--	--	--	--	--	--	--	--	--	Sec. 6.6.9.C
Truck stop	--	--	--	--	--	--	--	--	--	Sec. 6.6.9.D
WHOLESALE TRADE USES										Sec. 6.6.10
General wholesale trade	--	--	--	--	P	--	--	--	P	Sec. 6.6.10.A
INDUSTRIAL USES										
INDUSTRIAL AND MANUFACTURING USES										Sec. 6.7
Artisan manufacturing	--	--	--	--	S	S	S	--	P	Sec. 6.7.1.A
Low-Impact industrial and manufacturing	--	--	--	--	--	--	--	--	P	Sec. 6.7.1.B

P = Allowed Use S = Allowed by special use permit * = Use Standards Apply -- = Use Not Allowed										
	Residential Districts			**Mixed-Use and Business Districts**						
Use Category Specific Use	**R-1**	**R-2**	**R-3***	**C-1**	**C-2**	**MX-1***	**MX-2***	**O-I**	**M-1***	**Definition/ Standards**
High-impact industrial and manufacturing	--	--	--	--	--	--	--	--	--	Sec. 6.7.1.C
Contractor's establishment	--	--	--	--	--	--	--	--	P	Sec. 6.7.1.D
Crematorium	--	--	--	--	--	--	--	--	S	Sec. 6.7.1.E
Research and development	--	--	--	--	--	--	--	--	P	Sec. 6.7.1.F
Stone yard	--	--	--	--	--	--	--	--	P	Sec. 6.7.1.G
WAREHOUSE AND DISTRIBUTION USES										Sec. 6.7.2
General warehouse and distribution	--	--	--	--	--	--	--	--	P*	Sec. 6.7.2.A
Data center	--	--	--	--	--	--	--	--	--	Sec. 6.7.2.B
Open storage yard	--	--	--	--	--	--	--	--	S*	Sec. 6.7.2.C
Self-storage, mini-warehouse	--	--	--	--	S	--	--	--	S	Sec. 6.7.2.D
Truck terminal	--	--	--	--	--	--	--	--	--	Sec. 6.7.2.E
ACCESSORY USES										
Accessory uses not otherwise listed below, as determined by the Director	P	P	P	P	P	P	P	P	P	Sec. 6.8
Accessory dwelling unit	P*	P*	P*	--	--	--	--	P*	--	Sec. 6.8.2.A
Boathouse, dock	P*	P*	P*	P*	P*	P*	P*	P*	--	Sec. 6.8.2.B
Freestanding patio, deck	P	P	P	P	P	P	P	P	P	Sec. 6.8.2.C
Drive-through	--	--	--	--	P*	--	--	--	--	Sec. 6.8.2.D
Family suite	P*	P*	P*	--	--	--	--	P*	--	Sec. 6.8.2.E
Home occupation	P*	P*	P*	--	--	P*	P*	--	--	Sec. 6.8.2.F
Keeping of chickens	P*	--	--	--	--	--	--	--	--	Sec. 6.8.2.G
Outdoor sales	--	--	--	P*	P*	P*	P*	--	P*	Sec. 6.8.2.H
Outdoor storage, minor	--	--	--	P*	P	P*	P	--	P	Sec. 6.8.2.I
Outdoor storage, major	--	--	--	P*	P*	P*	P*	P*	P*	Sec. 6.8.2.J
Parking of commercial vehicles	P*	P*	P*	--	--	P*	P*	--	--	Sec. 6.8.2.K
Parking of recreational vehicles	P*	P*	P*	--	--	P*	P*	--	--	Sec. 6.8.2.L
Residential garage	P*	P*	P*	--	--	P*	P*	--	--	Sec. 6.8.2.M
Server room	P*	P*	P*	P*	P*	P*	P*	P*	P*	Sec. 6.8.2.N
Solar energy system (freestanding)	S*	S*	S*	S*	S*	S*	S*	S*	S*	Sec. 6.8.2.O

P = Allowed Use S = Allowed by special use permit * = Use Standards Apply -- = Use Not Allowed										
	Residential Districts			**Mixed-Use and Business Districts**						
Use Category Specific Use	**R-1**	**R-2**	**R-3***	**C-1**	**C-2**	**MX-1***	**MX-2***	**O-I**	**M-1***	**Definition/ Standards**
Solar energy system (all other)	P*	P*	P*	P*	P*	P*	P*	P*	P*	Sec. 6.8.2.O
Storage shed, workshop	P*	P*	P*	--	--	P*	P*	--	--	Sec. 6.8.2.P
Swimming pool, hot tub, spa	P*	P*	P*	P*	P*	P*	P*	P*	--	Sec. 6.8.2.Q
TEMPORARY USES										
Active construction structure	P*	P*	P*	P*	P*	P*	P*	P*	P*	Sec. 6.9.1.A
Temporary outdoor assembly	P*	P*	P*	P*	P*	P*	P*	P*	P*	Sec. 6.9.1.B
Temporary outdoor sale	S*	S*	S*	P*	P*	P*	P*	--	--	Sec. 6.9.1.C
Temporary seasonal sale	--	--	--	P*	P*	P*	P*	--	--	Sec. 6.9.1.D
Yard/garage sale	P*	P*	P*	--	--	P*	P*	--	--	Sec. 6.9.1.E

Sec. 6.2. General Provisions

6.2.1. Conformance Required

A. No land, building, or structure may be used except in accordance with this Article and for a use permitted in the zoning district in which it is located.

B. Multiple uses are permitted on a lot when the uses are all allowed in the zoning district and the standards for all uses are met.

6.2.2. Classification of Uses

A. Principal Uses

1. In order to regulate a variety of similar uses, principal uses are organized by use group (such as Residential Uses), use category (such as Household Living or Group Living), and then by specific use within that category (such as Single-Family Dwelling or Two-Family Dwelling). Use categories organize specific uses with similar attributes and impacts. Specific uses have permissions in the use table that determine if that use is allowed in a particular zoning district.
2. Where a use category contains a list of typical uses, the list is to be considered example uses, and not all-inclusive. The Director has the responsibility for categorizing all principal uses.
3. The use table in Sec. 6.1 establishes allowed principal uses in each zoning district.
4. Principal use categories and specific uses are defined in Sec. 6.4 (Residential Uses) through Sec. 6.7 (Industrial Uses).

B. Accessory Uses

1. An accessory use is any use that is subordinate in both purpose and size, incidental to and customarily associated with an allowed principal use located on the same lot.
2. The use table in Sec. 6.1 establishes allowed accessory uses in each zoning district.

C. Temporary Uses

1. A temporary use is a use that is characterized by its short-term or seasonal nature and by the fact that permanent improvements are not made to the lot or principal structure.
2. The use table in Sec. 6.1 establishes the allowed temporary uses in each zoning district.

6.2.3. Principal Uses Not Listed

A. A principal use not specifically listed in the use table (Sec. 6.2) is not allowed unless the Director determines the use is similar to an already listed use.

B. When determining whether a proposed use is similar to an already listed use, the Director will consider the following observable or anticipated criteria, as applicable:

1. Characteristics of the use.

2. Amount and nature of any nuisances generated by the use.
3. Type, size, nature, and arrangement of buildings and structures.
4. Relative amount and types of sales.
5. Relative number of employees and customers.
6. Hours of operation.
7. Number of vehicle trips generated, types of vehicles, and parking demand.
8. Amount and type of outdoor storage.
9. Impacts on adjacent properties.
10. Whether the activity is likely to be found independent of the other activities on the site.

C. When a use not listed is found by the Director not to be similar to any other listed use, the use is only allowed following a text amendment to the UDO (See Sec. 10.3).

6.2.4. Accessory Uses Not Listed

A. An accessory use or structure not specifically listed in the use table (Sec. 6.1) is not allowed unless the Director determines the use meets all of the following standards:

1. The use is clearly incidental to and customarily found in connection with an allowed principal use.
2. The use is subordinate to and serving an allowed principal use.
3. The use is subordinate size to the principal use, as follows:
    a. If the accessory use is conducted outside, the accessory use occupies less than 10% of the lot area; and
    b. If the accessory use is conducted inside, the accessory use occupies less than 10% of the floor area of the principal use.
4. The use is subordinate in purpose to the principal use.
5. The use is located on the same lot as the principal use.

B. When a use not listed is found by the Director not to be similar to any other allowed use, the use is only allowed following a text amendment to the UDO (See Sec. 10.3).

6.2.5. Use Standards

A. Some zoning districts have standards that apply to any use in that particular district. These zoning districts are designated with an asterisk (*) next to the district name in the use table. These standards are found in Sec. 6.3 (Zoning District Use Standards).

B. Some uses have standards that must be met for the use to be allowed. These uses are designated with an asterisk (*) next to the use permission in the use table. These standards are found in Sec. 6.4 (Residential Uses) through Sec. 6.9 (Temporary Uses).

C. Use standards can apply to all uses in a group, all uses in a category, or a specific use. For example, if the standard specifies “Residential Uses”, the standard is referring to all uses in that group; and if the standard specifies “Household Living Uses”, the standard is referring to all uses in that category.

D. If any use standard designation of this Article’s text and the use table contains an actual, implied or apparent conflict, then the text controls.

E. If a minimum distance is required between certain uses, the distance is measured as the shortest straight line distance between the lot lines of the lots containing the uses. Both lots must be located within the City.

Sec. 6.3. Zoning District Use Standards

6.3.1. R-3 Zoning District Use Standards

All dwelling units must be occupied by at least one person who is 55 years of age or older.

6.3.2. MX-1 Use District Standards

A. Mixed-Use Requirement

1. At least 25% of the total floor area of a development must consist of residential uses, and at least 25% must consist of nonresidential uses.
2. No certificates of occupancy may be issued for more than 10 initial dwelling units within a development until certificates of occupancy have also been issued for at least 10,000 square feet of nonresidential floor area within the same development.

B. Floor Area Restrictions

No individual entertainment and recreation, food and beverage, retail, or personal service use may exceed 8,000 square feet of floor area.

6.3.3. MX-2 Use District Standards

A. Mixed-Use Requirement

1. At least 25% of the total floor area of a development must consist of residential uses, and at least 25% must consist of nonresidential uses.
2. No certificates of occupancy may be issued for more than 10 initial dwelling units within a development until certificates of occupancy have also been issued for at least 10,000 square feet of nonresidential floor area within the same development.

6.3.4. M-1 Use District Standards

No industrial use that requires a federal or state permit specifically authorizing the treatment, processing, storage, or disposal of hazardous or biomedical waste is allowed. This prohibition does not apply to the incidental generation, handling, or storage of hazardous or biomedical materials or waste associated with an otherwise allowed industrial use.

Sec. 6.4. Residential Uses

6.4.1. Household Living Uses

Household living means residential occupancy of a dwelling unit by one family for at least 30 days and in compliance with the maximum occupancy, minimum habitable area, sanitation requirements, and other requirements of Chapter 14 of the City Code. The household living use category includes the following specific uses:

A. Single-family dwelling

1. Definition

One dwelling unit on its own lot. The term specifically excludes manufactured homes and mobile homes.

B. Two-Family Dwelling

1. Definition

Two dwelling units on a single lot.

C. Cottage Court

1. Definition

A group of detached dwelling units arranged around a common open space, such as a courtyard or garden.

2. Use Standards

a. At least 3 and no more than 12 detached dwelling units are permitted for each cottage court. Individual developments may contain more than one cottage court.

b. District lot dimensional standards apply to the entire cottage court, unless otherwise specified by district regulations.

c. Cottage court dwelling units may be on a single lot, or each unit may be on its own lot.

d. When more than one cottage court is developed on a site, each cottage court must be accessible from a public right-of-way or shared private driveway with access to a public right-of-way.

e. Each dwelling unit must have frontage on and direct pedestrian access to a common open space.

f. Porches facing the common open space must be provided for each dwelling unit. Required porches must be at least 8 feet deep and must comprise at least 40% of the overall width of the front wall plane of the dwelling.

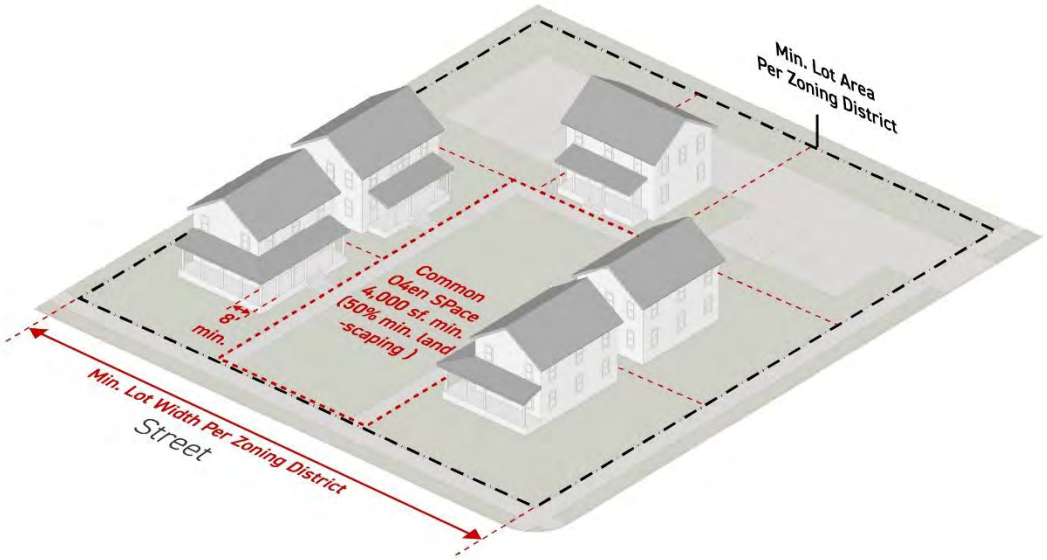
g. Common open space must be provided at a ratio of at least 600 square feet for each dwelling unit and must meet the following standards:

i. No common open space may be less than 4,000 square feet.

ii. Common open spaces must be at least 50% landscaped and each common open space must contain at least two overstory trees.

h. Common parking areas, when provided, must be located to the side or rear of the dwellings (determined using the front of the overall cottage court).

i. Individual parking areas, when provided, must be located to the side or rear of the dwelling.



D. Townhouse Dwelling

1. **Definition**

   Three or more dwelling units where each unit is separated vertically by a common side wall and where each dwelling unit occupies its own lot.

E. Multifamily Dwelling

1. **Definition**

   Three or more dwelling units on a single lot.

2. **MX-1, MX-2 District Use Standards**

   a. Buildings containing multifamily dwellings must provide ground story commercial uses along all street-facing facades, as follows:

      i. Commercial uses must have a ground story height of at least 14 feet (measured as specified in Sec. 2.3.2.D).

      ii. Commercial uses must have a depth of at least 30 feet (measured from the street-facing building facade).

      iii. Up to 30% of the required ground story commercial uses may include lobbies, fitness centers, mailrooms, business centers, and other special purpose rooms for the use of residents and their guests.

6.4.2. Group Living

Group living means residential occupancy of a structure by a group of ~~4 or more~~ individuals not meeting the definition of a family. Group living facilities generally have a common eating area for residents, and residents may receive care or training. The group living use category includes the following specific uses:

A. Community Residence

1. Definition

A group living use that provides residential living arrangement for 3 or fewer unrelated individuals with disabilities living as a single functional household in a single dwelling unit who are in need of the mutual support furnished by other residents of the community residence as well as the support services, if any, provided by any staff of the community residence. Residents may be self-governing or supervised by a sponsoring entity or its staff, which provides habilitative or rehabilitative services related to the residents' disabilities.

~~A.~~B. General Supervised Group Living

1. Definition

Group living uses that typically provide supervision, assistance, protection, medical care, or personal care to residents, in addition to room and board. Typical examples include assisted living, independent living, nursing home, inpatient hospice facility, intermediate care home, permanent supportive housing, personal care home, rehabilitation facility, skilled nursing facility, and transitional housing.

a. Additional Definitions

For the purposes of defining general supervised group living uses, the following words and phrases have the meanings ascribed to them in this Paragraph unless a different meaning is clearly indicated by the context:

Assisted Living. A personal care home with a minimum of 25 beds that is licensed by the State of Georgia as an assisted living community.

Independent Living. A facility for adults at least 55 years of age with central dining facilities that provide residents, as part of their monthly fee, access to meals and other services such as housekeeping, linen service, transportation, and social and recreational activities. Independent living facilities do not provide, in a majority of the units, assistance with activities of daily living such as supervision of medication, bathing, dressing, and toileting, and do not provide licensed skilled nursing beds on the property.

Inpatient Hospice Facility. A facility that is licensed to provide acute inpatient care for hospice patients in beds that are not included in the certified bed capacity of another licensed facility. "Inpatient care" means short-term, 24-hour medically supervised care for the purpose of adjusting and monitoring the terminally ill patient's medications for pain control or managing acute or chronic symptoms that cannot be managed in another setting. Inpatient care is provided within the confines of a licensed hospital, a licensed skilled nursing facility, or a licensed inpatient hospice facility.

Intermediate Care Home. A facility that admits residents on medical referral only, and includes the provision of food, and special diets when required, shelter, laundry, and personal care services, such as help with dressing, getting in and out of bed, bathing, feeding, medications and similar assistance, such services being under appropriate

licensed supervision. Intermediate care does not normally include providing care for bed-ridden patients except on an emergency or temporary basis.

Nursing Home. A facility that admits patients on medical referral only and for whom arrangements have been made for continuous medical supervision, maintains the services and facilities for skilled nursing care, rehabilitative nursing care, and has a satisfactory agreement with a physician and dentist who will be available for any medical or dental emergency and who will be responsible for the general medical and dental supervision of the home.

Permanent Supportive Housing. Permanent housing in which supportive services are provided to assist unhoused persons with a disability to live independently. Permanent housing means community-based housing without a designated length of stay, and includes both permanent supportive housing and rapid rehousing. To be permanent housing, the program participant must be the tenant on a lease for a term of at least one year, which is renewable for terms that are a minimum of one month long, and is terminable only for cause. Supportive services means assistance that provides appropriate services or assists such persons in obtaining appropriate services, including health care, mental health treatment, alcohol and other substance abuse services, child care services, case management services, counseling, supervision, education, job training, and other services essential for achieving and maintaining independent living. Inpatient acute hospital care does not qualify as a supportive service. The term "unhoused" has the same meaning as "homeless," as defined in 24 CFR 578.3.

Personal Care Home. Any dwelling unit or building, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one or more personal services for two or more adults who are not related to the owner or administrator by blood or marriage. "Personal services" includes, but is not limited to, individual assistance with or supervision of self-administered medication and essential activities of daily living such as eating, bathing, grooming, dressing, and toileting.

Rehabilitation Facility. A facility that is required to operate pursuant to a state license as a residential sub-acute detoxification program, a residential intensive treatment program, or a psychiatric rehabilitation treatment program.

Skilled Nursing Facility. A public or private institution or a distinct part of an institution which is primarily engaged in providing inpatient skilled nursing care and related services for patients who require medical or nursing care or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. "Skilled nursing care" means the application of recognized nursing methods, procedures, and actions directed toward implementation of the physician's therapeutic and diagnostic plan, detection of changes in the human body's regulatory system, preservation of such body defenses, prevention of complications and emotional well-being, including but not limited to the following:

i. The administration of oral or injectable medications which cannot be self-administered. Other examples include the administration of oxygen, the use of suction, the insertion or changing of catheters, the application of medicated dressings, the use of aseptic technique and preparation of the patient for special procedures; and

ii. Observation in the care of the patient for symptoms or physical and mental signs that may develop and which will require the attention of the physician and a revision in the patient's treatment regimen.

Transitional Housing. Housing, where all program participants have signed a lease or occupancy agreement, the purpose of which is to facilitate the movement of unhoused individuals and families into permanent housing within 24 months or such longer period as HUD determines necessary. The program participant must have a lease or occupancy agreement for a term of at least one month that ends in 24 months and cannot be extended. The term "unhoused" has the same meaning as "homeless," as defined in 24 CFR 578.3.

~~B.~~C. Boardinghouse, Rooming house.

1. **Definition**

A dwelling in which meals or lodging, or both, are furnished for compensation to more than two but no more than ten non-transient persons.

~~C.~~D. Maternity Supportive Housing

1. **Definition**

A dwelling unit holding a valid registration certificate from the State of Georgia as a maternity supportive housing residence. Maternity supportive housing is operated on behalf of a nonprofit organization and houses up to 6 pregnant women aged 18 or older and their minor children at any time during the pregnancy and up to 18 months after childbirth. This term does not include the following:

a. Uses where medical service is regularly provided;

b. A child welfare agency, as defined in O.C.G.A. § 49-5-12;

c. Dwelling unit of a relative in which a woman receives maternity care; or

d. Any medical use.

Sec. 6.5. Public and Institutional Uses

6.5.1. Civic Uses

Civic uses provide ongoing governmental, life safety, educational, utility, and cultural services to the general public, as well as places for religious and secular assembly. The civic use category includes the following specific uses:

A. Community Center, Private

1. **Definition**

   A privately owned and operated use that provides recreational, social, educational, or cultural activities for an area of a community, which is owned and operated by the management agency of that community, or the homeowners' association of that community. A community can be an incorporated area, a developed subdivision, or a planned development. The use does not include activities that would be classified as residential uses or commercial uses.

2. **Residential District Use Standards**

   a. The minimum lot size is 2 acres.

   b. The use must be located on an arterial street or a State Route.

   c. A buffer at least 25 feet wide is required along the side and rear property lines but not extending into the required front yard. The buffer must be planted to meet the standards of Sec. 7.2 (Buffers and Screening~~Buffers and Screening~~).

B. Public Use

1. **Definition**

   Any building, structure or use owned or operated by the Federal Government, the State of Georgia, Gwinnett County or another county, the City of Berkeley Lake or another municipality, or any authority, agency, board or commission of the above governments, which is necessary to serve a public purpose, such as but not limited to the following: government administrative buildings, police and fire stations, public health facilities and hospitals, public works camps, parks and community centers, public roads and streets, airports, water and sanitary sewerage storage, intake, collection and treatment and pumping facilities, public housing, schools, jails and correctional centers.

C. Religious Assembly

1. **Definition**

   A use where people regularly gather for religious worship, observance, ceremony, teaching, or similar religious activities. The use may include accessory uses, such as religious education, counseling, fellowship activities, day care, administrative offices, community gatherings, and dwellings operated by the religious group, but not cemeteries. Typical examples include, but are not limited to, chapel, church, mosque, synagogue, and temple.

2. **Residential District Use Standards**

   a. The minimum lot size is 2 acres.

   b. The use must be located on an arterial street or a State Route.

   c. A buffer at least 25 feet wide is required along the side and rear property lines but not extending into the required front yard. The buffer must be planted to meet the standards of Sec. 7.2 (Buffers and Screening~~Buffers and Screening~~).

6.5.2. Private Education Uses

Private education uses are privately owned and operated uses that provide educational services to students. The private education use category includes the following specific uses:

A. General Private Education

1. **Definition**

   Private education uses that provide education to students at the pre-kindergarten, elementary, middle, high school, or post-secondary level. Typical examples include pre-kindergarten, elementary schools, middle schools, high schools, college or university, community college, seminary, and artistic or vocational school.

2. **Use Standards**

   a. The use must be located on an arterial street or a State Route.

   b. Buffers are required as follows:

      i. Adjacent to residential zoning districts, a buffer at least 50 feet wide is required.

      ii. Adjacent to nonresidential zoning districts, a buffer at least 25 feet wide is required along the side and rear property lines but not extending into the required front yard.

      iii. Required buffer must be left in an undisturbed wooded state or planted to meet the standards of Sec. 7.2 (Buffers and Screening~~Buffers and Screening~~).

B. Commercial School

1. **Definition**

   A private education use that is affiliated with a commercial or industrial use and teaches skills using heavy machinery or specialized equipment; conducts a commercial enterprise, such as a driving school; or a similar school that does not offer a complete educational curriculum.

2. **Use Standards**

   Buffers are required as follows:

   a. Adjacent to residential zoning districts, a buffer at least 50 feet wide is required.

   b. Adjacent to nonresidential zoning districts, a buffer at least 25 feet wide is required along the side and rear property lines but not extending into the required front yard.

c. Required buffer must be left in an undisturbed wooded state or planted to meet the standards of Sec. 7.2 (Buffers and Screening~~Buffers and Screening~~).

C. Day Care, Private

1. **Definition**

A use that regularly provides care services to 4 or more children or adults away from their residence for less than 24 hours a day. Typical examples include childcare center, prekindergarten, preschool, play school, nursery school, drop-in center, and adult day care center. This use does not include other public or private education uses or group living uses.

6.5.3. Utility Uses

Utility uses distribute public or private utility services such as electricity, gas, sewer, water, cable and internet. The utility use category includes the following specific uses:

A. Minor Utility

1. **Definition**

Utility uses that generally serve the immediate area in which they are located and typically do not regularly have on-site employees. Typical examples include on-site stormwater retention or detention facility; neighborhood serving telephone exchange or switching center; gas, electric, telephone, or cable transmission lines; water or wastewater pump station or lift station; gas gates; drainage well; water supply water well; and public utilities. This use does not include data centers or uses regulated by Chapter 77 – Standards for Wireless Communications Facilities.

2. **Use Standards**

Neighborhood serving telephone exchange or switching center and public utility transformer or gas regulator stations must meet the following:

a. Structures must be at least 50 feet from any property line.

b. Structures must be enclosed by a woven wire fence at least 8 feet high.

c. A buffer at least 10 feet wide is required along the side and rear property lines but not extending into the required front yard. The buffer must be planted to meet the standards of Sec. 7.2 (Buffers and Screening~~Buffers and Screening~~).

d. No vehicles or equipment may be stored on the property.

B. Major Utility

1. **Definition**

Utility uses that generally serve the entire city or larger area and often have on-site employees. Typical examples include aeration facility, electrical substation, filter bed, waste treatment plant, water tower or tank, gas metering and control stations.

2. **Use Standards**

   a. Structures must be at least 50 feet from any property line.

   b. Structures must be enclosed by a woven wire fence at least 8 feet high.

   c. A buffer at least 10 feet wide is required along the side and rear property lines but not extending into the required front yard.

   d. The buffer must be planted to meet the standards of Sec. 7.2 (Buffers and Screening~~Buffers and Screening~~).

   e. No vehicles or equipment may be stored on the property.

C. Broadcast Tower

1. **Definition**

   A facility primarily engaged in providing radio and television broadcasting but excluding those facilities regulated by Chapter 77 – Standards for Wireless Communications Facilities.

D. Wireless Communications Facility

1. **Definition**

   Uses regulated by Chapter 77 – Standards for Wireless Communications Facilities.

2. **Use Standards**

   The use must comply with Chapter 77, Standards for Wireless Communication Facilities.

Sec. 6.6. Commercial Uses

6.6.1. Entertainment and Recreation Uses

Entertainment and recreation uses provide continuous or periodic assembly, entertainment, or recreational activity. The entertainment and recreation use category includes the following specific uses:

A. General Indoor Entertainment and Recreation

1. **Definition**

   Entertainment and recreation uses that operate primarily in an indoor setting. Typical examples include amusement center, arcade, auditorium, bingo hall, bowling alley, cigar lounge, cinema, dance hall, gymnasium, ice or roller skating rink, indoor sports, pool hall, and theater. The term does not include indoor shooting or archery ranges, or indoor sports arenas or stadia.

B. General Outdoor Entertainment and Recreation

1. **Definition**

   Entertainment and recreation uses that operate in an outdoor setting. Typical examples include amusement or water park, amphitheater, athletic complex, ballfields, basketball or tennis court, baseball batting cage, skateboarding or roller blading facility, drive-in or outdoor theater, golf driving range, ice skating rink, golf course, pickleball, and miniature golf course. The term does not include outdoor shooting or archery ranges, or outdoor sports arenas or stadia.

C. Club, Private

1. **Definition**

   A facility used for associations or organizations of an educational, fraternal, or social character, not operated or maintained for profit. Representative organizations include American Legion, Elks, Rotary, Lions, and Veterans of Foreign Wars. The term does not include casinos, nightclubs, bottle clubs, or other establishments operated or maintained for profit.

D. Convention Hall or Event Facility

1. **Definition**

   A use operated for the purpose of providing accommodations for temporary conventions; trade shows and other similar activities; and events, including banquets, parties, ceremonies, receptions, or similar gatherings, where a fee is typically charged for the use of the facility.

E. Hookah Bar or Lounge

1. **Definition**

   A use where a single or multi-stemmed water pipe or any associated products, devices, and equipment are used to produce fumes, smoke, or vapors intended to be inhaled or exhaled,

from the burning of any organic or synthetic material including, but not limited to plants, herbs, tobacco related objects, alternative nicotine products, vapor products, or shisha. The term includes any use where such activity is a principal or accessory use.

6.6.2. Food and Beverage Uses

Food and beverage uses prepare and sell food and drink for on- or off-premises consumption. The food and beverage use category includes the following specific uses:

A. General Food and Beverage

1. **Definition**

   Food and beverage uses that prepare and sell food or beverage and may only serve alcohol for on-premise consumption as an accessory use. Typical examples include retail bakery, cafe, coffee and tea shop, farm winery, fast food restaurant, ice cream or yogurt shop, juice or smoothie bar, and restaurant.

B. Bakery, Wholesale

1. **Definition**

   A use that provides for the preparation of baked goods for wholesale or institutional distribution and that may include a retail bakery as an accessory use.

2. **C-1, C-2 District Use Standards**

   The use may not exceed 15,000 square feet in gross floor area.

C. Food Caterer

1. **Definition**

   A facility for the preparation and distribution of foods in a ready-to-consume or partially ready state directly to mobile food trucks or for consumption at events off-site. This use does not include the on-site sale of individual meals or individual beverages.

6.6.3. Lodging Uses

Lodging uses are individual sleeping or living units that provide overnight accommodations to guests for periods of typically less than 30 days. The lodging use category includes the following specific uses:

A. General Lodging

1. **Definition**

   A facility where overnight accommodations are provided for compensation. Typical examples include motels, hotels, and bed and breakfast inns.

2. **Use Standards**

   a. The minimum lot size is 2 acres.

b. Guest rooms must be accessed internally to the building with no direct room access to the outside.

c. The facility must provide management on duty 24 hours a day.

d. Outside storage of commercial equipment is prohibited.

e. No business license may be issued for any business operating from any guest room of the facility.

f. A buffer at least 100 feet wide must be provided along all Residential Zoning Districts. The buffer must be planted to meet the standards of Sec. 7.2 (Buffers and Screening~~Buffers and Screening~~).

B. Extended Stay Hotel

1. **Definition**

A facility where overnight accommodations are provided for compensation in which 50% or more of all guest rooms have facilities for both the storage, refrigeration, and preparation of food, or which are advertised, designed, or utilized for weekly or monthly occupancy, and which may provide additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.

C. Short-Term Rental

1. **Definition**

A use where, in exchange for compensation, any portion of a principal dwelling unit or accessory dwelling unit is provided for lodging for a period of time not to exceed 30 consecutive days. The term does not include boarding and rooming houses as defined by this UDO or home occupations as defined by this UDO.

6.6.4. Medical Uses

Medical uses provide medical, surgical or dental care to patients such as the diagnosis, treatment, mitigation, cure or prevention of disease. The medical use category includes the following specific uses:

A. General Medical

1. **Definition**

Medical uses that administer human health care in a non-hospital, outpatient setting. Typical examples include medical office or clinic, dental office or clinic, acute care facility, ambulatory care facilities, optometrist, orthodontist, physical therapy office, surgical outpatient facility, urgent care, dialysis center, and blood bank.

B. Hospital

1. **Definition**

   A use providing health services, for in-patients and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, outpatients department, training facilities, central service facilities and staff offices.

C. Medical Laboratory

1. **Definition**

   A use that conducts medical research or testing and examining of materials derived from the human body, such as fluid, tissue or cells, for the purpose of providing information on diagnosis, treatment, mitigation, cure or prevention of disease. Includes the compounding of drugs and chemicals, not involving sale directly to the public.

6.6.5. Office Uses

Office uses are characterized by activities conducted in a private or co-working setting and generally focusing on business, professional, or financial services. The office use category includes the following specific uses:

A. General Office

1. **Definition**

   Office uses that provide space for a variety of business, professional or financial services to be conducted. Typical examples include accounting, advertising, architecture, auditing, banking, bookkeeping, consulting, contracting, design, employment, engineering, insurance, investment, legal, real estate, security or technology services, or call centers.

B. Radio and Television Broadcasting studio

1. **Definition**

   A facility used for radio or television programming, production, administration, broadcasting, and related activities. The term excludes all other facilities used for recording moving images or sound that are not broadcast from the facility, such as film or sound recording studios.

2. **Use Standards**

   Radio and television broadcast studios may not include radio and broadcasting towers unless allowed by the use table and Sec. 6.5.3.C (Broadcast Tower~~Broadcast Tower~~).

6.6.6. Personal Service Uses

Personal service uses provide personal care or repair services. The personal service use category includes the following specific uses:

A. General Personal Service

1. **Definition**

   Personal service uses that provide a variety of personal care or repair services. Typical examples include barber shop, hair salon, nail salon, or tanning salon; dry cleaning drop-off or laundromat; locksmith; shipping service; licensed acupuncturist; photography studio; repair of consumer goods, such as clothes, shoes, clocks, watches, jewelry, electronics, and small appliances; and tailor, custom dressmaking, millinery.

B. Animal Care (Indoor)

1. **Defined**

   A facility designed or arranged for the care of animals without any outdoor activity. No outdoor activity associated with the care of animals is allowed, except outdoor pet elimination areas. Typical examples include animal grooming, animal hospital, veterinary clinic, pet clinic, animal boarding, animal shelter, kennel (5 or more dogs, cats, or other small animals, excluding litters of animals under 6 months old), and doggy day care.

C. Animal Care (Outdoor)

1. **Defined**

   A facility designed or arranged for the care of animals that includes outdoor activity. Typical examples include animal grooming, animal hospital, veterinary clinic, pet clinic, animal boarding, animal shelter, kennel (5 or more dogs, cats, or other small animals, excluding litters of animals under 6 months old), and doggy day care.

2. **Use Standards**

   All outdoor areas used by animals must be at least 250 feet from any residential zoning district or lot containing a residential use.

D. Body Art Studio

1. **Defined**

   See the definition in Chapter 34 of the Code of the City of Berkeley Lake.

2. **Use Standards**

   A body art studio must meet all the standards in Chapter 34 of the Code of the City of Berkeley Lake.

E. Copy and Print Business

1. Definition

A use that provides duplicating services using photocopy, blueprint, and offset printing equipment, including collating booklets and reports. The use also includes screen printing and similar processes used to print upon fabric.

F. Funeral Home

1. Definition

A use engaged in human undertaking and funeral services, which may contain space and facilities for embalming and the performance of other services used in preparation of the dead for burial; performance of autopsies; storage of caskets; and chapel services. The term includes mortuaries but not crematoriums unless indicated in the use table. The term also includes facilities offering similar services for deceased pets.

G. Furniture or Major Appliance Repair

1. Definition

A use engaged in the repair or cleaning of carpets, furniture, or major household appliances, including freezers, refrigerators, water coolers, ice makers, stoves, ovens, washing machines, clothes dryers, dishwashers, air conditioners, furnaces, water heaters, central heating systems, and similar appliances primarily intended for residential use.

H. Health Club, Spa

1. Definition

A use providing facilities for personal training, aerobic exercise, running and jogging, weight training and strength conditioning, game courts, swimming facilities and exercise equipment and which may include accessory sauna/steam rooms, showers, lockers, spa treatments, snack/juice bars, and retail sales of related sports apparel and equipment.

I. Instructional Studio

1. Definition

A use providing classes, instructions, and workshops for aerobics, culinary and creative arts, dance, gymnastics, martial arts, music, yoga, martial arts, Pilates, or personal training.

J. Massage Therapy Business

1. Defined

See the definition in Chapter 34 of the Code of the City of Berkeley Lake.

2. Use Standards

A massage therapy business must meet all the standards in Chapter 34 of the Code of the City of Berkeley Lake.

K. Taxidermy

1. Definition

A use engaged in the art of preserving and mounting animal skins to create lifelike representations of the animals.

6.6.7. Retail Uses

Retail uses involve the sale, lease, or rent of new or used products to end consumers. The retail use category includes the following specific uses:

A. General Retail

1. **Definition**

   Retail uses that sell, lease, or rent a variety of new or used products indoors. Typical examples include antique shop; art and school supply store; bicycle sales, rental, or repair; book or stationery store; clothing or shoe store; craft or fabric store; drug store or pharmacy; electronics store; florist; gift shop; food or grocery store; hobby shop; home goods store; jewelry store; music, game, video rental and sales store; musical instrument store; optical center; plant shop/florist; photography or art gallery; sporting goods store; and toy store.

B. Alternative Financial Service

1. **Definition**

   A use offering high interest, short-term loans or check cashing services. Also includes establishment which offer in the regular course of business a “pawn transaction” as defined in O.C.G.A. § 44-12-139. Typical examples include check cashing, pawnshop, payday lending, precious metal and gem dealers, and title loan centers.

C. Auction Facility

1. **Definition**

   A use where objects of art, furniture, vehicles, and other goods are offered for sale to persons who bid on the object in competition with each other.

D. Consumer Fireworks Retail Sales Facility

1. **Defined**

   The meaning provided for by NFPA 1124, as a permanent or temporary building or structure that is used primarily for the retail sale of consumer fireworks; provided, however, that such term does include a tent, canopy or membrane structure. As used in this UDO, any business that has fireworks sales in excess of 10% of the business’s total annual on-site sales will also be considered a consumer fireworks sales facility.

2. **Use Standards**

   a. There may be no more than one location per State-licensed distributor within the City.

   b. The use may not exceed 5,000 square feet in floor area.

   c. A consumer fireworks retail sales facility is not allowed within 1,000 feet of another consumer fireworks retail sales facility.

E. Convenience Store

1. **Definition**

   A use that sells prepackaged food items and tangible consumer goods, primarily for self-service by the customer. This use may be associated with fuels sales but no other vehicle sales and service uses.

F. Department Store

1. **Definition**

   A use that sells various goods and merchandise and serves a regional market as opposed to a facility serving only neighborhood markets. A department or wholesale store is at least 40,000 square feet in floor area.

G. Furniture Store

1. **Definition**

   A retail use that sells, rents, or leases furniture, lamps; mattresses, patio furniture; rugs, and similar bulky home furnishings.

H. Home Improvement

1. **Definition**

   A use that sells, rents, or services building or home improvement products. Typical examples include appliance store; building supply store; cabinet shops; fence sales; electrical shop; floor covering shops; garden supply centers and nurseries; outdoor grill and barbeque equipment store; lighting store; lawnmower sales, repair, or service shop; paint or wallpaper shop; plumbing shops; shed sales; small equipment store; and swimming pool sales. The use does not include the sale of gravel, soil, crushed stone, sand, and similar landscaping materials unless sold in bags. These examples may operate as standalone businesses, or they may be combined into a single business establishment.

2. **C-1 District Use Standards**

   The use may not exceed 15,000 square feet in floor area.

I. Package Store

1. **Definition**

   See the definition in Chapter 6 – Alcoholic Beverages.

2. **Use Standards**

   See Chapter 6 – Alcoholic Beverages for any applicable le use standards.

J. Plant Nursery

1. **Definition**

A use that grows, propagates, stores, displays, or sells trees, shrubs, flowers, ornamental plants, or other plants. A plant nursery may include greenhouses and the incidental sale of gardening and landscaping supplies.

2. **C-1, MX-1 District Use Standards**

   a. The total floor area used for greenhouses, sheds, offices, indoor sales, and similar uses may not exceed 8,000 square feet.

   b. The total outdoor area used for growing, display, storage, retail sales, and similar outdoor uses may not exceed 8,000 square feet.

K. Retail Bank

1. **Definition**

A retail use that includes bank, savings and loan association, or similar financial institution that provides on-site services to customers. This term also includes lots where an automated teller machine (ATM) is the only use on the lot.

L. Second-Hand Store

1. **Definition**

A use primarily engaged in the sale of used products less than 50 years old.

M. Small Discount Variety Store

1. **Definition**

A use less than 15,000 square feet in floor area that offers a variety of consumer products, including household goods, personal care products, food or beverages for off-premise consumption, entertainment products, electronics, and other consumer products, at a discounted rate. This use does not include retail uses with fuel sales and accessory retail uses typically less than 5,000 square feet in floor area located inside civic uses, office buildings, hotels, hospitals, and similar locations that primarily serve employees and visitors of the facility.

N. Vape or CBD Shop

1. **Definition**

A use whose “principal business activity” involves the sale or rental of any alternative nicotine product, vapor product items, or hemp product items. A “principal business activity” exists where the use meets one or more of the following criteria:

   a. The use regularly offers for sale or rental of at least 1,000 said items; or

   b. At least 25% of the use’s gross revenues derive from the sale or rental of said items; or

   c. The use maintains at least 25% of its floor space for the display, sale, or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items

are rented or sold, shall be included in "floor space" maintained for the display, sale, or rental of said items); or

d. The use maintains at least 500 square feet of its floor space for the display, sale, or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in "floor space" maintained for the display, sale, or rental of said items); or

e. The use regularly makes said items available for sale or rental and holds itself out, in any medium, as an establishment that caters to customer interest in alternative nicotine products or vapor products.

O. Vehicle Parts Store

1. **Definition**

A use that sells automobile, boat, truck, motorcycle, or other vehicle parts.

6.6.8. Sexually Oriented Business Uses

Sexually oriented business uses are associated with the sale or viewing of sexually-oriented content or paraphernalia. The sexually oriented business use category includes the following specific uses:

A. Prohibition of Sexually Oriented Businesses; Contingent Regulations

1. Sexually oriented businesses are not allowed in any zoning district within the City of Berkeley Lake. No sexually oriented business may be permitted as a matter of right or by special use permit.

2. Notwithstanding this prohibition, the City adopts the following regulations as alternative provisions to govern sexually oriented businesses if, and only if, a court of competent jurisdiction enters an effective order or judgment, not stayed, determining that the City may not lawfully prohibit such businesses or otherwise requiring the City to allow or consider such a use. Upon such judicial determination, the regulations set forth below shall become effective and enforceable to the extent consistent with the applicable law.

3. The adoption of these contingent regulations may not be construed as authorizing sexually oriented businesses within the City, establishing any present right to operate such a business, or limiting the City's authority to enforce its prohibition unless and until such judicial determination occurs. The prohibition and the contingent regulations are intended to be severable so that the invalidation of the prohibition will not, by itself, invalidate the regulations that follow.

~~A.~~B. Sexually Oriented Business

1. **Definition**

An "adult bookstore or adult video store," an "adult cabaret," an "adult motion picture theater," a "semi-nude model studio," or a "sexual device shop."

a. Additional Definitions Specific to Sexually Oriented Business

For purposes of this Sec. 6.6.8, the following words and phrases have the meanings provided below, unless the context clearly indicates otherwise.

Adult arcade. Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or "specified anatomical areas."

Adult bookstore or **adult video store**. A commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas." A "principal business activity" exists where the commercial establishment meets any one or more of the following criteria:

i. At least 25% of the establishment's displayed merchandise consists of said items; or

ii. At least 25% of the retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of said items; or

iii. At least 25% of the establishment's revenues derive from the sale or rental, for any form of consideration, of said items; or

iv. The establishment maintains at least 25% of its floor space for the display, sale, or rental of said items (aisles and walkways used to access said items are included in "floor space" maintained for the display, sale, or rental of said items); or

v. The establishment maintains at least 500 square feet of its floor space for the display, sale, or rental of said items (aisles and walkways used to access said items shall be included in "floor space" maintained for the display, sale, or rental of said items); or

vi. The establishment regularly offers for sale or rental at least 2,000 of said items; or

vii. The establishment regularly features said items and regularly advertises itself or holds itself out, in any medium, by using "adult," "adults-only," "XXX," "sex," "erotic," or substantially similar language, as an establishment that caters to adult sexual interests; or

viii. The establishment maintains an "adult arcade".

Adult cabaret. A nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment that regularly features live conduct characterized by semi-nudity. No establishment may avoid classification as an adult cabaret by offering or featuring nudity.

Adult motion picture theater. A commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by

their emphasis upon the display of "specified sexual activities" or "specified anatomical areas" are regularly shown to more than five persons for any form of consideration.

Characterized by. Describing the essential character or quality of an item. As applied in this Sec. 6.6.8, no business will be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

Employ, employee, and **employment.** Terms that describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, lessee, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Establish or **establishment**. A term that means and includes any of the following:

i. The opening or commencement of any sexually oriented business as a new business;

ii. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or

iii. The addition of any sexually oriented business to any other existing sexually oriented business.

iv. Floor space means the floor area inside an establishment that is visible or accessible to patrons for any reason, excluding restrooms.

Hearing officer. An attorney, not otherwise employed by the City, who is licensed to practice law in Georgia, and retained to serve as an independent tribunal to conduct hearings under this Sec. 6.6.8. The hearing officer have at least 3 years of experience in the practice of law and must have an office no closer than 5 miles outside the geographic boundaries of the City. The Director must maintain a list of qualified hearing officers, and such officers must be appointed consecutively according to such list based upon availability.

Influential interest. Any of the following: (1) the actual power to operate the sexually oriented business or control the operation, management or policies of the sexually oriented business or legal entity which operates the sexually oriented business, (2) ownership of a financial interest of 30% or more of a business or of any class of voting securities of a business, or (3) holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the sexually oriented business.

Licensee. A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In the case of an "employee," it means the person in whose name the sexually oriented business employee license has been issued.

Nudity The showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

Operator. Any person on the premises of a sexually oriented business who manages, supervises, or controls the business or a portion thereof. A person may be found to be an operator regardless of whether such person is an owner, part owner, or licensee of the business.

Person. An individual, proprietorship, partnership, corporation, association, or other legal entity.

Premises. The real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a sexually oriented business license.

Regularly. The consistent and repeated doing of an act on an ongoing basis.

Semi-nude or **semi-nudity**. The showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition includes the lower portion of the human female breast, but does not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

Semi-nude model studio. A place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a class operated:

i. By a college, junior college, or university supported entirely or partly by taxation;

ii. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

iii. In a structure:

   a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

   b. Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class.

Sexual device. Any three-dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and includes devices commonly known as dildos, vibrators, penis

pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition may be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

Sexual device shop. A commercial establishment that regularly features sexual devices. This definition may not be construed to include any pharmacy, drug store, medical clinic, any establishment primarily dedicated to providing medical or healthcare products or services, or any establishment that does not regularly advertise itself or hold itself out, in any medium, as an establishment that caters to adult sexual interests.

Specified anatomical. A term that means and includes:

i. Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and

ii. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

b. **Specified criminal activity.** Any of the following specified crimes for which less than 5 years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

i. Rape, child molestation, sexual assault, sexual battery, aggravated sexual assault, aggravated sexual battery, or public indecency;

ii. Prostitution, keeping a place of prostitution, pimping, or pandering;

iii. Obscenity, disseminating or displaying matter harmful to a minor, or use of child in sexual performance;

iv. Any offense related to any sexually-oriented business, including controlled substance offenses, tax violations, racketeering, crimes involving sex, crimes involving prostitution, or crimes involving obscenity;

v. Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or

vi. Any offense in another jurisdiction that, had the predicate act(s) been committed in Georgia, would have constituted any of the foregoing offenses.

Specified sexual activity. Any of the following:

i. Intercourse, oral copulation, masturbation or sodomy; or

ii. Excretory functions as a part of or in connection with any of the activities described in "i" immediately above.

Transfer of ownership or control of a sexually oriented business. Any of the following:

i. The sale, lease, or sublease of the business;

ii. The transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means; or

iii. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Viewing room. The room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video reproduction.

2. **Purpose, Findings, and Rationale**

a. Purpose

It is the purpose of this Sec. 6.6.8 to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this Sec. 6.6.8 have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Sec. 6.6.8 to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Sec. 6.6.8 to condone or legitimize the distribution of obscene material.

b. Findings and Rationale

Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the City Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of City of Littleton v. Z.J. Gifts D-4, L.L.C., 541 U.S. 774 (2004); City of Los Angeles v. Alameda Books, Inc., 535 U.S. 425 (2002); City of Erie v. Pap's A.M., 529 U.S. 277 (2000); City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986); Young v. American Mini Theatres, 427 U.S. 50 (1976); Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); California v. LaRue, 409 U.S. 109 (1972); N.Y. State Liquor Authority v. Bellanca, 452 U.S. 714 (1981); Sewell v. Georgia, 435 U.S. 982 (1978); FW/PBS, Inc. v. City of Dallas, 493 U.S. 215 (1990); City of Dallas v. Stanglin, 490 U.S. 19 (1989); and Flanigan's Enters., Inc. v. Fulton County, 596 F.3d 1265 (11th Cir. 2010); Peek-a-Boo Lounge v. Manatee County, 630 F.3d 1346 (11th Cir. 2011); Daytona Grand, Inc. v. City of Daytona Beach, 490 F.3d 860 (11th Cir. 2007); Jacksonville Property Rights Ass'n, Inc. v. City of Jacksonville, 635 F.3d 1266 (11th Cir. 2011); Artistic Entertainment, Inc. v. City of Warner Robins, 331 F.3d 1196 (11th Cir. 2003); Artistic Entertainment, Inc. v. City of Warner Robins, 223 F.3d 1306 (11th Cir. 2000); Williams v. Pryor, 240 F.3d 944 (11th Cir. 2001); Williams v. A.G. of Alabama, 378 F.3d 1232 (11th Cir. 2004); Williams v. Morgan, 478 F.3d 1316 (11th Cir. 2007); Gary v. City of Warner Robins, 311 F.3d 1334 (11th Cir. 2002); Ward v. County of Orange, 217 F.3d 1350 (11th Cir. 2002); Boss Capital, Inc. v. City of Casselberry, 187 F3d 1251 (11th Cir. 1999); David Vincent, Inc. v. Broward County, 200 F.3d 1325 (11th Cir. 2000); Sammy's of Mobile, Ltd. v. City of Mobile, 140 F.3d 993 (11th Cir. 1998); Lady J. Lingerie, Inc. v. City of Jacksonville, 176

F.3d 1358 (11th Cir. 1999); This That And The Other Gift and Tobacco, Inc. v. Cobb County, 285 F.3d 1319 (11th Cir. 2002); DLS, Inc. v. City of Chattanooga, 107 F.3d 403 (6th Cir. 1997); Grand Faloon Tavern, Inc. v. Wicker, 670 F.2d 943 (11th Cir. 1982); International Food & Beverage Systems v. Ft. Lauderdale, 794 F.2d 1520 (11th Cir. 1986); 5634 E. Hillsborough Ave., Inc. v. Hillsborough County, 2007 WL 2936211 (M.D. Fla. Oct. 4, 2007), aff'd, 2008 WL 4276370 (11th Cir. Sept. 18, 2008) (per curiam); Fairfax MK, Inc. v. City of Clarkston, 274 Ga. 520 (2001); Morrison v. State, 272 Ga. 129 (2000); Flippen Alliance for Community Empowerment, Inc. v. Brannan, 601 S.E.2d 106 (Ga. Ct. App. 2004); Oasis Goodtime Emporium I, Inc. v. DeKalb County, 272 Ga. 887 (2000); Chamblee Visuals, LLC v. City of Chamblee, 270 Ga. 33 (1998); World Famous Dudley's Food & Spirits, Inc. v. City of College Park, 265 Ga. 618 (1995); Airport Bookstore, Inc. v. Jackson, 242 Ga. 214 (1978); Imaginary Images, Inc. v. Evans, 612 F.3d 736 (4th Cir. 2010); LLEH, Inc. v. Wichita County, 289 F.3d 358 (5th Cir. 2002); Ocello v. Koster, 354 S.W.3d 187 (Mo. 2011); 84 Video/Newsstand, Inc. v. Sartini, 2011 WL 3904097 (6th Cir. Sept. 7, 2011); East Brooks Books, Inc. v. Shelby County, 588 F.3d 360 (6th Cir. 2009); Entm't Prods., Inc. v. Shelby County, 588 F.3d 372 (6th Cir. 2009); Sensations, Inc. v. City of Grand Rapids, 526 F.3d 291 (6th Cir. 2008); World Wide Video of Washington, Inc. v. City of Spokane, 368 F.3d 1186 (9th Cir. 2004); Ben's Bar, Inc. v. Village of Somerset, 316 F.3d 702 (7th Cir. 2003); H&A Land Corp. v. City of Kennedale, 480 F.3d 336 (5th Cir. 2007); Hang On, Inc. v. City of Arlington, 65 F.3d 1248 (5th Cir. 1995); Fantasy Ranch, Inc. v. City of Arlington, 459 F.3d 546 (5th Cir. 2006); Illinois One News, Inc. v. City of Marshall, 477 F.3d 461 (7th Cir. 2007); G.M. Enterprises, Inc. v. Town of St. Joseph, 350 F.3d 631 (7th Cir. 2003); Richland Bookmart, Inc. v. Knox County, 555 F.3d 512 (6th Cir. 2009); Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County, 256 F. Supp. 2d 385 (D. Md. 2003); Richland Bookmart, Inc. v. Nichols, 137 F.3d 435 (6th Cir. 1998); Spokane Arcade, Inc. v. City of Spokane, 75 F.3d 663 (9th Cir. 1996); City of New York v. Hommes, 724 N.E.2d 368 (N.Y. 1999); Taylor v. State, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); Fantasyland Video, Inc. v. County of San Diego, 505 F.3d 996 (9th Cir. 2007); Gammoh v. City of La Habra, 395 F.3d 1114 (9th Cir. 2005); Starship Enters. of Atlanta, Inc. v. Coweta County, No. 3:09-CV-123, R. 41 (N.D. Ga. Feb. 28, 2011); High Five Investments, LLC v. Floyd County, No. 4:06-CV-190, R. 128 (N.D. Ga. Mar. 14, 2008); 10950 Retail, LLC v. Fulton County, No. 1:06-CV-1923, R. 62 Order (N.D. Ga. Dec. 21, 2006); 10950 Retail, LLC v. Fulton County, No. 1:06-CV-1923, R. 84 Contempt Order (N.D. Ga. Jan. 4, 2007); Z.J. Gifts D-4, L.L.C. v. City of Littleton, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); People ex rel. Deters v. The Lion's Den, Inc., Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); Reliable Consultants, Inc. v. City of Kennedale, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Tucson, Arizona - 1990; Chattanooga, Tennessee - 1999-2003; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Ft. Worth, Texas - 2004; Kennedale, Texas - 2005;

Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; Jackson County, Missouri - 2008; Louisville, Kentucky - 2004; New York, New York Times Square - 1994; the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota); Dallas, Texas - 2007; "Rural Hotspots: The Case of Adult Businesses," 19 Criminal Justice Policy Review 153 (2008); "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD," Journal of Urban Health (2011); "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; Fulton County, Georgia - 2001; "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; Memphis, Tennessee - 2005-11; and Assorted Reports Concerning Secondary Effects, the City Council finds:

i. Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.

ii. Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.

iii. Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing or abating. This substantial government interest in preventing secondary effects, which is the City's rationale for these standards, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the City's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may be located in the City. The City finds that the cases and documentation relied on in this Sec. 6.6.8 are reasonably believed to be relevant to said secondary effects.

The City hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the judicial opinions and reports related to such secondary effects.

3. **Use Standards**

a. It is unlawful to establish, operate, or cause to be operated a sexually oriented business unless the sexually oriented business is at least:

i. 100 feet from the right-of-way of Peachtree Industrial Boulevard.

ii. 250 feet from the following:

a. A residential zoning district or lot containing a residential use;

b. A lot containing religious assembly;

c. A lot containing a private elementary or secondary school; or

d. A lot containing a public park.

iii. 500 feet from the following:

a. A lot containing another sexually oriented business; or

b. A lot containing a business licensed by the State of Georgia to sell alcohol at the premises.

b. The distances specified in Sec. 6.6.8.B.3.a above~~6.6.8.A.3.a above~~ are measured as follows:

i. From the sexually oriented business to the lot line of the indicated zoning district or use. Where property conditioned for residential purposes is part of a mixed-use development, the distance is measured to the closest boundary of the area shown on the approved site plan as conditioned for residential purposes.

ii. From the sexually oriented business to the structure or tenant space containing the indicated use when such indicated use is located in a multi-tenant development, so as to maximize the number of locations available to sexually oriented businesses.

iii. Distance are measured in straight line in all directions from the structure or tenant space of the sexually oriented business.

c. A sexually oriented business must comply with all standards of this UDO.

6.6.9. Vehicle Sales and Service Uses

Vehicle sales and services uses sell, rent, lease, service or repair motorcycles, scooters, passenger vehicles, commercial vehicles, recreational vehicles, farm machinery, and other heavy equipment. The vehicle sales and service use category includes the following specific uses:

A. General Vehicle Sales and Service

1. **Definition**

A use that sells, rents, leases, services, or repairs motorcycles, scooters, passenger vehicles, commercial vehicles, recreational vehicles, boats, farm machinery, or other heavy equipment.

B. Car Wash

1. **Definition**

A use that cleans and details vehicles with self-serve, automated, or staffed facilities.

C. Fuel Sales

1. **Definition**

Any use that sells and dispenses vehicle fuel, including diesel, gasoline, hydrogen, electricity, and other alternative fuels, whether as a principal or accessory use. The use does not include accessory EV charging stations. This use is often associated with convenience stores or grocery stores, but may be standalone.

D. Truck Stop

1. **Definition**

   A facility intended to serve semi-truck drivers that generally includes some combination of the following uses: fuel sales, overnight parking for semi-trucks, a convenience store, a restaurant, or showering or dormitory facilities utilized as a rest area for truck drivers.

6.6.10. Wholesale Trade Uses

Wholesale trade uses are engaged in selling products in bulk to retailers or business representatives for resale rather than to end consumers for direct consumption. Wholesale Trade use category includes the following specific uses:

A. General Wholesale Trade

1. **Definition**

   Wholesale trade uses where products are sold to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers.

Sec. 6.7. Industrial Uses

6.7.1. Industrial and Manufacturing Uses

Industrial and manufacturing uses are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on-site, but if so, they are a subordinate part of sales. Relatively few customers come to the site. The industrial and manufacturing use category includes the following specific uses:

A. Artisan Manufacturing

1. **Definition**

   Industrial and manufacturing uses that only use shared or individual hand-operated tools for the manufacturing of products or parts, including their design, processing, fabrication, assembly, treatment and packaging. Artisan manufacturing may also include the storage, sale, and distribution of said products. Typical examples include, but are not limited to, the manufacturing of food and bakery products, baskets, beverages, candles, prints, leather products, jewelry, clothing, metalwork, furniture, yarn, textiles, glass, ceramics, and paper.

B. Low-Impact Industrial and Manufacturing

1. **Definition**

   Industrial and manufacturing use where the following characteristics are present or anticipated:

   a. Majority of manufacturing or industrial activity takes place indoors;

   b. No significant heat, noise, sounds, vibrations, odors, or particulates detectable off premises by a person of ordinary sensitivity without use of instruments;

   c. No significant use of dangerous or harmful chemicals;

   d. No significant use of highly combustible or flammable materials, liquids, or gases;

   e. No use of hazardous or explosive materials;

   f. No use of any other noxious matter; and

   g. Limited or no outdoor storage.

   Typical examples include manufacturing, processing, fabrication, packaging or assembly of prefabricated parts, consumer electronics, computers, appliances, optical devices or instruments, medical or surgical instruments, alcoholic and non-alcoholic beverages, cosmetics, clothing or shoes, ice, printed or photographic materials, signs, small automotive parts; dry cleaning plants; exterminators; and commercial food preparation.

C. High-Impact Industrial and Manufacturing

1. **Definition**

Industrial and manufacturing use where some or all of the following characteristics are present or anticipated:

a. The majority of manufacturing or industrial activity takes place outdoors.

b. Significant heat, noise, sounds, vibrations, odors or particulates may be detectable by neighboring properties by a person of ordinary sensitivity without use of instruments.

c. Significant use or storage of dangerous or harmful chemicals.

d. Significant use or storage of highly combustible or flammable materials, liquids, or gases.

e. Use or storage of hazardous, radioactive, or explosive materials.

Typical high-impact industrial examples include abrasives manufacturing; acid manufacturing; annealing or heat treating plants; asphalt plants; battery rebuilding; concrete plants, cement plants, plants for the manufacture of lime, gypsum, or plaster of Paris; distillation of bones and glue manufacture; explosive manufacturing or storage; fat rendering and fertilizer manufacture; hazardous toxic materials, including radioactive materials; paper and paper pulp manufacture; petroleum refining or fuel oil distribution; smelting of tin, copper, zinc, or iron ores; solid fuel yard; storage or production of crushed stone; and resource extraction such as sand, gravel, clay, topsoil or dirt extraction, and quarries.

D. Contractor's Establishment

1. **Definition**

A use engaged in the provision of construction activities including but not limited to plumbing, electrical work, building, paving, carpentry, and other such contracting activities, including the accessory storage of materials and overnight parking of commercial vehicles. When there is no building of at least 1,000 square feet in floor area on the premises, similar uses will be considered to be an open storage yard.

E. Crematorium

1. **Definition**

A facility used for the cremation of human and pet remains.

F. Research and Development

1. **Definition**

A use focused primarily on the research and development of new products, or for scientific research intended for manufacture, production, or sale of products elsewhere. Typical examples include plastics, genetics, biotechnology, pharmaceuticals, and polymers. The use specifically excludes manufacturing any products, except prototypes not intended for sale.

G. Stone Yard

1. **Definition**

   A use engaged in the outdoor cutting, carving, or assembly of natural stone for the purpose of producing statuary, monuments, architectural details, and similar stone products. The term does not include quarries or facilities that produce or store crushed stone.

2. **Use Standards**

   The use must be screened in accordance with Sec. 7.2.3.B (Outdoor Storage Screening).

6.7.2. Warehouse and Distribution Uses

Warehouse and distribution uses are involved in the storage or movement of goods for themselves or other entities. Goods are generally delivered to other establishments or the final consumer. There is little or no on-site sales activity with customers present. The warehouse and distribution use category includes the following specific uses:

A. General Warehouse and Distribution

1. **Definition**

   Warehouse and distribution uses characterized by primarily indoor movement and activity. Typical examples include fulfillment center, distribution center, frozen food lockers, household moving storage, general freight storage, and warehouse.

B. Data Center

1. **Definition**

   All or a portion of a building primarily engaged in the storage, management, processing, and transmission of digital data, housing computer and network equipment, systems, servers, appliances, and other associated components related to digital data operations, regardless of whether such facility serves on- or off-site users. Data centers may also include air handlers, power generators, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support sustained operations at the data center. The term excludes server rooms.

C. Open Storage Yard

1. **Definition**

   A use primarily intended for the outdoor storage of material, equipment, or vehicles for a period longer than 24 hours, and any structures associated with the outdoor storage. Typical examples include construction storage yard, landscape materials yards, lumberyard, sand or gravel yard, equipment yard, towing service storage yard, vehicle storage lot, school bus lot, and impound lot. The use may include the outside production and storage of mulch. The use may involve the sale or rental of items stored. The term excludes natural gas, chemical, and petroleum bulk storage.

2. **Use Standards**

   The use must be screened in accordance with Sec. 7.2.3.B (Outdoor Storage Screening).

D. Self- Storage, Mini-Warehouse

1. **Definition**

   A use that offers secure self-storage for household goods in individual rooms, compartments, lockers, or containers, where customers bring goods for storage.

2. **Use Standards**

   a. The individual rooms, compartments, lockers, or containers may not exceed 500 square feet in floor area.

   b. The facility must be climate-controlled.

E. Truck Terminal

1. **Definition**

   A use where cargo is stored indoors or outdoors for routing or reshipment and where trucks load and unload cargo on a regular basis, or a use where semi-trailers or trucks are parked and stored.

Sec. 6.8. Accessory Uses

6.8.1. General Provisions

A. Rules for All Accessory Uses and Structures

Accessory uses and structures are only allowed if they meet the following:

1. Accessory uses not listed in the Use Table are only allowed when they meet the requirements of Sec. 6.2.4 (Accessory Uses Not Listed~~Accessory Uses Not Listed~~). Typical examples of accessory uses that are allowed, but are not specifically listed, include, but are not limited to, gazebos, parking, pergolas, gates, walkways, firepits, grills, fountains, bird feeders, mailboxes, play areas, outdoor furniture, koi ponds, gardens, rain barrels and rainwater collection systems, EV chargers, bike racks, waste receptacles, sports fields, stormwater management facilities, utility meters, satellite receivers, security cameras, and HVAC equipment.
2. Accessory uses and structures are only allowed in rear yards, except as otherwise specified in this UDO.
3. Accessory structures may not be erected before the principal structure to which it is accessory, except boathouses and docks.
4. Accessory structures that are attached to the principal structure are considered part of the principal structure and must meet the same dimensional standards as it. Typical examples include, but are not limited to, attached garages, pergolas, decks, balconies, storage sheds, workshops, and similar structures. This standard does not apply to attached fences and walls (including wing walls), even if they share the same foundation with the principal building.
5. Accessory uses and structures must be sized in proportion to and used only to serve the principal use to which they are accessory, unless otherwise specified in this UDO.

B. Rules for Accessory Uses and Structures in Residential Zoning Districts

Accessory uses and structures in residential zoning districts are allowed if they meet the following:

1. Accessory structures may not exceed 18 feet in height, except as otherwise specified in this UDO.
2. Accessory structures may not exceed 550 square feet in gross floor area, except as otherwise specified by this UDO.
3. Accessory structures must meet the setbacks specified in Table 6.8.1.B, except where this UDO explicitly states otherwise.

Table 6.8.1.B Accessory Structure General Setbacks

	Required Setback
Side Setback	
Side (interior) - All accessory structures	12.5’ min.

Side (Street) – All accessory structures	No closer to the adjoining road than the principal structure
Rear Setback	
Accessory structures up to 150 square feet in floor area and up to 15' in height (both conditions must be met)	12.5' min.
Accessory structures 150 square feet or more in floor area; or Accessory structures 15' or more in height (at least one condition must be met)	20' min.;
Front Setback (through lots only)	
Accessory structures up to 150 square feet in floor area and up to 15' in height (both conditions must be met)	12.5' min.
Accessory structures 150 square feet or more in floor area; or Accessory structures 15' or more in height (at least one condition must be met)	50' min.
Lake Setbacks	
All accessory structures	40' min.

6.8.2. Definitions and Use Standards

A. Accessory Dwelling Unit (ADU)

1. **Definition**

   A small, self-contained dwelling unit located on the same lot as a principal dwelling unit.

2. **Use Standards**

   a. The City will not issue a permit for the construction of an accessory dwelling unit unless the property owner resides on the premises at the time of permit issuance and granting of the certificate of occupancy. Proof of owner occupancy may include a valid homestead exemption, utility bills, tax records, or other documentation demonstrating that the owner resides on the property, as determined by the Director.

   b. Only one accessory dwelling unit is allowed per principal dwelling unit.

   c. If a zoning district allows both accessory dwelling units and family suites, only one accessory dwelling unit or one family suite is allowed. See Sec. 6.8.2.E for family suite standards.

   d. The accessory dwelling unit must either:

      i. Be detached from the principal dwelling unit; or

      ii. Be attached to or located inside the principal dwelling unit, but with no interior access between the accessory dwelling unit and the principal dwelling unit. The accessory

dwelling unit must have its own separate exterior entrance. If this standard is not met the unit will be considered part of the principal dwelling unit.

e. The accessory dwelling unit must be at least 300 square feet and no more than 800 square feet in floor area. This area does not include garage space or other storage areas.

f. The accessory dwelling unit may not exceed 40% of the floor area of the principal dwelling, nor have more than two bedrooms.

g. If an accessory building or part of a principal building includes any of the following, it will be considered to be prima facie evidence that it is an accessory dwelling unit:

i. Separate utility service, hookups, or meters;

ii. Separate mailboxes; or

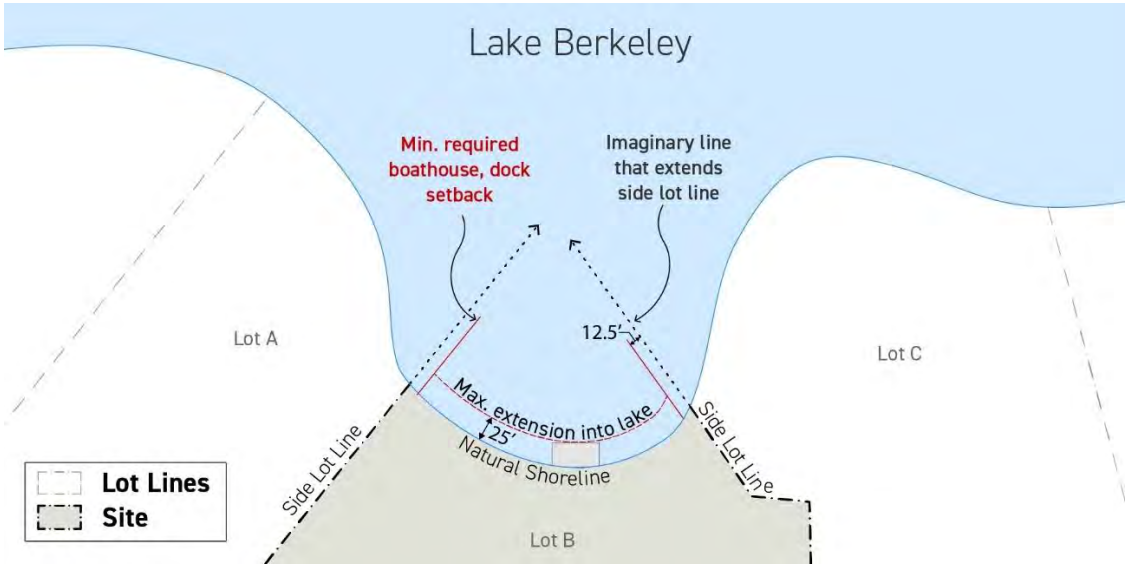
iii. Separate kitchen fixtures, such as stoves, ovens, and cabinets.

B. Boathouses, Docks

1. Use Standards

a. Structures may not extend more than 25 feet into the lake from the natural shoreline, measured at mean water level.

b. Structures must be set back at least 12.5 feet from the side lot line, as measured from an imaginary line that extends the side lot line straight into the lake, following the same direction as the segment of the lot line that meets the natural shoreline.



c. Structures must be at least 75 feet from the opposite shore, as measured from the closest point of the boathouse or dock to the opposite shore.

d. Structures may not exceed 14 feet in height measured from the mean water level.

e. Structures may not exceed a total combined area of 875 square feet. For purposes of calculating this area, any water area within a boat slip that is enclosed on three sides by docks or other structures is included.

f. The total combined roof area of structures may not exceed 675 square feet.

g. Structures may not be enclosed on two or more sides with any material including, but not limited to, screening and glass; except that an enclosed area no greater than ~~100~~256 square feet is allowed.

C. Freestanding Patio, Deck

1. **Definition**

   A structure consisting of a level surface without a roof, walls, or railings, and that is not attached to a principal building.

2. **Use Standards**

   a. Structures may not be located in a front yard or side street yard.

   b. Structures must meet the following setbacks:

      i. Side interior setback: 12.5 feet min.

      ii. Side street setback: no closer to the adjoining road than the principal structure

      iii. Rear setback (regular lot): 15 feet min.

      iv. Rear setback (through lot): 50 feet min.

      v. Lake setback: No minimum.

   c. Structures may not exceed 30 inches above ground at any point nor be otherwise elevated to a height where a railing is required by building code.

D. Drive-Through

1. **Definition**

   A facility allowing customers to conduct a transaction at a service window or mechanical device while remaining in their vehicle.

2. **Use Standards**

   a. All outdoor drive-through areas, including but not limited to menu boards, stacking lanes, trash receptacles, ordering box, drive up windows, and other objects associated with the drive-through, must be located to the side or rear of the building and may not be located between a public street and the associated building.

   b. Additional stacking and drive-through screening requirements are specified in Sec. 7.1.5.G.

E. Family Suite

1. **Defined**

A suite that is accessory to a single-family dwelling that includes provisions for living, sleeping, eating, cooking, and sanitation, but is not an independent dwelling unit.

2. **Use Standards**

   a. Only one family suite is allowed per principal dwelling unit.

   b. If a zoning district allows both accessory dwelling units and family suites, only one accessory dwelling unit or one family suite is allowed. See Sec. 6.8.2.A for accessory dwelling unit standards.

   c. The family suite may not constitute a separate dwelling unit.

   d. The individual residing in the family must be allowed access to the common areas of the dwelling unit (e.g. the kitchen, bathroom, living room, etc.).

   e. The family suite must not have separate gas and electric utilities (more than one meter per utility would constitute a separate dwelling unit and is prohibited).

   f. The family suite may not be in an accessory building or structure.

   g. The family suite must be connected to the main heated living area of the dwelling (the family suite may not be connected to the building by a breezeway as this would constitute a separate dwelling unit).

   h. The family suite must have principal means of access to the outside of the dwelling unit via the dwelling unit's main exterior doorways (single access to the outside of the family suite would constitute a separate dwelling unit).

F. **Home Occupation**

1. **Purpose**

   It is the intent of these regulations to ensure that a home occupation as an accessory use is so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence. These standards for home occupations are intended to ensure compatibility with other allowed uses and with the residential character of the neighborhood.

2. **Definition**

   A business use, occupation, or activity conducted within a dwelling, where only members of the family living in the dwelling unit produce the goods or provide the services being sold, and where no products or goods are displayed to the public.

3. **Use Standards**

   a. General Provisions

      i. A home occupation must be clearly incidental and secondary to the use of the dwelling for residential purposes and may not change the character thereof or adversely affect the uses allowed in the residential district of which it is a part.

ii. Home occupations must be conducted entirely within an existing dwelling unit and enclosed accessory structures. No alteration may be made in either the internal or external structural form of the residential building or external appearance for purposes of home occupation. The removal of partitions or floors or parts thereof will be construed as such an alteration and is therefore prohibited.

iii. No more than 25%, up to 600 square feet, of a dwelling and accessory structures may be used for home occupations.

iv. There may be no outside storage of any kind related to a home occupation.

v. No home occupation may increase traffic or parking greater in volume or different in nature than would otherwise normally occur in the residential neighborhood in which it is located.

vi. No customers and clients are allowed on the premises.

vii. Stables or kennels for the boarding or breeding of animals are prohibited. The salvage or repair of motor vehicles is also prohibited.

viii. Only the property owner or members of the family living in the dwelling unit may be employed at the dwelling as part of a home occupation.

ix. A home occupation may not create sounds, noise, dust, vibration, smell, smoke, heat, humidity, glare, radiation, electrical interference, fire hazard or any other hazard, nuisance or unsightliness which is discernible beyond the property.

x. Delivery or pickup of products and materials related to home occupations are limited to vehicles with six or fewer wheels.

xi. Except for vehicles providing the one daily delivery/pickup allowed by Sec. 6.8.2.F.3.a.x immediately above, only one commercial vehicle is allowed on the property at a time.

xii. No signage is allowed for the home occupation.

xiii. Waste products are limited to those normally associated with a dwelling and may not result in the home producing an overall volume of waste which exceeds the average volume of waste for other homes within the district by 10%.

b. Exemptions

The following exceptions to the general home occupation use standards of Sec. 6.8.2.F.3.a above are allowed:

i. For home occupation uses providing services (e.g., architect, attorney, clergy, engineer, tax consultant, etc.) customers and clients are allowed, subject to the following:

a. No more than one client vehicle is allowed at any time.

b. Client off-street parking must be available and utilized.

c. Only five client visits are allowed per day.

d. Clients are only allowed on the premises from 9:00 a.m. to 6:00 p.m.

e. All other home occupation use standards not exempted here must be met.

ii. Educational instruction in music, dance, arts and crafts, or tutoring services within an enclosed building is allowed for adults and children, subject to the following:

a. No more than two pupils are allowed at any time.

b. Client off-street parking must be available and utilized.

c. Clients are only allowed on the premises from 9:00 a.m. to 6:00 p.m.

d. All other home occupation use standards not exempted here must be met.

c. Noncompliance

i. A property with a noncompliant home occupation must be issued an initial citation and given at least 14 calendar days to correct the issue.

ii. If the issue is not corrected within the specified timeframe, the owner of the property containing the noncompliant home occupation will be subject to a maximum fine of $1,000.00 plus an additional fine of $100.00 per day for each day of further operation after the initial citation and expiration of the timeframe stated to correct the issue.

G. **Keeping of Chickens**

1. **Definition**

The keeping of chickens for personal pleasure or utility on a parcel which contains a single-family dwelling.

2. **Use Standards**

a. The minimum lot size is 10,500 square feet.

b. Chickens must be kept securely in an enclosed yard or pen at all times.

c. Each chicken must have at least 10 square feet of outdoor pen space.

d. Structures housing chickens, including enclosed yards or pens, must:

i. Have a setback of at least 20 feet from any property line.

ii. Have a setback of at least 50 feet from any dwelling unit on an adjoining parcel.

iii. Have a lake setback of at least 150 feet.

iv. Be located in a rear yard.

e. Keeping roosters is a prohibited use and may not be permitted or authorized by variance.

f. The maximum number of chickens allowed is four.

g. Coops must provide at least 4 square feet of indoor floor area per chicken over 4 months old.

h. Chickens may only be kept as pets or for laying eggs. They cannot be raised for meat or sold.

i. Chickens and associated structures must be kept in clean, sanitary conditions and must not create a public nuisance, as defined by state law.

H. Outdoor Sales

1. Definition

Accessory outdoor display and sale of products actively available for sale on the property of an allowed principal commercial use or industrial use. Typical examples include clothes, books, plants, and housewares.

2. Use Standards

a. Outdoor sales must abut the primary facade with the principal customer entrance, may not extend more than 10 feet from the facade, and may not exceed 8 feet in height.

b. Outdoor sales must be removed and placed inside a building when the business is not open to the public.

I. Outdoor Storage, Minor

1. Definition

Accessory outdoor storage of merchandise, goods, inventory, materials, or other similar items on the property of an allowed principal nonresidential use. Outdoor storage, minor includes items that are actively available for sale and items stored in boxes, bags, in crates, or on pallets. Typical examples include plants and garden tools, outdoor furniture, and holiday decorations.

2. C-1, MX-1 District Use Standards

a. The use is only allowed when it is accessory to a general retail use primarily engaged in the sale of plants, garden tools, and landscaping supplies.

b. The use may not exceed the floor area of the nonresidential use to which it is accessory, or 8,000 square feet, whichever is less.

J. Outdoor Storage, Major

1. Definition

Accessory outdoor storage of merchandise, goods, inventory, materials, equipment, or other similar items on the property of an allowed nonresidential use. Outdoor storage, major includes items that are stored on the site and not intended for immediate sale or use. Typical examples include contractor's equipment, used tires, fleet vehicles, trailers, storage of soil, mulch, stone, lumber, pipe, steel, concrete, wood, vehicles waiting repair and operable vehicle storage.

2. Use Standards

The use must be screened in accordance with Sec. 7.2.3.B (Outdoor Storage Screening).

K. Parking of Commercial Vehicles

1. Definition

The parking of any commercial vehicle on a residential property.

2. Use Standards

Commercial vehicles parked on residential properties must comply with the following:

a. Parking of the following commercial vehicles is allowed:

i. Vehicles parked temporarily in conjunction with a commercial service, sale or delivery at the dwelling.

ii. Standard passenger automobiles and light-duty pick-up trucks, vans, and SUV's used for daily transportation to and from work.

iii. A school bus primarily used to transport children to and from state licensed or accredited elementary, middle or high schools, provided it is parked on a paved surface, at least 10 feet from a side or rear property line, at least 65 feet from the edge of any roadway, and not within the lake setback.

b. Except as otherwise noted, parking on residential properties is prohibited for medium and heavy-duty trucks such as step vans, flat-bed trucks, dump trucks, tow trucks, transport wreckers, tandem axle trucks, cab-on-chassis trucks, tractor cabs; as well as limousines, wheeled attachments, trailers over 20 feet in length, transit buses, earth-moving machinery, and semi-trailers.

L. Parking of Recreational Vehicles

1. Definition

Recreational vehicles and equipment, including but not limited to motorhomes, campers, travel trailers, cargo trailers, utility trailers, transport trailers, all-terrain vehicles, boats, and personal watercraft that are parked or stored on properties.

2. Use Standards

Recreational vehicles and equipment may be parked or stored on residential properties subject to the following requirements:

a. Only recreational vehicles less than 40 feet in overall length and 14 feet in total height (including any trailer) may be parked or stored on residential properties.

b. Recreational vehicles must be kept on a paved surface and located at least 10 feet from a side or rear property line, 40 feet from the edge of Lake Berkeley, and 50 feet format street right-of-way. However, recreational vehicles may be located anywhere on a residential property if in a completely enclosed building.

c. Recreational vehicles must be maintained in a safe and operable condition, including but not limited to proper tire inflation.

d. Motorhomes, campers, travel trailers, etc. may not be used as living, sleeping or housekeeping quarters but may be parked anywhere on a residential lot for a period of not more than 72 hours while being loaded or unloaded.

e. Utility and transport trailers (but not travel trailers) up 4 feet height, including all contents, may be parked in side or rear yards. In addition, notwithstanding, the paved surface requirements of Sentence b above, they may be parked on a paved or unpaved surface.

M. Residential Garage

1. **Definition**

   A garage that is accessory to a single-family dwelling and that is not attached to said dwelling. The term includes carports.

2. **Use Standards**

   A residential garage is allowed in a front or side yard if it meets the following:

   a. Has the same exterior material, material orientation, and color as the primary single-family dwelling;

   b. Is at least 65 feet from the edge of the fronting road; and

   c. Meets all requirements of Sec. 2.6.3.D (Architectural Standards for Residential Garages).

   d. Meets all other requirements of Sec. 6.8.1.B (Rules for Accessory Uses and Structures in Residential Zoning Districts).

N. Server Room

1. **Definition**

   One or more designated areas within any use, except a data center, housing computer and network equipment, systems, servers, appliances, and other associated hardware components related to digital data operations for its own use.

2. **Use Standards**

   a. Accessory to nonresidential uses, the total floor area of all such areas may not exceed 2,000 square feet or 10% of the principal use, whichever is more.

   b. Accessory to residential uses, the total floor area of all such areas may not exceed 2,000 square feet or 10% of the principal use, whichever is less.

O. Solar Energy System

1. **Definition**

   A device, equipment, or structural design feature that collects solar energy for conversion into electrical, thermal, or other usable energy, including photovoltaic and solar thermal systems and associated equipment.

2. **Use Standards**

a. **Residential Zoning Districts**

Only the following types of solar energy systems are allowed:

i. A solar energy system installed on the roof of any building or structure, whether principal or accessory, and that only extends up to 5 feet above the highest point of the roof of the building or structure on which it is installed.

ii. A solar energy system attached and incorporated as part of any building exterior wall such as roof tiles, window shutters and canopies.

iii. A freestanding solar energy system, subject to the following:

a. A special use permit is required.

b. The solar energy system may only be in a rear or side interior yard, except as specified in "c" immediately below.

c. As part of its special use permit review, the City Council may allow the solar energy system within a front yard or side street yard if it determines that there are no other suitable locations on the lot. To assist the City Council in its review, the applicant must submit a solar site assessment or similar study prepared by a licensed engineer, solar installer, solar designer, or other qualified professional demonstrating that other locations on the lot are not suitable for solar energy generation due to the presence of trees, buildings, or structures; lot orientation; or other factors beyond the applicant's control.

d. The property must meet the requirements of Sec. 9.1 (Tree Protection~~Tree Protection~~).

b. **Nonresidential Zoning Districts**

Only the following types of solar energy systems are allowed:

i. A solar energy system installed on the roof of any building or structure, whether principal or accessory, and that only extends up to 15 feet above the highest point of the roof of the building or structure on which it is installed.

ii. A solar energy system attached and incorporated as part of any building exterior wall such as roof tiles, window shutters and canopies.

iii. A freestanding solar energy system, subject to the following:

a. A special use permit is required.

b. The solar energy system may only be in a rear or side interior yard, except as specified in "c" immediately below.

c. As part of its special use permit review, the City Council may allow the solar energy system within a front yard or side street yard when there are no other suitable locations on the lot. To assist the City Council in its review, the applicant must submit a solar site assessment or similar study prepared by a licensed engineer,

solar installer, solar designer, or other qualified professional demonstrating that other locations on the lot are not suitable for solar energy generation due to the presence of trees, buildings, or structures; lot orientation; or other factors beyond the applicant's control.

d. The property must meet the requirements of Sec. 9.1 (Tree Protection~~Tree Protection~~).

P. Storage Shed, Workshop

1. Definition

A storage shed or workshop that is accessory to a single-family dwelling and that is not attached to said dwelling. The term specifically excludes greenhouses.

2. Use Standards

A storage shed or workshop is allowed in a side yard if it meets the following:

a. Has the same exterior material, material orientation, and color as the primary single-family dwelling, unless it is screened from view of the street by evergreen landscaping, opaque fences or walls, topography, other structures, or any combination of these; and

b. Meets all other requirements of Sec. 6.8.1.B (Rules for Accessory Uses and Structures in Residential Zoning Districts).

Q. Swimming Pool, Hot Tub, Spa

1. Use Standards

a. Structures must meet the following setbacks:

i. Interior side lot line: 12.5' min.

ii. Side street: no closer to the adjoining road than the principal structure.

iii. Rear setback (regular lot): 15' min.

iv. Rear setback (through lot): 50' min.

v. Lake setback: 40' min.

b. Structures may not exceed 15 inches in height above ground on at least two sides.

Sec. 6.9. Temporary Uses

6.9.1. Definitions and Standards

A. Active Construction Structure

1. **Definition**

   A temporary structure for active construction projects. Typical examples include construction offices, portable toilets, security fencing, scaffolding, cranes, concrete mixers, storage sheds, and similar structures that are only on the premises until completion of construction.

2. **Use Standards**

   a. When construction requires a certificate of occupancy, all active construction structures must be removed no more than 30 days after issuance of a certificate of occupancy for the principal building or use on the site.

   b. When the construction does not require a certificate of occupancy, all active construction structures must be removed no more than 30 days after completion of work or 30 days after the expiration of the applicable building permit, whichever occurs first.

B. Temporary Outdoor Assembly

1. **Definition**

   A temporary outdoor gathering of people for entertainment, recreation, civic, cultural, religious, or similar activities. The primary purpose of the activity is the gathering of people, although incidental sales of food, beverages, or merchandise may occur. Typical examples include festivals, concerts, performances, rallies, ceremonies, fairs, or similar events.

2. **Use standards**

   a. The minimum lot size is 1 acre.

   b. The duration of an assembly may not exceed 5 consecutive days.

   c. Temporary outdoor assemblies on a particular lot may not occur more than four times per calendar year.

C. Temporary Outdoor Sale

1. **Definition**

   A temporary outdoor display and sale of goods, products, or merchandise. The primary purpose of the activity is the sale of goods. Typical examples include farmers markets, sidewalk sales, craft markets, plant sales, or similar activities.

2. **Use Standards**

   a. **Residential Zoning Districts**

      i. The minimum lot size is 1 acre.

ii. The duration of the sale may not exceed 120 days per calendar year.

iii. Operating hours, including set-up, break-down, and clean-up, are limited to no more than 5 hours a day once a week and must occur between 7:00 a.m. and 9:00 p.m.

iv. Vendor booths must be at least 50 feet from the lot line of all properties zoned or used for residential purposes.

v. Vendor booths must be set up and taken down on the day that the sale operates.

vi. At least 2 off-street parking spaces per vendor booth are required. Parking must be accommodated on-site on a paved surface or off-site through a shuttle service.

vii. A site plan, drawn to scale, must be submitted indicating the location of vendor booths and off-street parking.

viii. The event manager/organizer must obtain a City business license/occupation tax certificate before beginning operation.

ix. The use requires a temporary permit from City Council. Requests for permits must be made on applications available in the office of the Director. Permits expire on December 31 of the year in which they were issued.

b. Nonresidential Zoning Districts

i. The minimum lot size is 1 acre.

ii. The duration of the sale may not exceed 5 consecutive days.

iii. Temporary outdoor sales on a particular property may not occur more than four times per calendar year.

iv. Only one temporary outdoor sale is allowed on the lot at a time.

v. Temporary outdoor sales are not allowed on vacant lots.

vi. Temporary outdoor sales must be at least 100 feet from the lot line of all properties zoned or used for residential purposes.

vii. A site plan, drawn to scale, must be submitted indicating the location of and configuration of the activity.

D. Temporary Seasonal Sale

1. Definition

The temporary outdoor sale of goods associated with a season of the year or with a calendar holiday or event, including seasonal cut trees, seasonal produce, seasonal plants and greenery, festive markets, and comparable goods offered upon a seasonal basis. The term excludes the outdoor sale of consumer fireworks.

2. Use Standards

a. The minimum lot size is 1 acre.

b. On lots less than 5 acres in size, only one seasonal sale is allowed at a time.

c. Seasonal sales on a particular property may not occur more than four times per calendar year.

d. Duration

i. The duration of a seasonal sale may not exceed 30 consecutive days, except as provided in "ii" immediately below.

ii. The duration of a seasonal sale may not exceed 60 consecutive days where the applicant demonstrates that the goods sold consist substantially of perishable agricultural products, including cut trees, greenery, produce, or live plants, the availability of which is confined to a limited season; and

e. Seasonal sales must be at least 100 feet from the lot line of all properties zoned or used for residential purposes.

f. A site plan, drawn to scale, must be submitted indicating the location of and configuration of the activity.

E. Yard/Garage Sales

1. Definition

A sale of personal belongings or household effects held at a person's home, usually in the garage or front yard.

2. Use Standards

a. The duration of the sale may not exceed 48 hours.

b. Yard sales on a particular property may not occur more than twice per calendar year.

Article 7. Site Development

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Article 7. Site Development~~Site Development~~

Sec. 7.1. Parking and Loading

7.1.1. Applicability

A. **New Construction**

Any new building or use must comply with the parking and loading requirements of this UDO.

B. **Maintenance and Repair**

An existing building or use may be repaired, maintained, or modernized without providing additional parking and loading if there is no increase in a building's floor area or a use's improved site area.

C. **Additions**

When an existing building or use is increased in floor area by more than 200 square feet cumulatively, parking and loading are only required for the additional floor area.

D. **Change in Use**

1. A change in use based on the use table in Sec. 6.1 (Use Table) must comply with the parking and loading requirements, unless the new use has the same or a lesser requirement than the previous use.
2. When the number of parking or loading spaces required for a new use is 125% or less of the parking or loading spaces required for an existing use, no additional parking or loading spaces are required.
3. When the number of parking or loading spaces required for a new use exceeds 125% of the required parking or loading spaces for an existing use, additional parking and loading are only required for the difference between the current number of spaces required and the number of spaces required for the new use.

7.1.2. Parking Requirements

A. Calculation of Required Parking Spaces

1. Parking spaces must be provided as specified in Sec. 7.1.2.B. Where a use is not specifically listed or only a broad use category is shown, the Director must categorize the use in accordance with Sec. 6.2.2 (Classification of Uses).
2. When a property or establishment is used for a combination of principal uses, the parking requirements are the sum of the requirements for each use, and no parking space for one use may be included in the calculation of parking requirements for any other use, except as allowed in Sec. 7.1.3.C (Shared Parking). When the area of each use cannot be determined, the highest vehicle parking requirement of any individual use will apply to the combined area of all uses.

3. In determining the required number of parking spaces, fractional spaces are rounded to the nearest whole number, with one-half or more counted as an additional space.
4. Unless otherwise noted, the parking requirement is based on the floor area of the building devoted to the particular use specified.

B. Required Vehicle Parking Spaces

1. Unless specifically otherwise stated in this parking and loading Section, vehicle parking spaces must be provided as specified in Table 7.1.B.
2. Alternative parking requirements apply to shopping centers (see Sec. 7.1.2.C).

Table 7.1.B Vehicle Parking Requirements

Use	Vehicle Parking (min.)
Residential Uses	
All household living:	2 per unit
Group living, as listed below:	
General supervised group living:	0.5 per bedroom or bed
Maternity supportive housing:	2 per unit
Public and Institutional Uses	
All civic, except as listed below:	1 per 4 seats in main assembly room (with fixed seating), or 1 per 200 sf. in main assembly room (with no fixed seating)
Public use:	None
Private education, as listed below:	
General private education	3 per classroom
Commercial school:	1 per 300 sf.
Day care center:	1 per 500 sf.
All utilities:	None
Commercial Uses	
All adult establishments:	See the most similar non-adult establishment use
All entertainment and recreation, except as listed below:	1 per 4 seats in main assembly room (with fixed seating), or 1 per 200 sf. in main assembly room (with no fixed seating)
General outdoor recreation and entertainment	1 per 500 sf. of building area + 1 per 2,000 sf. of outdoor use area
All food and beverage:	1 per 300 sf.
All lodging:	1 per guest room + as required for restaurants, convention halls or event facilities
All medical, except as listed below:	1 per 500 sf.
Hospital	2 per bed

Use	Vehicle Parking (min.)
All office:	1 per 500 sf.
All personal service, except as listed below:	1 per 500 sf.
Funeral home	1 per 4 seats in main assembly room (with fixed seating), or 1 per 200 sf. in main assembly room (with no fixed seating)
All retail:	1 per 500 sf.
All vehicle sales and service:	1 per 500 sf.
All wholesale trade:	1 per 2,000 sf.
Industrial Uses	
All industrial and manufacturing:	1 per 2,000 sf.
All warehouse and distribution:	1 per 2,000 sf.
Accessory Uses	
Accessory dwelling unit	1 per unit

C. Shopping Centers

1. Shopping centers must conform to these requirements instead of Table 6.1.B.
2. Shopping centers must provide at least 1 vehicle parking space per 400 square feet of floor area.

7.1.3. Location of Parking

A. On-Site Parking Required

Required vehicle parking spaces must be located on the same lot or site that they are intended to serve, except as provided below.

B. On-Street Parking

1. Where legal on-street parking spaces exist in the public or private street right-of-way, one on-street parking space may be substituted for each one required on-site parking space, provided the on-street space immediately abuts the subject property.
2. Each on-street parking space may only be counted for one property. Where a space straddles an extension of a lot line, the space may only be counted by the owner whose property abuts 50% or more of the on-street parking space.
3. The Director may determine that to ensure future roadway capacity, the on-street parking credit is not available.

C. Shared Parking

1. When two uses have different peak attendance hours or days of the week, up to 50% of the vehicle parking spaces required for use with the higher parking requirements may be shared. For example, if Use A requires 60 spaces and Use B requires 40, then 30 of Use A's required spaces may be shared with Use B.

2. All uses utilizing shared parking must be on the same site, unless remote parking is utilized as specified in Sec. 7.1.3.D below.

D. Remote Parking

1. Required vehicle parking may be located off-site with approval of a special use permit, provided the remote parking spaces are located within 400 feet of the primary entrance of the use served and are located within the same or more intense zoning district as the use served.
2. Applications for remote parking must submit the following:
   a. A to-scale map indicating the location of all proposed parking spaces;
   b. Written notarized consent of all property owners agreeing to the remote parking; and
   c. Lease or use agreements.
3. Lease or use agreements must be for a term of at least 1 year to serve the use or uses proposed to be satisfied by the off-site parking. Each year the use is renewed (as shown by the renewed application for a business license), the applicant for the business license must show a current agreement for at least 1 year for the necessary off-site parking. Lack of a current agreement will automatically terminate remote parking authorization and the use's business license.
4. The distances referred to above are measured by the most direct route of travel on the ground and are measured in the following manner:
   a. From the front door of the principal structure on the applicant's property;
   b. In a straight line to the nearest sidewalk, street, road, or highway;
   c. Along a sidewalk, walkway, street, road, or highway by the nearest route; and
   d. To the edge of the off-site parking area to be used to meet parking requirements.

E. Parking in Front and Side Street Yards

Parking must meet the standards specified in Sec. 7.1.9 (Restriction on Parking and Loading in Front and Side Street Yards~~Restriction on Parking and Loading in Front and Side Street Yards~~).

7.1.4. Accessible Parking

A. General Provisions

1. Accessible vehicle parking spaces must be provided in accordance with the requirements of the Americans with Disabilities Act (ADA) (Public Law 101-336), the State Building Code, and the American National Standards Institute.
2. The minimum required number of on-site accessible spaces is as provided below. Accessible spaces count toward the requirements of Sec. 7.1.2.B.

Total Vehicle Parking Requirement	Accessible Spaces Required
Up to 25	1 min.
26—50	2 min.
51—75	3 min.
76—100	4 min.

101—150	5 min.
151—200	6 min.
201—300	7 min.
301—400	8 min.
401—500	9 min.
501+	2% of total required min.

B. Location

Accessible parking spaces serving a specific building must be located on the shortest accessible route of travel from the parking area to an accessible entrance. In parking facilities that do not serve a specific building, or in buildings with multiple entrances, accessible parking must be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.

C. Signs

Accessible parking spaces must be designated as reserved by a sign showing the symbol of accessibility. These signs must be located so that they cannot be obscured by a vehicle parked in the space.

D. Design

See Sec. 7.1.5.E (Accessible Parking Space Layout and Design~~Accessible Parking Space Layout and Design~~).

7.1.5. Parking Layout and Design

A. Access

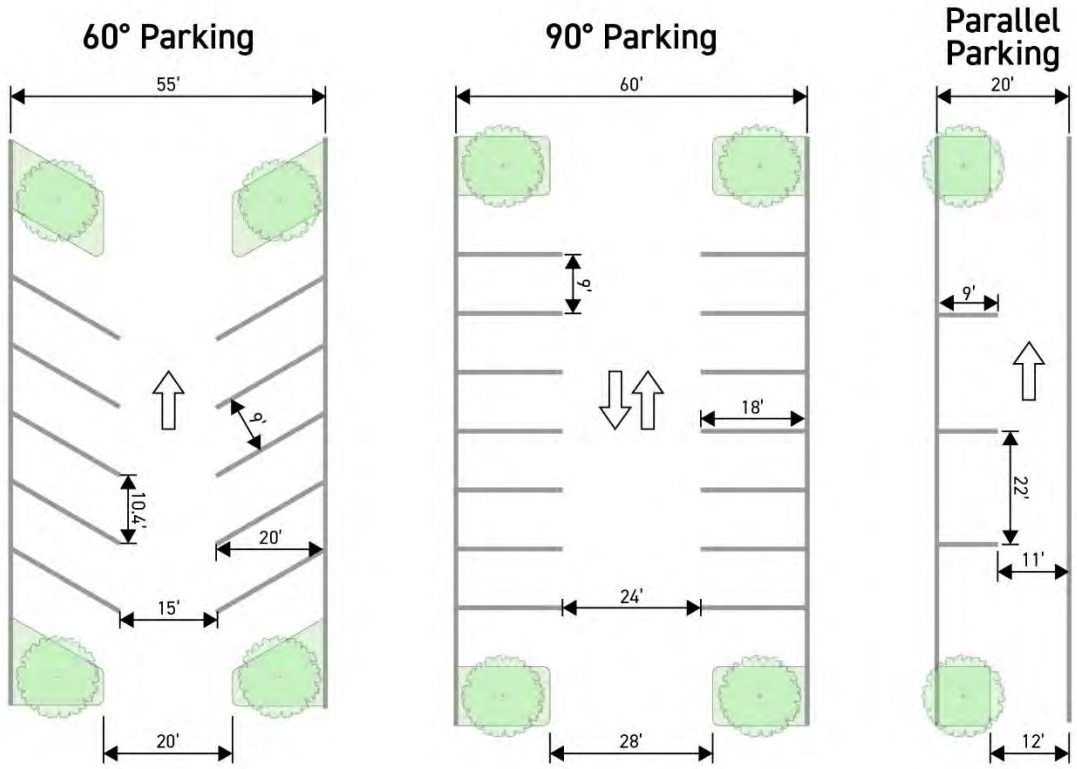
1. On-site parking must be arranged so that no vehicle is forced to back out onto a public street or forced to use a public street to gain access from one parking aisle to another parking aisle.
2. Interior driveways must connect each parking space with a public right-of-way.
3. See Sec. 8.3.3 (Vehicular Access~~Vehicular Access~~) and 8.3.4.F (Additional Standards along Arterials~~Additional Standards along Arterials~~).

B. Corner Sight Distance along Arterials

1. All driveways approaching an arterial must provide adequate corner sight distance. The minimum corner sight distance from the driveway must equal or exceed the standards of AASHTO's "Policy on Geometric Design of Highways and Streets," chapter 9 (at-grade intersections). The sight distance must provide clear visibility of an object 4 feet above the intersecting street viewed from the centerline of the driveway at the right-of-way line of the intersecting street, at a height of 3.5 feet above the ground.
2. See Sec. 2.5 (Visibility Triangle~~Visibility Triangle~~) for additional requirements.

C. Standard Driveway and Parking Space Dimensions

1. Standard driveways and parking spaces must meet the dimensions shown below:



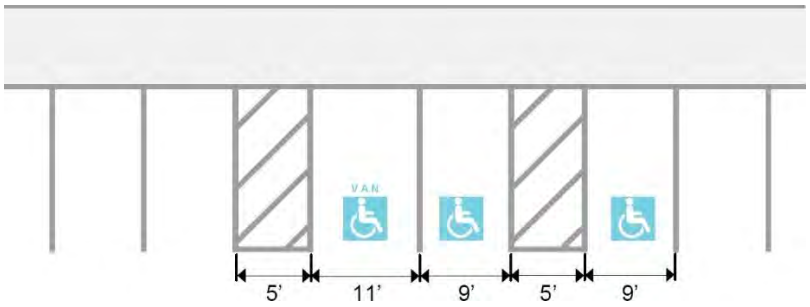
2. Tandem parking spaces are also allowed, but such spaces may not count toward the requirements of Sec. 7.1.2.B unless associated with valet parking or residential uses.

D. Compact Parking

1. Compact car parking spaces may be used instead of standard parking spaces. The total number of compact car parking spaces may not exceed 25% of the total number of provided parking spaces.
2. Compact spaces may be reduced to 8 feet in width and 16 feet in depth.
3. Compact parking spaces must be clearly and visibly striped and labeled for compact cars only.

E. Accessible Parking Space Layout and Design

1. Accessible parking spaces must be at least 9 feet wide with a minimum 5-foot-wide access aisle.
2. Accessible van spaces must be at least 11 feet wide with a minimum 5-foot-wide access aisle.
3. Parking access aisles must be part of an accessible route to the building or facility entrance.
4. Two adjacent accessible parking spaces may share a common access aisle.



F. Surfacing and Lighting

The following standards apply to parking and driveways for all uses, except single-family and two-family dwellings in residential districts, which must conform to Sec. 7.1.6 (Residential Driveway and Parking Runoff Control).

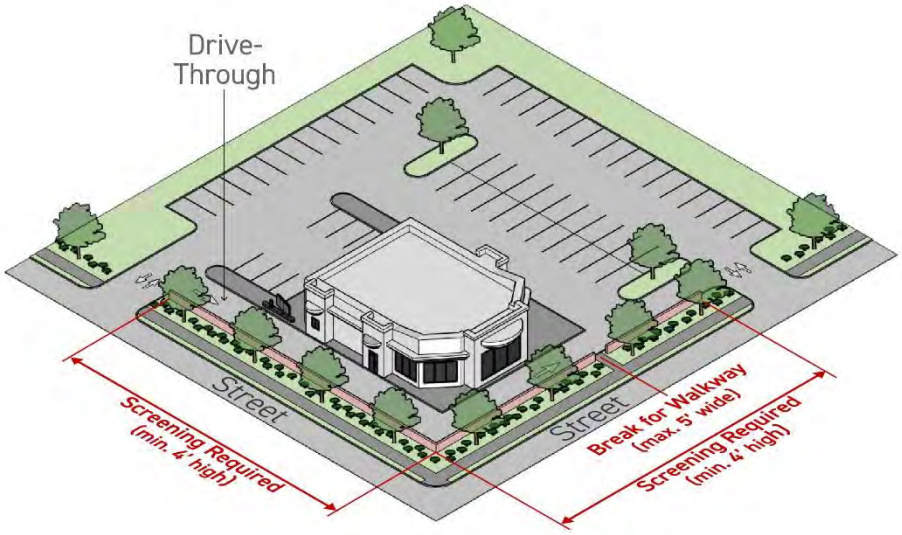
1. Off-street parking spaces, access, and driveways must be paved with asphalt, concrete, or pavers. The Director may approve alternative pervious paving systems when the applicant demonstrates that the paving system is suitable for the application and will be installed and maintained according to the manufacturer's specifications.
2. Vehicles may only be parked on a surface that is specified in Sec. 7.1.5.F.1 above.
3. If the off-street parking facilities are used at night, they must be properly illuminated for the safety of pedestrians, vehicles, and security. The lighting may not reflect onto or cause glare in any adjacent residential district and must conform with Sec. 7.4 (Outdoor Lighting).

G. Drive-Throughs

1. A driveway and stacking lane at least 10 feet wide is required for any drive-through.
2. A vehicular circulation study prepared by an engineer licensed in Georgia must be submitted to the Director before permits are issued. The plan must demonstrate that the proposed drive-through will not:
   a. Generate vehicle stacking in a public street;
   b. Block access to and from parking spaces; and
   c. Otherwise constitute a threat to public safety on- or off-premises.

   The Director must review the study and either accept its findings or require site plan modifications necessary to protect the public health, safety, and general welfare. The Director may retain a third-party engineer licensed in Georgia to assist in making this determination.
3. Drive-through windows and lanes may not be located between a building and the closest public street (not including an alley).
4. Where drive-through windows and lanes are allowed (by variance or otherwise) between a public street (not including an alley) and the associated building, the entire length of the drive-through lane, including but not limited to menu boards, stacking lanes, trash receptacles, ordering box, drive-up windows, and other objects associated with the drive-through must be screened. One break in the screening up to 5 feet wide is allowed per street for walkway access to the building.

5. Drive-through screening must be a continuous compact evergreen hedge. At the time of installation, the screening must be at least 3 feet in height and reach a height of 4 feet within 3 years of planting.
6. In lieu of the compact evergreen hedge, a screening wall with a minimum height of 4 feet may be installed. The wall must be faced in brick; stone; cast-stone; or true hard coat stucco.



7.1.6. Residential Driveway and Parking Runoff Control

The following standards apply to single-family and two-family dwellings in residential districts:

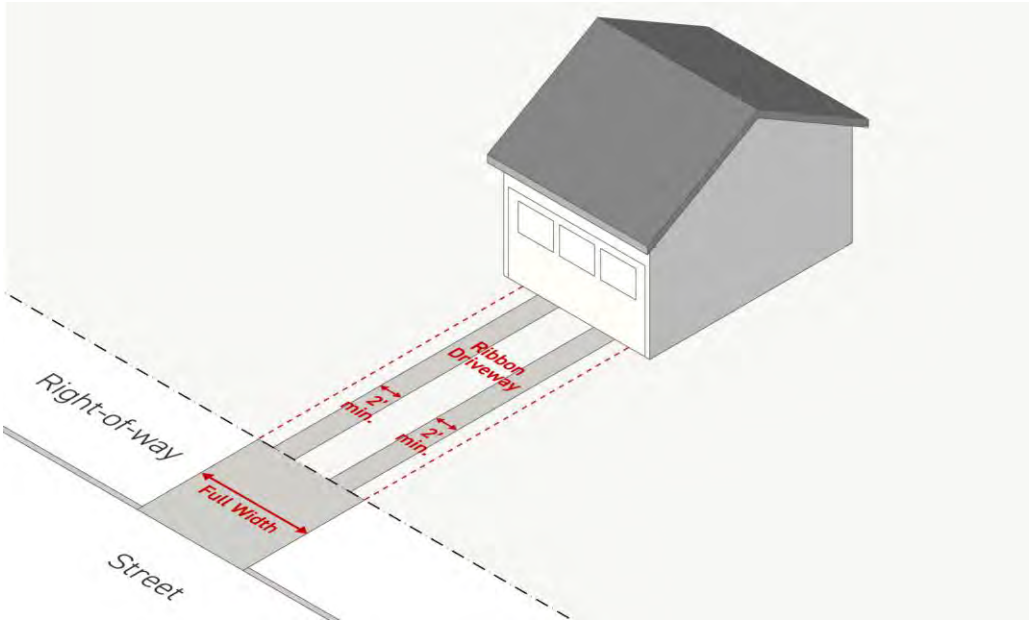
A. Surfacing and Stabilization

1. Driveways must be paved with asphalt, concrete, or pavers. The Director may approve alternative pervious paving systems when the applicant demonstrates that the paving system is suitable for the application and will be installed and maintained according to the manufacturer's specifications.
2. Vehicles may only be parked on a surface that is specified in Sec. 7.1.6.A.1 above.
3. Adjoining unpaved areas must be stabilized in accordance with Sec. 7.3.1.E.3. This includes stabilizing all banks and slopes to prevent erosion, siltation, and sediment in runoff water. Stabilization must occur immediately after grading is completed.

B. Ribbon Driveways

A ribbon driveway is allowed as an alternative to a fully paved driveway, as follows:

1. The paved strips in a ribbon driveway must be at least 2 feet in width.
2. Within the right-of-way, the driveway must be fully paved along its total width.



C. Stormwater Discharge Control

1. This Paragraph "C" applies to driveways sloping toward any of these roads: Bayway Circle, South Berkeley Lake Road, North Berkeley Lake Road, Lakeshore Drive, Ridge Road, Little Ridge Road, Hilltop Lane, Lakeview Lane, or Valley View Lane.
2. Driveways must control the discharge of stormwater runoff into rights-of-way by either:
    a. Curving the driveway in such a manner that most of the runoff is directed onto grassed or landscaped areas, or
    b. Providing structures such as humps in the driveway to divert the stormwater runoff onto grassed or landscaped areas; or
    c. Equipping the driveway with a covered catch basin with a grate having an opening of at least 6 inches. The grate must be traffic load rated and be removable for maintenance.

7.1.7. Prohibited Uses of Parking

The following are prohibited in required off-street parking areas:

A. The display for sale of all types of vehicles except for private individuals selling one personal vehicle from a residence or a licensed dealership.

B. The display, storage, or sale of any goods or merchandise, except when in compliance with Article 6 (Use Provisions).

C. Motor vehicle repair except for temporary repair to make the vehicle operable to move off-site.

7.1.8. Vehicle Loading

A. Loading Not Required

On-site loading spaces are not required.

B. Location

If a loading area is provided, it must meet the following:

1. Except for areas specifically designated by the City, loading and unloading activities are not permitted in a public street, not including an alley.
2. Loading and unloading activities may not encroach on or interfere with the use of sidewalks, drive aisles, stacking areas and parking areas by vehicles, bicycles, or pedestrians.
3. Loading must meet the standards specified in Sec. 7.1.9 (Restriction on Parking and Loading in Front and Side Street Yards~~Restriction on Parking and Loading in Front and Side Street Yards~~).

C. Screening

If an off-street loading area is provided, it must meet the following:

1. Where a loading dock is placed between a public or private street (not including an alley) or a shared lot line and the associated building, the entire length of the loading area must be screened.
2. Screening must consist of an 8-foot-high wall compatible with the principal building in terms of texture, quality, material, and color, except as provided in Sub-paragraph 3 below.
3. The Director may grant an administrative variance to allow evergreen plant material in lieu of an 8-foot high wall if a landscape plan is submitted demonstrating that said plant material will provide an equal or greater level of screening (within 3 years of planting) and includes adequate long-term maintenance provisions.

D. Design

If an off-street loading area is provided, it must meet the following:

1. Each loading stall must be a minimum of 10 feet wide and 30 feet in length, unless the applicant submits evidence that a shorter stall will accommodate the anticipated loading vehicle, subject to approval of the Director.
2. All off-street loading stalls must have access from an alley, or if there is no alley, from a public or private street.
3. All off-street loading stalls and access must be provided with a paved, dust-free surface.

7.1.9. Restriction on Parking and Loading in Front and Side Street Yards

A. Zoning District Restrictions

Parking and vehicular loading are not allowed in a front yard or side street yard when specified for parking in zoning district regulations, except as specified below for authorized driveways.

B. Exception for Driveways

When a zoning district prohibits parking in a front yard or side street yard, the prohibition does not apply to:

1. Driveways that pass through the yard perpendicular to the adjacent roadway, provided such driveways do not exceed the maximum widths specified in Sec. 8.3.4.E (Driveway Design~~Driveway Design~~).

Sec. 7.2. Buffers and Screening

7.2.1. Permanent Buffers

A. Buffer Requirements

A permanent buffer is required as follows:

1. Specific uses must provide buffers as specified in Article 6 (Use Provisions).
2. Conditions of zoning, special use permit, or variance approval must provide buffers, as applicable.
3. New projects must provide a buffer along lot lines that abut another zoning district as specified in the following table:

Number = Buffer required with indicated min. width -- = Buffer not required									
New Project Zoning	**Existing Adjacent District**								
	R-1	**R-2**	**R-3**	**C-1**	**C-2**	**O-I**	**MX-1**	**MX-2**	**M-1**
R-1	--	--	--	--	--	--	--	--	--
R-2	25’	--	--	--	--	--	--	--	
R-3	25’	25’		--	--	--	--	--	--
C-1	75’	50’	50’	--	--	--	--	--	--
C-2	75’	50’	50’	--	--	--	--	--	--
O-I	75’	50’	50’	--	--	--	--	--	--
MX-1	75’	50’	50’	--	--	--	--	--	--
MX-2	75’	50’	25’	--	--	--	--	--	--
M-1	75’	75’	75’	50’	50’	50’	75’	75’	--

B. Buffer Standards

1. Buffers must be natural, undisturbed, and free of encroachments except as authorized by a condition of zoning, special use, variance approval, or as otherwise provided in this UDO, and must contain the existing tree cover and vegetation as well as any supplemental plantings or replanting as may be required.
2. Buffers must be of such nature and vegetative density so as to screen activities, structures and uses on the property from view from the normal level of a ground story window on an abutting lot and must further provide a year-round effective visual screen.
3. Buffers required along side interior and rear lot lines must extend to a street right-of-way line unless otherwise required in Sec. 2.5 (Visibility Triangle), or as authorized by a condition of zoning, special use, or variance approval.
4. When the buffer is partially or completely within an existing easement (e.g. power or natural gas transmission, etc.), the screening requirements must be met outside the easement area.

C. Supplemental Plantings

1. Buffers in which vegetation is non-existent or is inadequate to meet the screening requirements of Sec. 7.2.1.B must be planted with supplemental plantings so as to provide a year-round effective visual screen.
2. In addition to the plant materials requirements of Sec. 7.3.1, supplemental plantings and replantings in buffers must meet the following requirements:
    a. Supplemental plantings and replantings must consist of a combination of evergreen and deciduous trees and shrubs. Evergreen trees must be a species which will achieve a height of at least 20 feet at maturity. Tree species must be from one of the City-maintained tree lists. All shrubs must be a species which will achieve a height of at least 10 feet at maturity.
    b. No more than 35% of supplemental plantings and replantings may be the same genus. Calculations are required on the tree preservation/tree replacement plan.
    c. Leyland Cypress (*Cupressus x leylandii*) may be used in supplemental plantings in permanent buffers for screening purposes but may not exceed 35% of total buffer trees. Leyland Cypress is not allowed to fulfill regulatory density requirements.

D. Non-Vegetative Screening

1. Non-vegetative materials used to satisfy the buffer standards of Sec. 7.2.1.B, in addition to the use of existing vegetation or supplemental plantings, may consist of walls, fences, earthen berms, or any combination thereof.
2. If walls or fences are used, they:
    a. Must be at least 6 feet high;
    b. Must be placed and installed to cause minimal disturbance of existing vegetation;
    c. Must provide an effective visual screen; and
    d. Must meet the standards specified in Sec. 2.4 (Walls and Fences~~Walls and Fences~~).
3. Non-vegetative screenings do not take the place of required vegetative buffers but are only intended to supplement planted permanent buffers.

E. Disturbance or Encroachments

1. Ditches, swales, stormwater conveyance facilities, stormwater detention ponds, sanitary sewer conveyance facilities, similar facilities, and any associated easements, may not encroach into a permanent buffer except that necessary access and utility crossings (e.g. stormwater or sanitary sewer pipes) may encroach into the buffer as near to perpendicular as practical.
2. Supplemental plantings or replantings of vegetation or authorized non-vegetative screening devices may encroach into a permanent buffer provided there is minimal disturbance of any significant existing vegetation.

3. Land disturbance is authorized in areas of a permanent buffer that are devoid of significant vegetation provided that the final grade and replantings of vegetation meet the screening requirements of Sec. 7.2.1.B.
4. Dying, diseased, noxious (including non-native, invasive vegetation), or dead vegetation may be removed from a permanent buffer provided minimal disturbance occurs and written authorization has been given by the Director. Vegetation thus removed must be replaced where necessary to meet the screening requirements of Sec. 7.2.1.B.
5. Structures, impervious surfaces, vegetable gardens, furniture, swing sets and play equipment may not encroach into a buffer, except as approved by variance. Approval must be contingent upon a finding that the encroachment will blend in with the natural surroundings and preserve the integrity of the visual screen provided by the buffer.

F. Protection During Land Disturbing Activities

1. During authorized land disturbing activities, permanent buffers must be clearly demarcated and protected before commencement of, and during, construction.
2. The method of demarcation and protection utilized must be in accordance with the approved tree preservation/replacement plan, or, where no plan was required, with best management practices, or as required by the Director.

G. Relief

A variance from these permanent buffer requirements may be approved when it can be demonstrated that the screening is not needed for the protection of surrounding residential uses because of intervening drainage ways, or other factors such as natural growth of sufficient height and density to serve the same purpose as the required screening buffer.

7.2.2. Construction Buffers

A. Construction Buffer Requirements

Construction buffers are only required where specifically provided as a condition of zoning, special use, or variance approval.

B. Time Constraints

Construction buffers are only required during the construction period of a project. In the case of a residential subdivision, a construction buffer will terminate upon each individual lot with the issuance of a certificate of occupancy for the principal dwelling.

C. **Disturbance or Encroachments**

1. Construction buffers must be natural, undisturbed, and free of encroachments except as authorized by a condition of zoning, special use or variance approval, or as authorized in this Sub-section.
2. The encroachment of ditches, swales, stormwater conveyance facilities, stormwater detention ponds, sediment basins, sanitary sewer conveyance facilities, similar facilities, and any

associated easement, into a construction buffer is not allowed, except that necessary access and utility crossings (e.g. stormwater or sanitary sewer pipes), and natural bottom detention ponds (sediment basins must be located outside of the construction buffer) and their appurtenant structures which require no grading and removal of trees, may encroach upon the construction buffer.

3. If the construction buffer on a residential lot is devoid of existing trees and vegetation, and a tree survey is submitted to document this situation before conducting land disturbing activities (including clearing) on the lot, then the Director may authorize the encroachment of a building or structure into the construction buffer for a distance not to exceed 10 feet.

D. Protection During Land Disturbing Activities

1. During authorized land disturbing activities, construction buffers must be clearly demarcated and protected before commencement of, and during, construction.
2. The method of demarcation and protection utilized must be in accordance with best management practices or as required by the Director.

7.2.3. Screening

A. Applicability

This Sub-section applies to all uses, except single-family and two-family dwellings.

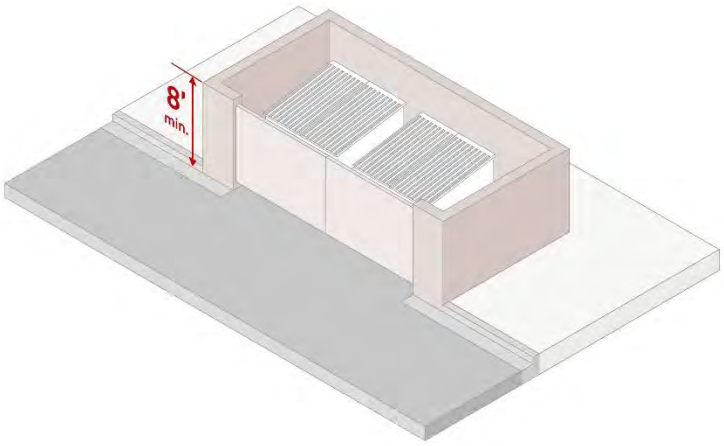
B. Outdoor Storage

Outdoor storages areas must be screened on all exposed sides by either:

1. A fence or wall that meets the following standards:
   a. Is at least 6 inches higher than the topmost point of the screened equipment; and
   b. Is at least 75% opaque.
2. A Type C landscape strip (see Sec. 7.3.2.D.3).

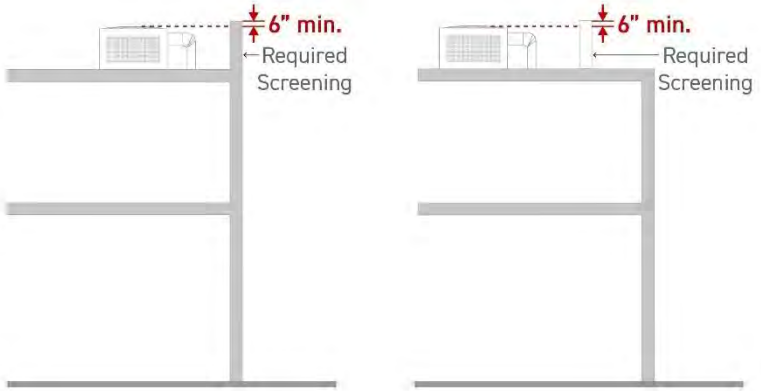
C. Waste Receptacles

1. Waste receptacles, including in-ground waste receptacles, may not be located between a street lot line and the building. Waste receptacles are only allowed in rear or side interior yards.
2. Waste receptacles must be screened vertically on three sides by a fence or wall at least 8 feet high. Access gates must be provided on the fourth side and must be at least the same height as the fence or wall.
3. The fence or wall must be opaque and must be faced in one or a combination of the following: decorative blocks; brick; stone; cast-stone; split-faced block; or true hard coat stucco.
4. The gate must be opaque, self-locking, and maintained in working order.
5. Waste receptacles for construction and debris materials are allowed for up to 30 days or with an active building permit and are exempt from screening requirements.



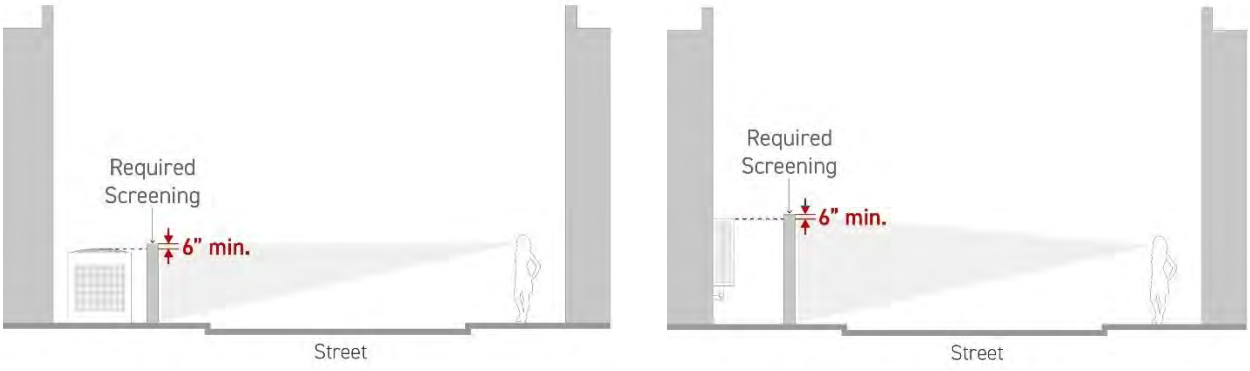
D. Roof-Mounted Equipment

1. Rooftop mechanical equipment must be screened on all sides by a parapet wall or other type of screen that is at least 6 inches higher than the topmost point of the screened equipment.
2. The screening must be at least 75% opaque.



E. Ground and Wall-Mounted Equipment

1. Equipment may not be located between a street lot line and the building. Ground equipment is only allowed in rear or side interior yards. Wall-mounted equipment is only allowed on walls facing rear or side interior yards.
2. Equipment that is otherwise visible from a street lot line must be fully screened by a fence or wall that is at least 6 inches higher than the topmost point of the screened equipment.
3. The screening must be at least 75% opaque.



F. Window-Mounted Equipment

Window mounted equipment, such as air conditioners or fans, is prohibited.

Sec. 7.3. Landscaping

7.3.1. Plant Materials

A. Applicability

Plant material requirements apply wherever landscaping or trees are required by this UDO, but they do not apply to tree replacement specified under Sec. 9.1 (Tree Protection~~Tree Protection~~).

B. General Provisions

1. Plant materials must be suited to the growing conditions of their specific planting location.
2. Plant materials must be able to survive on natural rainfall once established with no loss of health, or an irrigation system must be provided.
3. Trees must be selected from the City-maintained canopy/overstory tree list.

C. Plant Materials Not Allowed

The Director may deem any plant material inappropriate because it is an invasive species or because the plant material is not well suited for the specific planting location. The following plant materials are specifically not allowed:

1. Invasive species.
2. Columnar or fastigiate species or cultivars cannot be used to meet landscape requirements except as otherwise provided in this UDO, or unless the Director determines that site conditions are unsuitable for a broad overstory tree.
3. Larger shrub varieties can only be used to meet shrub landscape requirements and cannot be used to meet tree landscape requirements.
4. Artificial trees or plants, except that artificial turf is allowed but may count toward lot coverage as specified in Sec. 2.2.3.A.

D. Planting Size

Plant materials must conform to the minimum size or height standards in the following table and meet the standards of the American Standard for Nursery Stock (ANSI Z-60.1) at the time of planting.

Plant Materials	**Standards**	
Trees	**At Planting**	**At Maturity**
Overstory, mid-story trees	3” min. caliper [1]	30’ min. canopy spread
Understory trees	2” min. caliper [1]	15’ to 30’ min. canopy spread
Multi-stemmed trees	5 max. canes [1]	15’ to 30’ min. canopy spread
Shrubs	**At Planting**	**At Maturity**
Evergreen shrubs	18” min. height	3’ min. height
Deciduous shrubs	2’ min. height	3’ min. height
Other shrubs (evergreen)	4’ min. height	10’ max. width/8’ min. height

Table Note:

Unless approved by the Director, only trees with a mature height of less than 20 feet may be installed under overhead utility lines.

E. Installation

1. Plant material must be installed according to American National Standards Institute ANSI A300 tree care standards. This includes the removal of straps, burlap wraps, cutting of wire baskets, and proper mulch techniques.
2. All planting areas must be protected from vehicle damage by the installation of curbing or other methods approved by the Director. Alternative barrier designs which provide improved infiltration or storage of stormwater are strongly encouraged.
3. Plant materials used in and around parking lots and adjacent to public rights-of-way and pedestrian ways must have a mature height that maintains visibility at intersections and ensures pedestrian safety.
4. All planting areas must be stabilized with ground covers, organic mulch, or other materials approved by the Director to prevent soil erosion and to allow rainwater infiltration. Rubber mulch and artificial turf are not allowed.

F. Maintenance

1. Plant materials must be maintained in good and healthy condition.
2. Planting areas must be kept free of weeds and trash.
3. Plants and materials used to comply with this Section must be arranged to ensure easy access for maintenance, maintain clear sight lines, avoid encroaching on neighboring properties, and consist of species appropriate for the proposed location, taking into account any conflicts with utility easements and rights-of-way.
4. Plant materials used to comply with this Section that die or are otherwise removed must be replaced within one year of the date of their death or removal.

G. Measurement

1. All planting area measurements exclude curbing.
2. For the measurement of caliper and height, refer to “Methods of Measurement” section of the latest version of the American Standard for Nursery Stock (ANSI Z-60.1).

7.3.2. Landscape Strips

A. Applicability

1. Landscape strip standards apply to all new developments.
2. Landscape strip standards apply to existing nonresidential and multifamily developments as follows:
   a. When 50% or more of the site area is disturbed for redevelopment or improvement, landscape strip requirements apply to the entire site.

b. When less than 50% of the site area is disturbed for redevelopment or improvement, landscape strip requirements only apply to the redeveloped or improved portion of the site.

B. Landscape Strip Standards

1. These landscape strip standards apply on existing or new lots, except as otherwise specified in Sec. 7.3.2.B.3 below in the MX district.
2. Required landscape strips must be provided on lots as follows:

Use or development type Lot Line	**Required Landscape Strip** (See Sec. 7.3.3.B for parking lot standards)
All uses, except single-family, two-family	
Front lot line, side street lot line	Type A
All other lot lines	Type B
Single-family, two-family	
All lot lines along scenic corridors	Type C
All other lot lines	None

3. In the MX districts, landscape strip requirements only apply to the overall site before development and not to any existing or proposed lots within it. See Sec. 2.1.2 (Site) for site determination.
4. Scenic corridor landscape strip standards apply to single-family and two-family dwelling lot lines abutting Lakeshore Drive, Little Ridge Road, North Berkeley Lake Road, Ridge Road, and South Berkeley Lake Road.
5. Landscape strip width is measured from the lot line into the lot, except as follows:
   a. Landscape strip width is measured from the back of the sidewalk into the lot when there is insufficient right-of-way to accommodate a required sidewalk and said sidewalk must extend onto the lot.
   b. Type C strip widths may be measured differently as specified in Sec. 7.3.2.D.3.
6. When existing overhead utility lines exist in the landscape strip, the Director may determine that mid-story or understory trees are permitted under such lines.

C. Encroachments in Landscape Strips

1. Applicability

The following applies to all required landscape strips, unless otherwise noted.

2. General Provisions

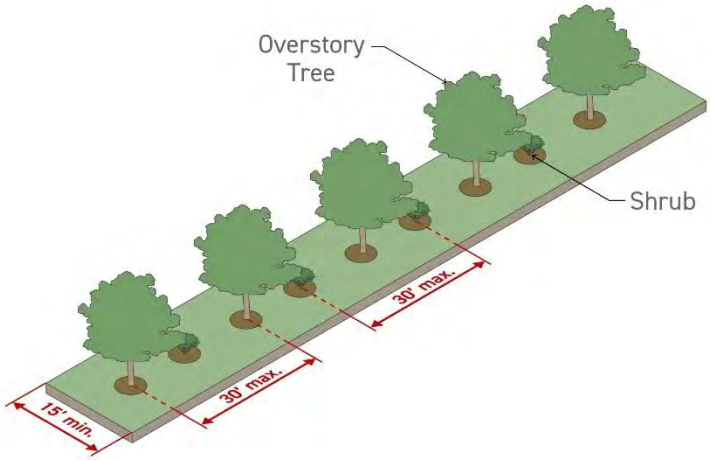
No permanent structures except walkways, walls (excluding retaining walls), and fences are allowed in landscape strips, except as otherwise provided in this UDO. This prohibition includes, but is not limited to, pavement, retaining walls, curbing, dumpsters, drainage structures, detention facilities, etc.

3. **Access**
   a. Inter-parcel access driveways and alleys are allowed in all landscape strips, except no-access landscape strips.
   b. Inter-parcel access driveways and alleys within a landscape strip may not exceed 24 feet in width and must be placed generally perpendicular to the lot line.
4. **Septic Systems**
   a. Septic systems are not allowed in landscape strips, except as specified in Sec. 7.3.2.C.4.b immediately below along scenic corridors.
   b. Along scenic corridors, individual dwelling septic systems may be allowed in the landscape strip by administrative variance if there are no other suitable locations on the lot. In reviewing the request, the Director must consider:
      i. Soils, as established through a level 3 soil analysis submitted by the applicant;
      ii. Proximity to Lake Berkeley and other bodies of water;
      iii. Existing topography and vegetation; and
      iv. Other existing features that make within the landscape strip the most suitable location.
5. **Signs**
   a. Sign locations may not conflict with the growth of trees and shrubs.
   b. Signs must be located at least 10 feet from all trees.
   c. Signs are not allowed within required permanent buffers or stream buffers.
6. **Stormwater Runoff**
   a. The deposition of stormwater runoff into or drainage swales through landscape strips is not allowed, except in conformance with Sec. 7.3.2.C.6.b immediately below.
   b. The Director may approve stormwater management practices, such as rain gardens, bio-swales, retention ponds, or detention ponds, in landscape strips, as follows:
      i. The open space containing the stormwater feature must be designed and stamped by a Landscape Architect licensed in the State of Georgia.
      ii. Stormwater features in the landscape strip must be designed as formal or natural amenities for the open space.
      iii. Exposed concrete is not allowed in the stormwater management facility. This includes concrete located in retention or detention ponds, spillways, or basins.
      iv. Stormwater features may not be fenced, walled, or enclosed by retaining walls over 30 inches in height.
   c. Drainage easements may only encroach into the landscape strip as near to perpendicular as practical. When this is not possible, the entire required landscape strip must be installed along either side of the easement.

D. Landscape Strip Type Standards

Landscape strips must comply with the following standards:

1. Type A Landscape Strip



Type A landscape strips must be at least 15 feet wide, except as otherwise allowed by "f" below, and must be landscaped as follows:

a. At least one overstory tree for each 30 linear feet of strip length is required.

b. At least one shrub for each 30 linear feet of strip length is required.

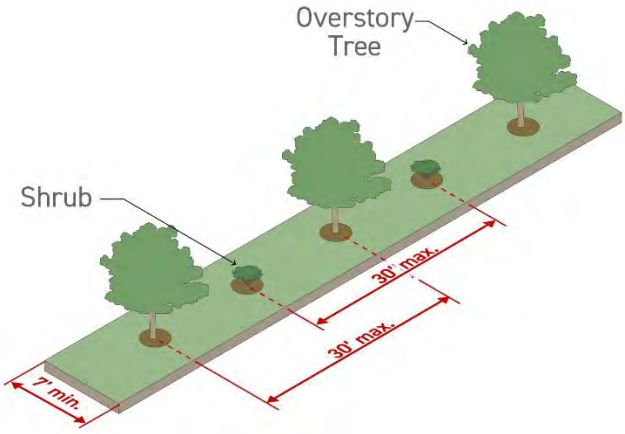
c. Tree and shrub requirements may be satisfied by preserving existing trees and shrubs, or planting new trees and shrubs, or any combination of the two.

d. New trees and shrubs may be planted and spaced singly or in groups, as authorized by the Director, as long as the total number of plantings is achieved.

e. All landscape plans for nonresidential and multifamily development must be approved in conjunction with the applicable site plan.

f. The landscape strip width is not required to be consistently 15 feet wide. Its width may vary from 5 feet to 20 feet provided the minimum required landscaped area is achieved. The minimum required landscaped area must be calculated by multiplying the width of the lot (measured at the front building setback line) by 15 feet.

2. **Type B Landscape Strip**



Type B landscape strips must be at least 7 feet wide and must be landscaped as follows:

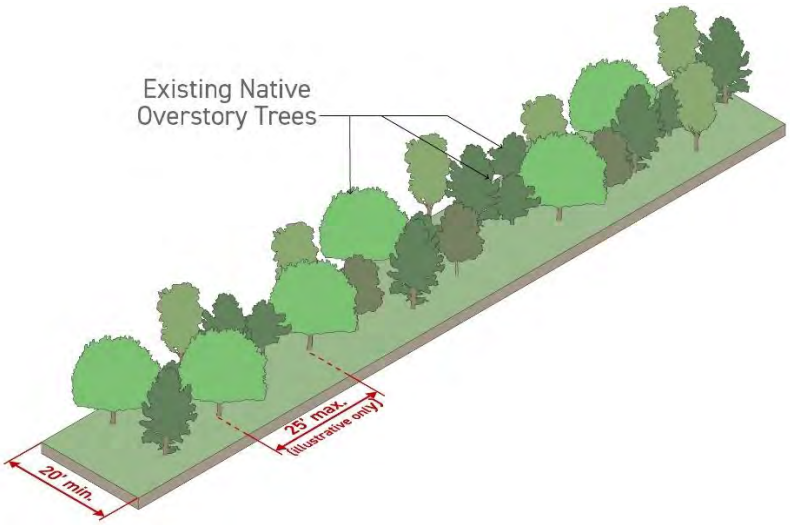
a. At least one overstory tree for each 30 linear feet of strip length is required.

b. At least one shrub for each 30 linear feet of strip length is required.

c. Tree and shrub requirements may be satisfied by preserving existing trees and shrubs, or planting new trees and shrubs, or any combination of the two.

d. Trees and shrubs may be planted and spaced singly or in groups as authorized by the Director as long as the total number of plantings is achieved.

3. **Type C Landscape Strip**



Type C landscape strips must be at least 20 feet wide and must be landscaped as follows:

a. At least one overstory tree for each 25 linear feet of strip length is required.

b. Tree requirements must be satisfied by preserving existing healthy, native trees, unless the tree is dead, diseased, or potentially dangerous, as established in Sec. 9.1 (Tree Protection~~Tree Protection~~). Any existing native understory trees and shrubs must also be preserved.

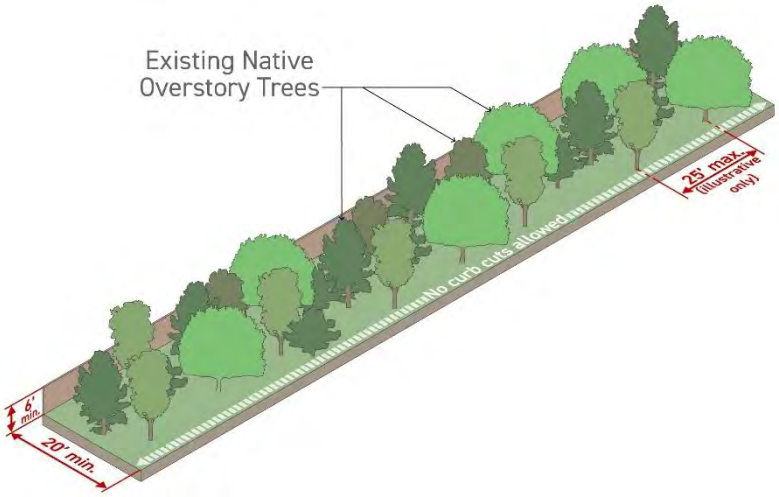
c. When existing trees are insufficient to meet the requirements of Sec. 7.3.2.D.3.a above, additional trees must be planted to satisfy the requirement.

d. Newly planted trees may be planted and spaced singly or in groups as authorized by the Director as long as the total number of plantings is achieved.

e. The line that landscape strips are measured from may be adjusted by up to 30 feet when parking along the roadway exists or is proposed.

f. Septic systems are only allowed in accordance with Sec. 7.3.2.C.4 (Septic Systems).

E. No-Access Landscape Strip



1. In new single-family and two-family dwelling subdivisions, the developer may voluntarily provide a no-access landscape strip along one or more exterior streets to avoid the creation of through lots with two front yards.
2. Driveway curb cuts are not allowed adjacent to a no-access strip, and driveways and other vehicular access areas are not allowed within one.
3. A no-access landscape strip must meet the standards of Type C landscape strips. In addition, an opaque fence at least 6 feet in height must be located within the strip.
4. When a no-access landscape strip is along a scenic corridor, the no-access strip standards will apply, not the scenic corridor standards.
5. No-access landscape strips must be completed before the recording of the final plat. If the planting cannot be completed due to climatic or related conditions, the developer or owner must enter into a performance surety agreement with the City agreeing to complete the strips within 6 months of the date of approval of the final plat.

7.3.3. Parking Lot Landscaping

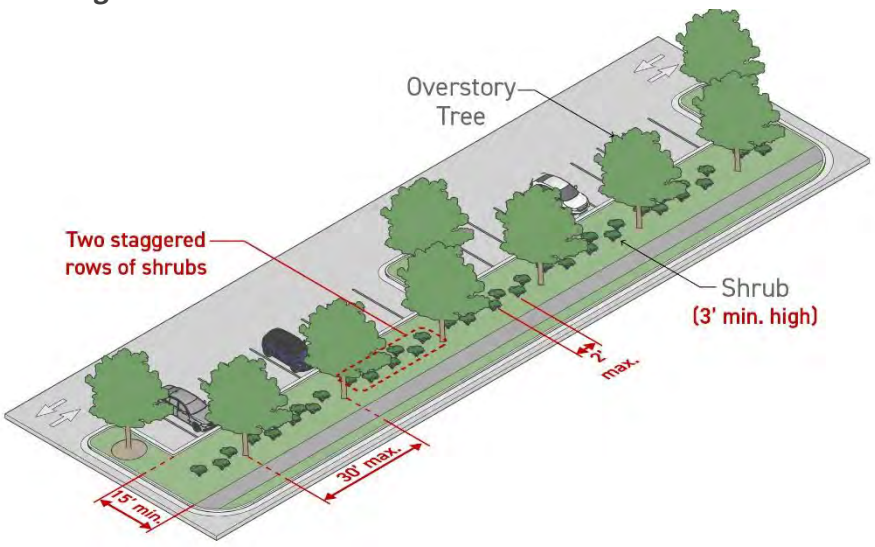
A. Applicability

Surface parking lots with 6 or more vehicle parking spaces must be landscaped as specified in this Sub-section, except as otherwise specified.

B. Perimeter Screening

All surface parking lots (of any size) abutting a public or private street must provide one of the following screening options between the surface parking lot and said street:

1. **Option 1: Hedgerow**



This option must provide a Type A landscape strip landscaped with a hedgerow in lieu of the otherwise required shrubs as follows:

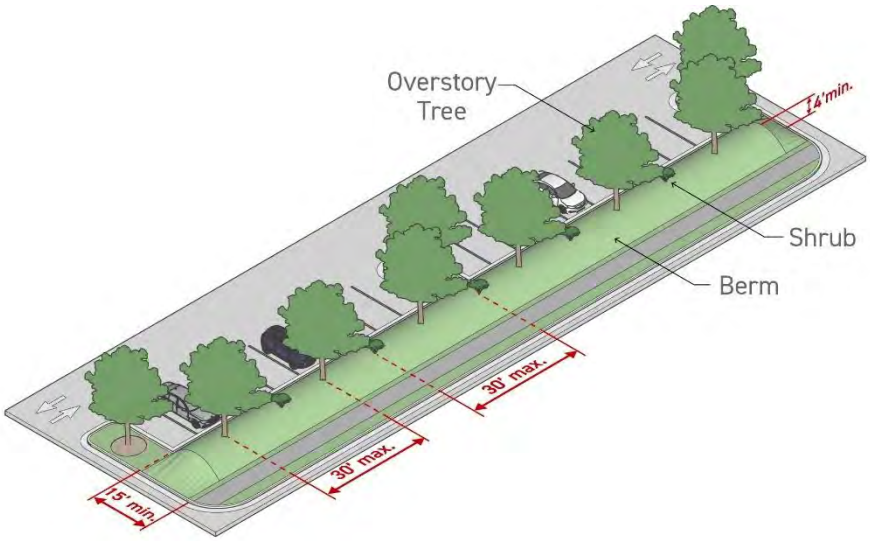
a. The hedgerow must be at least 3 feet high and designed to minimize visibility of the parking area from public rights-of-way.

b. Hedges must form a solid continuous visual screen immediately and must consist of two staggered rows of shrubs placed a maximum of 2 feet on-center.

c. Hedge plantings must be composed of evergreen species.

d. The landscape strip must otherwise be planted as specified for Type A landscape strips.

2. **Option 2: Berm**



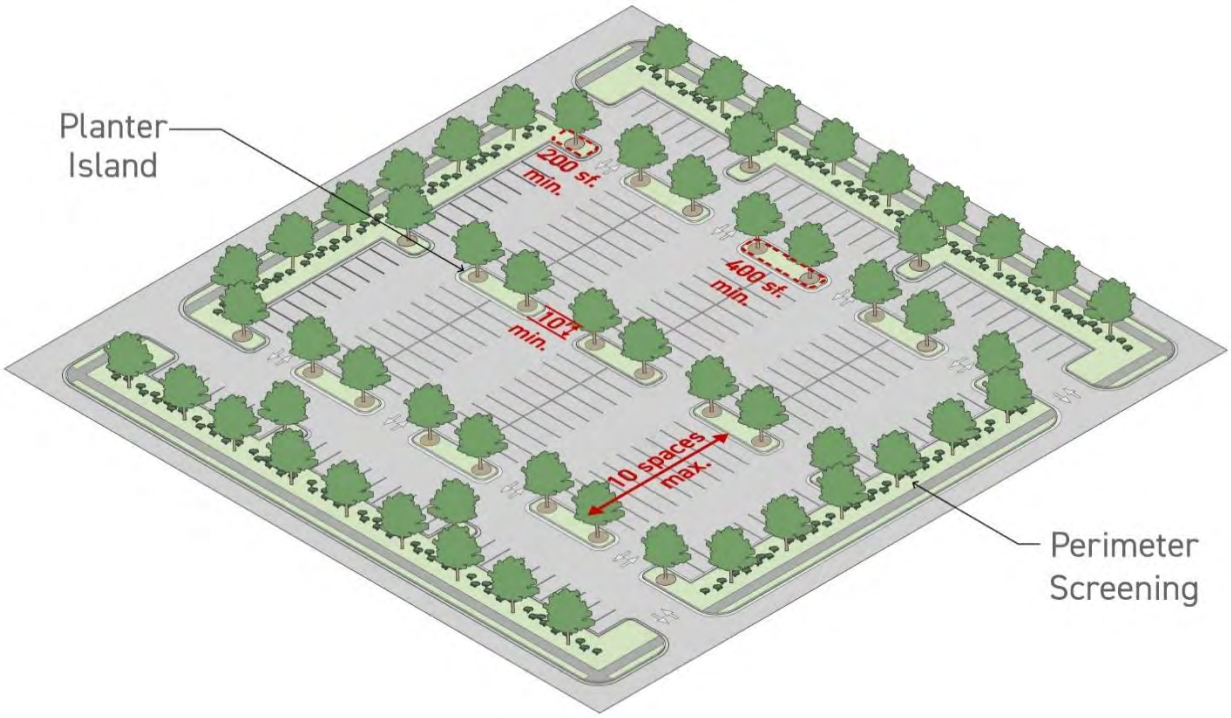
This option must provide a Type A landscape strip landscaped with a berm as follows:

a. The berm must be at least 4 feet high.

b. The landscape strip must otherwise be planted as specified for Type A landscape strips.

C. Planter Islands

1. A landscaped planter island must be provided for every 10 parking spaces in a row. Interior islands must be distributed evenly throughout the parking area.
2. Planter islands may be consolidated, or intervals may be expanded, to preserve existing trees.
3. Planter islands abutting a single row of parking spaces must have an average width of at least 10 feet and an area of at least 200 square feet. Each island must include at least one overstory tree.
4. Planter islands abutting a double row of parking spaces must have an average width of at least 10 feet and an area of at least 400 square feet. Each island must include at least two overstory trees.
5. Interior islands may be raised or may be installed below the level of the parking lot surface to allow for runoff capture.



D. Additional Parking Lot Plant Material Standards

In addition to the general requirements of Sec. 7.3.1 (Plant Materials), planter islands and perimeter screening must meet the following standards:

1. No plant materials except for trees may exceed 3 feet in height.
2. Landscape areas must be designed to prevent compaction or the effects of compaction. This may be accomplished by planting a dense shrub cover, appropriate use of structural soil, or by elevating the planting area a minimum of 1 foot above the curb.
3. When a required overstory tree is removed or has its top cut, it must be replaced with the equivalent inches of new trees, except as specified in Sec. 7.3.3.D.4 below.
4. When an ISA certified arborist or registered consulting arborist has determined, in a written report, that a required lot tree must be removed due to disease or insect infestation, the tree must be replaced in accordance with the minimum standards contained in this Sub-section.

7.3.4. Street Trees

A. Applicability

Street trees must be planted and maintained as specified in this Sub-section.

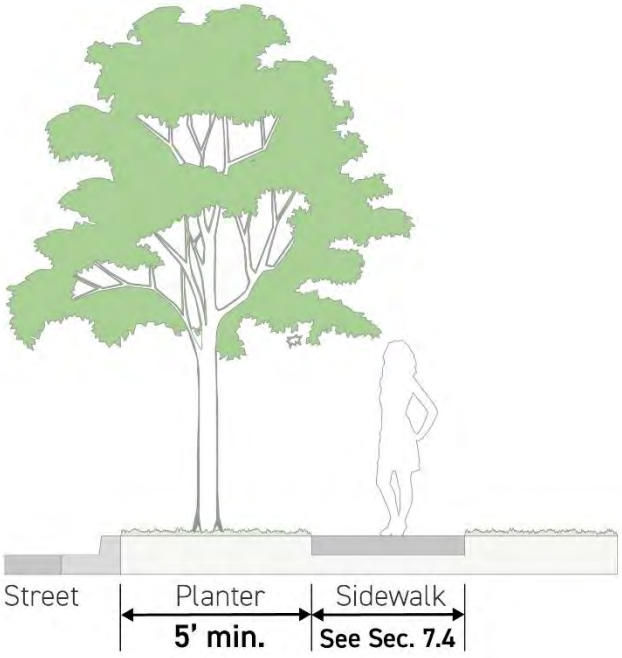
B. Street Tree Requirements

1. Street trees are required along both sides of all new streets.
2. Street trees are required in accordance with Sec. 8.4 (Streetscapes~~Streetscapes~~).

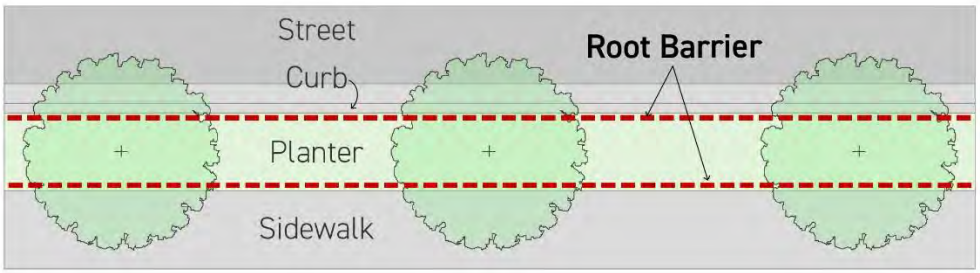
C. Street Tree Standards

1. Street trees must be planted in the planter, in accordance with the details provided in Sec. 7.3.4.D. Tree spacing may vary to accommodate driveways, utilities, and other potential conflicts, provided no street tree is planted within 25 feet of another street tree. Street trees proposed to be planted in the Gwinnett County right-of-way must be approved by the Gwinnett County Department of Transportation.
2. Street trees must be overstory trees. When street trees conflict with overhead utility lines, the Director may determine that mid-story or understory trees are permitted.
3. Street trees must be single-stemmed with a single, straight leader.
4. Street trees may count toward TDU requirements as specified in Sec. 9.1.7.E (Street Tree Incentive~~Street Tree Incentive~~).
5. Expandable plastic tree trunk protectors must be installed on each tree.
6. Street tree planting areas must have a minimum length of 8 feet and a minimum soil depth of 3 feet. Soils cannot be compacted and the surface area must be pervious.
7. Tree root barriers must be installed in a linear method in all planters along a sidewalk. The barriers must be at least 24 inches deep and must include ribs to direct root growth downward. The root barriers must be installed in accordance with the detail in Sec. 7.3.4.D.
8. Street trees must be planted before approval of a final plat or issuance of a certificate of occupancy, as applicable. If planting conditions are unsuitable at that time, the developer must provide a performance surety agreement to guarantee tree planting when conditions improve. The surety agreement must be executed before approval of a final plat or issuance of a certificate of occupancy, as applicable. The surety bond will not be released until the Director confirms that the required trees have been planted and have remained healthy for at least one year after planting.

D. Street Tree Detail Drawings







7.3.5. Landscape Plans

A. Applicability

1. Landscape plan requirements apply to areas of a site where landscaping or trees are required by this UDO, conditions of zoning, special use or variance approval, and must be approved before issuing a development permit.
2. The landscape plan must cover, at a minimum, the required landscaping or trees, but may be combined with a general landscaping plan for the entire project or tree preservation/replacement plan (if required), at the applicant's discretion.

B. Plan Requirements

1. The landscape plan must be shown on a site plan or boundary survey drawn to scale.
2. The landscape plan must contain, but is not limited to, the following:
    a. Project name and land district, land lot, and acreage.
    b. Applicant's name, phone number, and email address.
    c. The name, address, telephone number, and email address of the registered landscape architect, urban forester, or arborist responsible for preparing the plan, and the seal or statement of professional qualifications of said person (which may be attached separately). The performance of professional services in the preparation of plans required herein must comply with Georgia Law governing the practice of the applicable profession.
    d. Delineation of each buffer or other landscape area, appropriately labeled.
    e. Delineation of undisturbed buffer areas, and any other areas wherein trees are proposed to be retained to meet UDO and other City requirements, along the drip lines of the trees or groups of trees contained therein. These areas will be treated in accordance with the tree protection area requirements of this UDO and must be labeled as such. The location and details of protective barriers and signage required by this UDO must be shown.
    f. General location of all proposed trees, shrubs, vines, groundcovers, mulching, and other features. A scale sufficient to clearly indicate all details and a north arrow are also required.
    g. Within areas involving or adjacent to landform changes, existing and finish grade topographic lines at an interval of no more than 2 feet may be required.
    h. For new plant materials to be installed, a plant material list including, but not limited to:
        i. Common and botanical names of all proposed plants.
        ii. Plant quantities.
        iii. Size and condition of plants. (Example: 1" caliper, 6' height, balled and burlapped)
        iv. Spacing.

v. Remarks as necessary to ensure proper plant selection upon installation. (Example, specimen, multi-trunked).

7.3.6. Performance Surety

A. Compliance Before Certificate of Occupancy or Final Plat Approval

If the new trees proposed to be planted to achieve the tree density standards of Sec. 9.1 (Tree Protection~~Tree Protection~~), or other trees or landscape material required to be planted by this UDO, are not installed upon application for a certificate of occupancy or final plat approval as appropriate to the project, then a performance bond or other acceptable surety in an amount equal to 110% of the value of new trees or landscape materials and their installation must be posted with the city. The surety must:

1. Be drawn in favor of the City.
2. Be in a form satisfactory to the City Attorney.
3. Specify the time for the completion of the landscaping. If conditions are not suitable for planting trees at the time of final plat or certificate of occupancy, then the builder/developer must specify a time when the weather will be suitable, as agreed upon by the Director.

B. Compliance Upon Permit Completion or Expiration

Properties where a permit is issued to conduct land disturbing activities that do not require the issuance of a certificate of occupancy or the approval of a final plat, or said activities as authorized are completed or the permit expires, must comply with the tree density standards of Sec. 9.1 (Tree Protection~~Tree Protection~~) as follows:

1. **Clearing, clearing and grubbing, grading only permits.** Replacement trees proposed to be planted to achieve the tree density standards of Sec. 9.1 (Tree Protection~~Tree Protection~~) which are not planted upon completion or before expiration of a clearing, clearing and grubbing, or grading permit, must be planted within 30 days of the completion or expiration of said permit unless a performance bond is posted with the City.
2. **Development permits.** Replacement trees proposed to be planted to achieve the tree density standards of Sec. 9.1 (Tree Protection~~Tree Protection~~) which are not planted upon expiration of a development permit, must be planted within 30 days of expiration of said permit unless a performance bond is posted with the City.

Sec. 7.4. Outdoor Lighting

7.4.1. Purpose and Intent

The purpose and intent of this Section is to provide standards for outdoor lighting that will:

A. Permit reasonable uses of outdoor lighting for nighttime safety, utility, security, productivity, enjoyment, and commerce; curtail and reverse the degradation of the nighttime visual environment and the night sky;

B. Preserve the dark night sky for astronomy; minimize glare, obtrusive light and artificial sky glow by limiting outdoor lighting that is misdirected, excessive or unnecessary; and

C. Help to protect the residents and the natural environment from the damaging effects of night lighting from man-made sources.

7.4.2. Applicability

A. New Fixtures

Outdoor lighting standards apply to all exterior lighting fixtures on any lot installed after the effective date of this UDO.

B. Existing Fixtures

1. Routine maintenance, including changing the lamp, ballast, starter, photo control, fixture housing, lens and other required components, is allowed for all existing fixtures.

2. The installation of new site lighting, replacement of existing lighting, and any modifications to light fixture wattage, fixture type, mounting, or fixture location must comply with these outdoor lighting standards.

C. Exemptions

Lighting required by the state or federal government, including the Federal Aviation Administration, does not have to comply with the outdoor lighting standards.

7.4.3. Administration

A. Application Requirements

No specific outdoor lighting permit is required, provided that:

1. When a permit is otherwise required for work involving outdoor lighting, applicants must submit evidence that the proposed work will comply with this Section.

2. When no permit is otherwise required, the property owner must submit evidence of compliance with this Section only if requested by the Director after installation.
3. The submission specified in Sec. 7.4.3.A.1 and Sec. 7.4.3.A.2 above must contain, but is not limited to, the following:
    a. Plans indicating the location on the premises of each existing and proposed light fixture.
    b. A description of all existing and proposed lighting fixtures, lamps, supports, and reflectors. The description may include, but is not limited to, catalog cuts and illustrations by manufacturers.
    c. Photometric data, such as that furnished by manufacturers or similar, showing the angle of cut off of light emissions, illumination levels, and color temperature specifications.
4. The plans, descriptions, and data required by Sec. 7.4.3.A.2 above must be sufficiently complete to enable the Director to determine whether the activity complies with this Section. If said plans, descriptions, and data are insufficient to make this determination, the applicant must submit additional certified reports of tests demonstrating compliance. Said tests must be performed and certified by a recognized testing laboratory.

B. Measurement

1. Light levels are specified, calculated, and measured in footcandles. All footcandle values are maintained footcandles.
2. Measurements are to be made at ground level, with the light-registering portion of the meter held parallel to the ground pointing up.

C. Relief

Relief from the requirements of this Section may be granted by administrative variance under the following circumstances:

1. Minimum levels may be less than required by this Section, depending on site and traffic conditions.
2. Maximum levels may be more than allowed by this Section when the proposed levels strictly conform to the recommended levels within the IESNA Lighting Handbook, the accepted industry standards.

7.4.4. Standards

A. Prohibited Lighting Sources

The following light fixtures and sources may not be used:

1. Cobra-head-type fixtures with dished or drop lenses or refractors that are not full cutoff.
2. Searchlights, beacons, laser lights, and other high-intensity narrow-beam moving fixtures that shine light directly up to the sky.

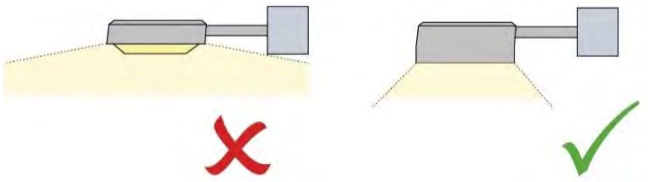
3. Blinking, flashing, or fluttering lights or other illuminated devices that have a changing light intensity, brightness, or color, except for temporary holiday displays or as allowed under Sec. 7.5 Signs~~Signs~~.
4. Any lights directed, reflected, or with colors that may create a hazard to operators of motor vehicles or to operators of aircraft.
5. Illuminated awnings and canopies that are internally lit, except as allowed under Sec. 7.4.4.E Awnings and Canopies~~Awnings and Canopies~~.
6. True or artificial neon lighting, except as allowed under Sec. 7.5.1 Signs~~Signs~~.

B. Design and Installation

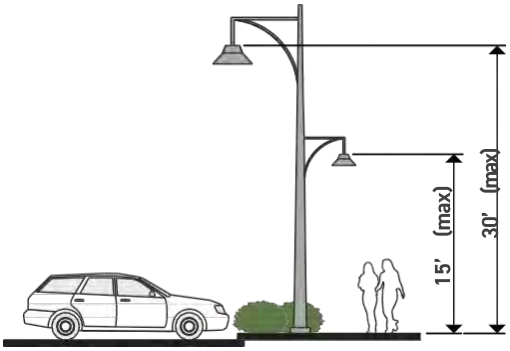
1. Light sources must be concealed or shielded to minimize the potential for direct glare and lighting trespassing onto adjacent properties, rights-of-way, and Lake Berkeley.
2. The maximum light level of any light fixture measured at a lot line cannot exceed an average of 2.0 footcandles. The uniformity ratio should be no more than 4:1.
3. Light sources must use a color temperature of no more than 4,500 Kelvin, with a Color Rendering Index (CRI) value of 80 or higher.
4. Lighting must not be oriented onto adjacent properties, sidewalks, or streets, or Lake Berkeley.

C. Parking and Pedestrian Area Lighting

1. All light fixtures must be full cutoff or shielded, except as listed below.



2. Light fixtures within parking lots and vehicle use areas can be no higher than 30 feet.
3. Light fixtures within pedestrian areas can be no higher than 15 feet.

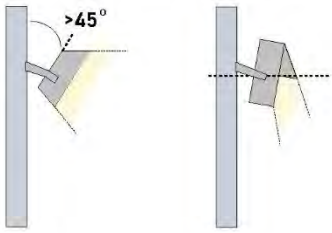


4. Non-cutoff or un-shielded fixtures can be used if the maximum initial lumens generated by each fixture is less than 9,500. These fixtures generally feature globes or vertical glass planes and must be coated with an internal white frosting to diffuse light.

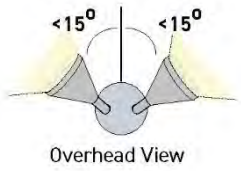


D. Flood Lights and Flood Lamps

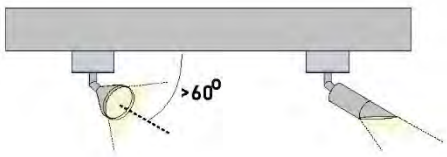
1. Flood light fixtures must be aimed down at least 45 degrees from a vertical plane or the front of the fixture must be shielded so that no portion of the light bulb extends below the bottom edge of the shield.



2. Flood light fixtures located within 50 feet of a public right-of-way must be mounted and aimed perpendicular to the right-of-way, with a side-to-side horizontal aiming tolerance of no more than 15 degrees.



3. All flood lamps emitting 1,000 or more lumens must be shielded or aimed at least 60 degrees down from the horizontal plane so that the main beam is not visible from adjacent properties or the public right-of-way.

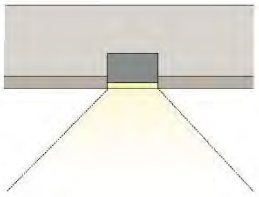


E. Awnings and Canopies

1. Lighting under awnings or canopies must be less than 24 maintained footcandles and be designed to prevent glare off-site. Acceptable lighting designs include the following:

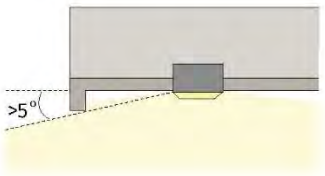
a. Recessed

Recessed fixture incorporating a lens cover that is either recessed or flush with the bottom surface of the awning or canopy.



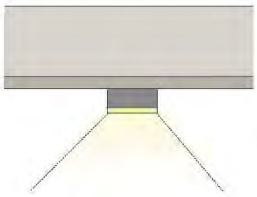
b. Shielded

Light fixture incorporating shields or is shielded by the edge of the awning or canopy itself, so that light is restrained to 5 degrees or more below the horizontal plane.



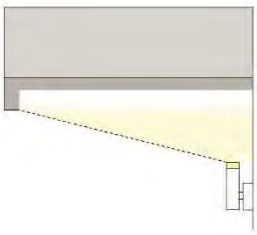
c. Surface Mounted

Surface mounted fixture incorporating a flat glass that provides a cutoff design or shielded light distribution.



d. Indirect

Indirect lighting where light is beamed upward and then reflected down from the underside of the awning or canopy, provided the fixture is shielded so that direct illumination is focused exclusively on the underside of the awning or canopy.



F. Building Lighting

1. Lighting fixtures must be selected, located, aimed, and shielded so that direct illumination is focused exclusively on the building facade, plantings and other intended site features and away from adjoining properties and the public right-of-way.
2. All wall pack fixtures must be full cutoff fixtures.



3. Only lighting used to accent architectural features, landscape, or art may be directed upward, provided that the fixture is located, aimed or shielded to minimize light spill into the night sky.

~~G. Residential Linear, String, and Rope Lighting~~

~~The following additional standards apply to linear, string, and rope lighting in residential districts:~~

~~1. Lighting may not be illuminated from 10:00 PM to 6:00 AM, except for temporary holiday lighting displayed for up to 90 total days per calendar year.~~

Sec. 7.5. Signs

7.5.1. Findings, Purpose, and Intent

A. Findings

The City Council finds that:

1. Signs are an important and effective medium through which persons may convey a variety of messages, both commercial and non-commercial in character.
2. The regulation of location, size, placement, height, and other relevant physical characteristics of signs and sign structures is necessary to:
    a. Enable the public to locate goods, services, facilities, and properties within the city without difficulty or confusion;
    b. Improve the general aesthetic of the city; and
    c. To protect the value of properties therein.
3. Such regulation is necessary to facilitate and aid in the identification and location of homes and businesses in the city in the event of police, fire or other emergencies and to avoid confusion and delay in response to such emergencies.
4. Left unregulated, signs can become a substantial threat to public safety by way of traffic or pedestrian hazards and a detriment to property values and the city's overall public welfare as an aesthetic nuisance.
5. The regulations in this Sec. 7.5 directly advance the stated purposes and such are narrowly tailored to serve the City's interests.

B. Purpose and Intent

The City's purpose in enacting this Sec. 7.5 is to:

1. Balance the right of persons to convey their messages through signs with the right of the public to be protected from the adverse effects of the unrestricted proliferation of signs.
2. Enhance the economic health of existing and future businesses within the city by promoting the reasonable, orderly and effective display of signs advertising goods and services.
3. Promote and protect the public health, safety, and general welfare.
4. Provide for signs which are compatible with their surroundings.
5. Promote and protect the unique natural beauty and aesthetic qualities of the city.
6. Reduce the probability of traffic or pedestrian accidents by restricting visual obstructions or distractions caused by signs or lights.

7. Create a comprehensive and balanced system of sign control that ensures the fair and consistent enforcement of the regulations and the proper maintenance, structural soundness, safety, appearance, and attractiveness of signs and sign structures.
8. Further the objectives of the Comprehensive Plan, which is expressly incorporated into this Sec. 7.5.
9. Promote the stated purposes and intents of this UDO.
10. Ensure the protection of free speech rights guaranteed by the United States Constitution and Georgia Constitution.

C. Content Neutrality

~~The regulations in this Sec. 7.5 are not intended to and do not restrict the content of sign messages.~~

Except where otherwise required by controlling law, the regulations of this Sec. 7.5 will be construed and administered without regard to the subject matter, viewpoint, or message displayed on a sign. The type, number, area, height, location, illumination, construction, and duration of signs will be governed by the objective standards of this Section.

D. Noncommercial Message Substitution

Any sign permitted by this Sec. 7.5may display any lawful noncommercial message in lieu of any commercial or noncommercial message otherwise displayed or permitted on that sign, without an additional sign permit or other approval based solely on the substitution of copy. Such substitution does not alter the applicable limits on number, area, height, location, illumination, construction, or duration.

7.5.2. Sign Definitions

The following definitions apply to this Sec. 7.5 unless specifically stated otherwise. Any word or phrase not defined below will have the meaning given in Article 11, unless the context clearly requires otherwise.

Abandoned sign. Cessation for a period of six months of the use of a sign by either the owner of the sign or the occupant of the property on which the sign is placed, or through the removal or relocation of the previous occupant of the property, or a sign that has ceased to be used for a period of six months through the removal of its copy or the deterioration of its copy through lack of maintenance.

Aggregate sign area. The total of the sign areas of all signs on a given lot, including principal and miscellaneous freestanding and wall signs. Aggregate sign area excludes project entrance signs, ~~street address numbers meeting the specifications of Sec. 7.5.4.D,~~ flags, and banners, unless otherwise specified by this UDO.

Animated sign. A sign that uses movement of any part by any means (manual, mechanical, air or wind-driven) or changes of lighting to depict action or to create a special effect or scene. This includes signs that flash, blink, flicker, scroll, fade, rotate or revolve to transition between messages

but does not include flags or banners or other allowed signs of lightweight material that may incidentally shift position under wind pressure.

Authorized elevation. A term which includes both of the following:

1. Any exterior building elevation, in the case of a building occupied by one use.
2. The exterior building elevation containing the applicable tenant's primary pedestrian entrance, in the case of a building containing two or more tenants.

Awning. A roof-like cover which projects from the wall of a building for the purpose of shielding a doorway 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 sign. See "building sign."

Banner. A sign, other than a flag, with or without characters, letters, illustrations or ornamentation applied to cloth, paper, flexible plastic, vinyl or fabric, including canvas, which is intended to be hung either with a frame or without a frame. Awning and canopy signs are not considered banners.

Building sign. A sign that, in any manner, is fastened to, projects from, or is placed or painted upon the exterior wall, window, door, or roof of a building. The term includes, but is not limited to, the following:

1. **Awning sign**. A sign imposed, mounted or painted upon an awning.



2. **Canopy sign**. A sign affixed to, superimposed upon, or painted on any canopy, such that the sign is mounted in such a manner that a continuous face with the canopy is formed and not extending above the wall to which the canopy is attached.



3. **Mansard sign.** A sign imposed, mounted or painted upon a mansard and not extending above the top of the mansard.



4. **Marquee sign**. Any sign painted on or attached flat to a marquee and not extending above the marquee.



5. **Parapet sign**. A sign imposed, mounted or painted on a parapet and not extending above the parapet.



6. **Projecting sign.** A sign affixed perpendicularly to a wall and extending more than 12 inches horizontally from the surface of such wall and not extending above the wall to which the sign is attached.



7. **Roof sign.** A sign projecting over the coping of a flat roof, or over the ridge of a gambrel, hip or gable roof, and supported by or attached to the roof.



8. **Under-canopy sign.** A sign attached to the underside of a marquee or canopy and suspended over a sidewalk, either public or private.



9. **Wall sign**. A sign that is fastened directly to or is placed or painted directly upon the exterior wall of a building, with the sign face parallel to the wall, protruding from the surface of the wall no more than 18 inches and not extending above or beyond the wall to which it is attached.



10. **Window sign.** A sign that is placed on or behind a windowpane or glass door and oriented to be viewed from outside the building.



Canopy. A permanent roof-like structure projecting from a building and open on at least one side for the purpose of shielding a pedestrian walkway from the elements, or a freestanding roof-like

structure supported by columns intended to shield a vehicular driveway or service area from the elements.

Changeable copy sign. A term that includes, but is not limited to, the following:

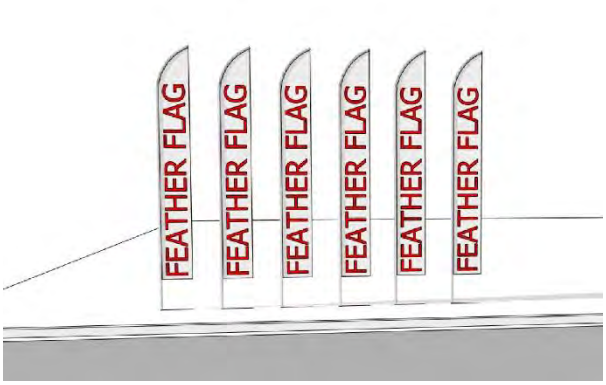
1. **Automatic changeable copy sign.** A sign on which the copy may be changed at intervals on a lamp bank/matrix by electronic process or by remote control, including devices utilizing light bulbs, Liquid Crystal Diodes (LCD), LEDs, or fiber optics, (e.g., electrical or electronic time and temperature units, video displays, electronic billboards). The term "copy" means words, numbers, symbols or pictorial representations.
2. **Manual changeable copy sign.** A sign that is capable of changing the content, position or format of word messages or other displays on the sign face by the manual or mechanical manipulation of a matrix of movable discs, panels, light apertures or other methods.

Channeled letters (internally illuminated letters). A term that includes, but is not limited to, the following:

1. **Internally channeled letters.** Letters or other symbols with recessed surfaces designed to accommodate incandescent bulbs or luminous tubing.
2. **Reverse channeled letters.** Letters or other symbols with raised surfaces designed to be lighted from behind by incandescent bulbs or luminous tubing.

Double-faced sign. A sign structure with two sign faces that are parallel (back-to-back) or that form an angle to one another of no more than 60 degrees, where each sign face is designed to be seen from a different direction.

Feather sign. A sign consisting of a piece of fabric or similar material that is typically tall and slender with a dimensional ratio of 4 high to 1 wide and attached to a support pole. A flag is not considered a feather sign.



Festoons. Strings of ribbons, tinsel, small flags, pennants, streamers, pinwheels, or other devices or long narrow strips of fabric, plastic, or other pliable material designed to move in the wind.

Flag. Any fabric or other flexible material, typically rectangular, that is attached to a flagpole along only one edge and is designed to move freely in the wind.

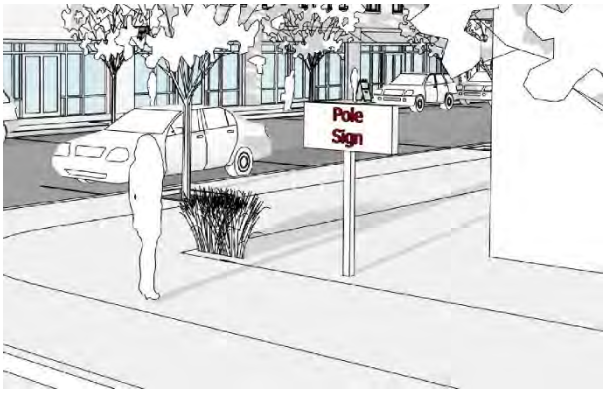
Flagpole. A pole or similar structure designed and used primarily to support and display one or more flags. Flagpoles are classified as either of the following:

1. **Freestanding Flagpole.** A flagpole installed directly in the ground and supported independently of a building or other structure.

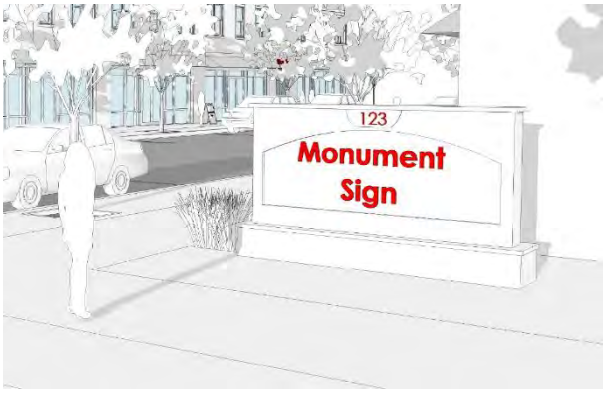
2. **Mast-Arm Flagpole.** A flagpole attached to and projecting outward from a building or other structure, typically at an angle.

Freestanding sign. A sign supported by structures or supports that are placed on or anchored in the ground and that is wholly independent of any building or other structure for support. The term includes, but is not limited to, the following:

1. **Pole sign.** A free-standing sign that is mounted on a freestanding pole, pylon, stanchion, columns, or similar supports such that the bottom of the sign face or lowest sign module is not in contact with the ground.



2. **Monument sign.** A freestanding sign forming a solid, monolithic structure from the ground to the top of the sign.



Illegal sign. Any sign that was erected in violation of the laws of the controlling jurisdiction as they existed at the time the sign was established, including signs installed without a permit and signs that were not installed in conformance with a properly issued permit.

Illuminated signs. A term that includes, but is not limited to, the following:

1. **Internally illuminated.** Illuminated by an artificial light source from within the sign structure and radiating outward toward the viewer, usually projected through a transparent or translucent sign face.



2. **Halo illumination**. Illumination where the source of light is external and integral to the sign structure; where the resultant illumination radiates toward the viewer, is interrupted by the opaque sign structure, letters, or symbols, and back lights the message area.



3. **Externally illuminated.** Illuminated only by an artificial light source that is external to, and independent of, the sign structure, and the illumination radiates toward the message area away from the viewer.



4. **Neon sign.** An illuminated sign composed of exposed and visible tubes filled with neon gas, including signs of similar appearance but illuminated by LED or other gases similar to neon.



Incidental sign. A small sign, emblem, or decal no larger than 2 square feet located on a building or structure. Such signs are normally located on doors, windows, and gas pumps, and are generally not readily visible or legible from public rights-of-way.

Inflatable sign. A sign or similar device that is intended to be expanded by pressurized air or other gas or by mechanical fan for its proper display or support. The term includes balloons

Internally illuminated letters. See “channeled letters.”

Mansard. A steeply sloped, roof-like facade architecturally similar to a building wall.

Mansard sign. See “building sign.”

Marquee. A permanent roof-like structure or canopy of rigid materials supported by and extending from the facade of a building.

Marquee sign. See "building sign."

Minimum front setback. The minimum distance required by the zoning district as applied to a property between an adjoining street and the facade of a principal building on the property.

Miscellaneous sign. Any sign other than the principal sign or an incidental sign on a property or building, as applicable.

Monument sign. See "freestanding sign."

Multi-faced sign. A single sign structure consisting of three or more sign faces that are separated from each other at their nearest point by no more than 3 feet, whether or not all faces contain some message. Sign faces on a single sign structure that are separated by more than 3 feet are treated as separate signs.

Nonconforming sign. Any sign that was lawfully permitted by the jurisdiction of record at the time or was legal at the time of its establishment but does not conform to the provisions of this Section.

Pennant. Any lightweight plastic, fabric or similar material designed to move in the wind; pennants are often suspended from a rope, wire, or string in series. The term "pennant" does not include a banner as defined in this Section.

Permanent sign. Any sign that is not temporary.

Planned center. A building or group of buildings occupied by two or more individual commercial uses or any other mixed-uses that do not share common space, which is located on a property that is in common ownership or condominium ownership. Buildings that are occupied by two or more commercial uses that share common space, such as but not limited to a branch bank in a grocery store, a fast-food restaurant in a retail store, or booths in a flea market, are not considered planned centers.

Pole sign. See "freestanding sign."

Portable sign. A sign designed to be transported or easily relocated and not permanently 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 anchored to it as otherwise required by the building code;
2. A sign mounted on a trailer, with or without wheels; or
3. For the purposes of this Section, sidewalk signs, banners, feather signs, and any other device described or defined in this Section are not considered portable signs.

Principal building sign. The main, predominant or largest permanent sign on an individual wall of a building or tenant space.

Principal freestanding sign. The main, predominant and largest freestanding sign on a property.

Project entrance sign. A permanent freestanding sign located at a discernible entrance from a public or private road into a multifamily development, or into a development containing multiple

lots or buildings, such as but not limited to a particular residential or commercial subdivision, a business center, office park or industrial park or a mixed-use planned center.

Projecting sign. See "building sign."

Roof sign. See "building sign."

Sidewalk sign. A moveable sign not permanently secured or attached to the ground or surface upon which it is located, designed to be used on a sidewalk or pedestrian way immediately adjacent to a building or structure.

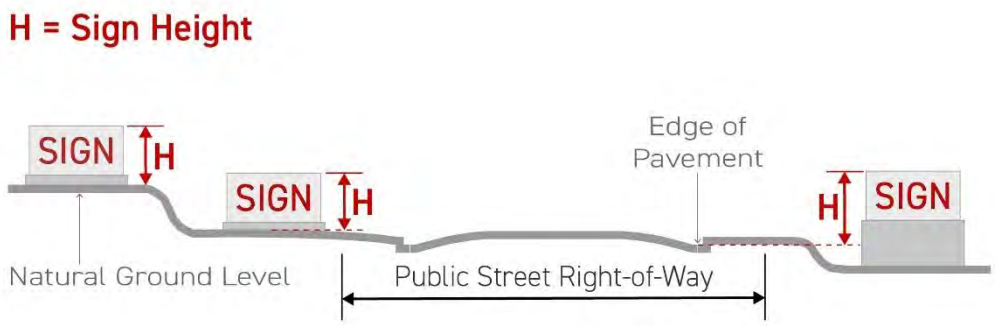


Sign. Any structure, display, or device that is used to advertise, identify, direct, or attract attention to a business, institution, organization, person, idea, product, service, event, or location by any means, including words, letters, figures, design characteristics, symbols, logos, fixtures, colors, movement, or illumination.

Sign area. The total area upon which messages are or can be displayed and calculated as the area of the smallest regular square, rectangle, triangle, circle or combination thereof encompassing the entire sign, inclusive of any border or trim but excluding the base, apron, and other structural members. For double-faced signs, the side with the largest area is used to calculate the sign area.

Sign face. That part or display surface of a sign where words, letters, figures, symbols, logos, fixtures, colors, or other design elements are or may be located to convey the message, idea, or intent for which the sign has been erected or placed.

Sign height. The vertical distance, in feet, from the elevation of the adjacent dedicated public street, edge of pavement, to the highest point of the sign structure. For property with an elevation higher than the adjacent public street, the height is measured from ground level at base of sign to the highest point of the sign structure. The ground level may not be altered for the sole purpose of providing additional sign height.



Sign structure. All elements of a freestanding sign, including the sign face, background, or decorative elements related to the presentation or support of the sign's message, and the structural supports.

Single occupant. A building or group of buildings on a single lot that are occupied by one institutional, commercial, or industrial use. The term also includes buildings that are occupied by two or more commercial uses that share common space, such as but not limited to a branch bank in a grocery store, a fast-food restaurant in a retail store, or booths in a flea market.

Temporary signs. Any sign not permanently affixed to the ground or other permanent structure and designed and intended to be displayed for a limited period of time.

Tenant. A natural person, business or other entity that occupies land or buildings by ownership, under a lease, or through payment of rent; an occupant, inhabitant, or dweller of a place.

Under-canopy sign. See “building sign.”

Vehicular sign. Any sign placed on, mounted on, painted on or affixed to a motor vehicle, freight, flatbed or storage trailer or other conveyance when same are placed or parked in such a manner as to be viewed or intended to be viewed from the public right-of-way, except that this definition will not apply when:

1. Such conveyances are actively being used to load, transport or unload persons, goods or services in the normal course of business;
2. Such conveyances are parked in an inconspicuous area, such as but not limited to a loading dock or to the side or rear of a building away from the street; or
3. Such conveyances are actively being used for storage of construction materials for, and on the same lot with, a bona fide construction project for which building and other applicable permits have been issued and where construction is underway, and provided said conveyances are located within designated storage areas.

Wall sign. See “building sign.”

Window sign. See “building sign.”

7.5.3. General Provisions

A. Applicability

1. This Section applies to signs that are or are intended to be viewed from a public right-of-way, a private street, Lake Berkeley, or adjacent property, except as otherwise exempt under Sec. 7.5.3.A.2 immediately below.
2. This Section does not apply to signs that are not visible from a public right-of-way, a private street, Lake Berkeley, or adjacent property, nor to any sign inside a business, office, mall, or totally enclosed area.
3. This Section does not apply to signs located on public property, including rights-of-way. The placement, regulation, and enforcement of signs on public lands, including rights-of-way, must

be in accordance with the laws, rules, and regulations of the State of Georgia, Gwinnett County and the City of Berkeley Lake, as applicable.

B. Compliance

No sign may be erected, altered, refurbished or otherwise modified except in accordance with the requirements of this Section.

C. Exemptions

The following are not considered signs and are excluded from all requirements of this Section:

1. Words or graphics on products that are an integral part of the product, the product's original packaging, and product dispensers (such as but not limited to soft drink machines and gasoline pumps). Product containers intended only for the storage of products are not exempt from these regulations.

~~2. A building design, color, architectural element or motif that is associated with a particular establishment or organization but which conveys no message is not considered to be a sign and is exempt from these regulations.~~

2. A building's shape, exterior material, color, trim, or other architectural feature permanently integrated into the building facade is not, by that fact alone, a sign. A separately affixed sign panel, sign face, display device, or other sign incorporated into an architectural feature remains subject to this Section.

D. Owner's Consent Required

No sign may be permitted or placed on property without the permission of the property owner or their authorized agent. If a sign is permitted based on a false claim that the property owner gave permission, the sign's permit will be revoked as provided in Sec. 7.5.6 (Sign Permits).

E. Sign Maintenance

All signs must be kept in good condition to maintain a neat and orderly appearance. If a sign is neglected or becomes dilapidated, the City may issue a citation to the permit holder or property owner after giving due written notice. The permit holder or property owner will have 10 business days from the date of the notice to fix the issue or remove the sign before the City issues a citation.

7.5.4. Signs Not Requiring a Permit

The following types of signs are allowed on any property and do not require a sign permit. An electrical or building permit may still be required.

A. Official Signs

Signs placed by or at the direction of a governmental body, governmental agency, board of education, public utility or public authority in accordance with O.C.G.A. § 32-6-50 et seq. or any other law. As provided by O.C.G.A. § 32-6-51, such signs are authorized within all rights-of-way or other properties controlled by said governmental body, agency, board of education, public utility

or public authority and at such other locations as a governmental body, governmental agency, public utility or public authority may direct.

B. Incidental Signs

Signs up to 2 square feet in area each, provided the total area of all such signs on a property does not exceed 16 square feet, unless a larger total is required by law or government regulation.

C. Miscellaneous Signs

Freestanding or wall signs no larger than 2.25 square feet in area.

~~**D. Street Addresses**~~

~~Numerals used only to show the assigned street address of a property, provided they are no taller than 4 inches on single-family and two-family dwelling properties and 10 inches for all other uses.~~

D. Required Premises Identification

Street-address numerals or other premises identification required by applicable building, fire, or emergency-response codes may be displayed without a sign permit and will not count toward the sign-area allowance. Such identification must comply with the applicable code requirements concerning size, visibility, contrast, and location. Additional or optional signage remains subject to the otherwise applicable standards of this Section.

E. Window Signs

Window signs meeting the standards of Sec. 7.5.8.

F. Flags

Flags meeting the standards of Sec. 7.5.7.

G. Single-Family and Two-Family Dwellings

Signs for single-family dwelling and two-family dwellings, except residential project entrance signs.

H. Sidewalk Signs

Sidewalk signs meeting the standards of Sec. 7.5.14.C.

7.5.5. Prohibited Signs

The following types of signs or advertising devices are prohibited, unless excluded under Sec. 7.5.4.

A. Any sign that is not permanently affixed to the ground or to a structure, including but not limited to trailer signs or signs mounted or painted on vehicles which are parked in such a manner as to serve the purpose of an advertising device, except sidewalk signs.

B. Courtesy benches, trash cans, and similar devices on which a sign is displayed.

C. Linear, string, or rope lighting when used as a sign on buildings or free-standing sign structures.

D. Feather signs

E. Festoons.

F. Inflatable signs.

G. Obscene signs, as defined by the state at O.C.G.A. § 16-12-80, as amended.

H. Pole signs as principal freestanding signs.

I. Portable Signs

J. Roof signs, including signs painted or adhered on roofs. This prohibition does not apply to mansard signs or parapet signs, provided that the sign must not extend above the top of the mansard roof or parapet wall.

K. Signs that pose a hazard to traffic or pedestrians due to structural deficiencies of such sign.

L. Signs (excluding automatic changeable copy signs) that flash, blink, rotate, revolve, or have moving parts or visible bulbs, and signs containing reflective elements that sparkle in the sunlight or otherwise simulate illumination during daylight hours.

M. Signs posted or erected on public rights-of-way or any other public property except as authorized by the governmental body, agency or public authority having jurisdiction over such property.

N. Signs that are dilapidated or in such condition as to create a hazard, nuisance or to be unsafe or fail to comply with any provision of the building code.

O. Signs that are obstructions, including:

1. Signs that extend above a parapet wall, are affixed to a fire escape, or interfere with any opening required for ventilation.

2. Signs that interfere with road or highway visibility or obstruct or otherwise interfere with the orderly movement of traffic or pedestrians.

3. Signs that obstruct any fire escape, window, door, or opening usable for fire prevention or suppression, or prevent free passage from one part of a roof to any other part thereof.

P. Signs that are painted on or attached to curbs, utility poles, or trees, rocks or other natural features.

Q. Signs that contain or are an imitation of an official traffic sign or signal, including all red, green, and yellow illuminated signs within 300 feet of any traffic light.

R. Signs that emit or use in any manner any sound capable of being detected on any traveled road or highway by a person with normal hearing, or a sign that emits smoke, vapor or odors.

S. Wind signs (temporary signs mounted on a pole and intended to flutter in the wind to attract attention).

T. Window signs on residential uses.

U. Exposed LED strip lights when used as a sign on buildings or free-standing sign structures.

7.5.6. Sign Permits

A. Permit Required

Except as exempted from obtaining a permit, all persons desiring to post, install, erect, display, expand, relocate or substantially change a sign regulated by this Section must first obtain a sign permit and all other permits required for the desired structure in accordance with City ordinances. A change in the copy of a sign will not constitute a substantial change. However, a change in the mode of message conveyance (i.e. from screen-print panel to LED) is considered a substantial change requiring a sign permit.

B. Application Requirements

Applications for sign permits, along with the application fee, must be submitted by the sign owner or the owner's agent to the Director on the form furnished by the City. Only complete applications will be accepted. Applications must include the following:

1. The street address of the property upon which the sign is to be located. In the absence of a street address, the Parcel Identification Number as assigned by the Gwinnett County Tax Assessor must be given.
2. The names and addresses of all owners of the property upon which the sign is to be located.
3. The name, address, contact information and occupational tax certificate number and issuing jurisdiction of the sign contractor/installer.
4. Written consent of the property owner specifically granting permission for the placement of the sign as proposed.
5. The type of sign, height, face area and total cost of sign construction or installation.
6. The floor area of the building or tenant space the sign is associated with.
7. The aggregate face area of all signs by type on the property.
8. For free-standing signs, a site plan, drawn to scale, showing the location of the proposed sign in relation to property and right-of-way lines (or edge of pavement, as appropriate), acreage of the parcel, location of driveways and parking spaces, public or private easements, building locations and floor area of buildings or floor area occupied by the subject owner or tenant.
9. For building signs, a to-scale drawing or photo-simulation of the building face upon which the proposed sign is to be installed showing the placement of the sign upon the building, dimensions of the wall and sign and its height from ground level.
10. Construction or fabrication details of the proposed sign, including certification as to conformance with all structural and wind-load resistive standards of the building code by a qualified structural engineer, or prepared using standard drawings prepared by a structural engineer or other qualified professional meeting, or exceeding all requirements of the building code, if applicable.
11. Whether or not the sign is to be illuminated and the method of illumination.

C. Permit Timing

The Director must ~~process all~~approve or deny a complete sign ~~-~~permit ~~applications~~application within 30 business days ~~of the~~after receipt of ~~a~~the complete application and ~~application~~required fee ~~for a sign permit. Revisions or amendments to an~~. If the applicant submits a materially revised complete application ~~will extend the review period to~~before decision, the Director must act no later than 20 business days ~~from the date of submission~~after receipt of the complete revision ~~or amendment. Revisions or amendments received after~~ , provided the revised period shall not shorten the unexpired initial 30-business-day review period. A revision submitted after permit issuance ~~of a permit~~ will constitute a new application.

1. The Director must reject any application as incomplete that does not include all items required for a sign permit application by Sec. 7.5.6.B (Application Requirements).
2. The Director must reject any application containing any false material statements or omissions. Any rejected application later resubmitted will be deemed to have been submitted on the date of resubmission instead of the original date of submission.
3. Within 30 business days of receipt of a complete application, the Director must:
    a. Issue the permit; or
    b. Inform the applicant in writing of the reasons why the permit cannot be issued.
4. If it is determined that the application does not fully comply with the provisions of this Section, the building code and all other applicable laws, regulations and chapters of the City Code, the Director will reject the application and notify the applicant of the decision and reasons for denial of the permit. The Director must give such notice in writing by hand-delivery, certified mail, or e-mail using the contact information provided on the application. The notice must be postmarked or otherwise date-stamped on or before the ~~30th business day after the date of the completed application's receipt by the City.~~ applicable deadline established in this Sub-section
5. If the City fails to ~~act on an application for~~issue a ~~sign permit~~written decision within ~~30 business days, then~~the applicable review period established by this Sub-section, the permit will be deemed ~~to have been~~ granted.
6. If it is determined that a sign permit was issued based on an incomplete application, an application containing a false material statement, or otherwise erroneously issued in violation of this UDO or other chapters of the City Code, the Director may revoke the subject sign permit and the subject sign must be removed.

D. Permit Fees

A sign permit may not be issued unless the required permit fees have been paid. No refunds of permit fees will be made for sign permits that expired due to failure to erect the subject sign. If a person desires to erect a sign in the same location as an expired permit, a new application must first be processed and another fee must be paid in accordance with the Schedule of Fees at such time.

E. Permit Expiration

A sign permit will expire if the sign for which the permit was issued has not been completed and fully installed within six months of the date of issuance. The Director may grant a 90-day extension if a written extension request is submitted before the permit expires.

F. Appeals

~~A person whose permit application has been denied or revoked by the Director under this Sec. 7.5.6.C may appeal the decision to the Planning and Zoning Commission as specified in Sec. 10.7 (Quasi-Judicial Review).~~

A person entitled to appeal under Sec. 10.7 may appeal a decision of the Director under this Section, including the denial, conditional approval, or revocation of a sign permit, in accordance with Sec. 10.7 (Quasi-Judicial Review). Written notice of an adverse decision shall identify the grounds for the decision and the applicable appeal procedure.

7.5.7. Flags

A. Flags may only be displayed on flagpoles. For nonresidential uses, flagpoles may not exceed the height limit of the applicable zoning district, or 50 feet, whichever is less. For residential uses, flagpoles may not exceed 25 feet in height or the height of the primary structure on the lot, whichever is less.

B. The maximum dimensions of any flag must be proportional to the flagpole height. The hoist side of the flag may not exceed 20% of the vertical height of the flagpole when ground-mounted.

C. In addition, flags are subject to the following limitations:

Flagpole Height	Maximum Flag Size (total square feet)
Up to 25'	24 sf.
25' to 39'	40 sf.
40' to 49'	60 sf.
50' to 60'	96 sf.

D. Each residential use lot is allowed up to two flagpoles of any type.

E. Each nonresidential use or mixed-use lot is allowed up to three flagpoles of any type.

F. Up to two flags are allowed on each freestanding flagpole and up two flags are allowed on each mast arm flagpole.

G. Freestanding flagpoles must be set back from all lot lines a distance which is at least equal to the height of the flagpole.

H. Freestanding flagpoles that are destroyed by any means may be rebuilt in their previous location, but may not exceed their previous height.

I. Flags and flagpoles must be maintained in good repair, and to the extent applicable must comply with building code. Flagpoles with broken halyards may not be used and flags which are torn or frayed may not be displayed.

J. On officially designated City, State, or federal holidays, ~~there is no maximum~~the numerical and flag ~~size or number or other limitations on the display~~ area limits of this Sub-section do not apply to otherwise lawful flags. Requirements concerning flagpole height, structural safety, setbacks, maintenance, and rights-of-way remain applicable. This exception applies without regard to the message or design displayed on a flag.

K. This Sub-section will not be construed to restrict the right to display eligible flags as banners as provided elsewhere in this Sec. 7.5.

7.5.8. Window Signs

A. ~~To~~The combined area of all window signs on a given story and ~~a given~~ elevation of a building may not obstruct more than 20% of the total window area on that ~~given~~ story and elevation~~; and~~.

B. No more than 30% of any individual window opening may be obstructed by window signs.

C. Window signs may not be neon type unless otherwise specified by this Section.

7.5.9. Single-family and Two-family Sign Standards

Single-family dwelling and two-family dwelling signs must meet the following standards:

Single-family and Two-family Sign Standards	**Standard**
Standards for All Signs	
Aggregate sign area	16 sf. max. (including temporary signs)
Individual sign area	6 sf. max.
Individual sign height	3’ max.
Location	Allowed in all yards
Setbacks	10’ min. from street edge or 2’ min. from street lot line, whichever is greater; and flags must meet any flagpole setback requirements
Illumination	Not allowed, except residential project entrance signs
Changeable copy	Not allowed
Specific Sign Standards	
Building signs	Not allowed
Flags	Per Sec. 7.5.7

Single-family and Two-family Sign Standards	Standard
Banners	Per Sec. 7.5.14.B, except banners may not be attached to buildings or structures. This prohibition specifically includes, but is not limited to, banners attached to balconies, chimneys, cupolas, decks, exterior walls, fences, foundations, freestanding walls, gazebos, porches, retaining walls, roofs, stairs, and supports.

7.5.10. Multifamily Sign Standards

Townhouse dwellings, multifamily dwellings, and group living signs must meet the following standards:

Multifamily Sign Standards	Standard
Standards for All Signs	
Aggregate sign area	6 sf. per dwelling, up to 100 sf. max.
Illumination	Not allowed, except residential project entrance signs
Changeable copy	Not allowed
Specific Sign Standards	
Building signs	
Number allowed	1 per building
Individual signa area	4 sf. max.
Principal freestanding signs	
Required type	Monument sign
Number allowed	1 per street frontage
Individual sign area	36 sf. max.
Individual sign height	6’ max.
Setbacks	15’ min. from street edge or 2’ min. from street lot line, whichever is greater
Miscellaneous freestanding signs	
Number allowed	2 per driveway
Individual sign area	3 sf. max.
Individual sign height	30” max.
Location	3’ max. from a driveway
Flags	Per Sec. 7.5.7
Banners	Per Sec. 7.5.14.B

7.5.11. Public and Institutional Sign Standards

Public and institutional use signs must meet the following standards:

Public and Institutional Sign Standards	Standard		
Standards for All Signs			
Aggregate sign area	100 sf. max.		
Illumination	Not allowed		
Changeable copy	25% max. of principal freestanding sign area; and automatic changeable copy not allowed		
Specific Sign Standards			
Building signs			
Number allowed	2 per building		
Total sign area	24 sf. max.		
Individual sign area	12 sf. max.		
Principal freestanding signs			
Required type	Monument sign		
Number allowed	1 per street frontage [1]		
	Building Floor Area		
	0 to 10,000 sf.	**10,001 to 49,999 sf.**	**50,000 sf. or more**
Individual sign area	24 sf. max.	36 sf. max.	48 sf. max.
Individual sign height	6’ max.	10’ max.	12’ max.
Setbacks	15’ min. from street edge or 2’ min. from street lot line, whichever is greater		
Miscellaneous freestanding signs			
Number allowed	2 per driveway		
Individual sign area	3 sf. max.		
Individual sign height	30” max.		
Location	3’ max. from a driveway		
Flags	Per Sec. 7.5.7		
Banners	Per Sec. 7.5.14.B		

Table Note:

1. In lieu of the allowed principal freestanding signs, an institutional use may elect to construct a residential project entrance sign subject to the standards in Sec. 7.5.13.A.

7.5.12. Commercial, Industrial, and Mixed-Use Sign Standards

Commercial uses, industrial uses, mixed-uses must meet the following standards:

Commercial, Industrial, and Mixed-Use Sign Std’s	Standard
Specific Sign Standards	
Building signs (general)	
Number allowed	1 per authorized elevation

Commercial, Industrial, and Mixed-Use Sign Std's	Standard
Total sign area	See Sec. 7.5.12.A
Individual sign area	See Sec. 7.5.12.A, except as specified below
Projection	18" max. from wall surface, except projecting signs
Illumination	Internal, external, or halo illumination allowed
Changeable copy	Not allowed
Projecting signs	
Individual sign area	16 sf. max.
Projection	42' max. from wall surface
Finish	All sides must be finished
Miscellaneous building signs	
Number allowed	2 per authorized elevation
Total and individual sign area	See Sec. 7.5.12.A
Principal freestanding signs	
Required type	Monument sign
Individual sign height	15' max.
Illumination	Internal, external, or halo illumination allowed
Street address	Required for signs within 100' of a ROW; see Sec. 7.5.12.A
Changeable copy	25% max. of sign area
Number allowed	1 per street frontage [1][2]
Setbacks	15' min. from street edge or 2' min. from street lot line, whichever is greater
Miscellaneous freestanding signs	
Number allowed	2 per driveway
Individual sign area	3 sf. max.
Individual sign height	30" max.
Location	3' max. from a driveway
Illumination	Internal, external, or halo illumination allowed
Changeable copy	Not allowed
Flags	Per Sec. 7.5.7
Banners	Per Sec. 7.5.14.B

Table Notes:

1. In lieu of the allowed principal freestanding signs, an institutional use may elect to construct a project entrance sign subject to the standards in Sec. 7.5.13.B.
2. Only one sign may be within the zoning district's required front yard.

A. Commercial, Industrial, and Mixed-Use Sign Allowances

	Floor Area of Building or Tenant Space	Principal Sign Individual Sign Area	Aggregate Sign Area per Authorized Elevation
Principal Freestanding Sign			
Single occupant or undeveloped lot	0 to 10,000 sf. 10,001 to 50,000 sf. 50,001 to 100,000 sf. 100,~~000~~001 sf. or more	48 sf. 75 sf. 100 sf. 144 sf.	N/A
Planned center	0 to 10,000 sf. 10,001 to 50,000 sf. 50,~~001~~0001 to 100,000 sf. 100,~~000~~001 sf. or more	75 sf. 100 sf. 150 sf. 200 sf.	N/A
Building Signs			
Single occupant	0 to 1,800 sf. 1,801 to 3,800 sf. 3,~~801~~8001 to 15,000 sf. 15,001 to 50,000 sf. 50,~~000~~001 sf. or more	36 sf. 48 sf. 75 sf. 100 sf. 150 sf.	45 sf. 60 sf. 94 sf. 125 sf. 187 sf.
Planned center	0 to 2,500 sf. 2,501 to 15,000 sf. 15,001 to 50,000 sf. 50,~~000~~001 sf. or more	48 sf. 60 sf. 100 sf. 200 sf.	60 sf. 75 sf. 125 sf. 250 sf.

B. Street Address

1. Within a planned center where multiple addresses exist, the highest and lowest street address numbers must be identified.
2. Street address requirements do not apply to any principal freestanding sign where the sign is located on property that has more than one street frontage and the property address is assigned from a street other than the street frontage whereupon such sign is erected.
3. Street numbers must be of contrasting colors against the background, visible from both directions of travel along the street, and between 6 and 10 inches in height.

C. Changeable Copy

1. Automatic changeable copy signs may not change copy more than once every 10 seconds and the transition from message to message must be accomplished within 3 seconds without effects such as scrolling, fading, sweeping or dissolving.
2. Automatic changeable copy signs may not contain copy that flashes, blinks, pulsates or contain any form of animation.

D. Ground Clearance Under Signs

1. Projecting signs must provide at least 8 feet of clearance from ground to the bottom of the sign.
2. Under-canopy signs of greater than 4 square feet must be rigidly mounted, and there must be 8 feet of clearance below the base of any rigidly mounted under-canopy sign over a pedestrian walkway. There must be at least 7 feet of clearance below the base of any non-rigidly mounted

under-canopy sign over a pedestrian walkway. At least 14 feet of clearance must be maintained for an under-canopy sign above a vehicular driveway or service area.

3. Awning, mansard, and marquee signs must be at least 8 feet above the ground when erected over pedestrian walkways and at least 14 feet above the ground over vehicular pathways at the lowest extremity of the sign.

E. Canopy Signs

Two additional canopy signs not otherwise specified in this Sub-section, not to exceed 8 square feet, are allowed per building.

F. Accessory Car Wash Signs

Two additional buildings signs not otherwise specified in this Sub-section, not to exceed 8 square feet each, are allowed on a detached car wash that is an accessory use to fuel sales. The detached car wash wall sign must be consistent with the color and style of other signage on the site.

G. Window signs

1. Window signs meeting the standards of Sec. 7.5.8.
2. Window signs may be of neon type.

7.5.13. Project Entrance Signs

A. Residential Project Entrance Signs

Single-family dwelling subdivisions, two-family dwelling subdivisions, townhouse developments, multifamily developments, and group living developments may have one project entrance sign per entrance if double-faced or two signs if attached to symmetrical entrance structures. The signs must meet the following standards.

1. The maximum sign face area may not exceed 32 square feet.
2. The height of the structure may not exceed 8 feet, including embellishments which may not extend more than 2 feet above the main body of the structure.
3. Signs must be at least 15 feet from the curb or at least 2 feet behind the right-of-way, whichever is greater.
4. The sign structure must be built of brick, stone, masonry or equal architectural material and be monument style or integral to walls/fencing separating the project from the street.
5. Signs may not be internally illuminated.
6. Banners meeting the requirements of Sec. 7.5.14.B are allowed at each project entrance sign, provided the total number of banners and “other temporary signs” on the lot does not exceed the number specified in Sec. 7.5.14.B.4.

B. Commercial, Industrial, Planned Center, or Mixed-Use Project Entrance Signs

Commercial subdivisions, industrial subdivisions, planned centers, and mixed-use developments may have one project entrance sign per entrance if double-faced or two signs if attached to symmetrical entrance structures. The signs must meet the following standards.

1. The maximum face area may not exceed 50 square feet.
2. The height of the structure may not exceed 10 feet, including embellishments which may not extend more than 2 feet above the main body of the structure.
3. Signs must be at least 15 feet from the curb or at least 2 feet behind the right-of-way, whichever is greater.
4. The sign structure must be built of brick, stone, masonry or equal architectural material and be monument style.
5. Banners meeting the requirements of Sec. 7.5.14.B are allowed at each project entrance sign, provided the total number of banners and "other temporary signs" on the lot does not exceed the number specified in Sec. 7.5.14.B.4.

7.5.14. Temporary Signs

A. General Provisions

1. No temporary sign may be located so as to block the view of principal sign or so as to create a safety hazard.
2. No temporary sign may exceed the size of any principal sign relating to the same use.
3. Temporary signs must be maintained in good condition.

B. Banners

1. Banners require issuance of a temporary sign permit, as follows:
    a. Temporary sign permits are only valid for 21 consecutive days on four separate occasions per year.
    b. Upon expiration of the temporary sign permit, the banners, including any temporary supporting structures, must be immediately removed.
2. Each banner may not exceed 16 square feet in area.
3. Each banner must be individually attached to a pole, mast, arm, or other structure. However, banners may not be attached to canopies, marquees, awnings, utility poles or be located within the right-of-way of a public street. See Sec. 7.5.9 (Single-family and Two-family Sign Standards) for additional restrictions on banner placement.
4. The total number of banners and "other temporary signs" allowed may not exceed:
    a. Single-family and two-family dwelling lots. One banner or one "other temporary sign" per lot at a given time.

b. All other use lots. One banner or one "other temporary sign" along each public street frontage at a given time.

C. Sidewalk Signs

1. Sign may not exceed 30 inches wide by 45 inches tall.
2. Sign must be within 10 feet of the pedestrian entrance of the premises to which the sign relates.
3. Signs may be utilized only during the hours of operation of the store or entity using it and must be removed during the hours it is closed.
4. Signs are limited to one per tenant space.

D. Searchlights, Beacons, Laser Lights, and Similar Devices

1. Temporary searchlights, beacons, laser lights, and similar devices require approval of a special use permit before a temporary sign permit application will be accepted by the City. A special use permit is valid for up to 2 years, unless a shorter period is a condition of its approval.
2. Devices require issuance of a temporary sign permit, as follows:
   a. Temporary sign permits are only valid for 3 consecutive days on four separate occasions per year.
   b. Upon expiration of the temporary sign permit, the devices must be immediately removed.
3. Devices must project light upwards at an angle at least 60 degrees from the horizontal plane.
4. Light sources must be shielded to a height no less than 8 feet above ground level.
5. No more than two clusters of three or fewer lights may be used at any one time.

E. Other Temporary Signs

1. Other temporary signs not specified above require ~~issuance of~~ a temporary sign permit~~,~~ as follows:
   a. Other temporary sign permits are only valid for 60 consecutive days on two separate occasions per year. Additional posting time may be allowed by the Director, provided the temporary activity on the site is continuing.
   b. Upon expiration of the temporary sign permit, the sign, including any temporary supporting structures, must be immediately removed.
2. Each sign may not exceed 16 square feet in area.
3. Each sign must be individually attached to a pole, mast, arm, or other structure. However, signs may not be attached to canopies, marquees, awnings, utility poles or be located within the right-of-way of a public street.
4. Signs may not be illuminated
5. The total number of banners and "other temporary signs" allowed may not exceed:
   a. Residential uses. One banner or one "other temporary sign" per lot at a given time.

b. Mixed and nonresidential uses. One banner or one "other temporary sign" along each public street frontage at a given time.

7.5.15. Nonconforming Signs

A. Continuance

The lawful use of a permanent sign existing at the time of enactment or amendment of the ordinance from which this Section is derived may be continued even though such use does not conform to the provisions of this Section. However, a nonconforming sign may not be enlarged, altered, modified, improved, rebuilt or replaced. A nonconforming sign may not be replaced by another nonconforming sign, except that the substitution or interchange of poster panels, painted boards, or other dismountable material that does not change the shape, size or design is allowed. A change in the mode of message conveyance (i.e. from screen-print panel to LED) will be considered a substantial change requiring a sign permit.

B. Maintenance and Repair

All nonconforming signs must be maintained in sound condition and orderly appearance. No structural repair is allowed except to make a nonconforming sign comply with all the requirements of this Section or to render the sign structurally sound. To the extent that a nonconforming sign is damaged or destroyed by act of God or by other circumstances beyond the control of the sign's owner then such sign may be repaired or restored to its pre-damage condition without regard to the restrictions of this Sub-section.

7.5.16. Enforcement and Penalties

A. The Director may issue a citation for violation of this Section by any entity, including, if applicable, the owner, manager or tenant of the of the premises on which a sign is located; for a sign erected, altered, maintained, converted, or used in violation of this Section; or in violation of any other applicable ordinance, including but not limited to building or electrical codes.

B. ~~Any entity violating the provisions~~A violation of this Section ~~will be~~is an offense ~~and~~ punishable in accordance with ~~the penalties provided for in~~ Sec. 10.11.2 (Penalties~~Penalties~~).

C. The City may seek affirmative equitable relief in a court of competent jurisdiction to cause the repair or removal of any sign in violation of this Section or other City ordinances.

D. The Director may remove any sign or structure illegally placed upon a public right-of-way without any prior notice and may dispose of said sign or structure. Removal and disposal of illegally placed signs will not preclude the prosecution of any person for illegally placing such signs in the public right-of-way.

Article 8. Streets and Public Improvements

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Article 8. Streets and Public Improvements~~Streets and Public Improvements~~

Sec. 8.1. General Provisions

8.1.1. Purpose and Intent

This Article is intended to serve the following purposes:

A. To protect and promote the public health, safety, and general welfare.

B. To provide a system for the subdividing of lands and the accurate recording of land titles.

C. To provide assurance that lots shown on recorded subdivision plats are usable by the purchasers for their intended and permitted functions.

D. To encourage economically sound and orderly land development in accordance with the policies and objectives of the Comprehensive Plan.

E. To assure the provision of required streets, utilities, and other facilities and services to new land developments in conformance with public improvement policies of the City.

F. To assure adequate provision of safe and convenient vehicular, bicycle, and pedestrian access and circulation within new developments and on the surrounding streets.

G. To assure the provision of needed open spaces and public facility sites in new land developments through the dedication or reservation for purchase of land for public purposes.

H. To assure equitable review and approval of all subdivision and site plans by providing uniform procedures and standards for the developer.

8.1.2. Suitability of Land

A. Land subject to flooding, improper drainage or erosion, and any land deemed to be unsuitable for development due to steep slopes, unsuitable soils or subsurface conditions, or similar conditions, must not be subjected to development for any uses as may continue such conditions or increase danger to health, safety, life, or property, unless steps are taken to eliminate or abate these conditions.

B. Land within a proposed subdivision or development that is unsuitable for development must be:

1. Incorporated into the buildable lots as excess land;

2. Established as open space; or

3. Legally disposed of in a manner which would prevent the potential sale or transfer of the lot as a potentially buildable lot of record.

8.1.3. Required Public Improvements

Improvements and associated lands required by this Article must be provided at no cost to the City and must be dedicated or otherwise transferred, as required, to the public in perpetuity and without covenant or reservation, except as otherwise provided herein.

Any condition requiring the dedication of property, payment of money, construction of public improvements, or other development exaction must comply with applicable constitutional requirements and state law, including the Georgia Development Impact Fee Act, to the extent applicable.

8.1.4. County or State Routes

A. Any development that abuts a Gwinnett County-controlled route or a State Route must conform to the County or GDOT, as applicable, requirements for access or improvements. Where a conflict exists between a requirement of this Article and those County or GDOT requirements, the County or GDOT requirements apply.

B. An approved permit for proposed access or improvements is required by Gwinnett County or GDOT, as applicable, and must be incorporated into the construction drawings for the project before the issuance of a Land Disturbance Permit.

8.1.5. Standard Drawings

A. Maintenance

The Director must maintain a set of standard drawings on file for consultation and distribution. These drawings illustrate details of the construction and design of streets, stormwater drainage facilities, site improvements, and other elements related to the development of land in accordance with this UDO.

B. Case-by-Case Basis

The standard drawings provide minimum acceptable standards for land development activities authorized under this Article and this UDO but do not supersede more restrictive design requirements or prudent engineering practices that may be applied by the Director to specific situations on a case-by-case basis.

C. **Minimum standards**

The City of Berkeley Lake Standard Drawings, which contain modified Gwinnett County Department of Planning and Development standard drawings and Berkeley Lake-specific standard drawings, are incorporated by reference as part of this UDO and establish the minimum standards for design and construction of required improvements, subject to the amendment and appeal provisions of Article 10 (Administration).

Sec. 8.2. Subdivision

8.2.1. Lots

A. Lots must conform to minimum requirements of the applicable zoning district.

B. The size, shape, arrangement, and orientation of every lot is subject to the approval of the Director for the type of development and use contemplated.

C. Lots not served by public sewer or community sanitary sewage system or public water must meet the minimum dimension and area requirements of the Gwinnett County Health Department in addition to the minimum dimension and area requirements of this UDO.

D. The creation of remnant lots below the minimum standards for the applicable zoning district is prohibited unless such lots are designated as common area or stormwater management area on the final plat and maintained by the homeowners' association or some other entity approved by the Director.

E. Each lot must have direct access to an abutting, existing public street or to a street contained within the proposed subdivision. A connection through an approved private drive may be permitted by the Director.

F. When subdividing land adjacent to or surrounding a proposed lake, the lots abutting the lake must be drawn to the center of the lake, except when the lake is proposed for recreational or stormwater management purposes and will be contained on an individual lot of record and maintained by the homeowners' association.

8.2.2. Exempt Lots

Lots that do not comply with the requirements of the applicable zoning district are prohibited, except as specified in Sec. 2.2.1.B.

8.2.3. Offers of Land Dedication

When a developer proposes the dedication of land to public use, and the reservation is not envisioned in the Comprehensive Plan or is otherwise deficient, the Director must obtain approval for the proposed reservation of land from the City Council before approval of the preliminary plat. If the Director finds that such land is neither required nor suitable for public use, the Director will require the rearrangement of lots to include such land in private ownership.

8.2.4. Public Dedication

A. No land dedicated as a public street or for any other public purpose will be opened or accepted, and no subdivision of land may be recorded before obtaining final plat approval from the Director.

B. Approval must be entered in writing on the final plat by the Director.

C. The Director is authorized to accept dedications of land and public facilities on behalf of the City and to cause such dedications to be recorded by the Clerk of Superior Court of Gwinnett County, subject to ratification by the City Council.

8.2.5. Transfer and Development of Land ~~Ownership~~

~~A. The City~~No building permit, land disturbance permit, development permit, final plat approval, or other development approval will ~~not recognize~~be issued for any ~~transfer of title to~~ land in the City ~~by any person, firm, partnership, association, corporation, estate, trust, developer, subdivider or any other owner or agent~~, and no ~~building permit~~ land may be ~~issued on said land~~subdivided or developed, unless~~:~~

~~1.~~A. ~~Legal~~ legal access to the land is provided ~~to~~from a public or private street approved under the terms of this UDO~~;~~ — or from a recorded access easement or a private way established under O.C.G.A. § 44-9-40 — and at least one of the following conditions is met:

~~a.~~1. The land existed as a single parcel of ownership, recorded as such in its entirety and present boundaries with the Clerk of Superior Court of Gwinnett County before the effective date of this UDO, and at the time of recording was in compliance with the zoning and subdivision regulations in effect at that time; or

~~b.~~2. The land is shown in its entirety and present boundaries on a final plat ~~as~~ approved (under this UDO or any ~~previous~~previously applicable ordinances or regulations) and duly recorded with the Clerk of Superior Court of Gwinnett County; or

~~c.~~3. The land is shown in its entirety and present boundaries on a plat authorized by the Director and recorded with the Clerk of Superior Court of Gwinnett County in accordance with the ~~standards governing~~ subdivision ~~exemptions contained in~~ exemption standards of this UDO; or

~~d.~~4. The land is an aggregation of properties for land~~-~~assembly purposes, and no building permit ~~will be~~is requested before ~~filing~~ an application for a land disturbance permit~~;~~ is filed in accordance with this UDO.

B. No person, firm, partnership, association, corporation, estate, trust, developer, subdivider, or ~~any~~ other owner or agent may offer, agree to, or complete a transfer of title to any property by reference to, exhibition of, or ~~any~~ other use of any map or plat illustrating the subdivision of land ~~without~~unless a final plat of ~~said~~that land ~~showing the property~~has first ~~having~~ been ~~duly~~ approved under ~~the procedures of~~ this UDO (or any previously applicable ordinances or regulations) and recorded with the Clerk of Superior Court of Gwinnett County. A transfer made in violation of this Sub-section subjects the transferor to the enforcement provisions and penalties of Sec. 10.11 but does not, of itself, affect the validity of the instrument of conveyance or title to the land.

C. The division of property by court order, including~~, but not limited to, judgments~~ without limitation a judgment of foreclosure, or the consolidation and disbursement of existing lots by deed or other recorded ~~instruments~~instrument, is not ~~considered~~ a subdivision and is not required to comply with this UDO.

D. Effect on Title. Nothing in this Section affects, invalidates, clouds, or otherwise determines the passage or validity of title to land, which is governed by Title 44 of the Official Code of Georgia Annotated. The City's sole remedies for a violation of this Section are the withholding of permits and approvals and the enforcement provisions of Sec. 10.11

8.2.6. Survey Monuments

A. Marker Requirements

All lot corners must be marked with an iron rebar or pin, at least 0.5 inch in diameter and 18 inches long and driven to extend no less than 1 inch above the finished grade.

B. Floodplains

On subdivisions containing floodplains, flood elevation references must be set in accordance with the requirements of the Flood Damage Prevention Ordinance.

8.2.7. Plan and Plat Specifications

See Sec. 10.8 (Plan and Plat Specifications~~Plan and Plat Specifications~~).

8.2.8. Addresses and Names

A. Subdivision or Development Names

1. Proposed subdivision or development names must be reviewed and approved before the issuance of a development permit. Names will be reviewed by the Director upon submittal of the preliminary plat or site plan.
2. Proposed names may not duplicate or too closely approximate, phonetically, the name of any other subdivision or development in the city, except for extensions of existing subdivisions or developments.
3. Subdivision and development names may be reserved if submitted and approved along with the concept plan for the project.

B. Street Names

1. Proposed street names must be reviewed and approved before approval of a final plat for recording. Street names may be reserved through approval as shown on an approved concept plan or preliminary plat for the subdivision. Proposed names for private streets must follow the same rules as for public streets.
2. Street names must consist of a root name of the developer's choosing and a suffix designation, such as “street," “avenue,” “drive,” etc., and must be followed by a quadrant suffix. Directional prefixes (i.e., “North,” “South”) and the prefixes “old” or “new” may not be used.
3. All streets must bear the proper quadrant suffix appropriate to its location within Gwinnett County (i.e., NE, NW, SE, and SW), as determined by the Director.

4. A proposed street that is obviously in alignment with another already existing and named street must bear the name of such existing street, unless this requirement is waived by the Director.
5. Except within the same development, no proposed street name may duplicate (be spelled the same or be phonetically the same) as an existing street name within the city, regardless of the use of such suffix designations as “street,” “avenue;” “boulevard,” “drive,” “place,” “way,” “court,” or however otherwise designated. In the same subdivision, a root name may not occur more than twice.
6. All street root names and suffix designations are subject to the approval of the Director. Obscene or otherwise unacceptable language, abbreviations, contractions, or initials may not be used.
7. Root names must consist of no more than 12 characters, including space, hyphens, etc. Letters not occurring in the English alphabet, and numerals, may not be used.

C. Street Address Assignments

1. Time of Number Designation

A street address must be obtained before issuance of a building permit.

Sec. 8.3. Blocks and Access

8.3.1. Intent

A. The intent of the block standards is to provide a well-connected street network. Large blocks with limited connectivity discourage walking, contribute to street congestion, and add driving distance that can negatively impact emergency services. New streets should be designed to consider future development.

B. The intent of access standards is to provide safe and convenient vehicular and pedestrian access within developments and between adjacent developments and to lessen traffic congestion and increase connectivity. Pedestrian, bike, and vehicular access should be safe, direct, and convenient.

8.3.2. Blocks

A. Layout

In all zoning districts, the lengths, widths, and shapes of blocks must be determined with regard to:

1. Provision of adequate building sites suitable to the special needs of the type of use contemplated;
2. Applicable zoning district requirements as to lot size;
3. Needs for convenient access, circulation, control, and safety of street traffic; and
4. Limitations and opportunities of lakes, streams, and topography.

B. Measurement

In all zoning districts:

1. A block is bounded by a public street or a private street built to public standards (excluding alleys).
2. Block perimeter is measured from intersecting street centerlines.
3. The Director may modify the block perimeter requirements by administrative variance when steep slopes over 25%, pre-existing development, tree protection areas, stream buffers, cemeteries, open space, or easements would make the provision of a complete block infeasible.

C. Mixed-Use and Business Districts

In mixed-use and business district sites that are more than 5 acres in size:

1. Developments must incorporate existing or new streets that terminate at other existing or new streets to form an interconnected network with a maximum block perimeter of 2,600 linear feet, except as provided in Sub-paragraph 3 below.
2. There is no maximum block perimeter when a block contains an open space of at least 1 acre in size and when no other use is located in said block.
3. Streets used to satisfy this Section C must conform to Sec. 8.5 (Streets).

4. Streets may not be gated.
5. Other than stub-out streets, dead-end streets are not allowed unless a variance is granted by the Planning and Zoning Commission or City Council for topographic hardship.

8.3.3. Vehicular Access

A. Vehicular Access Required

Every site must provide vehicular access directly from a public street built to the standards in these regulations except as provided in Sec. 8.3.3.F (Vehicular Access Easements~~Vehicular Access Easements~~).

B. Subdivisions

1. When land is subdivided into larger parcels that would allow further subdivision into building lots, such parcels must be arranged and designed to allow for the opening of future streets and to provide access to those areas not presently served by streets. The right-of-way for such future streets must be reserved and dedicated on the preliminary and final plats.
2. No subdivision may be designed to eliminate all street access to adjoining parcels of land. Proposed streets must extend to the boundaries of the tract to be subdivided. Every development must be designed to facilitate either pedestrian or vehicular access to adjoining properties that are developed or anticipated to be developed. Locations of inter-parcel access will be as required by and subject to the approval of the Director.
3. A stub street must be provided to the boundary of a development when necessary to provide access to a land-locked abutting property, for planned continuity of future circulation, for improved access for public safety vehicles, or for the extension of public water or other utilities to neighboring lands. Such stub streets must be designed to allow their reasonable extension and must be located to be reasonably incorporated into a street design for the neighboring property. The stub street requirement may be waived by the Director, in consultation with the Director of the Departments of Public Safety and the Gwinnett County Department of Public Utilities.
4. Stub streets on an abutting property must be extended into a proposed development and incorporated into its street design. This requirement may be modified by the Director when a serious topographical hardship or dissimilar zoning exists which would create unacceptable land use conflicts between the two developments. This modification may be conditioned on the provision of easements necessary for the extension of public utilities, the provision of a multi-use trail connection, the provision of a cul-de-sac or other permanent turnaround on the stub street, or the removal of the stub street back to its nearest intersection.

C. Mixed-Use and Business Districts

1. **Applicability**

   The following applies to developments in mixed-use and business districts that are more than 5 acres in size.

2. **Stub-out Streets Required**

   a. Where a development abuts a parcel greater than 5 acres in size that is zoned any mixed-use of business districts, stub-out streets within the development must be installed to meet the block standards of Sec. 8.3.2.C. This requirement applies regardless of whether subdivision is proposed.

   b. The stub-out street right-of-way, pavement, and curbing must extend to the boundary of the abutting parcel to the point where the connection to the anticipated street is expected.

   c. Stub-out streets must be located so that the portion of the block perimeter located on the development does not exceed 50% of the applicable block perimeter maximum.

3. **Connecting to an Existing Stub-Out Street**

   If a stub-out street exists on an abutting parcel, the street system of any new development must connect to the stub-out street to form a through street.

4. **Exception**

   The Director may grant an administrative variance to eliminate the requirement for a stub-out street or require pedestrian and bicycle-only access when steep slopes over 25%, highways, waterways, tree conservation areas, stream buffers, cemeteries, open space, easements, or legal considerations would make the provision of a stub-out street infeasible.

D. Project Access Improvements

1. When property abutting an existing or proposed City street is developed for single-family, two-family, cottage court, townhouse, general supervised group living, or any nonresidential use, and the City street provides vehicle access, the developer must construct required access improvements (such as turn lanes or traffic control elements) as specified in this Sec. 8.3.3.D.

2. A deceleration lane is required at every project driveway or subdivision entrance accessed from an arterial street. If the street has an existing or proposed median and the developer requests a median break to serve the project, a left-turn lane leading to the median break must also be built to City standards.

3. Deceleration lanes must follow the standards in Chapter 4 of GDOT's Driveway and Encroachment Control Manual. The developer must dedicate additional right-of-way, at no cost to the City, to accommodate both the deceleration lane and an 11-foot shoulder. Any necessary drainage improvements associated with the lane must also be provided.

4. Other project access improvements may be required if recommended by the Director to ensure safe and adequate access for vehicles, pedestrians, and bicyclists.

5. The developer must relocate public or private utilities and drainage structures if needed to accommodate the required project access improvements.

E. Dead End Streets

1. Where a dead end street (other than a cul-de-sac) serves more than three lots, the developer must provide a temporary vehicular turnaround within the right-of-way. This requirement may be waived if an extension of the dead end street is approved and under construction before its inclusion in a final plat.
2. Where a street dead ends at the property boundary and the street segment exceeds 300 feet in length, a permanent cul-de-sac is required. In this situation, right-of-way to the property boundary is required, but the pavement may not extend to the property boundary beyond the edge of the paved cul-de-sac turnaround. In no case may a dead end street exceed 600 feet in length unless approved by the Director due to unusual topographic conditions or property configurations.

F. Vehicular Access Easements

1. Required vehicular access may be provided from a public street indirectly via easement in any one or more of the following circumstances:
   a. The property is a buildable lot of record existing at the time of adoption of this UDO but does not meet the minimum frontage requirement of the applicable zoning district. The property must be served by an exclusive access easement which must be limited to the provision of access to only one principal use or structure.
   b. The access easement serves a single-family dwelling on a lot which is otherwise a buildable lot of record existing at the time of adoption of this UDO, and which is sharing a common driveway with no more than one other single-family dwelling.
   c. The access easement was lawfully established as such under the code, ordinances, or regulations of the City before the adoption of this UDO.
   d. The access easement coincides with a private street approved under this UDO.
   e. The access easement serves a buildable lot of record which meets the minimum frontage requirements of this UDO, but at which point the access is not achieved.

8.3.4. Driveways

A. General Provisions

1. Each lot with on-site parking must provide a driveway as specified in this Sub-section.
2. Adjacent lots with on-site parking may share driveways.

B. Angle and Improvements

1. Driveways must generally intersect streets at right angles.
2. The portion of a driveway located within a public right-of-way must be paved, if any.
3. Driveways providing access to parking lots must be designed and paved in accordance with Sec. 7.1.5 (Parking Layout and Design~~Parking Layout and Design~~).

C. Number of Driveways

1. Every single-family and two-family lot is allowed one driveway cut.
2. Every site not specified in "1" immediately above is allowed at least one driveway curb cut.
3. Driveways not serving a single-family or two-family lot must be at least 100 feet from the nearest adjacent intersection or driveway curb cut along the same block face, unless otherwise permitted by the Director. The Director may require more separation for the safe operation of a free-right lane, acceleration or deceleration lanes, or the general public health, safety, and welfare.
4. Driveways not serving a single-family or two-family lot must align with driveways on the opposite side of such street, unless a median exists
5. The maximum number of permitted driveways on a site are as follows:

# of Abutting Streets	Street Lot Line Length	Curb Cuts per Street (max)	Driveway Spacing (min.)
1	Up to 300'	1	n/a
1	Above 300'	2	300'
2	Any	1 per street	n/a
3 or more	Any	1 per street	n/a

D. Driveway Location

The following standards apply to all driveways, except those exclusively serving single-family and two-family lots:

1. Driveway curb cuts must be at least 100 feet from street intersection and at least 100 feet from another driveway curb cut, measured at the centerline of the driveway curb cut or street.
2. Driveways serving a mixed-use and business district may not pass through any residential district, except as specified in Sub-paragraph 3 immediately below.
3. Driveways may pass through a buffer strip when the buffer strip abuts on a City street, thoroughfare, county road or state highway.

E. Driveway Design

Driveway curb cuts must follow the driveway detail standards in the City's standard drawings, based on use, as follows:

1. Driveway Detail 1 (with 10' to 20' width, 5' radius) for:
    a. Single-family and two-family dwellings
    b. Cottage courts
2. Driveway Detail 2 (with 20' to 24' width, 10' radius) for:
    a. All commercial or public and institutional uses
    b. Townhouses, multifamily, other group living uses

3. Driveway Detail 3 (with 20' to 32' width, 30' radius) for all industrial uses.
4. Driveway Detail 4 (optional design with island) for private commercial and industrial street entrances.

F. Additional Standards along Arterials

1. Along arterials, a deceleration lane, acceleration lane, larger turning radius, traffic islands, or other devices or designs may be required to avoid specific traffic hazards that would otherwise be created by the proposed driveway location.
2. All driveways approaching an arterial must provide adequate corner sight distance. The minimum corner sight distance from the driveway must equal or exceed the standards of AASHTO's "Policy on Geometric Design of Highways and Streets," chapter 9 (at-grade intersections). The sight distance must provide clear visibility of an object 4 feet above the intersecting street viewed from the centerline of the driveway at the right-of-way line of the intersecting street, at a height of 3.5 feet above the ground.
3. See Sec. 2.5 (Visibility Triangle) for additional requirements.

8.3.5. Inter-Parcel Access

A. Inter-parcel Access Required

Developments of any size in a mixed-use or business district must provide inter-parcel access as follows:

1. When a site is subdivided into multiple lots or developed into multiple buildings, inter-parcel access must be provided between the adjacent lots or buildings; and
2. When a lot adjoins another lot in a mixed-use or business district, inter-parcel access must be provided between the two lots.

B. Inter-parcel Access Standards

When inter-parcel access is required, it must meet the following standards:

1. Pedestrian circulation, vehicular circulation, and parking areas for each adjoining lot or building must be designed and installed to allow for cross-access between them.
2. Cross-access may not be gated or otherwise restricted.
3. When an adjoining lot is vacant or already developed, a stub for a future cross-access connection must be provided at the point where the connection is expected to occur. The Director will determine the location of the connection.
4. If a cross-access stub exists on an adjoining lot, the internal pedestrian, vehicular, and parking circulation areas must connect to the stub to form a cross-access connection.

C. Easement Standards

When inter-parcel access is required between adjoining lots, one or more easements must be provided that meet all the following standards:

1. Access easements must:
    a. Grant reciprocal access rights to the adjoining lots;
    b. Allow pedestrian and vehicular access between the adjoining lots;
    c. Prohibit fences, walls, or other obstructions that would block access;
    d. State that the cross-access agreement runs with the land, is binding on all successors, heirs, and assigns, and that the easement rights are perpetual; and
    e. Be signed by all owners of the granting property.
2. Maintenance easements must require each property owner to maintain the pedestrian circulation, vehicular circulation, and parking areas on their respective lots.
3. Easements must be at least 20 feet wide.
4. All easements must be recorded with the Clerk of Superior Court of Gwinnett County.

D. Relief

Inter-parcel access is not required when the Director determines that:

1. It is impractical due to topography, natural features, legal considerations, or safety factors; or
2. The adjoining property owner will not grant an easement to the proposed development; or
3. The adverse impact of the inter-parcel access on the use of the property would outweigh the benefit of reducing traffic on the public street (for example, if providing access would create a shortcut allowing vehicles to bypass a traffic control device). When vehicular inter-parcel access relief is granted, pedestrian inter-parcel access may still be required.

Sec. 8.4. Streetscapes

8.4.1. General Provisions

A. Applicability

Streetscapes must be installed when one or more of the following apply:

1. When a new public or private street is built; or
2. When a building is built, renovated, or repaired along an existing public street, except as provided in Sec. 8.4.1.B below.

B. Exceptions

Streetscapes are not required to be installed when one or more of the following apply:

1. When a building or site is renovated or repaired, and when there is no increase in floor area, and when there is no increase in the improved site area.
2. When a building or site is increased in floor area or improved site area cumulatively by less than 25%.
3. When a single-family dwelling along an existing street is built, renovated, or repaired.

C. Relief

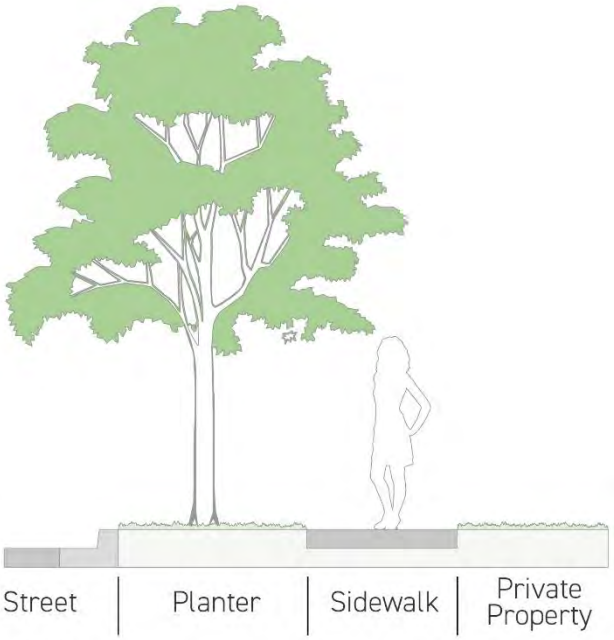
The Director may grant administrative variances to the requirements of this Section when one or more of the following apply:

1. When the required streetscapes would result in loss of an existing street tree or specimen tree;
2. When an existing building is being renovated, repaired, or expanded and its existing placement limits the space available for the required streetscape;
3. When an existing building is being renovated, repaired, or expanded and existing topography prevents the installation of the required streetscape without requiring the construction of retaining walls 3 or more feet in height; or
4. When an existing building is being renovated or repaired and implementing the required streetscape would make a site nonconforming with regards to parking.
5. When Gwinnett County requires alternatives standards along County routes
6. When GDOT requires alternative standards along State routes.

8.4.2. Streetscapes Required

A. General Provisions

1. Streetscapes consist of a planter and a sidewalk.



2. Continuous streetscapes must be provided along all existing and new streets abutting the lot.
3. The streetscape requirement is determined by street type, zoning district, and development type, according to the following table:

	Development Type	Width (min.)		
		Planter	Sidewalk	Total
Local Street				
Residential zoning district	Residential subdivision, public and institutional use	5’	5’	10’
Nonresidential zoning district	All types	5’	5’	10’
Arterial Street (except Peachtree Industrial Boulevard)				
Residential zoning district	All types	5’	5’	10’
Nonresidential zoning district (except MX)	All types	5’	5’	10’
MX districts	All types	5’	8’	13’
Peachtree Industrial Boulevard (see Sec. 8.4.3.C)				
All zoning districts	All types	15’	8’	23’
Alley				
All zoning districts	All types	None	None	None

4. Where an official City, County, or GDOT project uses an alternative streetscape design, the streetscape must conform to the design found in the official City, County, or GDOT project, subject to the approval of the Director, provided the total width of the streetscape is not less than otherwise required.
5. Where the existing right-of-way is wider than the width needed to accommodate the roadway and required streetscape, the Director may require a wider planter or sidewalk.
6. Where the existing right-of-way is too narrow to accommodate the required streetscape, the right-of-way width needed to accommodate the roadway and streetscape may be expanded by mutual agreement between the property owner and the entity holding the right-of-way, or a public access easement may be dedicated to the City to meet the required improvements.
7. Where an easement is provided to the City:
    a. The back of the minimum required streetscape easement area is considered the lot line for the purpose of establishing required setbacks;
    b. The easement area is not included in lot coverage calculations; and
    c. The easement area does not count toward the minimum lot size requirements for new lots.
8. A multi-use trail may be required instead of a streetscape along any new or existing street when the location has been identified for one in an official City plan or project, or by Gwinnett County, or by GDOT. See Sec. 8.5.2.C.

8.4.3. Planter

A. Definition

The portion of a streetscape intended for planting street trees and the placement of street furniture including light poles, litter receptacles, benches, utilities, traffic signs, bike racks, bus shelters, and similar items in a manner that does not obstruct pedestrian access or motorist visibility and as approved by the City.

B. General Provisions

In addition to the general standards for streetscapes, planters must meet the following requirements, except as specified in Sec. 8.4.3.C along Peachtree Industrial Boulevard:

1. A continuous planter must be provided along all existing and new streets.
2. The planter must be located between the roadway and the sidewalk.
3. The width of the planter must, at a minimum, meet the width specified in Sec. 8.4.2.A.3.
4. Street trees are required in the planter and must meet the following standards:
    a. Street trees must be planted in accordance with Sec. 7.3.4.C.1.
    b. All required street trees and their planting areas must comply with Sec. 7.3.1 (Plant Materials), Sec. 7.3.4 (Street Trees), and Sec. 9.1 (Tree Protection).

5. Pedestrian lights or streetlights, where installed, must be placed a maximum of 60 feet on center and spaced equal distance between required trees along all streets.
6. The following encroachments are permitted in the planter subject to City approval:
    a. Public bus shelters, benches, trash receptacles, bicycle racks, and residential mailboxes.
    b. Utility boxes, meters, manhole covers, regulatory signs, and fire suppression equipment.
    c. Street and pedestrian lighting.
    d. Landscaping, sidewalks, trees, and planting areas.
    e. Outdoor dining within MX districts along local public or private streets.

C. Peachtree Industrial Boulevard Alternative Standards

Along Peachtree Industrial Boulevard, Gwinnett County requirements may differ from the planter requirements of this UDO. In this case, the Director should use the following to reconcile the standards of this UDO with Gwinnett County requirements:

1. Priority should be given to maintaining as wide a planter as possible between the sidewalk and the roadway to promote pedestrian safety and comfort.
2. When Gwinnett County lateral offset requirements will not allow overstory trees in the required planter:
    a. A planter at least 10 feet wide should be provided behind the required sidewalk and an overstory tree should be planted in it, as otherwise required; and
    b. A planter at least 5 feet wide should still be provided between the roadway and the sidewalk and understory trees consistent with Gwinnett County standards should be planted in it.

8.4.4. Sidewalk

A. Definition

The portion of the streetscape between the planter and the front lot line of the adjacent lot intended for pedestrian activity.

B. Standards

In addition to the general standards for streetscapes, sidewalks must meet the following requirements:

1. A clear, direct, continuous, and paved sidewalk must be provided along all existing and future streets.
2. Sidewalks must be separated from automobile travel lanes and street parking by a planter.
3. The width of the sidewalk must, at a minimum, meet the width specified in Sec. 8.4.2.A.3.
4. The sidewalk must always remain clear of obstacles for the minimum specified width and must be built to comply with all City, PROWAG, and ADA specifications.

5. Utility poles, streetlights, and above-ground utilities cannot be in a sidewalk unless an alternative location is not feasible, as determined by the Director.
6. In MX districts, outdoor dining may be in the sidewalk, provided at least 6 feet of clearance is maintained.

8.4.5. Design Standards

All streetscapes that are required or installed must conform to the following unless an administrative variance is granted by the Director.

A. Concrete curb and gutter are required where streetscapes are installed.

B. Sidewalks must be built of concrete and must be a minimum of 4 inches thick. The concrete must be class "B" (as defined by GDOT) and have a strength of 2,200 psi at 28 days.

C. Sidewalk cross-slopes of 0.5% minimum to 2.0% maximum must be provided

D. New sidewalks must match and provide a smooth transition to any existing sidewalks with no steps. Vertical changes (bumps) may not exceed one-quarter inch. Curb ramps must be provided at all curb termini.

E. Expansion joints must be provided at all property lines (extended) and driveway crossings. Control joints must be provided every 10 feet.

F. Disturbed areas resulting from sidewalk construction must be backfilled, stabilized, and grassed.

G. Sidewalks must continue across any intervening driveway including any control or expansion joints. Driveways must ramp up to the sidewalk level instead of sidewalks sloping down to driveway level.

8.4.6. Installation Deadlines

A. All required streetscapes must be installed before the issuance of a certificate of occupancy or final plat approval in accordance with this Sub-section unless a performance bond is posted. The cost of streetscape installation may be set aside in escrow where proposed road improvements may impact the location of the sidewalk.

B. Streetscapes required on residential building lots must be installed before the issuance of a certificate of occupancy for each individual dwelling.

C. Streetscapes required in recreation areas, open spaces, and retention/detention ponds must be installed before final plat approval.

D. Streetscapes required on other projects must be installed before issuance of a certificate of occupancy or certificate of completion, as appropriate.

Sec. 8.5. Streets

8.5.1. General Provisions

A. Applicability

This Section applies to all existing or new streets, both public and private.

B. Private Streets

1. Unless otherwise specified in this UDO, private streets must be designed and built to public standards.
2. Private street maintenance is the responsibility of private parties and must be clearly established on the final plat of the development.
3. Gated private streets must meet the following standards:
   a. In mixed-use and business districts, in accordance with Sec. 8.3.2.C.
   b. In all other zoning districts, private streets may only be gated when approved by the Director upon finding that adequate provisions are made for emergency responder access and other public purposes.

C. Improvements Required

Street improvements are required in accordance with this Section, except as otherwise approved by the Director.

D. Dedication of Street Right-of-Way

Rights-of-way for existing and proposed public streets must be dedicated as follows:

1. Existing streets or thoroughfares must have additional right-of-way dedicated along their frontage;
2. In accordance with the street classifications as shown on the Gwinnett County DOT long-range road classification map included in the Gwinnett County Comprehensive Transportation Plan (CTP); and
3. In accordance with the widths required in Table 8.5.2.

8.5.2. Right-of-Way and Improvements

A. Right-of-way and Pavement Widths

Public streets must be built according to one of the categories in Table 8.5.2. The Director will determine classifications by referencing Gwinnett County DOT's road classification list for existing streets included in the County's CTP, where applicable. Minimum widths for new construction (streets or project access improvements) must conform to Table 8.5.2.

B. Street Rights-of-Way

The minimum width of public street right-of-way must be dedicated based upon the street

categories shown in the Gwinnett DOT's long-range road classification map and this UDO.

1. Right-of-way beyond the width shown in Table 8.5.2 must be dedicated when the width is inadequate to accommodate any of the following improvements when required by this UDO or required to accommodate traffic, bicycle, and pedestrian safety, including for:
   a. Utility easement as required by the Gwinnett County Department of Public Utilities;
   b. Deceleration lanes;
   c. Streetscapes;
   d. Multi-use trails and bicycle facilities;
   e. Turning lanes;
   f. Storage lanes;
   g. Medians; and
   h. Intersection realignments.
2. If the CTP, Gwinnett County, or the State of Georgia proposes a new street across a property, then right-of-way for the proposed street must be incorporated into the subdivision and dedicated to the City. The Director may conduct a review of up to 90 days from the date of the permit application to determine the location and design requirements of the City, County, or State. If, after the 90-day review, the Director is unable to reach a decision, there may not be any further delay of a requested permit for this situation.

Table 8.5.2 Minimum Widths for New Streets and Project Access Improvements

Street Types	Design/Target Speed	Minimum Right-of-Way [1]	Minimum Roadway[2]
Principal Arterial	40 to 55 MPH	120' to 150'	55' to 77'; 4 to 6 through lanes + median
Major Arterial	35 to 50 MPH	100' to 120'	55' to 77'; 4 to 6 through lanes + median
Minor Arterial	25 to 35 MPH	80' to 100'	33' to 55'; 2 to 4 through lanes + median
Major Collector	25 to 30 MPH	80'	33'; 2 through lanes + median
Minor Collector	20 to 30 MPH	60 to 80'	22'
Local Street Nonresidential Nonresidential cul-de-sac	 20 to 25 MPH n/a	 60' 60' radius	 20' 50' radius
Local Street Residential Residential cul-de-sac	 20 to 25 MPH n/a	 50' 50' radius	 27' 40' radius
Alley	10 MPH	20'	16'

Table Notes.

1. The wider width applies under circumstances described in Sec. 8.3.3.D (Project Access Improvements~~Project Access Improvements~~). Rights-of-way may be public or private.
2. Roadway width dimensions are from face of curb to face of curb.

C. Multi-Use Trails

1. Public and private streets must incorporate width for a multi-use trail when the location has been identified for one in an official City plan or project, or by Gwinnett County, or by GDOT.
2. The multi-use trail must either be in the roadway or in place of the required streetscape, per Sec. 8.4.2.A.8.

D. New Streets

In residential subdivisions, a dead end ("stub") street required by Sec. 8.3.3.B to provide access to an abutting property may be exempted from the construction of roadway improvements and public utilities under the following circumstances:

1. No lot within the proposed subdivision will gain access from the stub street.
2. A concept plan has not been submitted or approved on the neighboring tract.
3. The "stub" street must be fully designed as part of the development plans. However, the right-of-way may only be cleared and rough graded in accordance with the approved plans, and all disturbed areas grassed.
4. Connections for future extension of all public utilities must be built as part of the subdivision. Curb returns must be built as part of the subdivision. Curb returns must be provided to the future "stub" street roadway location, and curb and gutter must be installed across the roadway stub at the right-of-way line (extended).
5. The right-of-way for the "stub" street must be dedicated as part of the final plat. Slope easements or construction easements, if required by the street design, must be shown on the final plat.

E. Substandard Streets

1. If a development has access to an abutting substandard street (i.e., a dirt or gravel road), the street must be upgraded by the developer to a paved roadway from the project entrance to the nearest standard paved road along the route of access.
2. Off-site project access improvements required by "1" above must, at a minimum, result in a full-section roadway meeting the requirements of a local residential rural roadway (24 feet edge to the edge of the pavement, with drainage swale ditches as needed). Responsibilities are as follows:
    a. The developer must design the road and provide the labor, equipment, and materials required for roadway improvements and necessary drainage improvements.
    b. If the City desires the roadway to be improved to a standard greater than that for a local residential rural roadway, the City must provide or pay the cost of the additional materials and labor.
    c. All right-of-way required for these off-site improvements must be acquired by the developer at no expense to the City. If the developer is unable to acquire the right-of-way, the City may initiate acquisition proceedings, at the expense of the developer, after authorization by the City Council.

8.5.3. General Layout Requirements

A. Conformance

The arrangement, character, extent, width, grade, and location of all streets must conform at a minimum to the standards that apply to their functional classification as determined by the Gwinnett County DOT and this UDO.

B. Local streets and Minor arterials or Collectors

Local streets must be laid out so their use by high-speed traffic is discouraged. Minor arterials or major collectors must be provided to channel through traffic movements within a development, where appropriate to the design and a major thoroughfare is not proposed by the Gwinnett County CTP. Major collectors or minor arterials also may be provided as central routes within large residential subdivisions, where appropriate to the design, based on project traffic demands exceeding 2,000 trips per day (ADT).

C. Cul-de-sac Streets

1. Dead end streets designed to have one end permanently closed must provide a cul-de-sac turnaround and may not exceed 600 feet in length. Additional length necessitated by topography or property configuration may be approved by the Director.
2. The length of a cul-de-sac street is measured from the center of the cul-de-sac to the center of the intersection with another street that is part of the connected street network. Connections of cul-de-sac streets onto other cul-de-sac streets are prohibited.
3. Eyebrow cul-de-sacs (half cul-de-sacs) are prohibited.
4. Cul-de-sacs must conform to the layout and dimensional requirements as shown in the standard drawings.

D. Service Roads

Where a development borders on or contains a railroad right-of-way, or limited access highway right-of-way or major thoroughfare, a public street may be required to be built and dedicated within the development approximately parallel to and on each side of such right-of-way. The service road must be separated from the major thoroughfare by a landscaped median, as shown in the standard drawings.

E. Half-streets

Half-streets (new boundary streets with one-half of the minimum required right-of-way or pavement width) are not allowed nor is access to them permitted if they exist.

F. Reserve Strips

Land in private ownership adjacent to public rights-of-way which could control or are intended to control access to streets, alleys, or public lands are not permitted unless their control is given to the City under ownership, dedication, or easement conditions approved by the City Attorney or acceptable to the Director. No development may be designed to deny access to abutting properties.

G. Alleys

1. **Encouraged.** Alleys are encouraged in the following situations:
   a. Where existing topography prevents feasible access to a public street on the front of the lots;
   b. Where lots front a major arterial and traffic conditions make alley access safer and more desirable; and
   c. Where desirable to reduce pedestrian and vehicular conflicts.
2. **Required.** Alleys are required in the following situations:
   a. In mixed-use developments.
3. **Design.** All alleys:
   a. Must connect to a public street or a private street built to public standards;
   b. Must have a public right-of-way or private easement width specified in Table 8.5.2;
   c. Must have a minimum paved surface specified in Table 8.5.2;
   d. May not be used to meet fire lane access requirements;
   e. Must have entrances that ramp up to sidewalk level; and
   f. Are not required to provide curb and gutter or streetscapes.
4. **Maintenance.** Private alleys must be owned and maintained by a mandatory homeowners' association.

H. Street Jogs

1. Street jogs must either directly align or have offsets of a minimum of 125 feet for local residential subdivision streets and a minimum of 200 feet for local, nonresidential subdivision streets, as measured between centerlines of said streets.
2. All principal arterials, minor arterials, major collectors, and minor collectors must provide offsets as required by the Department, where alignment is not desirable or feasible, but in no case be spaced less than 600 feet apart as measured between centerlines of said streets.

8.5.4. Traffic Control Devices

A. Traffic Control Signs

Street signs, traffic control signs, and devices such as striping in new developments must be installed by the developer and maintained by a homeowners' association or similar entity.

B. Street Name Signs

Street name signs must have a green background with white legends mounted on channelized posts. Alternate post materials are subject to the review and approval of the Director.

C. Traffic Signals and Signs

All traffic signals and signs must conform to the Manual on Uniform Traffic Control Devices (no decorative traffic control devices will be allowed).

D. Striping Requirements

All new streets with four or more lanes (including auxiliary lanes) and existing streets being widened with one or more additional lanes must be striped by the developer before the approval of development conformance for the project. Striping must be accomplished with paint meeting GDOT standards conforming to the Manual on Uniform Traffic Control Devices.

E. Street Lights

1. The installation of all street lighting fixtures within City rights-of-way must be approved by the Director before such installation.
2. Within residential subdivisions, decorative street lighting approved by the Director must be used. Payment for the light pole, fixture, and installation, and 1 year's power must be supplied by the developer before final plat approval.
3. Street lights must comply with the applicable requirements of Sec. 7.4 (Outdoor Lighting~~Outdoor Lighting~~).

8.5.5. Specifications.

Unless otherwise specified in this UDO, all of the materials, methods of construction, and workmanship for the work covered in reference to street construction must conform to GDOT specifications.

8.5.6. Street Subgrade Preparation

A. GDOT Specifications

Subgrade preparation must be in accordance with GDOT specifications and these regulations.

B. Removal of Unsuitable Material

If any sections of the subgrade are composed of topsoil, organic matter, or other unsuitable or unstable material, such material must be removed and replaced with suitable material and then thoroughly compacted as specified for fill or stabilized with stone, a geo-textile, or a geo-grid.

C. **Fill**

Fill must be placed in uniform, horizontal layers no more than 8 inches thick (loose measurement). Moisture content must be adjusted as necessary to compact material to 95% of maximum dry density except for the top 12 inches which must be compacted to 100% of maximum dry density.

D. Utility Installation

After all earthwork has been completed, all storm drainage, water, and sanitary sewer utilities have been installed within the right-of-way as appropriate, and the backfill in all such ditches thoroughly

compacted, the subgrade must be brought to the lines, grades, and typical roadway section shown on the plans.

E. **Trenches**

Utility trenches cut in the subgrade must be backfilled as specified herein. Compaction tests at the rate of one per 150 feet of the trench length must be provided to verify compaction.

F. **Proofrolling**

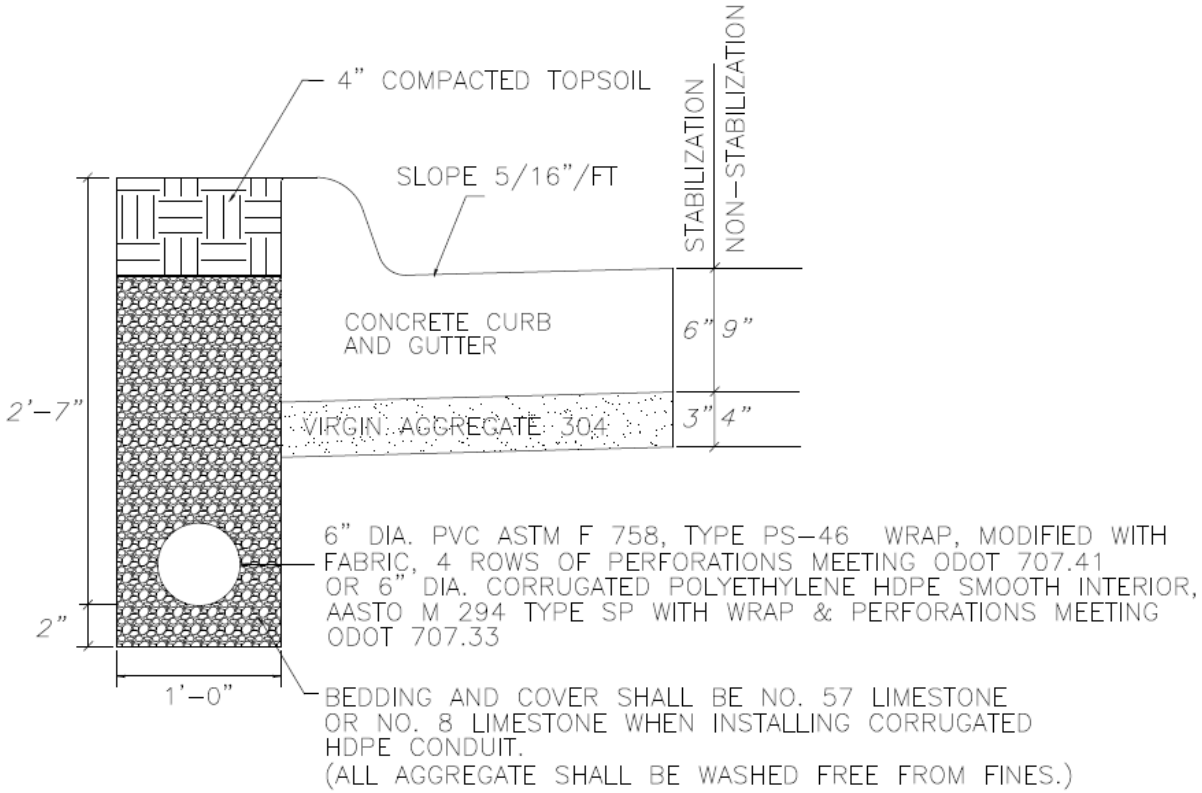
The subgrade must pass roll testing before the placement of the base material. A geotextile or grid may be used to stabilize a subgrade that does not pass proofrolling.

G. **Traffic Surface Before Completion**

When the street is to be used for construction traffic before the paving work is completed, a layer of stone (except crusher run) must be laid as a traffic surface. This material may not be used as a part of the base material. It may be worked into the subgrade, or it must be removed before the base course is set up for paving.

H. Drainage

Provisions must be made to drain low points in the road construction when the final paving is delayed. A break in the berm section is required when the curbing has not been built. After installation, drainage under the curb to side slopes is required using minimum 4-inch diameter pipe sections. See the diagram below.



8.5.7. Access Improvement Standards

A. **Sections 5 Feet or Greater in Width**

For sections 5 feet or greater in width, the section must use Class A concrete and comply with GDOT's standards and detail. The base course must pass roll testing before paving. If a delay in paving is reasonably expected by the developer or the Department, the base must be sealed and retested before paving.

B. **Sections Less than 5 Feet in Width**

For sections less than 5 feet wide, 7 inches of class A concrete base (5 inches on local and minor collector streets) are required, and sections must comply with GDOT specifications.

8.5.8. New Local, Minor Collector Streets

All new local and minor collector streets must conform with the following standards:

A. **Asphalt Streets**

Only the following base materials are allowed:

1. **Crushed Stone Base.** The base course must consist of at least 8 inches of graded aggregate base. After being thoroughly compacted and brought to the proper section, an intermediate course of 2 inches of 19mm Superpave must be applied. If a delay in paving is reasonably expected by the developer or the Department, the base must be primed the same day it is compacted, and cured in accordance with GDOT standards.
2. **Soil Cement Base**
    a. If the base material (resident soil) is unsatisfactory to the Director, a soil cement mix design with engineer test results acceptable to the Director must be submitted. The design must come from a geotechnical firm with the results certified by a professional engineer registered in the State of Georgia. The tests required for the design are ASTM D558 or AASHTO T134 or ASTM D559 or 560 or AASHTO T135 and 136.
    b. The minimum base course must consist of at least 6 inches of suitable soil (high mica content not suitable) stabilized with 10% Portland cement by volume (approximately 42.3 pounds per square yard). Depending on whether the street is to be built as a one-pass or two-pass street, binder or paving must conform to Sec. 8.5.8.A.1. Where the grade of the street is 5% or greater, a single surface treatment course must be applied before the binder.

B. **Concrete Streets**

Due to their difficult maintenance requirements, the City discourages the installation of concrete streets. Special design plans must be submitted by the applicant to the Director for review and approval before installation.

8.5.9. New Major Thoroughfares

Major thoroughfares must be built in accordance with designs prepared by the City, Gwinnett County, or GDOT.

8.5.10. Curb and Gutter

A. Required

All new public and private streets, public and private project access improvements, and public and private non-single-family detached dwelling parking lots must be provided with curb and gutter. All gutters must drain smoothly with no areas of ponding. Parking wheel stops are required in non-single-family detached dwelling parking lots with stormwater management low-impact development (LID) measures to promote sheet flow to channels/stormwater management facilities.

B. Residential Curbing

Residential curbing must meet the following requirements:

1. Concrete must be class “A” (as defined by GDOT) and have a minimum strength of 3,000 psi at 28 days.
2. The typical minimum section is 6” × 24” × 12”.
3. Vertical curbing only.

C. Industrial or Commercial Curbing

Industrial or commercial curbing must meet the following requirements:

1. Concrete must be class “A” (as defined by GDOT) and have a minimum strength of 3,000 psi at 28 days.
2. The typical minimum section is 8” × 24” × 14”.
3. Vertical curbing only should be sloped similar to GDOT Type 7, to allow emergency vehicles to mount curb. This does not apply to median curbing.

D. Principal Arterial and Major Arterial Curbing

Principal arterial and major arterial curbing must meet the following requirements:

1. Concrete must be class “A” (as defined by GDOT) and have a minimum strength of 3,000 psi at 28 days.
2. The typical minimum section is 8” × 30” × 14”.
3. Vertical curbing only should be sloped similar to GDOT Type 7, to allow emergency vehicles to mount curb. This does not apply to median curbing.

E. Construction Methods

1. Curb and gutter must be set true to line and grade, must be horizontal, must be field staked, and must be finished to the section shown on the plans. Along project access improvements of

a road which the City maintenance department has identified for resurfacing within 1 year of the new construction, the grade of the new gutter must be placed 1 inch above the project access improvement pavement grade in areas where drainage will not be adversely affected.

2. Line and grade must be set by the developer's engineer or surveyor on grades less than 2% and over 12%, and within 100 feet in both directions from all low points.
3. One-half inch expansion joints or premolded bituminous expansion joint material must be provided at all structures and radius points and at intervals not to exceed 250 feet in the remainder of the curb and gutter.
4. Inferior workmanship or unprofessional construction methods resulting in unacceptable curb and gutter will be cause for rejection of the finished work.
5. Disturbed areas along all curbing must be backfilled, stabilized and grassed.

8.5.11. Roadway Design

A. Street Grades and Design Speeds

1. The minimum allowed grade for local and minor collector streets is 0.3%. The minimum for major collector and arterial streets must conform to GDOT practice.
2. A minimum grade of less than 0.3% on a local street may be approved by the Department, based on adequate engineering designs, where at least 0.3% cannot reasonably be achieved due to topographical limitations imposed by the land. In such cases, a record drawing and such computations as necessary must be provided after construction to establish that the street will drain in accordance with these regulations. Street sections where unacceptable pooling, excessive spread at catch basins, or other hazardous conditions occur must be rebuilt or otherwise improved to eliminate such conditions.
3. Minimum and maximum vehicle design/target speeds and maximum grades allowable in the City by street classification are as shown in Table 7.5.11.A.
4. The maximum grade on any cul-de-sac turnaround is 6%.

Table 7.5.11.A Design Speeds and Grades

Street Category	Maximum Grade	Design/Target Speed
Principal arterial	6%	40 to 55 MPH
Major arterial	8%	35 to 50 MPH
Minor arterial	10%	25 to 35 MPH
Major collector	10%	25 to 30 MPH
Minor collector	10%	20 to 30 MPH
Local	15%[1]	20 to 25 MPH

Table Note

1. Grades between 12% and 14% may not exceed a length of 150 feet and require an “as graded” survey before the installation of the curb or utilities. The distance is measured as the tangent length between points of curvature.

B. Vertical Street Alignment

1. Changes in street profile grades with an algebraic difference greater than 1% must be connected by a parabolic curve with a minimum length (L) equal to the product of the algebraic difference between the grades in percent (A) and the design constant (K) assigned to the street according to its category (i.e., L=KA).
2. Constant (K) values are shown in Table 7.5.11.B. Constant (K) Values for Vertical Curves for both desirable and minimum acceptable ("hardship") conditions. In all cases, the "desirable" value must be used, unless it cannot be achieved due to topographic conditions beyond the developer's control. In such hardship situations, the Director may approve a lesser value to the extent required by the hardship situation, but in no event less than the minimum value shown in the table.

Table 7.5.11.B Constant (K) Values for Vertical Curves

	Crest Curves		Sag Curves	
Street Category	Min.	Desirable	Min.	Desirable
Principal arterial	151	151	136	136
Major arterial	84	84	96	96
Minor arterial	43	44	64	64
Major collector	43	44	64	64
Minor collector	20	20	37	37
Local	10	10	17	17

C. Horizontal Street Alignment

1. New streets must adhere Table 7.5.11.C governing horizontal curvature and superelevation.

Table 7.5.11.C Horizontal Curves

Street Category	Minimum Radius	Maximum Superelevation
Principal arterial	1333 ft	0.06
Major arterial	833 ft	0.06
Minor arterial	485 ft	0.06
Major collector	485 ft	0.06
Minor collector	231 ft	0.06 [10
Local	81 ft	0.06

Table Note:

1. No superelevation is allowed on minor collectors internal to residential subdivisions.

2. Superelevation for horizontal curves must be calculated utilizing the following formula:

$$R = \frac{v^2}{15(e + f)}$$

Where:

R = minimum radius curve

v = vehicle design speed (MPH)

e = rate of superelevation (decimal of a foot rise per foot roadway)

f = side friction factor

Vehicle design speed (v)	30 40 50 60
Side friction factor (f)	.27 .23 .20 .18

3. Widening section along existing streets must be designed reflecting existing curvature and superelevation, if any, unless the existing street has been included in a specific design by the County or GDOT which calls for different standards, in which case the project will be coordinated with the overall design.
4. Roadway edge curves must be provided for tangent runout (bringing edge from a normal crown to centerline elevation) and superelevation runoff (from the end of tangent runout to the point of design superelevation) in accordance with design standards of GDOT or other professional engineering standards.
5. Between reverse horizontal curves there may be no less than the minimum centerline tangents shown in Table 7.5.11.D unless otherwise specified by GDOT. Compound radii curves are prohibited. At least the "desirable" length must be provided unless hardship conditions of topography or property configuration will not allow lengths greater than those shown as "minimum." For compound circular curves, the ratio of the flatter radius to the sharper radius may not exceed 1.5 to one.

Table 7.5.11.D Tangents

Street Category	Minimum Tangent Length	Desirable Tangent Length
Principal arterial	150'	180 ft
Major arterial	125'	150'
Minor arterial	100'	120'
Major collector	100'	120'
Minor collector	75'	90'
Local	50'	60'

Table Note
Minimum tangents are based on the distance traveled in 1.7 seconds at the design speed for each category of the street. Desirable length is based on distance traveled in 2.0 seconds.

D. Horizontal and Vertical Clearance

1. Horizontal Clearances

a. A shoulder of no less than 11 feet from the back of the curb or the edge of the pavement, appropriately graded and with gentle slopes of no more than 0.5 inch per 1 foot and rounded cross-sectional design, must be maintained along all streets. Beyond the shoulder but within the right-of-way, slopes may not exceed 1 foot of rise for every 2 feet of horizontal distance on a cut slope, and 1 foot of fall for each 3 feet of horizontal distance on a fill slope.

b. Along all public streets, a clear zone must be provided for a minimum distance of 6 feet from the back of the curb or the edge of the pavement wherein nothing may be located above ground level except for traffic and street signs, public utility structures, and mailboxes.

c. At selected locations, such as the outside of a sharp curve, a wider clear zone with greater horizontal clearances provided to any roadside obstruction may be required.

d. The Department, in accordance with Georgia Law 32-6-51, is authorized to remove or direct the removal of any sign, signal, device, or other structure erected, placed, or maintained on the right-of-way of a public road that, because of its nature, construction, or operation, constitutes a danger to, or interferes with the vision of, drivers of motor vehicles.

2. **Vertical Clearances.** Vertical clearance at underpasses must be at least 16.5 feet over the entire roadway width.

8.5.12. Street Intersections

A. Angle of intersection

1. Intersections must generally be at right angles.
2. Intersections may not be at an angle of less than 85 degrees unless approved by the Director.
3. Intersections may not be at an angle less than 70 degrees unless the intersection is signalized and approved by the Director.

B. Maximum Grade

Street intersections should be designed with a flat grade wherever possible, but in no case should the grade exceed 2% in normal situations (or 4% in topographical hardship situations on local streets).

C. Approach Horizontal Alignment

1. New local streets that approach an intersection with a street in a category higher than itself on a horizontal curve with a centerline radius less than 240 feet must provide a tangent section of roadway at least 30 feet long. Minor collectors approaching an intersection with a major thoroughfare on a horizontal curve with a centerline radius of less than 550 feet must also provide the 30-foot tangent section. The tangent length is measured along the centerline of the street, from the right-of-way line of the intersecting street, extended, to the point of tangency with the centerline of the curved section.
2. New major thoroughfares must provide tangent sections at intersections with streets in equal or higher categories as needed to provide adequate stopping distances at their design speeds.

D. Approach Vertical Alignment

1. For intersections with local or minor collector streets, a leveling of the street at a grade not exceeding 2% must be provided but no level approach distance is required for streets approaching at less than 7%, and a minimum 25-foot level approach distance may be provided for streets approaching at a grade of 7% or more. (See standard drawings).

2. As a street approaches an intersection with a major material, there must be a suitable leveling of the street at a grade not exceeding 2% and for the distance specified in Table 7.5.12.D.

Table 7.5.12.D Approach Distances at Major Arterial Intersections

Approaching Street Category	Minimum Approach Distance [1]
Arterial	100’
Collector	75’
Local	50’

Table Note

1. Distance of the approach is measured from the edge of the pavement of the intersecting street to the point of curvature in the approaching street.

E. Intersection Radii

Intersection radii for roadways measured at the back of the curb and for the right-of-way lines must be as shown in Table 7.5.12.E. For intersecting streets of different classification, the larger radii must be provided. In all cases, adequate right-of-way must be provided to maintain a minimum of 11 feet from the back of the curb. Larger radii may be required for streets intersecting at angles less than 90 degrees. Roadway radii must be increased to 75 feet on roads with heavy truck traffic.

Table 7.5.12.E Intersection Radii

	Arterial	Collector	Local	Industrial [1]	Right-of-Way [2]
Arterial	25’	20'	20'	30'	20'
Collector	20’	20'	15'	30'	15'
Local	20’	15’	15'	20’	10'
Industrial [1]	30’	30’	20’	30'	25'

Table Notes

1. All categories or classifications.
2. Intersecting right-of-way lines may be joined by an arc with the minimum radius shown, or by a miter which cuts across the right-of-way lines connecting the points where the required radius would have otherwise been tangent.

F. Islands

Islands in street intersections must conform to the standard drawings. In no case may anything in an island extend more than 3 feet above the street grade within the right-of-way, except traffic regulatory devices and other infrastructure erected or approved by the City. No island may be approved which contains less than 100 square feet.

G. Intersection Corner Sight Distance

1. Intersections must be designed with adequate corner sight distance for each street which approaches a street in an equal or higher street category (except an intersection of two local streets). Where necessary, backslopes must be flattened and horizontal or vertical curves lengthened to provide the minimum required sight distance.
2. The minimum corner sight distance from the approaching street intersecting an arterial street must meet the minimum corner sight distance requirement calculated using AASHTO's "Policy on Geometric Design of Highways and Streets," chapter 9 (at-grade intersections), latest edition. The sight distance must provide clear visibility of an object 4 feet above the intersecting street viewed from the centerline of the approaching street at the right-of-way line of the intersecting street, at a height of 3.5 feet above the ground.
3. See Sec. 2.5 (Visibility Triangle) for additional requirements.

H. Obstructing Visibility at Intersections

On any corner lot, the requirements of Sec. 2.5 (Visibility Triangle~~Visibility Triangle~~) also apply.

I. Turning Lanes at Intersections

1. Turning lanes may be required if warranted by anticipated traffic volumes to meet traffic demand and safe operations. When provided, turning lanes must meet the following criteria:
   a. Storage length. A minimum of 150 feet of storage length for turning lanes on any arterial roadway must be used. A minimum of 100 feet of storage length for turning lanes on all collectors must be used.
   b. Taper length. The minimum taper length is 50 feet.
2. Left turning lanes from arterials are subject to longer storage lengths and tapers as determined on a case-by-case basis.

Article 9. Environmental Protection

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Article 9. Environmental Protection~~Environmental Protection~~

Sec. 9.1. Tree Protection

9.1.1. Title

This Section will be known as the "City of Berkeley Lake Tree Protection Ordinance."

9.1.2. Intent and Purpose

A. Intent

The City Council finds that the protection and preservation of trees, the planting of new trees and other landscape materials of the species and quality recommended herein, serve the public interest and promote public health and general welfare.

B. Purpose

1. The purpose of this Sec. 9.1 is to preserve and enhance the city's natural environment. This is accomplished through tree preservation, protection, and planting of trees and other landscape materials. This Sec. 9.1 is intended to further the City's policy that all development will achieve upon project completion a uniform standard related to tree coverage.
2. Benefits derived from tree protection and replacement include:
    a. Improved control of soil erosion;
    b. Moderation of stormwater runoff and improved water quality;
    c. Enhanced habitat for desirable wildlife;
    d. Reduction of noise and glare;
    e. Climate moderation and reduction of heat island effect;
    f. Aesthetics, scenic amenity;
    g. Increased property value;
    h. Assistance in traffic calming; and
    i. Interception of airborne particulate matter and the reduction of some air pollutants.

9.1.3. Applicability

A. General Provisions

1. This Sec. 9.1 applies to all real property, except as otherwise specified in this Sub-section.
2. This Sec. 9.1 applies to any tree removal or land disturbance on real property, except as exempted under Sec. 9.1.3.B below. No development or land disturbance permit will be issued

by the City without it first being determined that the proposed development conforms with these regulations.

B. Exemptions

The following activities are exempt from the provisions of this Sec. 9.1:

1. The removal of trees on public rights-of-way conducted by, on behalf of, or as part of work to be dedicated to a federal, state, county, municipal, or other governmental agency in the performance of its lawful activities or functions related to the construction or improvement of public rights-of-way.
2. Horticultural and agricultural operations.
    a. All plant or tree nurseries and botanical gardens are exempt from the terms and provisions of this Sec. 9.1 in relation to those trees which are being grown for relocation and continued growth in the ordinary course of business, or for some public purpose.
    b. All orchards of trees in active commercial operation are exempt from the terms and provisions of this Sec. 9.1 for bona fide agricultural purposes only.
3. Tree thinning. The thinning of trees (selective cutting only) solely for the purpose of good forestry management, may be permitted upon authorization by the Director and will require the submittal and approval of a tree preservation/replacement plan. Permits authorizing tree thinning are limited to the following:
    a. A 75-foot natural undisturbed buffer (not a zoning buffer) must be provided and maintained along the entire perimeter of the property, including road frontages, during the land disturbing activity, except for authorized road crossings.
    b. All sites must maintain the minimum Tree Density Unit (TDU) requirements specified in Table 9.1.7.A.
    c. The owner/developer must utilize the recommended best management practices (BMPs) as established by the Georgia Forestry Commission.
4. Notwithstanding the foregoing, all reasonable efforts must be made to save specimen trees.

C. Exclusions

1. Credit for Zoning Buffer Plantings Excluded

Existing trees proposed to be retained and new trees proposed to be planted to meet the buffer requirements of this Sec. 9.1, the buffer requirements of Sec. 7.2.1.A, or any buffers required as a condition of zoning, special use or variance approval may not be used to satisfy the requirements of this Sec. 9.1 and will not count toward meeting Tree Density Unit requirements. As such, sites containing these required buffers may exclude the land area contained in those buffers from the total site area in fulfilling the Tree Density Unit requirements of this Sec. 9.1. Trees or other vegetation may not be removed from a zoning buffer area except as otherwise allowed by this UDO.

2. **Easement Exclusion**

   Properties containing natural gas, petroleum or electric power transmission easements, or sanitary sewer main (greater than 8 inches in diameter), or water main (greater than 16 inches in diameter) distribution easements, may exclude the land area contained in said easement from the total site area in fulfilling the tree density standards of this Sec. 9.1, provided that no improvements (e.g. parking lots, tennis courts, driveways, stormwater detention facilities, etc.) are proposed within the easement. If any improvements are proposed within the easement, then the land area so utilized within the easement for the improvement, plus an additional 10 feet of land area surrounding the improvements, must be used to fulfill the Tree Density Unit requirements of this Sec. 9.1.

9.1.4. Permits

A. Land Disturbance Permit Required

A land disturbance permit must be issued in accordance with this UDO before any land disturbing activity begins.

B. Tree Preservation or Replacement Plan Required

Projects that are not exempt from this Sec. 9.1 or covered by Sec. 9.1.4.C below must comply with the following permit requirements:

1. **Mixed-Use and Business Districts**

   a. Development projects in Mixed-Use and Business Districts must submit 1) a tree preservation and replacement plan and 2) a building permit application for one or more principal buildings concurrently with a clearing, clearing and grubbing, grading, or development permit, unless the development project, at completion, does not include any buildings (such as a parking lot expansion or new park).

   b. No clearing, clearing and grubbing, grading, or development permit for such development may be issued unless the associated tree preservation and replacement plan and building permit has been approved.

2. **Residential Districts**

   a. Development projects in Residential Districts must submit a tree preservation or replacement plan, along with the other documents required by this UDO, in order to receive a clearing, clearing and grubbing, grading or development permit.

   b. On residential lots where a final plat was recorded in the two previous years, land disturbing activity on a residential lot may not occur until a building permit has been obtained.

3. **Review**

   Tree preservation or replacement plans and related documentation must be reviewed by the Director for conformance with this Sec. 9.1 along with and at the same time as all other plans required under the provisions of this UDO for the permit types specified in “1” and “2” above.

4. **Compliance**

   Clearing, grading and development activities must fully comply with the approved tree preservation or replacement plan. If a property's proposed development changes, the revisions must be shown on a revised tree preservation or replacement plan and approved as part of the new or revised permit before the changed activities can begin.

C. Tree Removal Permit Required

1. A permit is required to remove, destroy, or injure the following:
   a. Any tree on City-owned property, regardless of size.
   b. Any tree of 6 inches or greater diameter-at-breast-height (DBH) on private property.

   There are no exceptions to permit requirements, either by species or present condition. Even dead or invasive trees require a permit for removal.
2. Removing a dead or invasive tree over the 6-inch threshold is exempt from standard recompense requirements, meaning no payment or replacement will be required for the removed tree. A DDH or invasive tree permit must be submitted to the Director for approval.
3. For projects that are not exempt from this Sec. 9.1 or covered by Sec. 9.1.4.B above, a tree preservation and a tree replacement plan are required before a tree may be removed, except in the following cases:
   a. Removal of any tree felled or uprooted by natural causes; or
   b. Removal of any tree ≥ 6" DBH that has been inspected by an ISA Certified Arborist or registered consulting arborist and determined in a written report, retained by the property owner, to be:
      i. Dead or dying due to disease or injury; or
      ii. Dangerous to persons or property.
   c. Removal of any tree included in the list of non-native invasive plants as established by the Georgia Exotic Pest Plant Council, including but not limited to Princess Tree *(Paulownia tomentosa)*, Mimosa (*Albizia julibrissin)*, Tree-of-Heaven (*Ailanthus altissima*), Tallow Tree (*Triadica sebifera*) and Bradford Pear (*Pyrus calleryana*).

D. Emergency Removal

1. **Authorization for Immediate Removal**

   When an Applicant believes and can demonstrate the imminent likelihood of failure for a tree on their property and that the tree poses an immediate danger to the health, safety, and welfare

of persons or property, the Applicant may request a permit for immediate removal by contacting the Director by phone or email to request verbal or written approval for the removal.

a. Examples of trees with an imminent likelihood of failure include: A tree with a sudden change of pitch of the main stem; cracked or heaved soil opposite the tree's lean; a visibly raised structural root plate; and cracks or breaks in the tree's main stem or in a large leader.

2. **Alternative authorization**

   If the person is unable to reach the Director, the person may remove the tree without approval. Within 5 business days of said removal, the person must apply for retroactive approval by submitting to the Director a tree removal application and photos demonstrating that the tree presented an imminent likelihood of failure, and any other information reasonably requested by the Director.

3. **Failure to follow procedures**

   Where the Director finds that the applicant did not follow the procedures of this Sec. 9.1.4.D or failed to demonstrate an imminent likelihood of failure, the Director may require replacement planting and charge the responsible party applicable recompense and fines.

9.1.5. Tree Removal Permit Application

A. The tree removal permit is valid for 90 days and may only be issued if the following application requirements have been met:

   1. A completed application form is submitted to the Director; and
   2. An application fee in the amount stated in the Schedule of Fees is paid.

9.1.6. Developed Single-Family Dwelling Lots

A. If a developed single-family dwelling lot does not meet the minimum standards at the time of permit application, it must maintain on-site no fewer TDUs than existed before removal and no fewer than two trees, whether planted or preserved.

B. Unless exempt from the provisions of this Sec. 9.1 or otherwise excluded under Sec. 9.1.4.C, trees removed from developed single-family dwelling lots, but not part of a tree removal permit and replacement plan, must be replaced with 200% their TDU value.

C. The Director will issue a citation to the responsible party to appear in municipal court for removal of trees without the appropriate tree removal permit.

9.1.7. Minimum Tree Density Requirements

A. Overview

1. All applicable sites must maintain the minimum TDU requirement specified in Table 9.1.7.A. Existing preserved trees and replacement trees will receive TDU credit in accordance with this Sec. 9.1.7.

Table 9.1.7.A Site Tree Density Unit Requirements

Zoning	Required TDUs Per Acre (min.)
Residential	
R-1 (Single-family)	20
R-2 (Cottage Residential)	20
R-3 (Age-Restricted Residential)	20
Mixed-use & Business	
C-1 (Neighborhood Business)	15
C-2 (General Business)	15
O-I (Office - Institution)	10
MX-1 (Neighborhood Mixed-Use)	15
MX-2 (Corridor Mixed-Use)	10
M-1 (Light Industrial)	10
Special and Overlay Districts	
[Reserved]	[Reserved]

2. The TDU requirement must be met whether or not a site had trees before development, except as otherwise stated for single-family dwelling lots. The density may be achieved by counting existing trees to be preserved, planting new trees, or some combination of the two as represented by the formula:

SDF = EDF + RDF

Where:

SDF (Site Density Factor) = The minimum density required to be maintained on a developed site.

EDF (Existing Density Factor) = Density of existing trees to be preserved on a site.

RDF (Replacement Density Factor) = Density of new trees to be planted on a site.

B. Site Density Factor

The site density factor (SDF) is calculated by multiplying the number of site acres by the required TDUs per acre.

Example: A 2.2-acre site zoned C-1 has an SDF of 2.2 × 15 = 33.

C. Existing Density Factor

The existing density factor (EDF) is calculated by converting the diameter of individual trees (DBH) to tree density units (TDUs) using Table 9.1.7.C.

Table 9.1.7.C Credit for Existing Trees
Conversion from tree diameter in inches to TDUs for trees remaining on site

DBH	TDUs	DBH	TDUs	DBH	TDUs	DBH	TDUs
3”	.5	15”	2.4	27”	8.0	39”	16.6
4”	.6	16”	2.8	28”	8.6	40”	17.4

5”	.7	17”	3.2	29”	9.2	41”	18.4
6”	.9	18”	3.6	30”	9.8	42”	19.2
7”	1.0	19”	4.0	31”	10.4	43”	20.2
8”	1.1	20”	4.4	32”	11.2	44”	21.2
9”	1.2	21”	4.8	33”	11.8	45”	22.0
10”	1.3	22”	5.2	34”	12.6	46”	23.0
11”	1.4	23”	5.8	35”	13.4	47”	24.0
12”	1.6	24”	6.2	36”	14.2	48”	25.2
13”	1.8	25”	6.8	37”	15.0	49”	26.2
14”	2.2	26”	7.4	38”	15.8	50”	27.2

Table Note:
Tree diameter for existing trees is measured at 4.5 feet above the ground. Tree diameter fractions must be “rounded up” if 0.5 inch or greater, or “rounded down” if less than 0.5 inch.

Example:

A total of 12 trees will remain on the 2.2 acre site. The tree inventory is as follows:

7—6″ diameter maples

3—14″ diameter pines

1—21″ diameter oak

1—30″ diameter oak

Converting diameters to density units, the EDF is determined as shown in the following table:

Scientific Name	Common Name	DBH	TDUs		No. of Trees	Totals
Acer barbatum	Florida Maple	6″	0.9	×	7	= 6.3
Pinus strobus	White Pine	14″	2.2	×	3	= 6.6
Quercus alba	White Oak	21″	4.8	×	1	= 4.8
Quercus falcata	Southern Red Oak	30″	9.8	×	1	= 9.8
						26.3

D. Replacement Density Factor

1. Calculate the replacement density factor (RDF) by subtracting the EDF from the SDF.

   Example: RDF = 33 – 26.3 = 6.7

   The density factor credit for each caliper size of replacement (new) trees is shown in Table 9.1.7.D. Any number or combination of transplantable size trees can be used so long as their total density factor units will equal or exceed the RDF and the species list is accepted by the Director.

2. Replacement trees must be selected from either the City-maintained overstory, midstory, or understory tree list.

Table 9.1.7.D Credit for Replacement Trees

Caliper	TDUs	Caliper	TDUs
1″	.0	8″	1.3
2″	.5	9″	1.5

3″	.6	10″	1.7
4″	.7	11″	1.9
5″	.9	12″	2.1
6″	1.0	13″	2.3
7″	1.2	14″	2.5

E. Street Tree Incentive

1. Existing trees to remain in the immediately adjacent public right-of-way may be counted towards TDU requirements.
2. New trees to planted in the immediately adjacent public right-of-way may be counted towards TDU requirements.

F. Forest Stand Preservation Incentive

1. A contiguous wooded area preserved in an undisturbed condition may receive a 20% bonus toward retained TDUs.
2. To qualify as contiguous forest stand the area must meet all the following:
   a. **Minimum Width.** The canopy area must have a minimum continuous width of 30 feet measured at its narrowest point, excluding required buffers.
   b. **Tree Composition**. The area must contain at least five existing trees with a diameter at breast height (DBH) of at least 8 inches.
   c. **Canopy Overlap**. Tree crowns must overlap or be capable of overlapping at expected mature size so as to form a continuous canopy cover.
   d. **Undisturbed Condition.** The area may not have been clear-cut, graded, or filled within the previous 5 years, except for selective removal approved by the Director.
   e. **Natural Soil Condition.** The area must retain natural soil, leaf litter, and understory vegetation sufficient to support long-term tree health.
3. The following may not be counted as contiguous forest stand:
   a. Required landscape strips
   b. Isolated yard trees
   c. Trees within parking lot islands
   d. Newly planted trees less than 3 years old
   e. Areas previously clear-cut without permit
   f. This credit does not apply to required buffers.

G. Clear-cutting Disincentive

1. Removal of more than 70% of existing TDUs before issuance of a tree removal permit or land disturbance permit is considered clear-cutting.
2. Where clear-cutting has occurred, the required TDUs will be increased by 15%.

3. These requirements applies for 5 years following clearing.

9.1.8. Alternative Compliance

A. General Provisions

The intent of this Sec. 9.1 is to ensure that all developed sites maintain minimum TDU requirements. If a site cannot physically accommodate this requirement, the Director may allow tree planting or replacement on another property, either private or public, or accept payment into the City's tree replacement fund.

B. Standards

The following standards have been established for administering these alternatives:

1. The Director must review and approve all requests for alternative compliance.
2. In no instance may 100% of the required site TDUs be met through alternative compliance.
3. As many trees as can reasonably be expected to survive must be planted on the site in question.
4. No permit may be issued until any required payment has been made to the tree replacement fund, as applicable.

C. Payment in Lieu

1. In all districts, up to 20% of required TDUs may be met by payment into the City’s tree replacement fund.
2. Tree replacement funds may be used for:
    a. Tree planting on public or private property;
    b. Environmental education;
    c. Invasive species removal on public or private property;
    d. Open space protection or restoration;
    e. Management of the tree preservation program; and
    f. Related purposes.
3. For the purposes of calculation of required payment into the tree replacement fund, an assessed value of fee per TDU established in the Schedule of Fees.

D. LID Credit in Lieu of Tree Replacement

In residential districts and all mixed-use and business districts, up to 25% of required TDUs may be satisfied through approved low-impact-development (LID) improvements, including:

1. Native groundcover zones in front yard septic areas/steep hillsides in lieu of non-native sods and artificial turf.
2. Enhanced tree buffers, encouraging a mix of types and staggered screening in setback areas.

9.1.9. Tree Protection

A. Structural Root Plate

No grading, filling, or disturbance is allowed within the structural root plate (SRP) radius.

B. Critical Root Zone

1. No grading, filling, or disturbance is allowed within the critical root zone of a preserved tree unless approved by the Director.
2. Impacts to more than 20% of the critical root zone will require a written recommendation from an ISA Certified Arborist.
3. Impacts to more than 10% of the critical root zone of a boundary tree will require written agreement from the adjoining property owner.

C. **Prohibited Activities Within Tree Protection Areas**

The cleaning of equipment, storage of materials or dirt, disposal of waste material such as paint, oil solvent or other harmful substances, or any other such act which may be harmful to the continued vitality of the tree(s) within the tree protection area, is not allowed.

D. Physical Barrier

Before starting any grading, construction or tree removal, a tree protection area for any tree located within 25 feet of any proposed grading, construction or tree removal must be established by physical barrier and maintained until such work is completed.

9.1.10. Tree Preservation Standards

A. Every property owner or occupant is responsible for the normal care of trees located on such property. Willful injury or disfigurement of any tree growing within the City is a violation of this Sec. 9.1. No person may:

1. Pour any material on a tree or on nearby ground which could be harmful to the tree;
2. Cause or encourage any unnecessary fire or burning near or around any tree;
3. Cut off air, light, or water from the roots;
4. Pile building material or equipment around any tree so as to cause injury thereto.

B. Before tree removal or starting construction on a site to be developed, the following system must be used:

1. **Location and Types of Tree Protection Devices**
   a. Tree protection devices must be installed as shown on the plan or otherwise completely surrounding the critical root zone of all the trees to be preserved.
   b. The plan must indicate whether the tree protection device is to be active or passive.

c. Active protection (see Sec. 9.1.10.B.2 below) is required where tree save areas are located in proximity to construction activity.

d. Passive protection (see Sec. 9.1.10.B.2 below) may be used in more remote locations and in all protected zones not designated as tree save areas.

e. All tree save areas must be protected from soil sedimentation intrusion through the use of silt screens or other acceptable measures placed up-slope from the tree protection area.

f. The locations and installation of all tree protection devices will be verified before the issuance of the construction permit for clearing or grading. All tree protection devices must be maintained intact throughout construction.

g. Once protected zones are established and approved, any changes are subject to review by the City.

2. **Materials**

a. Active tree protection must consist of chain link, orange laminated plastic, wooden post and rail fencing or other equivalent restraining material. In addition to fencing, where tree trunks are in jeopardy of being damaged by equipment, the Director will require 2-inch by 4-inch boards to be strapped around the trunks of trees. In addition, where active tree protection is required, each tree to be saved must be marked at the base of the trunk with blue colored water-based paint.

b. Passive protection must consist of heavy mil. plastic flagging, a minimum of 4 inches wide with dark letters on a bright background reading “Tree Protection Area - Do Not Enter” or equivalent signage on a continuous, durable restraint.

c. Installation and removal. All tree protection devices must be installed before any clearing, grubbing or grading. The Director must inspect the installation of tree protection, erosion, and sedimentation control devices before the issuance of the tree removal permit. Tree protection must remain in functioning condition until the certificate of occupancy is issued.

9.1.11. Tree Damage

Any tree designated in the plan to be saved that is damaged during construction or as a result of such construction, must be treated according to accepted National Arborists Association Standards, or replaced with a tree(s) equal to the TDU value of the tree removed. However, any specimen tree damaged as described above must be replaced with a tree(s) 200% the TDU value of the tree removed.

9.1.12. Specimen Trees

A. Some trees on a site warrant special consideration and encouragement for preservation. These trees are referred to as specimen trees. The following criteria are used by the Director to identify specimen trees. Both the size and condition must be met for a tree to qualify.

1. Overstory trees such as oaks, hickories, poplars, sweet gums or other large hardwoods must be at least 28 inches in diameter at breast height to be considered a specimen tree.

2. Small native flowering trees must be at least 12 inches in diameter at breast height to be considered a specimen tree.
3. Softwood trees such as pines must be at least 30 inches in diameter at breast height to be considered a specimen tree.
4. Condition criteria.
    a. Life expectancy of greater than 15 years.
    b. Relatively sound and solid trunk with no extensive decay.
    c. No more than one major and several minor dead limbs.
    d. No major insect or pathological problems.
    e. No major pruning deficiencies, i.e. topping.
    f. At least 75% of the critical root zone in a natural, undisturbed state.

B. On all sites, all reasonable efforts must be made to save specimen trees. Reasonable efforts include, but are not limited to, alternate building design, building location, parking area layout, parking area location, water retention location and the like.

C. In order to encourage the preservation of specimen trees and the incorporation of these trees into the design of projects, additional TDU credit will be given for specimen trees which are successfully saved by a design feature specifically designated for such purpose. Credit for any specimen tree thus saved will be 200% of the assigned TDU value.

D. If a specimen tree must be removed from a site, it must be replaced with a species capable of reaching a similar size and quality.

E. No specimen tree may be removed without first receiving written approval from the Director. If a specimen tree is removed without approval:
1. Replacement trees must be planted, each at least 5 inches in caliper, with a total planted TDU value equal to the value of the tree removed;
2. The former critical root zone of the specimen tree must remain undisturbed to allow for replacement planting;
3. The Director may issue a citation for the unauthorized removal; and
4. If a tree is removed without approval, size alone will determine whether it qualifies as a specimen tree by measuring the top of the remaining stump's diameter. If the stump is removed entirely, then by default it will be considered a 30-inch diameter tree.

F. On all sites other than single-family-dwelling lots, the Director may identify and require the preservation of a tree stand if it contains one or more specimen trees and the trees are interlocked with other members of the stand in such a manner as to imperil the individual tree if other members of the stand were to be removed.

9.1.13. Tree Planting Standards

A. Trees selected for planting to comply with minimum requirements must be on one of the following tree planting lists maintained by the City:

1. Recommended overstory, mid-story, or understory tree list.
2. Recommended parking lot and street tree species list.

Trees may be administratively added to or deleted from these lists by the Director.

Table 9.1.13.A Recommended Overstory Trees

Overstory Trees typically reach a DBH of more than 25 inches and a height of more than 60 feet at maturity.		
Scientific Name	**Common Name**	**Native**
Carya cordiformis	Bitternut Hickory	Yes
Carya glabra	Pignut Hickory	Yes
Carya illinoinensis	Pecan	Yes
Carya ovata	Shagbark Hickory	Yes
Carya pallida	Sand Hickory	Yes
Carya tomentosa	Mockernut Hickory	Yes
Castanea dentata	American Chestnut	Yes
Fagus grandifolia	American Beech	Yes
Ginkgo biloba	Maidenhair Tree (Male Only)	No
Gleditsia triacanthos	Honey Locust (Thornless Varieties Only)	Yes
Liquidambar styraciflua	Sweetgum (Fruitless Varieties Only)	Yes
Liriodendron tulipifera	Tulip Poplar	Yes
Magnolia grandiflora	Southern Magnolia	Yes
Metasequoia glyptostroboides	Dawn Redwood	No
Nyssa aquatica	Swamp Tupelo	Yes
Pinus taeda	Loblolly Pine	Yes
Platanus acerifolia	London Planetree	No
Platanus occidentalis	American Sycamore	Yes
Quercus spp.	Oak (Excluding *Quercus nigra*/Water Oak and *Quercus virginiana*/ Southern Live Oak)	Yes
Taxodium distichum	Bald Cypress	Yes
Ulmus americana	American Elm (Dutch Elm Resistant Varieties Only)	Yes
Zelkova serrata	Japanese Zelkova	No

Table 9.1.13.B Recommended Mid-story Trees

Mid-story Trees typically reach a DBH of 10 to 25 inches and a height of 30 to 60 feet at maturity.		
Scientific Name	**Common Name**	**Native**
Acer barbatum	Southern Sugar Maple	Yes
Acer leucoderme	Chalk Maple	Yes
Acer rubrum	Red Maple	Yes
Betula nigra	River Birch	Yes
Carpinus betulus	European Hornbeam	No
Castanea mollissima	Chinese Chestnut	No
Celtis laevigata	Sugarberry	Yes

Cladrastis kentukea	Yellowwood	Yes
Magnolia acuminata	Cucumber Magnolia	Yes
Nyssa sylvatica	Blackgum	Yes
Ostrya virginiana	Eastern Hop Hornbeam	Yes
Salix nigra	Black Willow	Yes
Ulmus alata	Winged Elm	Yes
Ulmus rubra	Slippery Elm	Yes

Table 9.1.13.C Recommended Understory Trees

Understory Trees typically reach a DBH of less than 10 inches and a height of less than 30 feet at maturity. Understory trees are only allowed where site conditions do not allow the planting of overstory or mid-story trees. Understory trees may constitute no more than 25% of the site's replacement density factor.

Scientific Name	Common Name	Native
Acer buergerianum	Trident Maple	No
Amelanchier arborea	Serviceberry	Yes
Carpinus caroliniana	American Hornbeam	Yes
Cercis canadensis	Eastern Redbud	Yes
Cercis chinesis	Chinese Redbud	No
Chionanthus virginicus	Fringe Tree	Yes
Cornus alternifolia	Alternate Leaf Dogwood	Yes
Cornus florida	Flowering Dogwood	Yes
Cornus kousa	Chinese Dogwood	No
Cotinus obovatus	American Smoketree	Yes
Halesia carolina	Carolina Silverbell	Yes
Hamamelis virginiana	Witch Hazel	Yes
Ilex spp.	Holly (Tree Form Varieties)	Yes
Magnolia x *soulangiana*	Saucer Magnolia	No
Magnolia stellata	Star Magnolia	No
Magnolia virginiana	Sweetbay Magnolia	Yes
Malus floribunda	Japanese Flowering Crabapple	No
Myrica cerifera	Wax Myrtle	Yes
Oxydendrum arboreum	Sourwood	Yes
Parrotia persica	Persian Parrotia	No
Prunus serrulata	Japanese Flowering Cherry	No
Prunus subhirtella	Winter-Flowering Cherry	No
Prunus x *yedoensis*	Yoshino Flowering Cherry	No
Quercus georgiana	Georgia Oak	Yes
Rhus spp.	Sumac	Yes
Sassafras albidum	Sassafras	Yes

Table 9.1.13.D Recommended Parking Lot and Street Trees

Understory trees may only be used in parking lot and street tree applications when site conditions do not allow the planting of overstory or mid-story trees. Understory trees must be specified as single trunk when adjacent to streets. Understory trees are marked with an asterisk (*).

Scientific Name	Common Name	Native
Acer barbatum	Southern Sugar Maple	Yes
Acer buergerianum *	Trident Maple	No
Acer leucoderme	Chalk Maple	Yes
Acer rubrum	Red Maple	Yes

Amelanchier arborea *	Serviceberry	Yes
Carpinus betulus	European Hornbeam	No
Carpinus caroliniana *	American Hornbeam	Yes
Carya species	Hickory Species	Yes
Celtis laevigata	Sugarberry	Yes
Cercis canadensis *	Eastern Redbud	Yes
Fraxinus pennsylvanica	Green Ash	Yes
Ginkgo biloba	Maidenhair Tree (Male Only)	No
Liquidambar styraciflua	Sweetgum (Fruitless Varieties Only)	Yes
Nyssa sylvatica	Blackgum	Yes
Ostrya virginiana	American Hop Hornbeam	Yes
Platanus acerifolia	London Planetree	No
Platanus occidentalis	American Sycamore	Yes
Quercus spp.	Oak (Excluding *Quercus nigra*/Water Oak and *Quercus virginiana*/ Southern Live Oak)	Yes
Quercus georgiana *	Georgia Oak	Yes
Taxodium distichum	Bald Cypress	Yes
Ulmus americana	American Elm (Dutch Elm Resistant Varieties Only)	Yes
Ulmus parvifolia	Chinese Elm	No
Ulmus rubra	Slippery Elm	Yes
Zelkova serrata	Japanese Zelkova	No

B. Trees selected for planting must be free from injury, pests, disease, nutritional disorders or root defects, and must be of good vigor to assure a reasonable expectation of survivability.
C. It is desirable that replanted trees be ecologically compatible with the site and neighboring sites. Accordingly, the replanted trees must be of the same or similar species.
D. Except on single-family dwelling lots, trees selected for planting to comply with minimum requirements must be at least 6 feet tall at the time of planting.
E. To ensure variety in design and limit the impacts of disease, no more than 35% of replacement trees may be of a single species, and no more than 25% of replacement trees may be an evergreen species.
F. Replacement trees must be planted at the minimum distances from existing trees, site features, & other proposed trees as defined in Table 9.1.13.F.

Table 9.1.13.F Minimum Required Distances

Size Classification	Distances from Existing Tees, Site Features, and Other Proposed Trees
Overstory	25’ min.
Mid-story	20’ min.
Understory	10’ min.

9.1.14. Mandatory Removal of Dead, Diseased, and Potentially Dangerous Trees

If the Director deems a tree located on private property or in the public right-of-way or in public areas to be dead, dying, diseased, or in a potentially dangerous condition to the public or adjacent properties, the tree may be declared a nuisance. Upon determining that any tree upon private property is a nuisance, the Director must notify the property owner in writing, describing the condition, stating the

actions necessary for correction, and setting forth a reasonable time in which the action must be taken. Actions required to cure and abate a nuisance, as described above, may include any reasonable technique, method, or procedure to cure the nuisance, including, if necessary, the removal of the tree. In a declared emergency situation, the City has the right to immediately remove dangerous trees, or parts thereof, from private or public property.

9.1.15. Tree Removal in Floodplain or Required Stream Buffer

Trees located in a 100-year floodplain or required stream buffer may not be cut unless found to be dead, diseased, or insect infected by the Director, a certified arborist, county extension service, or the Georgia Forestry Commission.

9.1.16. Tree Preservation/Replacement Plan Specifications

A. Applicability

1. This Sec. 9.1.16 applies to all sites, except existing single-family dwelling lots.
2. Existing single-family dwelling lots are exempt from the requirements in this Sec. 9.1.16 and may instead provide the following:
    a. Tree inventory of trees ≥ 6” DBH
    b. TDU worksheet
    c. Limits of disturbance plan

B. General Plan Specifications

The tree preservation/replacement plan must be submitted as a separate sheet and must be prepared and sealed by a registered landscape architect, certified arborist, or registered forester, and must include the following information:

1. Tree survey, which must be a to-scale map or site plan that has been prepared and sealed by a registered landscape architect, certified arborist, registered forester, registered surveyor, or registered engineer. The tree survey must include the following minimum requirements:
    a. All specimen trees are to be located and labeled with their size and species. Their critical root zone must be delineated and the spot elevation at the base of their trunk must be indicated. They must also be labeled in a way to determine if they are intended for removal or preservation.
    b. All trees with a DBH measurement of 6 inches or larger must be located and their size and species must be indicated.
2. Definition of spatial limits, including:
    a. Limits of land disturbance, clearing, grading, and trenching;
    b. Tree protection zones;

c. Areas of proposed landscaping and tree plantings;

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

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

f. Locations of any state waters and the limits of any proposed disturbance in a water quality buffer zone.

3. Detail drawings of tree protection measures (where applicable), including:

   a. Protective tree fencing;

   b. Erosion control fencing;

   c. Tree protection signs;

   d. Transplanting specifications;

   e. Tree wells and aeration systems;

   f. Staking specifications; and

   g. Other applicable drawings.

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

5. A summary table of the number of existing trees to remain and the new trees to be planted, by diameter to the nearest inch, at 4.5 feet above ground, must be shown along with the calculations showing TDU calculations for the site.

6. A planting schedule showing the type (common and botanical names), size and quantity of trees to be planted, assigned TDU value per tree and any special planting notes.

7. The locations of all trees and other landscape materials to be planted on the site to meet TDU requirements, landscape strip requirements, off-street parking requirements, street tree requirements or buffer requirements, as applicable.

8. Total acreage of the site and total acreage exclusive of all zoning buffer areas.

9. The following notes:

   TREES TO BE A MINIMUM OF 6' IN HEIGHT AT TIME OF PLANTING.

   ALL BUFFERS AND TREE SAVE AREAS SHALL BE CLEARLY IDENTIFIED BY FLAGGING OR FENCING PRIOR TO COMMENCEMENT OF ANY LAND DISTURBANCE.

   ALL TREE PROTECTION DEVICES MUST BE INSTALLED AND INSPECTED PRIOR TO ANY CLEARING, GRUBBING OR GRADING. CALL THE ORDINANCE ENFORCEMENT OFFICER FOR AN INSPECTION AT 770-368-9484 X 103.

THE TREE DENSITY UNIT REQUIREMENTS SHOWN ON THE TREE PRESERVATION / REPLACEMENT PLAN(S) MUST BE VERIFIED PRIOR TO THE ISSUANCE OF THE CERTIFICATE OF OCCUPANCY OR ACCEPTANCE OF THE PROJECT.

REPLACEMENT TREES MUST BE FREE FROM INJURY, PESTS, DISEASE, NUTRITIONAL DISORDERS OR ROOT DEFECTS, AND MUST BE OF GOOD VIGOR IN ORDER TO ASSURE A REASONABLE EXPECTATION OF SURVIVABILITY.

PLANT MATERIAL QUALITY SHALL MEET THE AMERICAN STANDARD FOR NURSERY STOCK.

C. Preliminary Plan

The tree preservation/replacement plan must be shown on a copy of a preliminary plat, concept plan or site plan, with the exception of a permit to conduct tree thinning, as appropriate to the proposed development, drawn to the same scale as the other plan documents prepared for a land disturbance permit application on the property, and must cover the same area. The plan may be combined with a required buffer and landscape plan for the project.

D. Conformance Required

Clearing, grading, grubbing and development activities must conform in all respects with the approved tree preservation or replacement plan. Any revisions to the proposed development of a property, and any changes reflected in a subsequently submitted permit application, must be shown on a revised tree preservation or replacement plan and must be approved as a part of the new or revised permit before starting on such changed activities.

9.1.17. Performance Surety

See Sec. 7.3.6 (Performance Surety~~Performance Surety~~) for requirements.

Sec. 9.2. Soil, Erosion, Sedimentation, and Pollution Control

9.2.1. Title

This Section will be known as the “City of Berkeley Lake Soil Erosion, Sedimentation and Pollution Control Ordinance.”

9.2.2. Definitions

The following definitions apply to this Section unless specifically stated otherwise. Any word or phrase not defined below will have the meaning given in Article 11, unless the context clearly requires otherwise.

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.

Board. The board of natural resources.

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

Certified personnel. A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.

Coastal marshlands. The same meaning as in O.C.G.A. § 12-5-282.

Commission. The Georgia Soil and Water Conservation Commission (GSWCC).

CPESC. Certified Professional in Erosion and Sediment Control with current certification by EnviroCert, Inc., 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 the excavated surface. Also known as excavation.

Department. The Georgia Department of Natural Resources (DNR).

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 EnviroCert, Inc. Design Professionals must practice in a manner that complies with applicable Georgia law governing professional licensure.

Director of the Environmental Protection Division. The Director of the Environmental Protection Division or their authorized representative.

District. The Gwinnett County Soil and Water Conservation District.

Division. The Environmental Protection Division (EPD) of the Department of Natural Resources.

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.

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

Erosion, sedimentation and pollution control plan. A plan required by the Erosion and Sedimentation Act, O.C.G.A. Chapter 12-7, that includes, at a minimum, protections at least as stringent as the state general permit, best management practices, and requirements in Sec. 9.2.4.C.

Fill. A portion of land surface to which soil or other solid material has been added; the depth above the original ground surface or an 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 landscaped according to the plan (uniformly covered with landscaping materials in planned landscape areas), or equivalent permanent stabilization measures as defined in the manual (excluding a crop of annual vegetation and 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 will include the land in its cut or filled condition.

Ground elevation. The original elevation of the ground surface before cutting or filling.

Land-disturbing activity. Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in Sec. 9.2.3.E.

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 definition, “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.

Local issuing authority: The City of Berkeley Lake, Georgia, which is certified under O.C.G.A. § 12-7-8(a).

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

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 or suspended 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.

Operator. The party or parties that have:

1. Operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or
2. 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.

Outfall. The location where stormwater 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.

Permit. The authorization necessary to conduct a land-disturbing activity under the provisions of this Sec. 9.2.

Phase or Phased. Sub-parts or segments of construction projects where the sub-part or segment is built and stabilized before 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" (Manual) published by the Georgia Soil and Water Conservation Commission as of January 1 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.

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 roadway consisting of one or

more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

Sediment. Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by wind, 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.

Soil and water conservation district approved plan. An erosion, sedimentation and pollution control plan approved in writing by the Soil and Water Conservation District.

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 stormwater 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 USC 1251 et seq., and O.C.G.A. § 12-5-30(f).

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 sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures and sediment traps, etc. Such practices can be found in the publication Manual for Erosion and Sediment Control in Georgia.

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, in the rules and regulations for Water Quality Control, Chapter 391-3-6 at www.epd.georgia.gov. 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.

Vegetative erosion and sedimentation control measures. Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

1. Permanent seeding, sprigging or planting, producing long-term vegetative cover; or
2. Temporary seeding, producing short-term vegetative cover; or
3. Sodding, covering areas with a turf of perennial sod-forming grass.

Such measures can be found in the publication 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.

9.2.3. Exemptions

This Section applies to any land-disturbing activity undertaken by any person on any land except for the following:

A. Surface mining, as the same is defined in O.C.G.A. § 12-4-72, "The Georgia Surface Mining Act of 1968".

B. Granite quarrying and land clearing for such quarrying.

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

D. The construction of single-family dwellings, when such construction disturbs less than 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 1 acre and not otherwise exempted under this Paragraph; provided, however, that construction of any such residence must conform to the minimum requirements specified in O.C.G.A. § 12-7-6 and this Paragraph. For single-family dwelling construction covered by the provisions of this Paragraph, there must be a buffer zone between the dwelling and any state waters classified as trout streams in accordance with Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity may be built between the dwelling and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone must be at least 50 horizontal feet, and no variance to a smaller buffer may be granted. For secondary trout waters, the buffer zone must be at least 50 horizontal feet, but the Director of the Environmental Protection Division 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 buffer must be at least 25 horizontal feet, and no variance to a smaller buffer may be granted. The minimum requirements of O.C.G.A. § 12-7-6(b) and the buffer zones provided by this Paragraph must be enforced by the local issuing authority.

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

of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds.

F. Forestry land management practices, including timber harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in Sec. 9.2.4.C.15 and Sec. 9.2.4.C.16, no other land-disturbing activities, except for normal forest management practices, are allowed on the entire property upon which the forestry practices were conducted for a period of 3 years after completion of such forestry practices.

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

H. Any project involving less than 1 acre of disturbed area; provided, however, that this exemption does 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 1 acre or within 200 feet of the bank of any state waters, and for purposes of this provision, “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 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 will prevent the local issuing authority from regulating any such project which is not specifically exempted by Paragraphs A, B, C, D, E, F, G, I, or J of this Sec. 9.2.3 (Exemptions~~Exemptions~~).

I. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by GDOT, the Georgia Highway Authority, or the 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 GDOT or the State Road and Tollway Authority which disturb 1 or more contiguous acres of land will be subject to provisions of O.C.G.A. § 12-7-7.1; except where GDOT, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit must be submitted to the local issuing authority, the local issuing authority must enforce compliance with the minimum requirements specify in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations will be subject to the same penalties as violations by permit holders.

J. Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the federal energy regulatory commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under

the regulatory jurisdiction of the federal energy regulatory commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the local issuing authority will enforce compliance with the minimum requirements specify in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations will be subject to the same penalties as violations by permit holders.

K. Any public water system reservoir.

9.2.4. Requirements For Erosion, Sedimentation, and Pollution Control Using BMPs

A. General Provisions

Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of this Sec. 9.2 and the NPDES General Permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this Sec. 9.2 must contain provisions for application of soil erosion, sedimentation and pollution control measures and practices. The provisions must be incorporated into the erosion, sedimentation and pollution control plans. Soil erosion, sedimentation and pollution control measures and practices must conform to the minimum requirements of Sec. 9.2.4.B and Sec. 9.2.4.C. The application of measures and practices applies to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures must be installed to prevent or control erosion, sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this Sec. 9.2 and the NPDES General Permit.

B. Minimum Requirements/BMPs

1. Best management practices specified in Sec. 9.2.4.B and Sec. 9.2.4.C are required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices will constitute a complete defense to any action by the Director of the Environmental Protection Division or to any other allegation of noncompliance with Sec. 9.2.4.B.2 or any substantially similar terms contained in a permit for the discharge of stormwater issued under O.C.G.A. § 12-5-30(f), the Georgia Water Quality Control Act. As used in this Sec. 9.2.4.B the terms “proper design” and “properly designed” mean designed in accordance with the hydraulic design specifications contained in the “Manual for Erosion and Sediment Control in Georgia” specified in O.C.G.A. § 12-7-6(b).

2. A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained will constitute a separate violation of any land-disturbing permit issued by the local issuing authority or of any state general permit issued by the Division in accordance with O.C.G.A. § 12-5-30(f), the Georgia Water Quality Control Act, for each day on which such discharge results in the turbidity of receiving waters being increased by more than 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 must be measured in accordance with guidelines

to be issued by the Director of the Environmental Protection Division. This Sec. 9.2.4.B.2 will not apply to any land disturbance associated with the construction of single-family dwellings that 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 5 acres.

3. Failure to properly design, install, or maintain best management practices will constitute a violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the Division in accordance with O.C.G.A. § 12-5-30(f), the Georgia Water Quality Control Act, for each day on which such failure occurs.
4. The Director of the Environmental Protection Division may require, in accordance with regulations adopted by the board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.

C. The rules and regulations, ordinances, or resolutions adopted under O.C.G.A. § 12-7-1 et. seq. for the purpose of governing land-disturbing activities will require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including 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 Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:

1. Stripping of vegetation, regrading and other development activities must be conducted in a manner so as to minimize erosion;
2. Cut-fill operations must be kept to a minimum;
3. Development plans must conform to topography and soil type so as to create the lowest practicable erosion potential;
4. Whenever feasible, natural vegetation must be retained, protected and supplemented;
5. The disturbed area and the duration of exposure to erosive elements must be kept to a practicable minimum;
6. Disturbed soil must be stabilized as quickly as practicable;
7. Temporary vegetation or mulching must be employed to protect exposed critical areas during development;
8. Permanent vegetation and structural erosion control practices must be installed as soon as practicable;
9. 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 Sec 9.2.4.C.9, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. § 12-7-1 et. seq.;

10. Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
11. Cuts and fills may not endanger adjoining property;
12. Fills may not encroach upon natural watercourses or built channels in a manner so as to adversely affect other property owners;
13. 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;
14. Land-disturbing activity plans for erosion, sedimentation and pollution control must 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 Sec. 9.2.4.B.2;
15. Except as provided in Sec. 9.2.4.C.16, there is established a 25 foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Director of the Environmental Protection Division determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director of the Environmental Protection Division in accordance with O.C.G.A. § 12-2-8, where a drainage structure or a roadway drainage structure must be built, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; or where bulkheads and sea walls are installed to prevent shoreline erosion on Lake Oconee and Lake Sinclair; or along any ephemeral stream. As used in this 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 buffers of at least 25 feet established in accordance with O.C.G.A. § 12-5-5(6), the Georgia Water Quality Control Act, will remain in force unless a variance is granted by the Director of the Environmental Protection Division as provided in this Sec. 9.2.4.C.15. The following requirements apply to any such buffer:
    a. No land-disturbing activities may be conducted within a buffer and a buffer must remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family dwelling, when such residence is built by or under contract with the owner for their own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and

b. The buffer does not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of no more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:

   i. Stream crossings for water lines; or

   ii. Stream crossings for sewer lines.

16. There is established a 50 foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as “trout streams” in accordance with O.C.G.A. § 12-5-2, the Georgia Water Quality Control Act, except where a roadway drainage structure must be built; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less must have a 25 foot buffer or they may be piped, at the discretion of the landowner, in accordance with 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 buffer requirement for any adjacent trout streams. The Director of the Environmental Protection Division may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements apply to such buffer:

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

    b. The buffer does not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of no more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:

       i. Stream crossings for water lines; or

       ii. Stream crossings for sewer lines.

D. In addition to the provisions of this Sec. 9.2 Soil, Erosion, Sedimentation, and Pollution Control~~Soil, Erosion, Sedimentation, and Pollution Control~~), the provisions of Sec. 9.4 (Stream Buffer Protection~~Stream Buffer Protection~~) also apply with respect to stream buffers.

E. The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another will neither constitute proof of nor create a presumption of a violation of the standards provided for in this Sec. 9.2, or the terms of the permit.

9.2.5. Application, Permit Process

A. General Provisions

The property owner, developer, and designated planners and engineers must design and review before submittal the general development plans. The Director must review the tract to be developed and the area surrounding it. They must consult the assorted provision of this UDO and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the local issuing authority. However, the owner or operator are the only parties who may obtain a permit.

B. Application Requirements

1. No person may conduct any land-disturbing activity without first obtaining a permit from the Director to perform such activity and providing a copy of Notice of Intent submitted to EPD if applicable.

2. The application for a permit must be submitted to the Director and must include the applicant's erosion, sedimentation and pollution control plan with supporting data, as necessary. Said plans must include, as a minimum, the data specified in Sec. 9.2.5.C. 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 Sec. 9.2.4.B and Sec. 9.2.4.C will be met. Applications for a permit will not be accepted unless accompanied by five copies of the applicant's erosion, sedimentation and pollution control plans. All applications must contain a certification stating that the plan preparer or the designee thereof visited the site before creation of the plan in accordance with EPD Rule 391-3-7-.10.

3. In addition to the fees established in the Schedule of Fees, fees will also be assessed in accordance with O.C.G.A. § 12-5-23(a)(5), provided that such fees must 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 must be paid before issuance of the land disturbance permit. In a jurisdiction that is certified in accordance with O.C.G.A. § 12-7-8(a), half of such fees levied must be submitted to the division; except that any and all fees due from an entity which is required to give notice in accordance with O.C.G.A. § 12-7-17(9) or (10) must be submitted in full to the division, regardless of the existence of a local issuing authority in the jurisdiction.

4. Immediately upon receipt of an application and plan for a permit, the local issuing authority must 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 must approve or disapprove a plan within 35 days of receipt. Failure of the district to act within 35 days will be considered an approval of the pending plan. The results of the district review must be forwarded to the local issuing authority. No permit will be issued unless the plan has been approved by the district, and any variances required by Sec. 9.2.4.C.15 and Sec. 9.2.4.C.16 have been obtained, all fees have been paid, and bonding, if required under Sec. 9.2.5.B.6, have been obtained. Such review will not be required if the local issuing authority and the district have entered into an agreement which allows the local issuing authority to conduct such review and approval of the plan without referring the application and plan to the district. ~~The local issuing authority with plan review authority must approve or disapprove a revised plan submittal within 35 days of receipt. Failure of the local issuing authority with plan review authority to act within 35 days will be considered an approval of the revised plan submittal.~~ When the local issuing authority conducts plan review pursuant to an agreement with the district, its review and action on permit applications, including resubmitted applications, must comply with the applicable deadlines established by O.C.G.A. § 12-7-9(c). The 35-day review period applicable to the district under O.C.G.A. § 12-7-10 does not extend the local issuing authority's statutory deadlines for issuing or denying permits.

5. If a permit applicant has had two or more violations of previous permits, this Sec. 9.2, or the Erosion and Sedimentation Act, as amended, within 3 years before the date of filing the application under consideration, the local issuing authority may deny the permit application.

6. The local issuing authority 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, before issuing the permit. If the applicant does not comply with this Sec. 9.2.5 or with the conditions of the permit after issuance, the local issuing authority 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 will 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 local issuing authority with respect to alleged permit violations.

C. Plan Requirements

1. Plans must be prepared to meet the minimum requirements specified in Sec. 9.2.4.B and Sec. 9.2.4.C, 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 Sec. 9.2. The plan for the land-disturbing activity must consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, built waterways, sediment control and stormwater management facilities, local ordinances and state laws. Maps, drawings and supportive computations must 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 must meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the Commission and in consultation with the division and the stakeholder advisory board created in accordance with O.C.G.A. § 12-7-20.

2. Data required for site plan must 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 will be issued or denied as soon as practicable, but in any event not later than 45 days after ~~receipt by the local issuing authority~~the filing of ~~a completed~~an application~~, providing~~ with the local issuing authority, subject to the applicable exceptions and tolling provisions of O.C.G.A. § 12-7-9. Within five days after filing, the local issuing authority must determine whether the application is complete and whether external review is required pursuant to O.C.G.A. § 12-7-9(e). If the application is incomplete, the local issuing authority must notify the applicant within that five-day period. If no such notice is provided, the application will be deemed complete. The local issuing authority must also notify any required external reviewer within the five-day period. No permit may be issued until all required variances and bonding ~~are~~have been obtained, where necessary, and all applicable fees have been paid ~~before permit issuance.~~. The permit must include the conditions under which the activity may be undertaken.

2. If an application is denied or deemed not accepted and the applicant resubmits the application to address the deficiencies identified by the local issuing authority, the local issuing authority must issue or deny the permit as soon as practicable, but in no event later than 20 days after the first resubmission or 14 days after any subsequent resubmission. In reviewing a resubmitted application, the local issuing authority may not raise new comments concerning matters unrelated to its initial comments or changes made in the resubmission. Material additions to an application that constitute a new application under O.C.G.A. § 12-7-11(a) are subject to the review period applicable to new applications.

~~2.~~3. No permit may be issued by the local issuing authority unless the erosion, sedimentation and pollution control plan has been approved by the district and the local issuing authority has affirmatively determined that the plan is in compliance with this Sec. 9.2, any variances required by Sec. 9.2.4.C.15 and Sec. 9.2.4.C.16 are obtained, bonding requirements, if necessary under Sec. 9.2.5.B.6, are met and all ordinances and rules and regulations in effect within the City are met. If the permit is denied, the reason for denial must be furnished to the applicant.

~~3.~~4. Any land-disturbing activities by the local issuing authority will be subject to the same requirements of this Sec. 9.2, and any other ordinances relating to land development, as are applied to private persons and the division will enforce such requirements upon the local issuing authority.

~~4.~~5. If the tract is to be developed in phases, then a separate permit is required for each phase.

~~5.~~6. The permit may be suspended, revoked, or modified by the local issuing authority, as to all or any portion of the land affected by the plan, upon finding that the holder or their successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or their successor in title is in violation of this Sec. 9.2. A holder of a permit must notify any successor in title to them as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.

~~6.~~7. The local issuing authority 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 3 years before the date of the application, in light of O.C.G.A. § 12-7-7-(f)(1).

9.2.6. Inspection and Enforcement

The Director will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the local issuing authority must regulate primary, secondary and tertiary permittees as such terms are defined in the state general permit. Primary permittees are responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees are responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. Tertiary permittees are 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 Section , a written notice to comply will be served upon that person. The notice must specify the measures necessary to achieve compliance and must 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, they will be deemed in violation of this Section.

A. The local issuing authority may amend its ordinances to the extent appropriate within 12 months of any amendments to the Erosion and Sedimentation Act of 1975.

B. The Director has the power to conduct such investigations as they may reasonably deem necessary to carry out duties as prescribed in this Sec. 9.2, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of land-disturbing activities.

C. No person may refuse entry or access to any authorized representative or agent of the local issuing authority, the Commission, the district, or Division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor may any person obstruct, hamper or interfere with any such representative while in the process of carrying out their official duties.

9.2.7. Penalties and Incentives

A. Failure To Obtain A Permit For Land-Disturbing Activity

If any person starts any land-disturbing activity requiring a land-disturbing permit as prescribed in this Section without first obtaining said permit, the person will 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 jurisdictional boundaries of the local issuing authority.

B. Stop-Work Orders

1. For the first and second violations of the provisions of this Section, the local issuing authority will issue a written warning to the violator. The violator will have five days to correct the violation. If the violation is not corrected within five days, the local issuing authority 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 local issuing authority will issue an immediate stop-work order in lieu of a warning;
2. For a third and each subsequent violation, the local issuing authority will issue an immediate stop-work order; and
3. All stop-work orders will be effective immediately upon issuance and will 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 buffer, or significant amounts of sediment, as determined by the local issuing authority, 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 will be issued by the local issuing authority. All such stop work orders will be effective immediately upon issuance and will be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders must 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 will be served upon that person. The notice must specify the measures necessary to achieve compliance with the plan and must 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, they will be deemed in violation of this Section and, in addition to other penalties, will be deemed to have forfeited his performance bond, if required to post one under Sec. 9.2.5.B.6. The local issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

D. Monetary Penalties

Any person who violates any provisions of this Section, or any permit condition or limitation established in accordance with this Section, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Director of the Environmental Protection Division

issued as provided in this Section will be liable for a civil penalty not to exceed $2,500.00 per day. For the purpose of enforcing the provisions of this Section, notwithstanding any provisions in any City charter to the contrary, municipal courts will 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 of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this Section under county ordinances approved under this Section will be authorized to impose penalties for such violations not to exceed $2,500.00 for each violation. Each day during which a violation or failure or refusal to comply continues to occur will be a separate violation.

9.2.8. Education and Certification

A. Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity must 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 in accordance with O.C.G.A. § 12-7-20.

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, must 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 will 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 Section.

D. If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of O.C.G.A. § 12-7-19(b)(1), then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee must meet those educational requirements specified in O.C.G.A. § 12-7-19(b)(4), and will not be required to meet any educational requirements that exceed those specified in said paragraph.

9.2.9. 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; will entitle the person submitting the plan or holding the permit to a hearing

before the City Council within 30 days after receipt by the local issuing authority of written notice of appeal.

B. Judicial Review

Any person aggrieved by a decision or order of the local issuing authority, after exhausting their administrative remedies, has the right to appeal *de novo* to the Superior Court of Gwinnett County.

9.2.10. Liability

A. Neither the approval of a plan under the provisions of this Section, nor the compliance with provisions of this Section will relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the local issuing authority or district for damage to any person or property.

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

C. No provision of this Section may permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any waters of the state as defined thereby.

Sec. 9.3. Grading

9.3.1. Embankments

Embankment layering must be consistent with the Gwinnett County Stormwater Management Manual.

9.3.2. Maximum Slopes

A. The maximum slope for cut or fill is 2:1 (2 feet of horizontal run for each foot of rise or fall), except for the following:
   1. Earthen dam embankments;
   2. Rock cuts;
   3. Where certified by a professional geotechnical engineer; or
   4. As specified in Sec. 9.3.2.B below.

B. The maximum slope for earthen dam embankments is 3:1 unless a modification application is approved. The earthen dam embankment slope regulation intends to provide for public safety, soil stability, and dam maintenance considerations. The depth of cut referred to herein is the maximum cut or fill allowed to occur in any one section of cut or fill. The slope of cut or fill must be uniform throughout for each section of cut or fill unless benching is approved by the City.

C. Maximum slopes must otherwise be consistent with the Gwinnett County Stormwater Management Manual.

9.3.3. Soil Stabilization

Special conditions for soil with low shearing resistance and cohesion are required in accordance with the Gwinnett County Stormwater Management Manual.

9.3.4. Grading Plan

A. Grading must be done in accordance with the contour lines and grades shown on the approved grading plan.

B. Grading plans must show existing and proposed contour lines at an interval of no more than 2 feet. Grading plans must outline the areas which are required to remain undisturbed (i.e., Tree Protection Areas, buffers, etc.) and must indicate protective fencing or staking to be placed surrounding such areas.

C. Grading for roads and improved ditches must be shown.

D. A grading plan, showing building pad locations, must be submitted for all uses.

E. Single-family dwelling and two-family dwelling subdivision lots must be graded to ensure adequate lot-to-lot drainage. The grading plan may be used as a construction document before the approval

of the Final Plat or as a guidance document for the individual lot grading after approval of the final plat.

9.3.5. Disturbance Limits

A. Maximum disturbed area on a site may not exceed 60% of the site on steep sites.
   1. Steep sites are defined as sites where 50% or more of the site's slope measures 20% or greater.
   2. Slopes over 30% with existing healthy native trees/vegetation must be preserved.
   3. The Director may require the applicant to provide documentation of existing slopes on the site when the Director determines such documentation is necessary to establish compliance with this Paragraph A.

B. Disturbed area includes clearing, grading, excavation, fill, and construction activity.

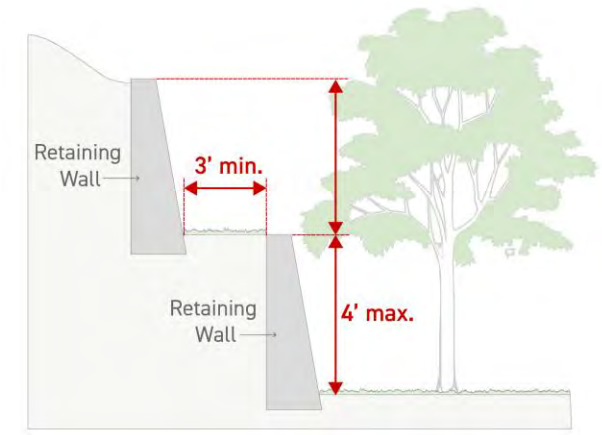
C. Disturbance may not occur:
   1. Within required buffers
   2. Within tree save areas
   3. Within forest stand preservation areas
   4. Within critical root zones of preserved trees

D. The Director may approve minor adjustments where strict compliance would prevent reasonable use of the property.

9.3.6. Retaining Walls

A. Terracing Standards

1. The following standards apply to new retaining walls. An existing retaining wall that does not meet these standards may be rebuilt to its previous height or extended horizontally at its existing height or shorter without meeting these standards.
2. Retaining walls may not exceed 4 feet in height. However, two or more retaining walls may be stacked if they meet the following standards:
   a. The minimum horizontal distance between the walls is 3 feet; and
   b. None of the walls may exceed 4 feet in height.
   c. All retaining walls 2 feet or more in height must be landscaped with shrubs.



B. Materials

Retaining walls, except those serving as lake seawalls, must be constructed as follows:

1. Retaining walls within a required setback, including a lake setback, must be constructed from finished poured concrete, concrete block with a finished surface, or finished with stone, brick, or decorative block facing any adjacent property or public right-of-way.

2. Retaining walls not within the required setbacks specified in Sentence 1 above may be constructed as specified in Sentence 1 above or of railroad ties.

C. Grading

1. Retaining wall cut and fill must be limited to the area necessary for construction.
2. Existing grade must be preserved in designated tree save areas.
3. Grading plans must show areas required to remain undisturbed.

Sec. 9.4. Stream Buffer Protection

9.4.1. Title

This Section will be known as the "City of Berkeley Lake Stream Buffer Protection Ordinance."

9.4.2. Findings and Purposes

A. Findings

The City Council finds that buffers adjacent to streams provide numerous benefits including:

1. Protecting, restoring and maintaining the chemical, physical and biological integrity of streams and their water resources;
2. Removing pollutants delivered in urban stormwater;
3. Reducing erosion and controlling sedimentation;
4. Protecting and stabilizing stream banks;
5. Providing for infiltration of stormwater runoff;
6. Maintaining base flow of streams;
7. Contributing organic matter that is a source of food and energy for the aquatic ecosystem;
8. Providing tree canopy to shade streams and promote desirable aquatic habitat;
9. Providing riparian wildlife habitat;
10. Furnishing scenic value and recreational opportunity; and
11. Providing opportunities for the protection and restoration of greenspace.

B. Purpose

The purpose of this Section is to protect the public health, safety, environment and general welfare; to minimize public and private losses due to erosion, siltation and water pollution; and to maintain stream water quality by provisions designed to:

1. Create buffer zones along the streams of the city for the protection of water resources; and
2. Minimize land development within such buffers by establishing buffer zone requirements and by requiring authorization for any such activities.

9.4.3. Definitions

The following definitions apply to this Section unless specifically stated otherwise. Any word or phrase not defined below will have the meaning given in Article 11, unless the context clearly requires otherwise.

Buffer. With respect to a stream, a natural or enhanced vegetated area (established by Sec. 9.4.5.A) lying adjacent to the stream.

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 does 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.

Floodplain. Any land area susceptible to flooding, which would have at least a 1% probability of flooding occurrence in any calendar year based on the basin being fully developed as shown on the current land use plan; i.e., the regulatory flood.

Permit. The permit issued by the Director required for undertaking any land development activity.

Protection area, or **stream protection area**. With respect to a stream, the combined areas of all required buffers and setbacks applicable to such stream.

Riparian. Belonging or related to the bank of a river, stream, lake, pond or impoundment.

Setback. With respect to a stream, the area established by Sec. 9.4.5.B below extending beyond any buffer applicable to the stream.

Stream. Any stream, beginning at:

1. The location of a spring, seep, or groundwater outflow that sustains streamflow; or
2. A point in the stream channel with a drainage area of 25 acres or more; or
3. Where evidence indicates the presence of a stream in a drainage area of other than 25 acres, the City 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 channel. The portion of a watercourse that contains the base flow of the stream.

Watershed. The land area that drains into a particular stream.

9.4.4. Applicability

This Section applies to all land development activity on property containing a stream protection area as defined in Sec. 9.4.3. 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.

A. Grandfather Provisions.

This Section does not apply to the following activities:

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

B. Exemptions

The following specific activities are exempt from this Section. Exemption of these activities does not constitute an exemption for any other activity proposed on a property.

1. Activities for the purpose of building one of the following:
    a. Stream crossing by a driveway, transportation route or utility line;
    b. Public water supply intake or public wastewater outfall structures;
    c. Intrusions necessary to provide access to a property;
    d. Public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the river, fishing platforms and overlooks;
    e. Unpaved foot trails and paths;
    f. Activities to restore and enhance stream bank stability, vegetation, water quality or aquatic habitat, so long as native vegetation and bioengineering techniques are used.
2. 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 may 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 in Sec. 9.4.4.B.1 above.

3. Land development activities within a right-of-way existing at the time this Section takes effect or approved under the terms of this Section.
4. Within an easement of any utility existing at the time this Section takes effect or approved under the terms of this Section , land disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures.
5. Emergency work necessary to preserve life or property. However, when emergency work is performed under this Section, the person performing it must report such work to the City on the next business day after commencement of the work. Within ten days thereafter, the person must apply for a permit and perform such work within such time period as may be determined by the City 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.
6. 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 3 years after the end of the activities that intruded on the buffer.

After the effective date of this Section , it must apply to new subdividing and platting activities.

Any land development activity within a buffer established hereunder or any impervious cover within a setback established hereunder is prohibited unless a variance is granted in accordance with Sec. 9.4.5.A below.

9.4.5. Land Development Requirements

A. Buffer and Setback Requirements

All land development activity subject to this Section must meet the following requirements:

1. An undisturbed natural vegetative buffer must be maintained for 50 feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank.
2. An additional setback must be maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover is prohibited. Grading, filling and earthmoving must be minimized within the setback.
3. No septic tanks or septic tank drain fields will be permitted within the buffer or the setback.

B. Variance Procedures

Variances from the above buffer and setback requirements may be granted in accordance with the following provisions:

1. Variances from the requirements of this Section must comply with the standards of Sec. 10.7 (Quasi-Judicial Review~~Quasi-Judicial Review~~), except as modified below.
2. Variances must meet the following notice requirements:
    a. When a parcel was platted before the effective date of this Section, and its shape, topography or other existing physical condition prevents land development consistent with this Section, and the Director finds and determines that the requirements of this Section prohibit the otherwise lawful use of the property by the owner, a variance from buffer and setback requirements hereunder may be granted with no published, posted, or mailed notice, provided such variance will require mitigation measures to offset the effects of any proposed land development on the parcel.
    b. All other variances not specified in Sec. 9.4.5.B.2.a above require published and posted notice, but no mailed notice.
3. Applicability
    a. Variances will be considered only in the following cases:
        i. When a property's shape, topography or other physical conditions existing at the time of the adoption of this Section prevents land development unless a buffer variance is granted.
        ii. Unusual circumstances when strict adherence to the minimal buffer requirements in the ordinance would create an extreme hardship.
    b. Variances will not be considered when, following adoption of this Section, actions of any property owner of a given property have created conditions of a hardship on that property.
4. At a minimum, a variance request must 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 must 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.

5. The following factors will be considered in determining whether to issue a variance:

a. The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;

b. The locations of all streams on the property, including along property boundaries;

c. The location and extent of the proposed buffer or setback intrusion;

d. Whether alternative designs are possible which require less intrusion or no intrusion;

e. The long-term and construction water-quality impacts of the proposed variance; and

f. Whether issuance of the variance is at least as protective of natural resources and the environment.

9.4.6. Compatibility with Other Buffer Regulations and Requirements

This Section is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. The requirements of this Section should be considered minimum requirements, and where any provision of this Section imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment will be considered to take precedence.

9.4.7. Additional Information Requirements for Development on Buffer Zone Properties

A. Any permit applications for property requiring buffers and setbacks hereunder must include the following:

1. A site plan showing:

a. The location of all streams on the property;

b. Limits of required stream buffers and setbacks on the property;

c. Buffer zone topography with contour lines at no greater than five-foot contour intervals;

d. Delineation of forested and open areas in the buffer zone; and

e. Detailed plans of all proposed land development in the buffer and of all proposed impervious cover within the setback.

2. A description of all proposed land development within the buffer and setback; and

3. Any other documentation that the City may reasonably deem necessary for review of the application and to insure that the buffer zone ordinance is addressed in the approval process.

B. All buffer and setback areas must be recorded on the final plat of the property following plan approval.

9.4.8. Responsibility

Neither the issuance of a development permit nor compliance with the conditions thereof, nor with the provisions of this Section, will relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor will the issuance of any permit hereunder serve to impose any liability upon the City, its officers or employees, for injury or damage to persons or property.

9.4.9. Inspection

The Director may cause inspections of the work in the buffer or setback to be made periodically during the course thereof and must make a final inspection following completion of the work. The permittee must assist the Director in making such inspections. The Director will have the authority to conduct such investigations as it may reasonably deem necessary to carry out their 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 protection area.

No person may refuse entry or access to any authorized representative or agent who requests entry for purposes of inspection, and who presents appropriate credentials, nor may any person obstruct, hamper or interfere with any such representative while in the process of carrying out official duties.

9.4.10. Violations, Enforcement, and Penalties

Any action or inaction which violates the provisions of this Section or the requirements of an approved site plan or permit may be subject to the enforcement actions outlined in this Sub-section. 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 described below will not prevent such equitable relief.

A. Notice of Violation. If the Director determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved site plan or the provisions of this Section, they must issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this Section without having first secured the appropriate permit therefor, the notice of violation must be served on the owner or the responsible person in charge of the activity being conducted on the site.

   The notice of violation must contain:

   1. The name and address of the owner or the applicant or the responsible person;

   2. The address or other description of the site upon which the violation is occurring;

3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the approved site plan or this Section and the date for the completion of such remedial action;
5. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and
6. A statement that the determination of violation may be appealed to the Director by filing a written notice of appeal within 30 days after the notice of violation (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice will be sufficient).

B. Penalties

If the remedial measures described in the notice of violation have not been completed by the date specified for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the Director must first notify the applicant or other responsible person in writing of its intended action, and must provide a reasonable opportunity, of at least ten days (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice will be sufficient) to cure such violation. If the applicant or other responsible person fails to cure such violation after such notice and cure period, the Director may take any one or more of the following actions or impose any one or more of the following penalties.

1. **Stop work order.** The Director may issue a stop work order which must be served on the applicant or other responsible person. The stop work order will remain in effect until the applicant or other responsible person has taken the remedial measures specified in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take necessary remedial measures to cure such violation or violations.
2. **Withhold certificate of occupancy.** The Director may refuse to issue a certificate of occupancy for the building or other improvements built or being built on the site until the applicant or other responsible person has taken the remedial measures specified in the notice of violation or has otherwise cured the violations described therein.
3. **Suspension, revocation or modification of permit.** The Director may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures specified in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the Director may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

4. **Civil penalties.** If the applicant or other responsible person fails to take the remedial measures specified in the notice of violation or otherwise fails to cure the violations described therein within ten days (or such greater period as the Director will deem appropriate) (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice will be sufficient) after the Director has taken one or more of the actions described above, the Director may impose a penalty not to exceed $1,000.00 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.
5. **Criminal penalties**. For intentional and flagrant violations of this Section, the Director may issue a citation to the applicant or other responsible person, requiring such person to appear in the Berkeley Lake Municipal Court to answer charges for such violation. Upon conviction, such person will be punished by a fine not to exceed $1,000.00 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation occurs will constitute a separate offense.

Sec. 9.5. Flood Protection

9.5.1. Findings

It is hereby determined that:

A. The flood hazard areas of the City are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

B. Flood hazard areas can serve important stormwater management, water quality, streambank protection, stream corridor protection, wetland preservation and ecological purposes when permanently protected as undisturbed or minimally disturbed areas.

C. 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, telecommunication, 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.

D. Article IX, Section II of the Constitution of the State of Georgia and O.C.G.A. § 36-1-20(a) have delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City does ordain this Section and establishes this set of floodplain management and flood hazard reduction provisions for the purpose of regulating the use of flood hazard areas. It is determined that the regulation of flood hazard areas and the prevention of flood damage are in the public interest and will minimize threats to public health and safety, as well as to private and public property.

9.5.2. General Provisions

A. Purpose and Intent

The purpose of this Section is to protect, maintain and enhance 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, streambank and stream corridor protection, wetlands preservation, and ecological and environmental protection by provisions designed to:

1. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
2. Restrict or prohibit uses which are dangerous to health, safety, and property due to flooding or erosion hazards, or which increase flood heights, velocities, or erosion;

3. Control filling, grading, dredging, and other development which may increase flood damage or erosion;
4. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands;
5. Limit the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters; and
6. Protect the stormwater management, water quality, streambank protection, stream corridor protection, wetland preservation, and ecological functions of natural floodplain areas.

B. Basis for Establishing Areas of Special Flood Hazard, Areas of Future-Conditions Flood Hazard and Associated Floodplain Characteristics—Flood Area Maps And Studies

For the purposes of defining and determining "Areas of Special Flood Hazard," "Areas of Future-conditions Flood Hazard," "Areas of Shallow Flooding," "Base Flood Elevations," "Floodplains," "Floodways," "Future-conditions Flood Elevations," "Future-conditions Floodplains," potential flood hazard or risk categories as shown on FIRM maps, and other terms used in this Section, the following documents and sources may be used for such purposes and are adopted by reference thereto:

1. The flood insurance study (FIS) for Gwinnett County and Incorporated Areas, dated March 4, 2013, with accompanying maps and other supporting data and any revision thereto.
2. Other studies, which may be relied upon for the establishment of the base flood elevation or delineation of the base or one-percent (100-year) floodplain and flood-prone areas, including:
    a. Any flood or flood-related study conducted by the United States Army Corps of Engineers, the United States Geological Survey or any other local, state or federal agency applicable to the City; and
    b. Any base flood study conducted by a licensed professional engineer which has been prepared utilizing FEMA approved methodology and approved by the city engineer.
3. 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, including:
    a. Any flood or flood-related study conducted by the United States Army Corps of Engineers, the United States Geological Survey, or any other local, state or federal agency applicable to the City; and
    b. Any future-conditions flood study conducted by a licensed professional engineer which has been prepared utilizing FEMA approved methodology approved by the city engineer.
4. The repository for public inspection of the FIS, accompanying maps and other supporting data is located at Berkeley Lake City Hall.

C. Compatibility with other regulations.

This Section 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 Section are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this Section imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment will control.

D. 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; flood heights may be increased by manmade or natural causes. This Section 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 Section will not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made thereunder.

9.5.3. Definitions

The following definitions apply to this Section unless specifically stated otherwise. Any word or phrase not defined below will have the meaning given in Article 11, unless the context clearly requires otherwise.

Addition. A walled and roofed expansion to the perimeter or height of a building.

Adjacent. Those areas located within 10 feet of and on the same lot as the future-conditions floodplain boundary that are at or lower in elevation than either 3 feet above the base flood elevation or 1 foot above the future-conditions flood elevation, whichever is higher, unless the area is hydraulically independent (meaning absolutely no connection to the flooding source such as through pipes, sewer laterals, down drains, foundation drains, ground seepage, overland flow, gated or valved pipes, excavated and backfilled trenches, etc. with no fill or other manmade barriers creating the separation).

Appeal. Means a request for a review of the Director's interpretation of any provision of this Section.

Area of future-conditions flood hazard. The land area that would be inundated by the one-percent-annual-chance flood based on future-conditions hydrology (100-year future-conditions flood).

Area of shallow flooding. A designated AO or AH Zone on a community's flood insurance rate map (FIRM) with a 1% or greater chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard. The land area subject to a 1% or greater chance of flooding in any given year. This includes all floodplain and flood prone areas at or below the base flood elevation

designated as Zones A, A1-30, A-99, AE, AO, AH, and AR on a community's flood insurance rate map (FIRM).

Base flood. The flood having a 1% chance of being equaled or exceeded in any given year, also known as the 100-year flood.

Base flood elevation. The highest water surface elevation anticipated at any given location during the base flood.

Basement. Any area of a building having its floor subgrade below ground level on all sides.

Building. The same meaning as structure.

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 which has its lowest elevated floor raised above the ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Existing construction means any structure for which the "start of construction" commenced before July 15, 1975.

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 either final site grading or the pouring of concrete pads) is completed before July 15, 1975.

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).

Flood or **flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood insurance rate map or **FIRM.** An official map of a community, issued by FEMA, delineating the areas of special flood hazard or risk premium zones applicable to the community.

Flood insurance study or **FIS.** The official report by FEMA providing an examination, evaluation and determination of flood hazards and corresponding flood profiles and water surface elevations of the base flood.

Floodplain or **flood-prone area.** 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 or **regulatory floodway.** The channel of a stream, river, or other watercourse and the adjacent areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Future-conditions flood. The flood having a 1% chance of being equaled or exceeded in any given year based on future-conditions hydrology. Also known as the 100-year future-conditions flood.

Future-conditions flood elevation. The highest water surface elevation anticipated at any given location 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 maps, comprehensive land-use plans, or watershed study projections, and without consideration of projected future construction of stormwater management (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 before construction next to the proposed walls of a structure.

Historic structure any structure that is:

1. 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;
2. Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places by states with historic preservation programs which have been approved by the secretary of the interior; or
4. Individually listed on a local inventory of historic places by communities with historic preservation programs that have been certified either:
    a. By an approved state program as determined by the secretary of the interior, or
    b. 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, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this Section.

Manufactured home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when attached 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. The term does not include a “recreational vehicle.”

Mean sea level. The datum to which base flood elevations shown on a community's flood insurance rate map (FIRM) are referenced. For purposes of this Section the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988.

New construction. Any structure (see definition) for which the “start of construction” commenced on or after July 15, 1975, and includes any subsequent improvements to the structure.

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 July 15, 1975.

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 to the applicant which is required before undertaking any development activity.

Recreational vehicle. A vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Repetitive loss. Flood related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% 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.

Start of construction. A term that includes substantial improvement and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation,

addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of the structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure. A walled and roofed building (including a gas or liquid storage tank), that is principally above ground, or a manufactured home.

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.

Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. This term also includes repetitive loss.

Substantial improvement. Any reconstruction, rehabilitation, addition, or other improvement to a structure, taking place during a ten-year period, in which the cumulative cost equals or exceeds 50% of the market value of the structure before the improvement. The market value of the building means:

1. The appraised value of the structure before the start of the initial repair or improvement, or
2. In the case of damage, the value of the structure before the damage occurred. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include those improvements of a structure required to comply with existing state or local health, sanitary, or safety code specifications which are the minimum necessary to assure safe living conditions, which have been identified by the code enforcement officer. The term also does not include any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Substantially improved existing manufactured home park or subdivision. The repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Violation. The failure of a structure or other development to be fully compliant with the requirements of this Section. A structure or other development without the elevation certificate,

other certifications, or other evidence of compliance required in this Section is presumed to be in violation until such time as that documentation is provided.

9.5.4. Permit Procedures and Requirements

A. Permit application Requirements

1. No owner or developer may perform any development activities on a site where an area of special flood hazard or area of future-conditions flood hazard is located without first meeting the requirements of this Section before commencing the proposed activity.
2. Unless specifically excluded by this Section, any landowner or developer desiring a permit for a development activity must submit to the City a permit application on a form provided by the City for that purpose.
3. No permit will be approved for any development activities that do not meet the requirements, restrictions and criteria of this Section.

B. Floodplain Management Plan Requirements

An application for a development project with any area of special flood hazard or area of future-conditions flood hazard located on the site must include a floodplain management/flood damage prevention plan. This plan must include the following items:

1. Site plan drawn to scale, which includes but is not limited to:
    a. Existing and proposed elevations of the area in question and the nature, location and dimensions of existing or proposed structures, earthen fill placement, amount and location of excavation material, and storage of materials or equipment;
    b. For all proposed structures, spot ground elevations at building corners and 20-foot or smaller intervals along the foundation footprint, or 1 foot contour elevations throughout the building site;
    c. Proposed locations of water supply, sanitary sewer, and utilities;
    d. Proposed locations of drainage and stormwater management facilities;
    e. Proposed grading plan;
    f. Base flood elevations and future-conditions flood elevations;
    g. Boundaries of the base flood floodplain and future-conditions floodplain;
    h. If applicable, the location of the floodway; and
    i. Certification of the above by a licensed professional engineer or surveyor.
2. Building and foundation design detail, including but not limited to:
    a. Elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all proposed structures;

b. Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;

c. Certification that any proposed nonresidential floodproofed structure meets the criteria in Sec. 9.5.6.B.2

d. For enclosures below the base flood elevation, location and total net area of flood openings as required in Sec. 9.5.6.A.5; and

e. Design plans certified by a licensed professional engineer or architect for all proposed structure(s).

3. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development;

4. 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 floodways, flood profiles and all other computations and other information similar to that presented in the FIS;

5. Copies of all applicable state and federal permits necessary for the proposed development, including but not limited to permits required by Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334; and

6. All appropriate certifications required under this Section.

The approved floodplain management/flood damage prevention plan must contain certification by the applicant that all development activities will be done according to the plan or previously approved revisions. Any and all development permits or use and occupancy certificates or permits may be revoked at any time if the construction and development activities are not in strict accordance with approved plans.

C. Construction Stage Submittal Requirements

1. For all new construction and substantial improvements on sites with a floodplain management/flood damage prevention plan, the permit holder must provide to the Director a certified as-built elevation certificate or floodproofing certificate for nonresidential construction including the lowest floor elevation or floodproofing level immediately after the lowest floor or floodproofing is completed. A final elevation certificate must be provided after completion of construction including final grading of the site. Any lowest floor certification made relative to mean sea level must be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When floodproofing is utilized for nonresidential structures, said certification must be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by the same using the FEMA floodproofing certificate. This certification must also include the design and operation/maintenance plan to assure continued viability of the floodproofing measures.

2. Any work undertaken before approval of these certifications will be at the permit holder's risk. The Director will review the above referenced certification data submitted. Deficiencies detected by such review must be corrected by the permit holder immediately and before further work being allowed to proceed. Failure to submit certification or failure to make the corrections required hereby will be cause to issue a stop work order for the project.

D. Duties and Responsibilities of the Director

Duties of the Director include, but are not limited to:

1. Review all development applications and permits to ensure that the requirements of this Section have been satisfied and to determine whether proposed building sites will be reasonably safe from flooding;
2. Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334;
3. When base flood elevation data or floodway data have not been provided, then the Director will require the applicant to obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other sources to meet the provisions of Sec. 9.5.5 and Sec. 9.5.6;
4. 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 and substantially improved structures;
5. Review and record the actual elevation, in relation to mean sea level to which any substantially improved structures have been floodproofed;
6. When floodproofing is utilized for a nonresidential structure, the Director will review the design and operation/maintenance plan and obtain certification from a licensed professional engineer or architect;
7. Notify affected adjacent communities and the Georgia Department of Natural Resources (GA DNR) before any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
8. 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 will make the necessary interpretation. Any person contesting the location of the boundary must be given a reasonable opportunity to appeal the interpretation as provided in this Section. Where floodplain elevations have been defined, the floodplain must be determined based on flood elevations rather than the area graphically delineated on the floodplain maps;
9. All records pertaining to the provisions of this Section must be maintained in the office of the City Clerk and must be open for public inspection;
10. Coordinate all FIRM revisions with the GA DNR and FEMA; and

11. Review variance applications and make recommendations to the Planning and Zoning Commission.

9.5.5. Standards for Development

A. Definition of Floodplain Boundaries

1. Studied "A" zones, as identified in the FIS, must be used to establish base flood elevations whenever available.

2. For all streams with a drainage area of 100 acres or greater, the future-conditions flood elevations must be provided by the city engineer. If future-conditions elevation data is not available from the city engineer, then it must be determined by a licensed professional engineer using a method approved by FEMA and the city engineer.

B. Definition of Floodway Boundaries

1. The width of a floodway must be determined from the FIS or FEMA approved flood study. For all streams with a drainage area of 100 acres or greater, the regulatory floodway must be provided by the city engineer. If floodway data is not available from the city engineer, it must be determined by a licensed professional engineer using a method approved by FEMA and the city engineer.

C. General Provisions

1. No development is allowed within any area of special flood hazard or area of future-conditions flood hazard that could result in any of the following:

   a. Raising the base flood elevation or future-conditions flood elevation equal to or more than 0.01 foot;

   b. Reducing the base flood or future-conditions flood storage capacity;

   c. Changing the flow characteristics as to the depth and velocity of the waters of the base flood or future-conditions flood as they pass both the upstream and the downstream boundaries of the development area; or

   d. Creating hazardous or erosion-producing velocities, or resulting in excessive sedimentation.

2. Any development within the area of future-conditions flood hazard allowed under Sec. 9.5.5.C.1 must also meet the following conditions:

   a. Compensation for storage capacity must occur between the average ground water table elevation and the base flood elevation for the base flood, and between the average ground water table elevation and the future-condition flood elevation for the future-conditions flood, and lie either within the boundaries of ownership of the property being developed and must be within the immediate vicinity of 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

storage. In no case may any required compensation be provided via bottom storage or by excavating below the elevation of the natural (pre-development) stream channel unless such excavation results from the widening or relocation of the stream channel;

b. Cut areas must be stabilized and graded to a slope of no less than 2%;

c. Effective transitions must be provided such that flow velocities occurring on both upstream and downstream properties are not increased or decreased;

d. Verification of no-rise conditions (less than 0.01 foot), flood storage volumes, and flow characteristics must be provided via a step-backwater analysis meeting the requirements of Sec. 9.5.5.D;

e. Public utilities and facilities, such as water, sanitary sewer, gas, and electrical systems, must be located and built to minimize or eliminate infiltration or contamination from flood waters; and

f. Any significant physical changes to the base flood floodplain must be submitted as a conditional letter of map revision (CLOMR) or conditional letter of map amendment (CLOMA), whichever is applicable. The CLOMR submittal will be subject to approval by the city engineer using the FEMA community concurrence 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 will be the responsibility of the applicant. Within six months of the completion of development, the applicant must submit as-built surveys and plans for a final letter of map revision (LOMR).

D. 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 any land within the future-conditions floodplain, except for a residential single-lot development on streams without established base flood elevations and floodways. This study must be prepared by a licensed professional engineer and made a part of the application for a permit. This information must be submitted to and approved by the city engineer before the approval of any permit which would authorize the disturbance of land located within the future-conditions floodplain. Such study must include:

1. Description of the extent to which any watercourse or floodplain will be altered or relocated as a result of the proposed development;

2. Step-backwater analysis, using a FEMA-approved methodology approved by the city engineer. 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 profiles, and future-conditions flood profiles;

3. Floodplain storage calculations based on cross-sections (at least one every 100 feet) showing existing and proposed floodplain conditions to show that base flood floodplain and future-conditions floodplain storage capacity would not be diminished by the development;

4. The study must include a preliminary plat, grading plan, or site plan, as appropriate, which must clearly define all future-conditions floodplain encroachments.

E. 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 to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions apply:

1. Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway, except for activities specifically allowed in Sec. 9.5.5.E.2 below.
2. Encroachments for bridges, culverts, roadways and utilities within the regulatory floodway may be permitted provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment will not result in any increase to the pre-project base flood elevations, floodway elevations, or floodway widths during the base flood discharge. A licensed professional engineer must provide supporting technical data and certification thereof; and
3. If the applicant proposes to revise the floodway boundaries, no permit authorizing the encroachment into or an alteration of the floodway may be issued by the City until an affirmative conditional letter of map revision (CLOMR) is issued by FEMA or a no-rise certification is approved by the City.

F. Maintenance Requirements

The property owner is responsible for continuing maintenance as may be needed within an altered or relocated portion of a floodplain on the property so that the flood-carrying or flood storage capacity is maintained. The city engineer may direct the property owner (at no cost to the City) 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 City.

9.5.6. Provisions for Flood Damage Reduction

This Sub-section applies in all areas of special flood hazard and areas of future-conditions flood hazard.

A. General Provisions

1. New construction and substantial improvements of structures (residential or nonresidential), including manufactured homes, are not allowed within the limits of the future-conditions floodplain, unless all requirements of Sec. 9.5.5.C, Sec. 9.5.5.D, and Sec. 9.5.5.E have been met;
2. New construction and substantial improvements must be anchored to prevent flotation, collapse and lateral movement of the structure;
3. New construction and substantial improvements must be built with materials and utility equipment resistant to flood damage;

4. New construction and substantial improvements must be built by methods and practices that minimize flood damage;
5. **Elevated buildings.** All new construction and substantial improvements that include any fully enclosed area located below the lowest floor formed by foundation and other exterior walls must be designed so as to be an unfinished or flood resistant enclosure. The enclosure must be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
    a. Designs for complying with this requirement must either be certified by a licensed professional engineer or architect to meet or exceed the following minimum criteria:
        i. Provide a minimum of two openings having a total net area of at least one square inch for every square foot of enclosed area subject to flooding;
        ii. The bottom of all openings must be no higher than 1 foot above grade; and
        iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions.
    b. So as not to violate the “Lowest Floor” criteria of this Section, the unfinished and flood resistant enclosure must solely be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area; and
    c. The interior portion of such enclosed area may not be finished or partitioned into separate rooms.
6. All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities must be designed or located 3 feet above the base flood elevation or 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;
7. Manufactured homes must be anchored to prevent flotation, collapse, and 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 is in addition to and consistent with applicable state requirements for resisting wind forces;
8. All proposed development must include adequate drainage and stormwater management facilities per the requirements of the City to reduce exposure to flood hazards;
9. New and replacement water supply systems must be designed to minimize or eliminate infiltration of flood waters into the system;
10. New and replacement sanitary sewage systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
11. On-site waste disposal systems must be located and built to avoid impairment to, or contamination from, such systems during flooding;

12. Other public utilities such as gas and electric systems must be located and built to avoid impairment to them, or public safety hazards from them, during flooding;
13. Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of this Section, may be undertaken only if the nonconformity is not furthered, extended or replaced;
14. If the proposed development is in multiple flood zones, or multiple base flood elevations cross the proposed site, the higher or more restrictive base flood elevation or future condition elevation and development standards will take precedence;
15. When only a portion of a proposed structure is located within a flood zone or the future conditions floodplain, the entire structure must meet the requirements of this Section; and
16. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, must be reasonably safe from flooding:
    a. All such proposals must be consistent with the need to minimize flood damage within the flood-prone area;
    b. All public utilities and facilities, such as sewer, gas, electrical, and water systems must be located and built to minimize or eliminate flood damage; and
    c. Adequate drainage must be provided to reduce exposure to flood hazards.

B. Building standards for structures and buildings within the future-conditions floodplain.

1. **Residential Buildings**
    a. **New construction.** New construction of principal residential structures is not allowed within the limits of the future-conditions floodplain unless all requirements of Sec. 9.5.5.C, Sec. 9.5.5.D, and Sec. 9.5.5.E have been met. If all of the requirements of Sec. 9.5.5.C, Sec. 9.5.5.D, and Sec. 9.5.5.E have been met, all new construction must have the lowest floor, including basement, elevated no lower than 3 feet above the base flood elevation or 1 foot above the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls must be provided in accordance with standards of Sec. 9.5.6.A.5.
    b. **Substantial improvements.** Substantial improvement of any principal residential structure must have the lowest floor, including basement, elevated no lower than 3 feet above the base flood elevation or 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 automatically equalize the hydrostatic flood forces on exterior walls must be provided in accordance with standards of Sec. 9.5.6.A.5.
2. **Nonresidential Buildings**
    a. **New construction.** New construction of principal nonresidential structures are not allowed within the limits of the future-conditions floodplain unless all requirements of Sec. 9.5.5.C,

Sec. 9.5.5.D, and Sec. 9.5.5.E have been met. If all of the requirements of Sec. 9.5.5.C, Sec. 9.5.5.D, and Sec. 9.5.5.E have been met, all new construction must have the lowest floor, including basement, elevated no lower than 1 foot above the base flood elevation or at least as high as the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls must be provided in accordance with standards of Sec. 9.5.6.A.5. New construction that has met all of the requirements of Sec. 9.5.5.C, Sec. 9.5.5.D, and Sec. 9.5.5.E may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to 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 licensed professional engineer or architect must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and must provide such certification to the Director using the FEMA floodproofing certificate along with the design and operation/maintenance plan.

b. **Substantial improvements.** Substantial improvement of any principal nonresidential structure located in A1-30, AE, or AH zones, may be authorized by the Director to be elevated or floodproofed. Substantial improvements must have the lowest floor, including basement, elevated no lower than 1 foot above the base flood elevation or at least as high as the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls must be provided in accordance with standards of Sec. 9.5.6.A.5. Substantial improvements may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to 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 licensed professional engineer or architect must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and must provide such certification to the Director using the FEMA floodproofing certificate along with the design and operation/maintenance plan.

3. **Accessory structures and facilities.** Accessory structures and facilities (i.e., barns, sheds, gazebos, detached garages, recreational facilities and other similar non-habitable structures and facilities) which meet the requirements of Sec. 9.5.5.C, Sec. 9.5.5.D, and Sec. 9.5.5.E and are permitted to be located within the limits of the future-conditions floodplain must be built of flood-resistant materials and designed to provide adequate flood openings in accordance with Sec. 9.5.6.A.5 and be anchored to prevent flotation, collapse and lateral movement of the structure.

4. **Standards for recreational vehicles.** 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. Meet all the requirements for residential buildings—Substantial improvements (Sec. 9.5.6.B.1), including the anchoring and elevation requirements.

5. Standards for manufactured homes.

   a. New manufactured homes are not allowed to be placed within the limits of the future-conditions floodplain unless all requirements of Sec. 9.5.5.C, Sec. 9.5.5.D, and Sec. 9.5.5.E have been met. If all of the requirements of Sec. 9.5.5.C, Sec. 9.5.5.D, and Sec. 9.5.5.E have been met, all new construction and substantial improvement must have the lowest floor, including basement, elevated no lower than 3 feet above the base flood elevation or 1 foot above the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls must be provided in accordance with standards of Sec. 9.5.6.A.5.

   b. Manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

      i. The lowest floor of the manufactured home is elevated no lower than 3 feet above the level of the base flood elevation, or 1 foot above the future-conditions flood elevation, whichever is higher; or

      ii. The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches in height above grade.

   c. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement in accordance with standards of Sec. 9.5.6.A.7.

C. Building Standards for Structures and Buildings Authorized Adjacent to the Future-Conditions Floodplain

1. **Residential buildings.** For new construction and substantial improvement of any principal residential building or manufactured home, the elevation of the lowest floor, including basement and access to the building, must be at least 3 feet above the base flood elevation or 1 foot above the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls must be provided in accordance with standards of Sec. 9.5.6.A.5.

2. **Nonresidential buildings.** For new construction and substantial improvement of any principal nonresidential building, the elevation of the lowest floor, including basement and access to the building, must be at least 1 foot above the level of the base flood elevation or at least as high as the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls must be provided in accordance with standards of Sec. 9.5.6.A.5.a. Nonresidential buildings may be floodproofed in lieu of elevation.

D. Building Standards for Residential Single-Lot Developments on Streams without Established Base Flood Elevations and Floodway (A-Zones)

For a residential single-lot development not part of a subdivision that has areas of special flood hazard, where streams exist but no base flood data have been provided (A-Zones), the Director must review and reasonably utilize any available scientific or historic flood elevation data, base flood elevation and floodway data, or future-conditions flood elevation data available from a federal, state, local or other source, to administer the provisions and standards of this Section.

If data are not available from any of these sources, the following provisions will apply:

1. No encroachments, including structures or fill material, may be located within an area equal to twice the width of the stream or 50 feet from the top of the bank of the stream, whichever is greater.
2. In special flood hazard areas without base flood or future-conditions flood elevation data, new construction and substantial improvements must have the lowest floor of the lowest enclosed area (including basement) elevated no less than 3 feet above the highest adjacent grade at the building site. Flood openings sufficient to facilitate automatic equalization of hydrostatic flood forces must be provided for flood prone enclosures in accordance with Sec. 9.5.6.A.5.a.

E. 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 1 to 3 feet above ground, with no clearly defined channel. In these areas the following provisions apply:

1. All new construction and substantial improvements of residential and nonresidential structures must have the lowest floor, including basement, elevated to no lower than 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, must be elevated at least 3 feet above the highest adjacent grade. Flood openings sufficient to facilitate automatic equalization of hydrostatic flood forces must be provided in accordance with standards of Sec. 9.5.6.A.5.a;
2. New construction and substantial improvement of a nonresidential structure may be floodproofed 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 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 licensed professional engineer or architect must certify that the design and methods of construction are in accordance with accepted standards of practice, and must provide such certification to the Director using the FEMA floodproofing certificate along with the design and operation/maintenance plan; and

3. Drainage paths must be provided to guide floodwater around and away from any proposed structure.

F. Standards for subdivisions of land.

1. All subdivision proposals must identify the areas of special flood hazard and areas of future-conditions flood hazard therein and provide base flood elevation data and future-conditions flood elevation data;

2. All residential lots in a subdivision proposal must have sufficient buildable area outside of the future-conditions floodplain such that encroachments into the future-conditions floodplain for residential structures will not be required; and

3. All subdivision plans will provide the elevations of proposed structures in accordance with Sec. 9.5.4.B.2.

9.5.7. Variance Procedures

The following variance and appeals procedures apply to an applicant who has been denied a permit for a development activity, or to 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 Section.

A. Variances from the requirements of this Section must comply with the standards of Sec. 10.7 (Quasi-Judicial Review~~Quasi-Judicial Review~~), except as modified below.

B. 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 a historic structure, and the variance issued must be the minimum necessary to preserve the historic character and design of the structure.

C. 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.

D. Variances may not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

E. In reviewing such requests, the Planning and Zoning Commission and City Council must consider all technical evaluations, relevant factors, and all standards specified in this and other provisions of this Section.

F. Conditions for Variances

1. A variance may be issued only when there is:

a. A finding of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship; and

c. 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 Section are minimum standards for flood loss reduction; therefore, any deviation from the standards must be weighed carefully. Variances may only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

3. Any person to whom a variance is granted must 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 resulting from the lowest floor elevation being placed below the base flood elevation will be commensurate with the increased risk to life and property, and that such costs may be as high as $25.00 for each $100.00 of insurance coverage provided.

4. The Director must maintain the records of all variance actions, both granted and denied, and report them to the Georgia Department of Natural Resources and the federal emergency management agency upon request.

G. Any person requesting a variance may, from the time of the request until the time the request is acted upon, submit such information and documentation as the Planning and Zoning Commission and City Council deems necessary for the consideration of the request.

H. Variances may not be issued “after the fact.”

9.5.8. Violations and Penalties

Any action or inaction which violates the provisions of this Section or the requirements of an approved stormwater management plan or permit, may be subject to the enforcement actions outlined in this Section. 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 described below will not prevent such equitable relief.

A. Notice of Violation

If the Director determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management plan or the provisions of this Section, they must issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this Section without having first secured a permit therefor, the notice of violation must be served on the owner or the responsible person in charge of the activity being conducted on the site.

The notice of violation must contain:

1. The name and address of the owner or the applicant or the responsible person;

2. The address or other description of the site upon which the violation is occurring;
3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this Section and the date for the completion of such remedial action;
5. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and
6. A statement that the determination of violation may be appealed to the Planning and Zoning Commission by filing a written notice of appeal within 30 days after the notice of violation.

B. Penalties

If the remedial measures described in the notice of violation have not been completed by the date specified for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the Director must first notify the applicant or other responsible person in writing of its intended action, and must provide a reasonable opportunity, of at least ten days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice will be sufficient) to cure such violation. If the applicant or other responsible person fails to cure such violation after such notice and cure period, the Director may take any one or more of the following actions or impose any one or more of the following penalties.

1. **Stop work orde**r. The Director may issue a stop work order which must be served on the applicant or other responsible person. The stop work order must remain in effect until the applicant or other responsible person has taken the remedial measures specified in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.
2. **Withhold certificate of occupancy**. The Director may refuse to issue a certificate of occupancy for the building or other improvements built or being built on the site until the applicant or other responsible person has taken the remedial measures specified in the notice of violation or has otherwise cured the violations described therein.
3. **Suspension, revocation or modification of permit**. The Director may suspend, revoke or modify the permit authorizing the development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures specified in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the Director may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

4. **Civil penalties**. In the event the applicant or other responsible person fails to take the remedial measures specified in the notice of violation or otherwise fails to cure the violations described therein within ten days, or such greater period as the Director may deem appropriate (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice will be sufficient) after the Director has taken one or more of the actions described above, the Director may impose a penalty not to exceed $1,000.00 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.
5. **Criminal penalties.** For intentional and flagrant violations of this Section, the Director may issue a citation to the applicant or other responsible person, requiring such person to appear in City of Berkeley Lake Municipal Court to answer charges for such violation. Upon conviction, such person will be punished by a fine not to exceed $1,000.00 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation occurs will constitute a separate offense.

Sec. 9.6. Illicit Discharge and Illegal Connection

9.6.1. General Provisions

A. Purpose and Intent

The purpose of this Section is to protect the public health, safety, environment and general welfare through the regulation of non-stormwater discharges to the municipal separate storm sewer system to the maximum extent practicable as required by Federal law. This Section establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Section are to:

1. Regulate the contribution of pollutants to the municipal separate storm sewer system by any person;
2. Prohibit illicit discharges and illegal connections to the municipal separate storm sewer system;
3. Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the municipal separate storm sewer system; and
4. Establish legal authority to conduct all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this Section.

B. Applicability

The provisions of this Section apply throughout the incorporated area of the City. The City may enter into agreements with other municipalities to carry out the purpose of this Section. These agreements may include, but are not limited to, enforcement of provisions, resolution of disputes, and cooperative monitoring and management of the separate storm sewer system and management programs.

C. Compatibility with Other Regulations

This Section is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this Section are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this Section imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment will control.

9.6.2. Definitions

The following definitions apply to this Section unless specifically stated otherwise. Any word or phrase not defined below will have the meaning given in Article 11, unless the context clearly requires otherwise.

Accidental discharge. A discharge prohibited by this Section which occurs by chance and without planning or thought before occurrence.

Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) and any subsequent amendments thereto.

Construction activity. Activities subject to the Georgia Erosion and Sedimentation Control Act or NPDES General Construction Permits. These include construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Illicit discharge. Any direct or indirect non-stormwater discharge to the municipal separate storm sewer system, except as exempted in Sec. 9.6.3 (Prohibitions~~Prohibitions~~).

Illegal connection. Either of the following:

1. Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or
2. Any pipe, open channel, drain or conveyance connected to the municipal separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit. A permit issued by the Georgia EPD under authority delegated pursuant to 33 USC § 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Municipal separate storm sewer system. Any facility designed or used for collecting or conveying stormwater, including but not limited to any roads with drainage systems, highways, city streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which is:

1. Owned or maintained by the City;
2. Not a combined sewer; and
3. Not part of a publicly owned treatment works.

Non-stormwater discharge. Any discharge to the storm drain system that is not composed entirely of stormwater.

Person. Except to the extent exempted from this Section, 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.

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; concrete and cement; and noxious or offensive matter of any kind.

Pollution. The contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent and includes but is not limited to, a change in temperature, taste, color, turbidity, or odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Stormwater runoff or **stormwater.** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

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

9.6.3. Prohibitions

A. Prohibition of Illicit Discharges.

No person may throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the municipal separate storm sewer system any pollutants or waters containing any pollutants, other than stormwater. The following discharges are exempt from the prohibition provision above:

1. Water line flushing performed by a government agency, other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, natural riparian habitat or wetland flows, and any other water source not containing pollutants;

2. Discharges or flows from fire fighting, and other discharges specified in writing by the City as being necessary to protect public health and safety;

3. The prohibition provision above do not apply to any non-stormwater discharge permitted under an NPDES permit or order issued to the discharger and administered under the authority of the state and the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the municipal separate storm sewer system.

B. Prohibition of Illegal Connections

The construction, connection, use, maintenance or continued existence of any illegal connection to the municipal separate storm sewer system is prohibited.

1. This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

2. A person violates this Section if the person connects a line conveying sewage to the municipal separate storm sewer system, or allows such a connection to continue.

3. Improper connections in violation of this Section must be disconnected and redirected, if necessary, to an approved on-site wastewater management system or the sanitary sewer system upon approval of the agency responsible for administering and operating those systems.

4. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, must be located by the owner or occupant of that property upon receipt of written notice of violation from the Director requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Director.

9.6.4. Industrial or Construction Activity Discharges

Any person subject to an industrial or construction activity NPDES stormwater discharge permit must comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City before allowing discharges to the municipal separate storm sewer system.

9.6.5. Access and Inspection of Properties and Facilities

The Director is allowed to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this Section.

A. If a property or facility has security measures in force which require proper identification and clearance before entry into its premises, the owner or operator must make the necessary arrangements to allow access to representatives of the City.

B. The owner or operator must allow the Director ready access to all parts of the premises for the purposes of inspection, sampling, photography, videotaping, examination and copying of any records that are required under the conditions of an NPDES permit to discharge stormwater.

C. The Director has the right to set up on any property or facility such devices as are necessary in the opinion of the Director to conduct monitoring or sampling of flow discharges.

D. The Director may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the City. This sampling and monitoring equipment must be maintained at all times in a safe and proper operating condition by the owner or operator at their own expense. All devices used to measure flow and quality must be calibrated to ensure their accuracy.

E. Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected or sampled must be promptly removed by the owner or operator at the written or oral request of the Director and may not be replaced. The costs of clearing such access musty be borne by the owner or operator.

F. Unreasonable delays in allowing the Director access to a facility is a violation of this Section.

G. If the Director has been refused access to any part of the premises from which stormwater is discharged, and the Director is able to demonstrate probable cause to believe that there may be a violation of this Section, or that there is a need to inspect or sample as part of a routine inspection and sampling program designed to verify compliance with this Section or any order issued hereunder, or to protect the overall public health, safety, environment, and welfare of the community, then the Director may seek issuance of a search warrant from any court of competent jurisdiction.

9.6.6. Notification of Accidental Discharges and Spills

Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non-stormwater discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the municipal separate storm sewer system, state waters, or waters of the U.S., said person must take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.

Said person must notify the authorized enforcement agency in person or by phone, facsimile or in person no later than 24 hours of the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone must be confirmed by written notice addressed and mailed to the Director within three business days of the phone or in person notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such

establishment must also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records must be retained for at least 3 years. Said person must also take immediate steps to ensure no recurrence of the discharge or spill.

In the event of such a release of hazardous materials, emergency response agencies or other appropriate agencies must be immediately notified.

Failure to provide notification of a release as provided above is a violation of this Section.

9.6.7. Violations, Enforcement, and Penalties

A. Violations

It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this Section. Any person who has violated or continues to violate the provisions of this Section may be subject to the enforcement actions outlined in this Sub-section or may be restrained by injunction or otherwise abated in a manner provided by law.

If the violation constitutes an immediate danger to public health or public safety, the Director is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation or restore the property. The Director is authorized to seek costs of the abatement as outlined in Sec. 9.6.7.E.

B. Notice of Violation

Whenever the Director finds that a violation of this Section has occurred, the Director may order compliance by written notice of violation.

1. The notice of violation must contain:
    a. The name and address of the alleged violator;
    b. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
    c. A statement specifying the nature of the violation;
    d. A description of the remedial measures necessary to restore compliance with this Section and a time schedule for completion of such remedial action;
    e. A statement of the penalty or penalties that will or may be assessed against the person to whom the notice of violation is directed; and
    f. A statement that the determination of violation may be appealed to the Planning and Zoning Commission by filing a written notice of appeal within 30 days of service of notice of violation.
2. Such notice may require without limitation:
    a. The performance of monitoring, analyses, and reporting;
    b. The elimination of illicit discharges and illegal connections;

c. That violating discharges, practices, or operations must cease and desist;

d. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

e. Payment of costs to cover administrative and abatement costs; and

f. The implementation of pollution prevention practices.

C. Appeal of Notice of Violation

Any person receiving a notice of violation may appeal the determination of the Director as specified in Sec. 10.7 (Quasi-Judicial Review~~Quasi-Judicial Review~~).

D. Enforcement Measures

If the violation has not been corrected in accordance with the requirements specified in the notice of violation, or, in the event of an appeal, within three days of the decision of Director upholding the decision of the Director, then the Director or his designated contractor may enter upon the subject private property and is authorized to take any and all measures necessary to abate the violation or restore the property. Such measures or actions must include but is not limited to, repairs, maintenance, containment, cleanup, and remediation. It is unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes specified above.

E. Costs of Abatement of the Violation

Within ten working days after abatement of the violation by the City or its contractors, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written request objecting to the assessment or to the amount of the assessment within ten working days of such notice. If the amount due is not paid within 30 days after receipt of the notice, or if an appeal is taken, within 30 days after a decision on said appeal, the charges will become a special assessment against the property and will constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this Section will become liable to the City by reason of such violation.

F. Civil Penalties

If the alleged violator fails to take the remedial measures specified in the notice of violation or otherwise fails to cure the violations described therein within ten days, or such greater period as the City may deem appropriate, after the City has taken one or more of the actions described above, the City may impose a penalty not to exceed $1,000.00 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

G. Criminal Penalties

For intentional and flagrant violations of this Section, the Director may issue a citation to the alleged violator requiring such person to appear in municipal court to answer charges for such violation. Upon conviction, such person will be punished by a fine not to exceed $1,000.00 or

imprisonment for 60 days or both. Each act of violation and each day upon which any violation occurs will constitute a separate offense.

H. Violations Deemed a Public Nuisance

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Section is a threat to public health, safety, welfare, and environment and is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by law.

I. Remedies not Exclusive

The remedies listed in this Section are not exclusive of any other remedies available under any applicable federal, state or local law and the City may seek cumulative remedies. The City may recover attorney's fees, court costs, and other expenses associated with enforcement of this Section, including sampling and monitoring expenses. If the amount due is not paid within 30 days after receipt of a notice requiring payment of such costs, or if an appeal is taken, within 30 days after a decision on said appeal, the charges will become a special assessment against the property and will constitute a lien on the property for the amount of the assessment.

Sec. 9.7. Stormwater Management

9.7.1. Purpose and Intent

The purpose of this Section is 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-construction stormwater runoff and nonpoint source pollution associated with new development and redevelopment. Proper management of post-construction stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, and protect water and aquatic resources. Additionally, the City must comply with several State and Federal laws, regulations and permits and the requirements of the Metropolitan North Georgia Water Planning District's regional water plan related to managing the water quantity, velocity, and quality of post-construction stormwater runoff.

9.7.2. Definitions

The following definitions apply to this Section unless specifically stated otherwise. Other terms used but not defined in this Section will have the meaning given in the GSMM and the City's MS4 permit. Any other word or phrase not defined below, in the GSMM, or in the City's MS4 permit will have the meaning given in Article 11, unless the context clearly requires otherwise.

Applicant. A person submitting a land development application for approval.

BMP or **best management practice.** Both structural devices to store or treat stormwater runoff and non-structural programs or practices which are designed to prevent or reduce the pollution of the waters of the State of Georgia.

BMP landscaping plan. A design for vegetation and landscaping that is critical to the performance and function of the BMP including how the BMP will be stabilized and established with vegetation. It must include a layout of plants and plant names (local and scientific).

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

Detention. The temporary storage of stormwater runoff in a stormwater detention facility for the purpose of controlling the peak discharge.

Detention facility. A structure designed for the storage and gradual release of stormwater runoff at controlled rates.

Development. New development or redevelopment.

Extended detention. The storage of stormwater runoff for an extended period of time.

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 exceeds the banks or walls of a BMP, or channel; and overflows onto adjacent lands.

GSMM. The latest edition of the Georgia Stormwater Management Manual, Volume 2: Technical Handbook, and its Appendices.

Hotspot. A land use or activity on a site that has the potential to produce higher than normally found levels of pollutants in stormwater runoff. As defined by the Director, hotspot land use may include gasoline stations, vehicle service and maintenance areas, industrial facilities (both permitted under the industrial stormwater general permit and others), material storage sites, garbage transfer facilities, and commercial parking lots with high-intensity use.

Impervious surface. A surface composed of any material that significantly impedes or prevents the natural infiltration of water into the soil.

Industrial Stormwater General Permit. The National Pollutant Discharge Elimination System (NPDES) permit issued by Georgia Environmental Protection Division to an industry for stormwater discharges associated with industrial activity. The permit regulates pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies based on Standard Industrial Classification (SIC) Code.

Infiltration. The process of percolating stormwater runoff into the subsoil.

Inspection and maintenance agreement. A written agreement providing for the long-term inspection, operation, and maintenance of the stormwater management system and its components on a site.

Land development application. The application for a land development permit on a form provided by the City along with the supporting documentation required in Sec. 9.7.9.A.

Land development permit. The authorization necessary to begin construction-related, land-disturbing activity.

Land-disturbing activity. Any activity which may result in soil erosion from water or wind and the movement of sediments into state water or onto lands within the state, including but not limited to clearing, dredging, grading, excavating, and filling of land. Land disturbing activity does not include agricultural practices as described in O.C.G.A. § 12-7-17(5) or silvicultural land management activities as described in O.C.G.A. § 12-7-17(6) within areas zoned for these activities.

Linear feasibility program. A feasibility program developed by the City and submitted to the Georgia Environmental Protection Division, which sets reasonable criteria for determining when implementation of stormwater management standards for linear transportation projects being built by the City is infeasible.

Linear transportation projects. Construction projects on traveled ways including but not limited to roads, sidewalks, multi-use paths and trails, and airport runways and taxiways.

MS4 permit. The NPDES permit issued by Georgia Environmental Protection Division for discharges from the City's Municipal Separate Storm Sewer System.

New development. Land-disturbing activities, structural development (construction, installation or expansion of a building or other structure), or creation of impervious surfaces on a previously undeveloped site.

Nonpoint source pollution. A form of water pollution that does not originate from a discrete point such as a wastewater treatment facility 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 or 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.

Overbank flood protection. 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).

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.

Post-construction stormwater management. Stormwater best management practices that are used on a permanent basis to control and treat runoff once construction has been completed in accordance with a stormwater management plan.

Post-development. The conditions anticipated to exist on site immediately after completion of the proposed development.

Practicability policy. The latest edition of the Metropolitan North Georgia Water Planning District's Policy on Practicability Analysis for Runoff Reduction.

Pre-development. The conditions that exist on a site immediately before the implementation of the proposed development. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time before the first item being approved or permitted must establish pre-development conditions.

Pre-development hydrology

1. For new development, the runoff curve number determined using natural conditions hydrologic analysis based on the natural, undisturbed condition of the site immediately before implementation of the proposed development; and
2. For redevelopment, the existing conditions hydrograph may take into account the existing development when defining the runoff curve number and calculating existing runoff, unless the existing development causes a negative impact on downstream property.

Previously developed site. A site that has been altered by paving, construction, or land-disturbing activity.

Redevelopment. Structural development (construction, installation, or expansion of a building or other structure), creation or addition of impervious surfaces, replacement of impervious surfaces not as part of routine maintenance, and land disturbing activities associated with structural or impervious development on a previously developed site. Redevelopment does not include such activities as exterior remodeling.

Routine maintenance. Activities to keep an impervious surface as near as possible to its built condition. This includes ordinary maintenance activities, resurfacing paved areas, and exterior building changes or improvements which do not materially increase or concentrate stormwater runoff, or cause additional nonpoint source pollution.

Runoff. Stormwater runoff.

Site. An area of land where development is planned, which may include all or portions of one or more parcels of land. For subdivisions and other common plans of development, the site includes all areas of land covered under an applicable land development permit.

Stormwater concept plan. An initial plan for post-construction stormwater management at the site that provides the groundwork for the stormwater management plan including the natural resources inventory, site layout concept, initial runoff characterization, and first round stormwater management system design.

Stormwater management plan. A plan for post-construction stormwater management at the site that meets the requirements of Sec. 9.7.7.D and is included as part of the land development application.

Stormwater management standards. Those standards specified in Sec. 9.7.6.

Stormwater management system. The entire set of non-structural site design features and structural BMPs for collection, conveyance, storage, infiltration, treatment, and disposal of stormwater runoff in a manner designed 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 runoff. Flow on the surface of the ground, resulting from precipitation.

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.

Trout stream. Waters designated by the Wildlife Resources Division of the Georgia Department of Natural Resources as Primary Trout waters or Secondary Trout Streams. Primary Trout Waters are waters supporting a self-sustaining population of Rainbow, Brown or Brook Trout. Secondary Trout Streams are those with no evidence of natural trout reproduction but are capable of supporting trout throughout the year.

9.7.3. Adoption and Implementation of the GSMM; Conflicts and Inconsistencies

A. In implementing this Section, the City must use and require compliance with all relevant design standards, calculations, formulas, methods, and other guidance from the GSMM as well as all related appendices.

B. This Section is not intended to modify or repeal any other article, ordinance, rule, regulation or other provision of law, including but not limited to any applicable stream buffers under state and

local laws, and the Georgia Safe Dams Act and Rules for Dam Safety. In the event of any conflict or inconsistency between any provision in the City's MS4 permit and this Section, the provision from the MS4 permit will control. In the event of any conflict or inconsistency between any provision of this Section and the GSMM, the provision from this Section will control. In the event of any other conflict or inconsistency between any provision of this Section and any other ordinance, rule, regulation or other provision of law, the provision that is more restrictive or imposes higher protective standards for human health or the environment will control.

9.7.4. Applicability Criteria for Stormwater Management Standards

This Section applies to the following activities:

A. New development that creates or adds 5,000 square feet or greater of new impervious surface area or that involves land-disturbing activity of one acre of land or greater;

B. Redevelopment (excluding routine maintenance and exterior remodeling) that creates, adds, or replaces 5,000 square feet or greater of new impervious surface area or that involves land disturbing activity of one acre or more;

C. New development and redevelopment if:

   1. Such new development or redevelopment is part of a subdivision or other common plan of development, and

   2. The sum of all associated impervious surface area or land disturbing activities that are being developed as part of such subdivision or other common plan of development meets or exceeds the threshold in (a) and (b) above;

D. Any commercial or industrial new development or redevelopment, regardless of size, that is a hotspot land use as defined in this Section; and

E. Linear transportation projects that exceed the threshold in Paragraphs A or B above.

9.7.5. Exemptions from Stormwater Management Standards

This Section does not apply to the following activities:

A. Land-disturbing activity conducted by local, state, authority, or federal agencies, solely to respond to an emergency need to protect life, limb, or property or conduct emergency repairs;

B. Land-disturbing activity that consists solely of cutting a trench for utility work and related pavement replacement;

C. Land-disturbing activity conducted by local, state, authority, or federal agencies, whose sole purpose is to implement stormwater management or environmental restoration;

D. Repairs to any stormwater management system deemed necessary by the Director;

E. Agricultural practices as described in O.C.G.A. § 12-7-17(5) within areas zoned for these activities with the exception of buildings or permanent structures that exceed the threshold in Sec. 9.7.4.A or Sec. 9.7.4.B;

F. Silvicultural land management activities as described in O.C.G.A. § 12-7-17(6) within areas zoned for these activities with the exception of buildings or permanent structures that exceed the threshold in Sec. 9.7.4.A or Sec. 9.7.4.B;

G. Installations or modifications to existing structures solely to implement Americans with Disabilities Act (ADA) requirements, including, but not limited to, elevator shafts, handicapped access ramps and parking, and enlarged entrances or exits; and

H. Linear transportation projects being built by the City to the extent the Director determines that the stormwater management standards may be infeasible to apply, all or in part, for any portion of the linear transportation project. For this exemption to apply, an infeasibility report that is compliant with the City's linear feasibility program must first be submitted to the Director that contains adequate documentation to support the evaluation for the applicable portion(s) and any resulting infeasibility determination, if any, by the Director.

9.7.6. Stormwater Management Standards

Subject to the applicability criteria in Sec. 9.7.4 and exemptions in Sec. 9.7.5, the following stormwater management standards apply. Additional details for each standard can be found in the GSMM Section 2.2.2.2:

A. Design of Stormwater Management System

The design of the stormwater management system must be in accordance with the applicable sections of the GSMM as directed by the Director. Any design which proposes a dam must comply with the Georgia Safe Dams Act and Rules for Dam Safety as applicable.

B. Natural Resources Inventory

Site reconnaissance and surveying techniques must be used to complete a thorough assessment of existing natural resources, both terrestrial and aquatic, found on the site. Resources to be identified, mapped, and shown on the stormwater management plan must include, at a minimum (as applicable):

1. Topography (minimum of 2-foot contours) and steep slopes (i.e., areas with slopes greater than 15%);
2. Natural drainage divides and patterns;
3. Natural drainage features (e.g., swales, basins, depressional areas);
4. Natural feature protection and conservation areas such as wetlands, lakes, ponds, floodplains, stream buffers, drinking water wellhead protection areas and river corridors;
5. Predominant soils (including erodible soils and karst areas); and

6. Existing predominant vegetation including trees, high quality habitat and other existing vegetation.

C. Better Site Design Practices for Stormwater Management

Stormwater management plans must preserve the natural drainage and natural treatment systems and reduce the generation of additional stormwater runoff and pollutants to the maximum extent practicable. Additional details can be found in the GSMM Section 2.3.

D. Stormwater Runoff Quality/Reduction

Stormwater runoff quality/reduction must be provided by using the following:

1. For development with a stormwater management plan submitted before December 10, 2020, the applicant may choose either: a. Runoff reduction; or b. Water quality.
2. For development with a stormwater management plan submitted on or after December 10, 2020, the applicant must choose: a. Runoff reduction and additional water quality will not be required. To the extent a. runoff reduction has been determined to be infeasible for all or a portion of the site using the Practicability Policy; then b. water quality will apply for the remaining runoff from a 1.2-inch rainfall event and must be treated to remove at least 80% of the calculated average annual post-development total suspended solids (TSS) load or equivalent as defined in the GSMM.
    a. Runoff reduction. The stormwater management system must be designed to retain the first 1 inch of rainfall on the site using runoff reduction methods, to the maximum extent practicable.
    b. Water quality. The stormwater management system must be designed to remove at least 80% of the calculated average annual post-development total suspended solids (TSS) load or equivalent as defined in the GSMM for runoff from a 1.2-inch rainfall event.
3. If a site is determined to be a hotspot as detailed in Sec. 9.7.4, the City may require the use of specific or additional components for the stormwater management system to address pollutants of concern generated by that site.

E. Stream Channel Protection

Stream channel protection must be provided by using all of the following three approaches:

1. Twenty-four-hour extended detention storage of the one-year, 24-hour return frequency storm event;
2. Erosion prevention measures, such as energy dissipation and velocity control; and
3. Preservation of any applicable stream buffer.

F. Overbank Flood Protection

Downstream overbank flood protection must be provided by controlling the post-development peak discharge rate to the pre-development rate for the 25-year, 24-hour storm event.

G. Extreme Flood Protection

Extreme flood protection must be provided by controlling the 100-year, 24-hour storm event such that flooding is not exacerbated.

H. Downstream Analysis

Due to peak flow timing and runoff volume effects, some structural components of the stormwater management system fail to reduce discharge peaks to pre-development levels downstream from the site. A downstream peak flow analysis must be provided to the point in the watershed downstream of the site or the stormwater management system where the area of the site comprises 10% of the total drainage area in accordance with Section 3.1.9 of the GSMM. This is to help ensure that there are minimal downstream impacts from development on the site. The downstream analysis may result in the need to resize structural components of the stormwater management system.

I. Temperature Control Used for Stream Protection

Trout stream protection must be provided by controlling temperature for receiving waters with trout stream designation. In streams designated as primary trout waters by the wildlife resources division, there must be no elevation of natural stream temperatures. In streams designated as secondary trout streams, there must be no elevation exceeding two degrees Fahrenheit of natural stream temperatures.

J. Stormwater Management System Inspection and Maintenance

The components of the stormwater management system that will not be dedicated to and accepted by the City, including all drainage facilities, best management practices, credited conservation spaces, and conveyance systems, must have an inspection and maintenance agreement to ensure that they continue to function as designed. All new development and redevelopment sites are to prepare a comprehensive inspection and maintenance agreement for the on-site stormwater management system. This agreement must be written in accordance with the requirements in Sec. 9.7.15.

9.7.7. Pre-Submittal Meeting, Stormwater Concept Plan, Stormwater Management Plan

A. Before a land development permit application is submitted, an applicant may request a pre-submittal meeting with the City. The pre-submittal meeting should take place based on an early step in the development process such as before site analysis and inventory (GSMM Section 2.4.2.4) or the stormwater concept plan (GSMM Section 2.4.2.5). The purpose of the pre-submittal meeting is to discuss opportunities, constraints, and ideas for the stormwater management system before formal site design engineering. To the extent applicable, local and regional watershed plans, greenspace plans, trails and greenway plans, and other resource protection plans should be consulted in the pre-submittal meeting. Applicants must request a pre-submittal meeting with the City when applying for a determination of infeasibility through the practicability policy.

B. The stormwater concept plan must be prepared using the minimum following steps:

1. Develop the site layout using better site design techniques, as applicable.
2. Calculate preliminary estimates of the unified stormwater sizing criteria requirements for stormwater runoff quality/reduction, channel protection, overbank flooding protection and extreme flood protection (GSMM Section 2.2).
3. Perform screening and preliminary selection of appropriate best management practices and identification of potential siting locations (GSMM Section 4.1).

C. The stormwater concept plan must contain:

1. Common address and legal description of the site,
2. Vicinity map, and
3. Existing conditions and proposed site layout mapping and plans (recommended scale of 1 inch = 50 feet), which illustrate at a minimum:
   a. Existing and proposed topography (minimum of two-foot contours);
   b. Perennial and intermittent streams;
   c. Mapping of predominant soils from USDA soil surveys;
   d. Boundaries of existing predominant vegetation and proposed limits of clearing and grading;
   e. Location and boundaries of other natural feature protection and conservation areas such as wetlands, lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.);
   f. Location of existing and proposed roads, buildings, parking areas and other impervious surfaces;
   g. Existing and proposed utilities (e.g., water, sewer, gas, electric) and easements;
   h. Preliminary estimates of unified stormwater sizing criteria requirements;
   i. Preliminary selection and location, size, and limits of disturbance of proposed BMPs;
   j. Location of existing and proposed conveyance systems such as grass channels, swales, and storm drains;
   k. Flow paths;
   l. Location of the boundaries of the base flood floodplain, future-conditions floodplain, and the floodway (as applicable) and relationship of site to upstream and downstream properties and drainage; and
   m. Preliminary location and dimensions of proposed channel modifications, such as bridge or culvert crossings.

D. The stormwater management plan must contain the items listed in this part and be prepared under the direct supervisory control of either a registered professional engineer or a registered landscape architect licensed in the State of Georgia. Sub-Paragraphs 3, 4, 5, and 6 must be sealed and signed by a registered professional engineer licensed in the State of Georgia. The overall site plan must be stamped by a design professional licensed in the State of Georgia for such purpose. (GSMM Section 2.4.2.7.)

   1. Natural resources inventory.
   2. Stormwater concept plan.
   3. Existing conditions hydrologic analysis.
   4. Post-development hydrologic analysis.
   5. Stormwater management system.
   6. Downstream analysis.
   7. Erosion and sedimentation control plan.
   8. BMP landscaping plan.
   9. Inspection and maintenance agreement.
   10. Evidence of acquisition of applicable local and non-local permits.
   11. Determination of infeasibility (if applicable).

E. For redevelopment and to the extent existing stormwater management structures are being used to meet stormwater management standards, the following must also be included in the stormwater management plan for existing stormwater management structures:

   1. As-built drawings.
   2. Hydrology reports.
   3. Current inspection of existing stormwater management structures with deficiencies noted.
   4. BMP landscaping plans.

9.7.8. Application Fee

The fee for review of any land development application will be based on the fee structure established in the Schedule of Fees, and payment must be made before the issuance of any land disturbance permit or building permit for the development.

9.7.9. Application Procedures

Land development applications are handled as part of the process to obtain the land disturbance permit under Sec. 9.2.5.B or building permit under Sec. 10.5.2 as applicable. Before any person begins development on a site, the owner of the site must first obtain approval in accordance with the following procedure:

A. File a land development application with the City on the City's form of application with the following supporting materials:

   1. The stormwater management plan prepared in accordance with Sec. 9.7.7.D;

   2. A certification that the development will be performed in accordance with the stormwater management plan once approved;

   3. A preliminary determination of infeasibility, as applicable, prepared in accordance with the practicability policy; and

   4. An acknowledgment that applicant has reviewed the City's form of inspection and maintenance agreement and that applicant agrees to sign and record such inspection and maintenance agreement before the final inspection.

B. The Director must inform the applicant whether the application and supporting materials are approved or disapproved.

C. If the application or supporting materials are disapproved, the Director must notify the applicant of such fact in writing. The applicant may then revise any item not meeting the requirements hereof and resubmit the same for the Director to again consider and either approve or disapprove.

D. If the application and supporting materials are approved, the City may issue the associated land disturbance permit or building permit, provided all other legal requirements for the issuance of such permits have been met. The stormwater management plan included in such applications becomes the approved stormwater management plan.

9.7.10. Compliance with the Approved Stormwater Management Plan

All development must be:

A. Consistent with the approved stormwater management plan and all applicable land disturbance and building permits; and

B. Conducted only within the area specified in the approved stormwater management plan.

No changes may be made to an approved stormwater management plan without review and advance written approval by the Director.

9.7.11. Inspections to Ensure Plan Compliance During Construction

A. Periodic inspections of the stormwater management system during construction must be conducted by representatives of the City or conducted and certified by a professional engineer who has been approved by the City. Inspections must use the approved stormwater management plan for establishing compliance. All inspections must be documented with written reports that contain the following information:

   1. The date and location of the inspection;

2. Whether the stormwater management system is in compliance with the approved stormwater management plan;
3. Variations from the approved stormwater management plan; and
4. Any other variations or violations of the conditions of the approved stormwater management plan.

9.7.12. Final Inspection; As-Built Drawings; Delivery of Inspection and Maintenance Agreement

A. Upon completion of the development, the applicant is responsible for:

1. Certifying that the stormwater management system is functioning properly and was built in conformance with the approved stormwater management plan and associated hydrologic analysis,
2. Submitting as-built drawings showing the final design specifications for all components of the stormwater management system as certified by a professional engineer,
3. Certifying that the landscaping is established and installed in conformance with the BMP landscaping plan, and
4. Delivering to the City a signed inspection and maintenance agreement that has been recorded by the owner in the property records for all parcel(s) that make up the site.

B. The required certification under Paragraph A above must include a certification of volume, or other performance test applicable to the type of stormwater management system component, to ensure each component is functioning as designed and built according to the design specifications in the approved stormwater management plan. This certification and the required performance tests must be performed by a qualified person and submitted to the City with the request for a final inspection. The City must perform a final inspection with the applicant to confirm applicant has fulfilled these responsibilities.

9.7.13. Violations and Enforcement

Any violation of the approved stormwater management plan during construction, failure to submit as-built drawings, failure to submit a final BMP landscaping plan, or failure of the final inspection will constitute and be addressed as violations of, or failures to comply with, the underlying land disturbance permit under Sec. 9.2.5.B or the underlying building permit under Sec. 10.5.2. To address a violation of this Section, the City will have all the powers and remedies that are available to it for other violations of building and land disturbance permits, including without limitation the right to issue notices and orders to ensure compliance, stop work orders, and penalties in accordance with the applicable ordinances for such permits.

9.7.14. Maintenance by Owner of Stormwater Management Systems Predating Current GSMM

Any stormwater management system approved and built under requirements predating the current GSMM and not otherwise subject to an inspection and maintenance agreement must be maintained by the owner so that it performs as it was originally designed.

9.7.15. Inspection and Maintenance Agreements

A. The owner must execute an inspection and maintenance agreement with the City obligating the owner to inspect, clean, maintain, and repair the stormwater management system, including vegetation in the final BMP landscaping plan. The form of the inspection and maintenance agreement must be the form provided by the City. After the inspection and maintenance agreement has been signed by the owner and the City, the owner must promptly record such agreement at the owner's cost in the property records for all parcel(s) that make up the site.

B. The inspection and maintenance agreement must identify by name or official title the person(s) serving as the point of contact for carrying out the owner's obligations under the inspection and maintenance agreement. The owner must update the point of contact from time to time as needed and upon request by the City. Upon any sale or transfer of the site, the new owner must notify the City in writing within 30 days of the name or official title of the new person(s) serving as the point of contact for the new owner. Any failure of an owner to keep the point of contact up to date will, following 30 days' notice, constitute a failure to maintain the stormwater management system.

C. The inspection and maintenance agreement will run with the land and bind all future successors-in-title of the site. If there is a future sale or transfer of only a portion of the site, then:

    1. The parties to such sale or transfer may enter into and record an assignment agreement designating the owner responsible for each portion of the site and associated obligations under the inspection and maintenance agreement. The parties must record and provide written notice and a copy of such assignment agreement to the City.

    2. In the absence of a recorded assignment agreement, all owners of the site will be jointly and severally liable for all obligations under the inspection and maintenance agreement regardless of what portion of the site they own.

9.7.16. Right of Entry for Maintenance Inspections

The terms of the inspection and maintenance agreement must provide for the City's right of entry for maintenance inspections and other specified purposes. If a site was developed before the requirement to have an inspection and maintenance agreement or an inspection and maintenance agreement was for any reason not entered into, recorded, or has otherwise been invalidated or deemed insufficient, then the City will have the right to enter and make inspections under the City's general provisions for property maintenance inspections in accordance with sub-section 14-20(a)(2) of the City Code.

9.7.17. Owner's Failure to Maintain the Stormwater Management System

The terms of the inspection and maintenance agreement must provide for what constitutes a failure to maintain a stormwater management system and the enforcement options available to the City. If a site was developed before the requirement to have an inspection and maintenance agreement or an inspection and maintenance agreement was for any reason not entered into, recorded, or has otherwise been invalidated or deemed insufficient, then:

A. An owner's failure to maintain the stormwater management system so that it performs as it was originally designed will constitute and be addressed as a violation of, or failure to comply with, owner's property maintenance obligations in accordance with sub-section 14-20(a)(2) of the City Code; and

B. To address such a failure to maintain the stormwater management system, the City will have all the powers and remedies that are available to it for other violations of an owner's property maintenance obligations, including without limitation prosecution, penalties, abatement, and emergency measures.

Sec. 9.8. Septic Systems

9.8.1. Administration

In addition to the general powers and responsibilities established in Article 10, the Director must:

A. Maintain City records related to septic systems, including blank and completed forms, transmittal letters, notices of violation, and other related information.

B. Review and approve or deny requests for septic system service and inspection extension requests.

~~9.8.1.~~9.8.2. Definitions

The following definitions apply to this Section unless specifically stated otherwise. Any word or phrase not defined below will have the meaning given in Article 11, unless the context clearly requires otherwise.

Absorption field. A configuration of absorption trenches installed in a portion of land and used for the absorption and final treatment of sewage.

Absorption line. A pipeline of perforated pipe laid in an absorption trench to serve as a conduit for sewage effluent.

Alternative on-site management system. Any approved on-site sewage management system which differs in design or operation from the conventional or chamber septic tank system or privy.

Approved or **approval**. Compliance with applicable specifications or criteria developed or accepted by the City Council.

Failure. A condition of an on-site sewage system that constitutes a public hazard by inadequate treatment or disposal of sewage.

Malfunctioning system. An on-site sewage management system that permits sewage to discharge or flow from it on said property, into any storm drain, stream, water body, gutter, street, roadway or public place, or if sewage discharges from said system to the surface or subsurface of any property so as to create a nuisance or a condition detrimental to health. Substantial backflow from the leaching area (absorption lines) into the tank during a tank pumpout will also be considered an indication of a malfunctioning system as determined by a registered and certified service person employed by a septic system service company registered with the county.

On-site sewage management system. A sewage management system other than a public or community sewage treatment system serving one or more buildings, mobile homes, recreational vehicles, residences, or other facilities designed or used for human occupancy or congregation. Such term includes, without limitation, conventional and chamber septic tank systems, privies, and experimental and alternative on-site management systems which are designed to be physically incapable of a surface discharge of effluent that may be approved by the Division of Public Health, State of Georgia.

Private decentralized wastewater system. Any privately owned wastewater collection, treatment, or disposal system:

1. Serving more than one residential lot or business; or
2. That has a daily flow in excess of 2,000 gallons per day; or
3. That transfers flows between more than one parcel or tract of land.

Septic tank. An approved watertight tank designed or used to receive sewage from a building sewer and to effect separation and organic decomposition of sewage solids, and discharging sewage effluent to an absorption field or other management system.

Sewage. A term that means and includes human excreta, all water-carried wastes, and liquid household waste from residences or commercial and industrial establishments.

Sewage treatment system. A system that provides primary treatment and disposal, including absorption field components, devices and appurtenances intended to be used for disposal of sewage by soil absorption, but does not include a conventional or chamber septic tank system. The system must be designed to be physically incapable of a surface discharge of effluent.

9.8.3. Private Centralized Wastewater Systems Prohibited

The construction, permitting, or maintenance of a private decentralized wastewater system is prohibited within the boundaries of the City of Berkeley Lake.

~~9.8.2.~~9.8.4. Routine Inspection, Maintenance, Repair, and Reporting

The tank and field lines of all septic systems or other approved, on-site sewage management systems (hereinafter referred to as “septic systems”) must be regularly serviced as required herein.

A. Required servicing of septic systems within the City must include inspection of the septic system components, repair of any deficiencies, malfunctions or damage, and pumping of the septic system's tanks. The maximum service interval for required septic system service may not exceed 5 years from the date of the last certified inspection and service except as provided in Sec. 9.8.8~~9.8.7~~.

B. Tank and field line inspection, maintenance service, pumpout, and repairs must be conducted by a septic tank contractor and service personnel certified by the state and registered with the county health department.

C. At least 90 days but no more than 125 days before the expiration of the five-year service period or extension granted thereto under Sec. 9.8.8~~9.8.7~~, a notice of service due will be mailed or emailed by the Director to the property owner.

D. Property owners who have their septic systems replaced, or inspected and serviced before their regularly scheduled interval without a notice of service due from the Director or property owners who did not receive such notice and would like to credit the procedure to their City record by reporting that service to the Director, can obtain appropriate forms from the Director. Any qualifying certified service will establish the beginning of the 5-year interval.

E. Upon completion of the installation, required inspection, maintenance, and any necessary repairs to the septic system, the contractor must certify that the work was conducted and completed in accordance with the accepted professional standards and practices and that the system is in good repair and proper working order by completing a Septic System Inspection and Compliance Statement. The contractor's Septic System Inspection and Compliance Statement must be accompanied by the detailed contractor's receipt for septic system services rendered. The property owner must certify that they have had all septic system components, including the field lines, inspected, the septic tank or tanks pumped and any necessary repairs completed. The property owner or owners must bear the responsibility for securing all documentation and completed forms related to compliance with this Section and for providing those forms to the Director no later than the service interval deadline.

~~9.8.3.~~9.8.5. Service Requirements; Extensions

A. Requests for extensions to any deadline or time period identified within this chapter should be directed to the Director in a timely manner so as not to violate the design of this Section. A property owner's intent to petition the Director for an extension on an impending deadline will not be deemed an excuse for failure to comply within the timeframe specified herein.

B. Once a property owner's petition has been taken under consideration by the Director, however, no penalty or further violation will accrue until the matter is decided, unless such violation is identified as creating a threat to public health and safety.

C. If the septic system malfunctions during such time as a petition for extension is before the Director, the property owner must immediately remedy the septic system malfunction and withdraw the petition from further consideration.

~~9.8.4.~~9.8.6. Record Maintenance

The Director must maintain the completed forms, transmittal letters, violations and any related septic system information with the City records.

~~9.8.5.~~9.8.7. Malfunctioning Systems

A. An on-site sewage disposal system will be deemed to be a malfunctioning system if sewage is allowed to discharge or flow from it on said property, into any storm drain, stream, water body, gutter, street, roadway or public place, or if sewage discharges from said system to the surface or subsurface of any property so as to create a nuisance or a condition detrimental to health. Substantial backflow from the leaching area (absorption lines/field lines) into the tank during a tank pump-out will also be considered an indication of a malfunctioning system as determined by a registered and certified service person employed by a septic system service company registered with the county.

B. In addition, any and all parts of a septic system that are found by a registered and certified service person employed by a septic system service company registered with the county to be damaged,

misaligned or missing, such as but not limited to a cracked lid, missing "T" or misaligned outflow line, will constitute a malfunctioning system.

C. Notwithstanding the provisions of this Section, all property owners with septic systems or other approved, on-site waste management systems must correct the malfunctioning of such systems within 30 days from receipt of written notification, which notice must communicate the specifics of the malfunction. Reporting of repairs must be consistent with Sec. 9.8.4~~9.8.2~~.

~~9.8.6.~~1.1.1. ~~Violations~~

~~A. Failure to have required inspections and servicing performed before the deadline provided in the notice for service due letter, and according to Sec. 9.8.2 will constitute a violation. Failure to submit the Septic System Inspection and Compliance Statement and copy of the septic service contractor's receipt for services rendered according to Sec. 9.8.2.E will constitute a separate violation of said Sub-section. Each violation is subject to penalty.~~

~~B. Violations pertaining to required inspections and servicing or reporting may be punishable by a fine not exceeding $1,000.00 or imprisonment for 60 days, or both. Violations pertaining to required inspections and servicing accrue every 90 days and are deemed separate violations of this chapter, until such time as the requirements established in Sec. 9.8.2 are met.~~

~~C. Violations of Sec. 9.8.5 may occur if necessary repairs to the malfunctioning system are not conducted within 30 days, not reported properly, or are not performed by a certified service person. See Sec. 9.8.2 Paragraphs B, D, and E and Sec. 9.8.5.~~

~~D. Violations pertaining to malfunctioning systems may be punishable by a fine not exceeding $1,000.00 or imprisonment for 60 days, or both. In addition, malfunctioning septic systems must be repaired within 30 days from the date of notification of violation. Failure to correct the malfunctioning system by the end of the 30th day will be construed to be a separate violation of this Section.~~

~~9.8.7.~~9.8.8. ~~Basis for Extensions~~

Extensions to modify the five-year reporting and servicing requirement in accordance with Sec. 9.8.4~~9.8.2~~ may be granted under certain conditions.

A. The owner of a septic system may seek an administrative extension based upon official extension guidelines. If the information provided on the completed petition for extension form indicates that said septic system can be serviced at an interval longer than 5 years, and the owner certifies the information on the form is accurate, then the petition for extension may be submitted for approval by the Director. Extensions to the maximum service interval for required septic system service are valid for a period of 3 years, subject to renewal upon re-qualification and are limited to a total maximum service interval of 11 years when combined with the original five-year interval. No extension may be granted if the most recent statement of inspection and service indicates existing or potential issues, damage or disrepair or if the information submitted is determined to be inaccurate. Granted extensions will not convey with changes in ownership or rental occupancy.

B. Examples of consideration for an extension may include, but are not limited to:

1. Usage significantly less than capacity of system;
2. Nonfull-time occupancy; and
3. Advanced technology septic system.

~~**9.8.8. Duties of Director**~~

9.8.9. ~~**The Director must maintain blank forms, completed forms, transmittal letters, violations and any related septic system information with the City records. In addition, the Director is responsible for review and approval/denial of septic system service and inspection extension requests.**~~**Violations**

A. Failure to have required inspections and servicing performed before the deadline provided in the notice for service due letter, and according to Sec. 9.8.4 will constitute a violation. Failure to submit the Septic System Inspection and Compliance Statement and copy of the septic service contractor's receipt for services rendered according to Sec. 9.8.4.E will constitute a separate violation of said Sub-section. Each violation is subject to penalty.

B. Violations pertaining to required inspections and servicing or reporting may be punishable by a fine not exceeding $1,000.00 or imprisonment for 60 days, or both. Violations pertaining to required inspections and servicing accrue every 90 days and are deemed separate violations of this chapter, until such time as the requirements established in Sec. 9.8.4 are met.

C. Violations of Sec. 9.8.7 may occur if necessary repairs to the malfunctioning system are not conducted within 30 days, not reported properly, or are not performed by a certified service person. See Sec. 9.8.4 Paragraphs B, D, and E and Sec. 9.8.7.

D. Violations pertaining to malfunctioning systems may be punishable by a fine not exceeding $1,000.00 or imprisonment for 60 days, or both. In addition, malfunctioning septic systems must be repaired within 30 days from the date of notification of violation. Failure to correct the malfunctioning system by the end of the 30th day will be construed to be a separate violation of this Section.

Sec. 9.9. Chattahoochee River Protection

9.9.1. Section Adopted

This Section is adopted in accordance with the requirements of O.C.G.A. § 12-5-453.

9.9.2. Findings

The City Council finds that:

A. The Chattahoochee River provides multiple public benefits, which include use of the river as the primary water supply for metropolitan Atlanta.

B. The water quality of the Chattahoochee River depends upon the water quality of the flowing streams tributary to the river.

C. Sediment and other polluting materials and conditions, including but not limited to pesticides, nutrients such as nitrogen and phosphorus, toxic materials, and elevations in water temperature are harmful to the water quality of the river and its tributaries.

D. The riparian vegetation along these watercourses helps preserve water quality, dense tree growth helps to prevent stream bank erosion, and streamside vegetation reduces the amount of sediment and other polluting materials that would otherwise wash into streams. Riparian trees, by shading, help maintain cooler water temperatures and thus enhance water quality.

9.9.3. Purposes

The purposes of this Section are:

A. To promote the public health and general welfare;

B. To minimize public and private losses due to erosion and water pollution; and

C. To maintain stream water quality in specific areas by provisions designed to:

1. Create vegetative buffer areas adjacent to tributary streams in the drainage area of the Chattahoochee Corridor.

2. Minimize land disturbing activities within such buffer areas by requiring issuance of a permit for such activities.

9.9.4. Definitions

The following definitions apply to this Section unless specifically stated otherwise. Any word or phrase not defined below will have the meaning given in Article 11, unless the context clearly requires otherwise.

Chattahoochee River tributary protection area and **protection area.** The stream channel and the land area extending outward 35 horizontal feet from the banks on either side of all flowing streams in the drainage basin of all tributaries of the Chattahoochee River which enter the

Chattahoochee River downstream from Buford Dam and upstream from Peachtree Creek, except for such land within the Chattahoochee Corridor.

Flowing stream. Any stream which is designated and shown as permanent on the 7.5-minute quadrangle maps of the U.S. Department of the Interior, U.S. Geological Survey, plus any stream which the City Council may determine to be, and designate as, a flowing stream.

Land disturbing activity. Scraping, plowing, clearing, dredging, grading, excavating, transporting, or filling of land or placement of any structure or impervious surface, dam, obstruction or deposit.

9.9.5. Establishment of Protection Area

The Chattahoochee River tributary protection area within the City, hereinafter referred to as the "protection area," is established. The designated protection area must be shown on the official map of the City.

9.9.6. Permit

A. Obtaining a Written Permit

No person may engage in any land disturbing activity in a protection area without first having obtained a written permit from the Director.

B. Exceptions

The permit provisions of this Section do not apply to:

1. **Emergency work.** Emergency work necessary to preserve life or property. When emergency work is performed under this Sec. 9.9.6.B.1, the person performing it must report the pertinent facts relating to the work to the Director on the next business day after commencement of the work. Within ten days thereafter, the person must apply for a permit and perform such work within such time period as may be determined by the Director 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.
2. **Repair or maintenance of land.** Work consisting of the repair or maintenance of any lawful use of land which is zoned and approved for such use on January 1, 1984.

C. Application for a Permit

A separate application for a permit must be made to the Director on a form approved by the Director for each land disturbing activity, except that only one application need be made for two or more such acts which are to be done on the same parcel. The application must include a map of the site and such information concerning the proposed action as the Director deems necessary to describe the nature and extent of the proposed action and to determine the effect of the proposed action on the protection area.

D. Issuance of Permit

No application for a permit may be approved and no permit may be issued for any land disturbing activity within the protection area unless the land disturbing activity is for the purpose of constructing one of the following:

1. A stream crossing by a driveway, transportation route, or public utility;
2. A dam or impoundment;
3. A detention, retention, or sediment control pond or facility;
4. The land disturbing activity is within a right-of-way of any public agency pursuant to a permit issued by such public agency; or
5. The Director finds and determines that a minimum amount of land disturbance necessary for the beneficial use of the parcel has been proposed.

E. Conditions

In each permit issued under the provisions of this Section, the Director may include conditions designed to:

1. Limit erosion, sedimentation, and water pollution within the protection zone to amounts and rates no greater than those occurring before the land disturbing activity; and
2. Preserve, protect, or replace the maximum feasible amount of natural vegetation.

F. Variances

Variances from any provision of this Section must comply with the variance standards of Sec. 10.7 (Quasi-Judicial Review~~Quasi-Judicial Review~~), except as specified below:

1. The City Council will perform the functions otherwise specified for the Planning and Zoning Commission; and
2. No variance decision will be final until it has been considered at a public hearing and approved by a majority vote of the full membership of the City Council. If, following the public hearing, the full membership of the City Council is not present to vote on the variance, the matter must be deferred to the next City Council meeting.
3. For purposes of Sub-Paragraph 2 above, “full membership” means all members of the City Council, excluding any member who is disqualified from voting due to a conflict of interest.

G. Responsibility

Neither the issuance of a permit nor compliance with the conditions thereof, nor with the provisions of this Section, will relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor will the issuance of any permit hereunder serve to impose any liability upon the City, its officers or employees, for injury or damage to persons or property. A permit issued in accordance with this Section does not relieve the permittee of the responsibility of securing and complying with any other permit which may be required by any other City ordinance or state law.

H. Term of Permit, Extension, Renewal

The permittee must complete the work authorized by the permit within the time limits specified in the permit, which in no event may extend more than 12 months from the date of issuance. The permittee must notify the Director at least 72 hours before the start of work. If the work is not started and completed within the time limits, then the permit will become void; provided, however, that if, before the date established for start of work, the permittee makes a written request to the Director for an extension of time to commence the work, stating the reasons for the required extension, the Director may grant such extension. A permit which has become void may be renewed at the discretion of the Director.

I. Inspection

1. The Director may cause inspections of the work to be made periodically during the course thereof and must make a final inspection following completion of the work. The permittee must assist the Director in making such inspections. The City will have the power 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 times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land disturbing activities within a protection area.
2. No person may refuse entry or access to any authorized representative or agent who requests entry for purposes of inspection, and who presents appropriate credentials, nor may any person obstruct, hamper, or interfere with any such representatives while carrying out their official duties.

J. Performance Bond

Before the issuance of any permit for land disturbing activities within the protection area, the applicant must submit a performance and maintenance bond which must ensure compliance with all terms and conditions of the permit. The bond must pertain to and recite therein an exact description of the property in question. The length of time for which the bond is valid will be determined by the Director, and must be specified on the face of the bond. The bond must be in an amount equal to twice the estimated cost for carrying out the land disturbing activity in compliance with all terms and conditions of the permit. The sum of the bond must be made payable to the City. The bond must be provided by a bonding company licensed and registered in the State.

9.9.7. Penalties

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 Section without first obtaining said permit, that person will be subject to revocation of the business license, work permit, building permit or other authorization for the conduct of business and associated work activities within the City.

B. Stop Work Orders

Upon notice from the Director, work on any project that is being done contrary to the provisions of this Section must be immediately stopped. Such notices must be in writing and must be given to the owner of the property, their authorized agent or the person or persons in charge of the activity on the property, and must state the conditions under which work may be resumed or the site restored to its original condition or its equivalent. Where an emergency exists, no written notice is required.

C. Performance Bond Forfeiture

If, through inspection, it is determined that a person engaged in land disturbing activities has failed to comply with the terms and conditions of the permit, a written notice to comply must be served upon that person. The notice must specify the measures necessary to achieve compliance with the permit and must 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, they will be deemed in violation of this Section and, in addition to other penalties, their performance bond will be subject to forfeiture.

D. Suspension, revocation or modification of permit. The permit may be suspended, revoked or modified by the Director upon finding that the holder is in violation of the permit or any portion of this Section.

E. Civil Penalties

Any person violating any provision of this Section or permitting conditions of the land on which the violation occurs will be liable for a civil penalty of at least $100.00 a day or not to exceed $1,000.00 per day. Each day a violation occurs will be considered a separate and distinct violation.

9.9.8. Appeals

A person aggrieved by a decision of the Director under this Sec. 7.5.6.C may appeal the decision to the Planning and Zoning Commission as specified in Sec. 10.7 (Quasi-Judicial Review).

Article 10. Administration

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Article 10. Administration~~Administration~~

Sec. 10.1. Review Authority

10.1.1. Summary of Review Authority

Table 10.1.1 summarizes the review, approval, and appeal authority of the various review bodies and officials that implement and administer this UDO. The table is not all-inclusive. If there are conflicts between Table 10.1.1 and the text of this UDO, then the text governs.

Table 10.1.1. Summary of Review Authority

Key: R = Review & Recommendation D = Final Decision A = Appeal PH = Public Hearing		Approval and Appeal Authority			
	Cross Reference	Director	Planning and Zoning Commission	City Council	Gwinnett County Superior Court
Legislative Review					
UDO Text Amendment (Zoning)	Sec. 10.3	R	R-PH	D-PH	A
Rezoning (Official zoning map amendment)	Sec. 10.3	R	R-PH	D-PH	A
Special Use Permit	Sec. 10.3	R	R-PH	D-PH	A
Subdivision Review					
Exemption Plat	Sec. 10.4.1.B	D			
Preliminary Plat	Sec. 10.4.3.C	R	D	A	
Final Plat	Sec. 10.4.3.D	R	D	A	
Permit Review					
Land Disturbance Permit	Sec. 10.5.1	D	A		
Building Permit	Sec. 10.5.2	D	A		
Demolition Permit	Sec. 10.5.3	D	A		
Sign Permit	Sec. 7.5.6	D	A		
Tree Removal Permit	Sec. 9.1.4	D		A	
Administrative Variance					
Administrative Variance	Sec. 10.6	D	A		
Quasi-Judicial Review					
Variance	Sec. 10.7	R	D-PH	A	
Appeal of an Administrative Decision	Sec. 10.7		D-PH	A	

Sec. 10.2. Review Bodies

10.2.1. General Provisions

A. Review Authority Established

This Sec. 10.2 establishes powers, duties, and other requirements for those bodies that review permits issued under this UDO. These powers, duties, and other requirements are in addition to the provisions of Article VI of Chapter 2 of the Code of the City of Berkeley Lake.

B. Officers

Each officer, defined as an elected official or employee of the City, must perform all duties required of their office by state law, the charter, and this UDO, and such other duties not in conflict therewith as may be required by the Mayor.

C. Records

All municipal records, except those to which a statutory exception applies, must be open for public inspection in accordance with the Georgia Open Records Act, O.C.G.A. § 50-18-70, et seq.

10.2.2. Director

A. Powers and Duties

The Director administers this UDO and has those powers and duties expressly identified in this Article and this UDO, including, but not limited to, the following:

1. **Review and Recommendation**

   The Director is authorized to:

   a. Decide the type of application required under this UDO; and

   b. Review and provide recommendations on all applications required under this UDO.

2. **Delegation**

   The Director may delegate any review authority to a designee, as provided by law; however, all decisions remain the responsibility of the Director

3. **Final Decision**

   The Director makes final decisions on the following:

   a. Preliminary plats.

   b. Minor plats.

   c. Land disturbance permits.

   d. Building permits.

   e. Demolition permits.

f. Sign permits.

g. Tree removal permits.

h. Administrative variances.

4. **Interpretation**

The Director is authorized to interpret this UDO related to the following:

a. Inconsistent, vague, or obscure language.

b. Provisions which are in conflict or confusing.

c. Conflicting or redundant procedural requirements.

B. **Enforcement**

The Director is authorized to enforce this UDO. In addition, it is the duty of all officers and employees of the City, including the Berkeley Lake City Marshal, to assist the Director by reporting to them any seeming violations, including violations in new construction, reconstruction, other development activities, or land uses including signs.

10.2.3. Planning and Zoning Commission

A. Adoption of state rules and regulations

The rules, regulations, and provisions contained in O.C.G.A. § 36-70-1, et seq., governing the creation, appointment, organization, powers, and duties of municipal and county planning commissions are hereby adopted as the rules, regulations, and provisions governing the Planning and Zoning Commission.

B. Composition, Appointment, and Tenure

The Planning and Zoning Commission consists of five members appointed by the Mayor, by and with the advice and consent of City Council. The terms of the members are for 3 years. Members serve until their successors are appointed.

C. Vacancies

Vacancies must be filled by appointments for unexpired terms only and in the same manner as for original appointments.

D. Removal

Any member of the Planning and Zoning Commission may be removed by the Mayor and City Council for cause after written notice and a public hearing.

E. Compensation

All members of the Planning and Zoning Commission, except for the Chairperson, must serve without compensation, unless otherwise determined by the City Council. The Chairperson will be compensated based on an amount determined by City Council.

F. Officers and Rules of Procedure

The Planning and Zoning Commission must elect one of its members as Chairperson who must serve for one year or until such person is re-elected or a successor is elected. A second appointive member must be elected as Vice-Chairperson and must serve for one year or until such person is re-elected or a successor is elected. The commission must appoint a secretary, who may be an officer or employee of the City or of the Planning and Zoning Commission. The Planning and Zoning Commission must meet at the call of the Chairperson and at such other times as the Chairperson or commission will determine, must adopt rules for the transaction of business, and must keep a record of its proceedings, which record must be open to public inspection. Three members of the commission will constitute a quorum, and a vote by a majority of the full membership (three of the five) is needed to approve a motion. Any matter of business not receiving three affirmative votes will be deemed denied. Employees and staff may be appointed by the Planning and Zoning Commission as necessary.

G. Powers and Duties

The Planning and Zoning Commission has those powers and duties expressly identified in Sec. 2-153 of the Code of the City of Berkeley Lake, in this Article, and in this UDO, including, but not limited to, the following:

1. **Initiate**

   To initiate a UDO text amendment.

2. **Review and Recommendation**

   To review and provide recommendations based on the Comprehensive Plan on applications for the following:

   a. UDO text amendments.

   b. Zoning map amendments (rezonings and any concurrent variances).

   c. Special use permits.

3. **Final Decision**

   To review and make final decisions on applications for:

   a. Preliminary plats.

   b. Variances.

   c. Appeals of Administrative Decisions, except Tree Removal Permits.

10.2.4. City Council

10.2.5. Powers and Duties

The City Council has those powers and duties expressly identified in this Article and this UDO, including, but not limited to:

A. Initiate

To initiate any application listed in Paragraph B (Final Decision) below.

B. Final Decision

To hear and decide on applications for:

1. UDO text amendments.
2. Map amendments (rezonings and any concurrent variances).
3. Special use permits.
4. Final plats.
5. Appeals of Administrative Decisions related to Tree Removal Permits.

Sec. 10.3. Legislative Review

10.3.1. Applicability

Legislative review is required for the following:

A. **UDO text amendment**. A proposed amendment to the portions of this UDO that constitute a zoning ordinance within the meaning of O.C.G.A. § 36-66-1, et seq.

B. **Rezoning**. A proposed amendment to the official zoning map from one zoning classification to another, or to change the boundaries of an existing zoning district, including overlay districts.

C. **Special Use Permit.** An application for uses of substantial significance or of unusual operational characteristics permitted only by special use permit in the zoning district.

All legislative reviews that constitute a zoning action must follow the Zoning Procedures Law, O.C.G.A. Title 36, Chapter 66.

10.3.2. Concurrent Variances, Conditions

A. In rezoning a property or approving a special use permit, the City Council may also consider any variances, or conditions offered or sought in conjunction with that request without those variances or conditions being separately considered or approved by the Planning and Zoning Commission.

B. Nothing in this Sub-section will preclude the Planning and Zoning Commission from recommending variances or conditions in conjunction with a proposed legislative review.

C. If there is an appeal related to any such legislative review, then variances, or conditions offered or sought in conjunction with that legislative review must be included as part of that appeal.

10.3.3. Initiation

Legislative review may only be proposed as follows:

A. UDO Text Amendments

UDO Text amendments may only be proposed by the Planning and Zoning Commission or the City Council.

B. Rezonings

Rezoning may only be proposed by the Planning and Zoning Commission, the City Council, or the property owner or their legally authorized representative.

C. Special Use Permits

Special use permits may only be proposed by the property owner or their legally authorized representative.

10.3.4. Application Requirements

A. City-Initiated

UDO text amendments and rezonings initiated by the Planning and Zoning Commission or the City Council are not subject to these application requirements.

B. Applicant-Initiated

Rezonings or special use permits initiated by a property owner or authorized representative must be submitted in writing on forms provided by the Director. An application will not be considered complete until the required forms, applicable concept plan or other supporting documents, and applicable fees have been submitted to the Director.

C. Application Forms

Application forms must include any request for information deemed necessary by the Director and may include:

1. Drawings showing the dimensions of existing and proposed buildings;
2. Entrances and exits from the property described in the application;
3. A detailed description of existing land uses on adjacent and surrounding property;
4. The location of the subject property, including street number, if any;
5. A plat of the land in question, or a description by metes and bounds, bearings and distances of the land, or if the boundaries conform to the lot boundaries within a subdivision for which a plat is recorded in the land records of the county, then the lot, block and subdivision designations with appropriate plat reference;
6. The present and proposed zoning district classification for the subject property;
7. The name and address of the owner of the subject property;
8. The area of land proposed to be rezoned, stated in square feet if less than one acre and in acres if one or more;
9. Proof that all City and County ad valorem property taxes due upon the property have been paid in full;
10. Notarized consent of the property owner if not the applicant; and
11. The disclosure statement required by O.C.G.A. § 36-67A-3(a).

D. Concept Plans and Other Supporting Documents

1. Applications must also include a concept plan in accordance with Sec. 10.8.1, and such other plans, elevations or additional information as the Planning and Zoning Commission or Director may require, showing the proposed development or use.

2. If the rezoning or special use permit is approved, no building or other permits may be granted except for uses or structures that conform essentially with the concept plan and other documents submitted with the application.

10.3.5. Access to Records

A. Copies of each UDO text amendment, rezoning, or special use permit, including the application, concept plans and other supporting documents, and the recommendations of the Planning and Zoning Commission must be maintained by the Director and available at their office for public inspection and copying until such time as the action has been decided by the City Council.

B. Copies of this Section must be available for inspection at the Director's office, and copies may be obtained at reasonable charge from the Director.

10.3.6. Application Review

A. Director Review

1. The Director will review the facts of each UDO text amendment, rezoning, or special use permit and will submit written findings of fact and recommendations to the Planning and Zoning Commission at or before the time each proposal is heard.

2. The Director may suggest that the Planning and Zoning Commission recommend, and the City Council impose, one or more conditions of approval, whether proposed by the applicant or not, relating to the application that may be necessary in the particular case to protect the public interest should the proposal be approved.

B. Public Hearing Notice and Process

When a public hearing is required or provided under Sec. 10.3.6.C and Sec. 10.3.6.D, the following public notice standards apply:

1. **Published Notice**

   At least 15 but no more than 45 days before the date of a public hearing, the Director must cause to be published a notice of the hearing within the official organ of Gwinnett County in which the sheriff's advertisements are published. The notice must state the date, time, place, and purpose of the hearing, as well as any other information required for an official public hearing by O.C.G.A. Title 36, Chapter 66.

2. **Additional Notice in Certain Cases**

   If the proposed public hearing is for rezoning of property or a special use permit, then the following are also required:

   a. Published Notice

   In addition to the requirements of published notice in Sec. 10.3.6.B.1 above, the published notice must include the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property.

b. Posted Notice

The Director must ensure that a sign containing the information specified in Sec. 10.3.6.B.2.a above is erected in a conspicuous place on the property involved. The required sign must be erected at least 15 days and no more than 45 days before the public hearing. Failure to erect and maintain the sign as specified will invalidate any subsequent decision by the City Council.

c. Mailed Notice for City-Initiated Rezoning

When a rezoning application is initiated by the City, the Director must also cause notice of the date, time, and place of the public hearing and the nature of the proposed rezoning to be sent by regular mail, with mailing postmarked at least 15 days and no more than 45 days before the hearing, to the subject property owner and all other property owners within the City that are within 500 feet of the boundaries of the subject property (as ownership and address appears on the tax records of the City).

3. **Additional Notice**

When notice is given in accordance with this Sec. 10.3.6.B and in conformity with the Georgia Open Meetings Law, O.C.G.A. § 50-14-1 et seq., no further notice to the property owner or adjacent or nearby property owners is required.

4. **Failure to Provide Notice**

a. Failure to provide notice as required by this Sub-section will be grounds for the final action on a proposed rezoning or special use permit to be declared null and void.

b. Property owner applicants for rezoning or special use permit must satisfy themselves before the City Council public hearing that proper notice requirements have been met. Failure to object at the City Council public hearing will constitute a waiver of claims based upon improper publication of any notice or the posting on the property.

5. **Public Hearing Process**

Public hearings must be conducted as follows:

a. First, applicants for legislative review must be afforded a reasonable opportunity to explain why the proposal is being sought.

b. Then, all interested persons must be given a reasonable opportunity to speak either for or against the proposal. The Chairperson of the Planning and Zoning Commission or the Mayor, as applicable, may limit speakers to a reasonable time, which may in no case be less than 10 minutes per side, and may limit irrelevant or repetitious comments and must maintain the order and dignity of the hearing process.

c. In no event may the size of the audience, nor the emotions of any of the attendees, be a valid consideration of acting upon a proposal.

d. Public comments should offer facts relevant to the applicable standards specified in Sec. 10.3.7 (Criteria for Review~~Criteria for Review~~).

C. Planning and Zoning Commission Review

1. The Planning and Zoning Commission may, but is not required to, hold a public hearing on the proposed UDO text amendment, rezoning, or special use permit, and must submit its recommendations to the City Council within 60 days of its first meeting after it has received a proposal complete in all respects.
2. If the Planning and Zoning Commission does not submit its recommendation to the City Council within 60 days of its first meeting after receiving a request, then it will be deemed to have made no recommendation on the proposed request. However, the Planning and Zoning Commission and a property owner applicant may jointly agree to an extension of the 60-day period.

D. City Council Review

1. The City Council must hold a public hearing on the UDO text amendment, rezoning, or special use permit following the notice and process specified in Sec. 10.3.6.B before voting on it.
2. All meetings, both regular and special, at which a proposed UDO text amendment, rezoning, or special use permit is to be discussed, considered, or acted upon by the City Council must be open to the public. Notice of special meetings must be given in accordance with the Georgia Open Meetings Law, O.C.G.A. § 50-14-1 et seq.
3. Upon compliance with the procedures in this Section and receipt of reports and recommendations from the Director and the Planning and Zoning Commission, the City Council must proceed to act on the proposal.

10.3.7. Criteria for Review

A. Zoning Decision

1. **Applicability**

   This Sec. 10.3.7.A applies to the following types of legislative review:

   a. When a text amendment is proposed to the portions of this UDO that constitute a zoning ordinance as specified in Sec. 1.1.7 (Zoning Compliance Law~~Zoning Compliance Law~~);

   b. When a rezoning is proposed; and

   c. When a special use permit is proposed.

2. **UDO Text Amendment and Rezoning Criteria**

   The Director, Planning and Zoning Commission, and City Council will each consider the following standards when recommending or acting on a UDO text amendment or rezoning:

   a. Whether a proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;

   b. Whether a proposal will adversely affect the existing use or usability of adjacent or nearby property;

c. Whether the property to be affected by a proposal has a reasonable economic use as currently zoned;

d. Whether the proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools;

e. Whether the proposal is consistent with the policy and intent of the Comprehensive Plan; and

f. Whether there are other existing or changing conditions affecting the use and development of the property which provide supporting grounds for either approval or disapproval of the proposal.

3. **Special Use Permit Criteria**

Although the City Council previously made the legislative determination that the special use is appropriate in the district generally, the special use may not be appropriate on the property for which the special use permit is sought. Accordingly, the City Council must make a case-by-case decision. In doing so, it must consider and anticipate the special use's potential conflict with existing permitted uses. This gives the City Council the flexibility of allowing the proposed use upon considerations of the standards set out in this UDO, or in its discretion. The Director, Planning and Zoning Commission, and City Council will consider the following when recommending and deciding to grant or deny a special use permit:

a. **Use allowed.** Whether the use is allowed by special use permit in the zoning district. No application may be accepted unless the use is allowed by special use permit in the zoning district or unless a text amendment to allow such use is introduced by the City Council before or at the time of the introduction of the ordinance to grant the special use permit.

b. **Use standards**. Whether the special use complies with all specific use standards, if any, specified in Article 6 without the granting of any variance.

c. **Criteria.** The standards specified in Sec. 10.3.7.A.2.

B. Non-Zoning Decision

When a text amendment is proposed to the portions of this UDO that do not constitute a zoning ordinance as specified in Sec. 1.1.7 (Zoning Compliance Law), the Director, Planning and Zoning Commission, and City Council are not required to consider specific criteria when recommending or taking action on such amendment.

10.3.8. After Decision

A. Effect of Defeat

1. For applicant-initiated proposals, the City Council may decide to reject or otherwise vote to not approve a proposed rezoning or special use permit application, resulting in a defeated zoning decision.

2. If the rezoning decision is for a rezoning of property that is defeated by the City, then the same property may not again be considered for rezoning until the expiration of at least 12 months immediately following said defeat of the amendment.

3. If the zoning decision is for the approval of a special use permit that is defeated by the City, then the same property may not again be considered for the same special use permit until the expiration of at least 12 months immediately following said defeat of the special use permit.

B. Conditions

When conditions were placed on an approved rezoning or special use permit, the following applies:

1. All approved conditions must be recorded in the official meeting minutes of the City Council and maintained in the associated ordinance file by the Director.

2. All changes to approved conditions will require a new application but are not subject to the time constraints of A.2. or A.3. immediately above.

3. When conditions are placed on an approved rezoning, the suffix "-C" must be appended to the property's district name on the Official Zoning Map (e.g., R-1-C; M-1-C, etc.).

~~**C. Time Limits**~~

C. Lapse of Unexercised Rezoning

1. **Applicability**

~~1.~~ This Sec. ~~10.3.8.C~~10.3.8.C applies~~:~~

~~a. If a preliminary land subdivision plat has not been approved within 12 months of the date of the approval of a~~ to a rezoning ~~requested by~~approved at the request of a property owner ~~and in accordance with the proposed development plans and other documents submitted by them.~~

~~b. If no land subdivision is involved, and the required use and building (or occupancy~~ where ~~no structure is involved) permits have not been issued~~, within 12 months ~~of~~after the date ~~of~~ the ~~approval of a~~ rezoning ~~requested by a property owner and in accordance with the development plans and other documents submitted by them.~~ was approved:

a. A required preliminary plat has not been approved, for development involving a subdivision; or

b. The required land disturbance, development, or building permit has not been issued, where no subdivision is involved.

2. **Review and Notice**

~~2.~~ When ~~one or more of the situations specified in~~ Sec. ~~10.3.8.C.1 above~~10.3.8.C.1 above ~~apply~~ applies, the Director will notify the property owner in writing, and the Planning and Zoning Commission may review the ~~situation~~matter and report its findings to the City Council.

~~3. Unless there are circumstances that clearly justify the delay in proceeding with the proposed development:~~

~~a. The Director may cancel the use, building or occupancy permits and declare them null and void.~~

3. **Extension**

The 12-month period will be extended where the property owner demonstrates good cause for the delay, including delay caused by the City, by litigation, by a pending and diligently pursued permit or plat application, by approved phasing of the development, or by other circumstances beyond the owner's reasonable control. The Director may grant one or more extensions and will state the basis for granting or denying an extension in writing.

4. **Reversion**

~~b.~~ If the period lapses without an approved extension, the Planning and Zoning Commission may recommend ~~to~~, and the City Council ~~that~~may initiate, an amendment to rezone the property ~~be rezoned~~ to its prior zoning classification or ~~other~~to another appropriate ~~zoning district~~ classification. ~~A~~Any such City-initiated rezoning must ~~meet~~comply with all applicable ~~legislative review~~ requirements~~.~~ of this Sec. 10.3, including the notice and public-hearing requirements of the Zoning Procedures Law, O.C.G.A. Title 36, Chapter 66.

5. **Effect on Permits and Vested Rights**

This Sec. 10.3.8.C does not authorize the cancellation, revocation, or invalidation of any permit or certificate of occupancy. The issuance, expiration, and revocation of permits are governed by Sec. 10.5 and the enforcement provisions of Sec. 10.11. Nothing in this Sec. 10.3.8.C affects, diminishes, or revokes any development right that has vested under Georgia law, including a right arising from an issued permit upon which the owner has made a substantial change of position in good-faith reliance.

D. Appeals

All legislative zoning actions by the City Council may be appealed to the Superior Court of Gwinnett County within 30 calendar days of the final City Council final action.

10.3.9. Alternative Legislative Procedures

A. Procedure for City-Initiated Amendments for Multiple Dwelling Units

1. **Applicability**

This Sec. 10.3.9 applies to any City-initiated UDO text amendments or rezonings that provide for the abolition of all single-family residential zoning classifications within the territorial boundaries of the City or zoning decisions that result in the rezoning of all property zoned for single-family residential uses within the territorial boundaries of the City to multifamily residential uses of property. This Sec. 10.3.9 does not apply to zoning decisions for the rezoning of property from a single-family residential use of property to a multifamily residential use of property when the rezoning is initiated by the owner or authorized agent of the owner of such property, nor does it apply to the adoption of a new Official Zoning Map

2. **Public Hearings**

Before the City Council decision, at least two public hearings must be held on the proposed action. Such public hearings must be held at least 3 months and no more than 9 months before the date of final action on the zoning decision. Furthermore, at least one of the public hearings must be held between the hours of 5:00 p.m. and 8:00 p.m. The hearings required by this provision must be in addition to the hearing required in Sec. 10.3.6.D.

3. **Public Hearing Notices**

a. Content of Notices

Both the posted notice and the published notice must include a prominent statement that the proposed zoning decision relates to or will authorize multifamily uses or give blanket permission to the property owner to deviate from the zoning requirements of a single-family residential zoning of property in classification previously relating to single-family residential uses. The published notice must be at least 9 column inches in size and may not be located in the classified advertising section of the newspaper. The notice must state that a copy of the proposed amendment is on file in the office of the City Clerk and in the office of the Clerk of Superior Court of Gwinnett County for the purpose of examination and inspection by the public. The Director must furnish anyone, upon written request, a copy of the proposed amendment, at no cost.

b. **Published Notice**

At least 15 days before but no more than 45 days before the date of the public hearing, notice of the public hearing must be published in a newspaper of general circulation in the City. This required notice must indicate the date, time, place, and purpose of the public hearing.

c. Posted Notice

A public hearing notice sign must be placed in a conspicuous location on the subject property (or properties), provided, however, that when more than 500 parcels are affected, in which case posting notice is required every 500 feet in the affected area, at least 15 days before the date of the public hearing. This notice sign must indicate the date, time, place, and purpose of the public hearing.

4. **City Council Decision**

The zoning decision may only be adopted after two regular meetings of the City Council, during a period of at least 21 days apart.

Sec. 10.4. Subdivision Review

10.4.1. General Provisions

A. Applicability

Except as specified in Sec. 10.4.1.B below, Subdivision Review is required for any:

1. Division of land into two or more lots;
2. Combination of two or more lots;
3. Revision or reconfiguration of lot lines;
4. Dedication of public right-of-way;
5. Abandonment of existing public right-of-way; and
6. Extension of public streets.

B. Exemptions, Exemptions Plats

The following activities are considered subdivisions but are exempt from Sec. 10.4.3 (Application and Review Procedures~~Application and Review Procedures~~) and Sec. 8.2 (Subdivision~~Subdivision~~), except as otherwise specified. Each such subdivision must be drawn as an exemption plat in accordance with final plat standards and must be submitted in an appropriate number of copies, together with the appropriate fees to the Director for review and approval. Upon approval, the Director will authorize recording the exemption plat with the Clerk of Superior Court of Gwinnett County and will issue building permits under this UDO.

1. **Recombination**

   The combination or recombination of all of two or more buildable lots of record, where the total number of lots is not increased and the resultant lots comply with zoning district standards.

2. **Minor Subdivision.**

   The division of a buildable lot of record into up to 5 lots, provided:

   a. Each proposed lot complies with all requirements of the UDO and is limited to single-family dwelling use.

   b. Each proposed lot abuts upon an existing public street.

   c. All project-related slope and utility easements as well as necessary street rights-of-way as determined by the Director based on the comprehensive plan are provided at no cost to the City.

   d. Each lot thus created may not be resubdivided using minor subdivision review.

   e. Each proposed lot must comply with the requirements of the Gwinnett County Water Resources Department and the Gwinnett County Health Department, as appropriate,

whose certification of approval is required before approval of the exemption plat by the Director.

f. Each proposed lot complies with all requirements of the zoning district, unless a variance is granted, and their use is limited to single-family detached dwellings.

3. **Nonresidential Project Management**

The creation of a lot for recording within an overall nonresidential or mixed-use development, provided:

a. The overall development is being undertaken as a single multi-phase or multi-use project under the unified control of a single developer and is zoned for such use or development, and an overall concept plan for the entire project has been approved by the Director.

b. The proposed subdivision is clearly intended to transfer title for financing or building management purposes and not for the sale of the property for future development, to the satisfaction of the Director.

c. The proposed lot has been approved by the Director to be provided permanent vehicular access by private drive, private street, or public street. Private drive or private street access must be established by easement or acceptable covenant before or concurrently with recording of the exemption plat.

d. The proposed lot must encompass a principal structure which has been granted a building permit and which is under construction or has been completed.

e. The exemption plat must be drawn to include the entire development and must clearly identify those lots to be recorded, those lots previously recorded (with references to plat book and page), and the remainder of the development which must be labeled “not included.” All easements, dedications, etc., must be shown as appropriate or as required. Each lot must be consistent with the zoning approved for the overall development and the applicable requirements of the zoning district.

10.4.2. Initiation

Subdivision Review may be initiated by the owner of the subject property or their authorized representative.

10.4.3. Application and Review Procedures

A. Pre-Application Conference

When any subdivision is proposed, whether for residential or nonresidential development, the subdivider is encouraged to present the preliminary documents and graphic exhibits to the Director to allow early evaluation of the subdivider's intentions and coordination with the comprehensive plan and UDO regulations, and to inform and provide the subdivider with the necessary regulations to properly accomplish the proposed project.

B. Concept Plan Review

1. An application for a subdivision concept plan approval may be submitted to the Director using an application form and in a number of copies determined by the Director. The concept plan must include the entire property proposed for development but is not required to include the subdivider's entire contiguous ownership.
2. If the subdivider chooses not to submit a concept plan, then they must proceed directly with the submittal of a preliminary plat if they show the entire property proposed for development. In so doing, however, the subdivider assumes the risk of premature design and engineering expenses if the City requires subsequent design and engineering changes.
3. If a concept plan is submitted, copies of the final concept plan must be provided to the Director for permanent record, in a number as determined by the Director.

C. Preliminary Plat Review

1. An application for development plan approval and issuance of a development permit must be submitted to the Director using an application form and in a number of copies determined by the Director. The development plans may encompass a portion of a property included within an approved concept plan. However, if no concept plan has been approved, the development plans must include the entire property being developed and having the same zoning district. The application must include the preliminary plat and construction drawings. All construction drawings and other engineering data must be prepared and sealed by a professional engineer currently registered in the State of Georgia, in accordance with provisions of Georgia Law.
2. The Director must indicate on a review copy of the drawings or in a written memorandum all comments related to compliance of the development plans with this Section, principles of good design, this UDO, conditions of zoning approval, and the regulations of other City and County departments and State agencies as appropriate. The Director has final authority to determine the applicability of any and all comments under this UDO or conditions of zoning approval.
3. A preliminary plat may not be approved when it shows a lot that would present particularly unusual difficulties for construction of a building, which would clearly require a variance to be reasonably usable, or which is otherwise "unbuildable" because of its unusability, whether due to the presence of floodplain, unusual configuration, lack of public utilities or for any other reason. A House Location Plan (HLP) may be required to be filed as a part of the preliminary plat approval to substantiate the buildability of any such difficult or unusual lot. This provision does not apply to lots used exclusively for subdivision identification signage, entrance or landscape features, common areas, open spaces, private alleys, or stormwater facilities.
4. The subdivider is responsible for compliance with all codes, regulations, and zoning requirements and for the satisfaction of all of the noted and written comments of the Director.
5. If a subdivider disagrees with the findings or final review comments of the Director or of any other City department, concluding that factual or interpretive errors have been made, the Appeal of an Administrative Decision procedure of Sec. 10.7 (Quasi-Judicial Review~~Quasi-Judicial Review~~) must be followed to resolve the issues.

6. When the Director determines that the preliminary plat and other development plans comply with all applicable UDO and City requirements, and that approval has been received from all affected City and County departments, they must forward the preliminary plat to the Planning and Zoning Commission for their approval or denial.
7. After the Planning and Zoning Commission has approved the preliminary plat, the ~~Director~~Planning and Zoning Commission Chairperson must sign and date a certificate of development plans approval stamped or printed on a reproducible copy of the plat. Copies of the approved plat and development plans must be printed on a reproducible copy of the plat. Copies of the approved plat and development plans must be transmitted to the subdivider and retained by the City for its records.
8. After the above approval, a development permit will be issued at the developer's request to begin construction activities based on the approved development plans.

D. Final Plat Review

1. When the provisions of this Sec. 10.4 (Subdivision Review) have been complied with, the subdivider may submit to the Director an application for final plat approval, using an application form and in a number of copies determined by the Director.
2. The Director must review the application to determine if it is complete and if the final plat conforms substantially to the approved preliminary plat. If the final plat does not conform substantially to the approved preliminary plat, the applicant must submit a revised preliminary plat and meet all the requirements for Preliminary Plat Review, including Planning and Zoning Commission approval. If the final plat does conform substantially to the approved preliminary plat, the final plat review may proceed.
3. The Director must indicate on a review copy of the plat or in a written memorandum all comments related to compliance of the final plat with this UDO, conditions of zoning approval, and the regulations of other City and County departments and State agencies as appropriate. The Director will have final staff authority to determine the applicability of any and all comments under this UDO or conditions of zoning approval.
4. A final plat may not be approved when it shows or otherwise creates a lot that would present particularly severe and unusual difficulties for construction of a building, which would clearly require a variance to be reasonably usable, or which is otherwise “unbuildable” due to the presence of floodplain, unusual configuration, lack of Gwinnett County Health Department approval, or for any other justified reason. This provision does not apply to lots used exclusively for subdivision identification signage, entrance or landscape features, common areas, open spaces, private alleys, or stormwater facilities.
5. Lots which would appear to be buildable under certain circumstances and would require further study or additional information before a building permit could be issued, but which present problems or unusual difficulties which can reasonably be addressed or overcome by the lot owner, may be included in the plat with the appropriate notation of the steps necessary to allow issuance of a building permit.

6. The subdivider is responsible for compliance with all codes, UDO requirements, and for the satisfaction of all the comments of the Director.

7. Final approval by the Planning and Zoning Commission Chairperson may not be shown on the final plat until all requirements of these and other applicable regulations have been met, and the Director has received a completed request for approval of development conformance and an executed development performance and maintenance agreement. The agreement must be accompanied by a bond, letter of credit or other acceptable surety providing for the maintenance of all installations and improvements required by these regulations in the subdivision for a period not to exceed 12 months following the date of approval of development conformance for subdivisions for which the final topping of a "two-pass" street has not been applied or for a period not to exceed 24 months. The maintenance bond period of application may be extended by the Director at the request of the developer, provided it is in the best interest of the health, safety, and welfare of the public.

8. The Director must further determine that either:

    a. All improvements and installations to the subdivision required for approval of the final plat under the rules and regulations of the City have been completed in accordance with the appropriate specifications; or

    b. All stormwater drainage and detention facilities, water and sewer utilities, street base and curbing construction required for approval of the final plat have been properly installed and completed and, for those required improvements not yet completed (grassing, pavement topping, required landscaping, sidewalks, etc.) a performance bond will have been filed by the subdivider with the development performance and maintenance agreement, which performance bond must:

        i. Be conditioned upon the faithful performance by the subdivider or developer of all work required to complete all improvements and installations for the subdivision, or approved portion thereof, in compliance with these rules and regulations within a specified time, not to exceed 3 months;

        ii. Be payable to, and for the indemnification of, the City;

        iii. Be in an amount equal to the cost of construction of the required improvements not yet completed plus an additional 10% of said costs, as calculated by the Director on the basis of yearly contract prices or City contracts, where available;

        iv. Be with surety by a company entered and licensed to do business in the State of Georgia; and

        v. Be in a form acceptable to the Director or the City Attorney.

9. Payment for materials and installation of traffic control and street name signs must be made to the Department in accordance with the traffic engineering regulations before approval of the final plat. Payment of the cost of striping major thoroughfares or required signalization if

required and not completed by the developer must also be received by the Department before approval of the final plat.

10. Once the Director has reviewed the final plat and determined that all other affected City, County, and State departments and agencies, as required, have certified compliance and signed the route sheet, the Director will forward the final plan to the Planning and Zoning Commission for approval~~. Upon approval~~ or denial.

~~10.~~11. After the Planning & Zoning Commission has approved the final plat, the Planning and Zoning Commission Chairperson must certify by their signature on the original of the plat that all of the requirements of this UDO, and the conditions of zoning approval have been met, and that all other affected departments have approved the plat. The final plat may not be deemed approved until it has been signed by the Chairperson and where the use of septic tanks is proposed, by a duly authorized representative of the Gwinnett County Health Department.

~~11.~~12. Once the final plat has been certified, the subdivider must record it with the Clerk of the Superior Court of Gwinnett County. The subdivider must pay for and record the final plat within 30 days after final approval. Any plat not submitted within 30 days for recordation will be considered invalid and must be resubmitted for review. The subdivider must provide the Director with an appropriate number of copies of the recorded plat, as determined by the Director. Deeds to lands dedicated to the City in fee simple, or to property owner associations for park or recreational use, must be recorded simultaneously with the final plat.

~~12.~~13. Periodically, but no less often than once each month, the Director shall submit a listing of all approved final plats to the City Council for ratification of acceptance of all dedications.

Sec. 10.5. Permit Review

10.5.1. Land Disturbance Permit

A. Applicability

1. Permit Required

No disturbance of the land, including clearing, grubbing, or grading activities, may begin or continue except in accordance with this UDO, unless the activity is for the construction of an individual single-family or two-family dwelling on a buildable lot of record.

2. Types of Permits

The permits covering portions of the land development process that may be issued in accordance with the requirements of this UDO and the provisions of any Metropolitan River Protection Act Certificate are specified in Sec 10.5.1.B and Sec. 10.5.1.C.

3. Plan Review and Approval

Any developer must first submit to the Director any plans, plats, or construction drawings required by this UDO and must have been granted a permit consistent with this UDO and approved by the Director before starting development activities. Approval of plans by the Director will not imply nor 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 and sealed. Sec. 10.8 (Plan and Plat Specifications~~Plan and Plat Specifications~~) details the elements of the required plans.

4. Chattahoochee River Corridor Certificate

If any portion of a property included within a proposed project is located within 2,000 feet of the bank of the Chattahoochee River, the project must first obtain a certificate authorizing the development under the provisions of the Metropolitan River Protection Act before any clearing, grading, or construction activity may be granted a permit by the Director or any other agency. All permits issued by the City pursuant to such authorization must be consistent with the requirements and provisions of the certificate. Any violation of the provisions of the Metropolitan River Protection Act Certificate will be considered a violation of this UDO and will be subject to the enforcement and penalty provisions of this UDO.

5. Interdepartmental Review and Approval

The Director may not issue a permit for any development activities until the plans, plats, or construction drawings, as applicable, have been approved by such other departments or agencies as may have authority or jurisdiction over said activities in whole or in part.

6. Activities Limited to Permit Authorization

Development activities are limited to those as authorized by the applicable permit and as may be further restricted by conditions of approval pertaining thereto attached by the Department

or other department or agency as may have authority or jurisdiction over said activities in whole or in part.

7. **Developer's Responsibility for Compliance**

   No permit may be interpreted to relieve any developer or subdivider of the responsibility of maintaining full compliance with all codes, ordinances, and other regulations of the City, except as amended by an approved waiver, variance, or other relief granted through applicable formal appeal procedures for a specific property or application. Any permit issued in error or in contradiction to the provisions of an adopted code, ordinance, or regulation of the City will be considered to have been null and void upon its issuance.

8. **Development Maintenance Compliance**

   Once substantial development activities have stopped for a period of at least 90 days, the developer/owner must bring the entire property to a state of permanent soil stabilization. Once permanent soil stabilization has been achieved, the developer/owner must perform routine property maintenance and keep the site free of grass, weeds, or uncultivated vegetation over 12 inches high. The Director has the authority to determine when substantial development activities have stopped.

B. **Clearing, Clearing and Grubbing, and Grading**

1. **Clearing (minor) Permit**

   a. A permit limited to removal of underbrush, shrubs and other low growing vegetation and trees up to 3 inches in diameter (DBH), including the removal of the stumps and root systems. The surface of a cleared site may be disturbed by the tracks or tires of the equipment used but may not be intentionally altered from its natural contour. Minor earthmoving to construct stream crossings is permitted.

   b. Issuance is dependent upon the identification of the property, the limits of the area to be cleared, the type of activities to be undertaken and approved erosion and sedimentation control measures. All clearing activities are to be consistent with the provisions of this UDO and any conditions of zoning approval.

   c. A clearing (minor) permit will expire unless activities start within 60 days of issuance of the permit or if activities lapse and are abandoned for a period exceeding 30 days. For this purpose, a lapse in or suspension of clearing activity as authorized by a clearing (minor) permit, as a direct result of action or inaction on the part of the City completely beyond the control of the developer/owner, will not be considered as a lapse in activity causing the clearing (minor) permit to expire. The 60 days within which clearing activity must begin will exclude any such time period during which the activity is prohibited or has been caused to lapse by said City action or inaction.

   d. A clearing (minor) permit will not be construed as approval of or authorization to construct any improvements, buildings, or other structures on the property.

e. This activity is not considered to be associated with site development, therefore, sites for which this permit is obtained are not eligible for a development permit for a period of 6 months.

2. **Clearing (major) Permit**

a. A permit limited to all items included in clearing (minor) plus the cutting and removal of all trees regardless of diameter, but not including the removal of the stumps and root systems of the trees larger than 3 inches in diameter (DBH). The surface of a cleared site may be disturbed by the tracks or tires of the equipment used but may not be intentionally altered from its natural contour. Minor earthmoving to construct stream crossings is permitted.

b. Issuance is dependent upon the identification of the property, the limits of the area to be cleared, the type of activities to be undertaken and approved erosion and sedimentation control measures. Issuance is also dependent upon approval of a concept plan and tree preservation or replacement plan (if required) for the development. All clearing activities are to be consistent with the provisions of this UDO and any conditions of zoning approval.

c. A clearing (major) permit will expire unless activities start within 60 days of issuance of the permit or if activities lapse and the project is abandoned for more than 30 days. For this purpose, a lapse in or suspension of clearing activity as authorized by a clearing (major) permit, as a direct result of action or inaction on the part of the City completely beyond the control of the developer/owner, will not be considered as a lapse in activity causing the clearing (major) permit to expire. The 60 days within which clearing activity must begin will exclude any such time period during which the activity is prohibited or has been caused to lapse by said City action or inaction.

d. A clearing (major) permit will not be construed as approval of or authorization to construct any improvements, buildings or other structures on the property.

e. All required (tree) replacement density (RRD) units, including special and specimen tree replacement density units, will be transferred with the project/property. The RRD units will be calculated in accordance with Sec. 9.1 (Tree Protection~~Tree Protection~~). Furthermore, the property owner must execute a covenant, in a form satisfactory to the City Attorney and recorded by the Clerk of the Superior Court of Gwinnett County, which discloses to any future property owner all requirements with respect to the required tree replacement density (RRD) units relating to the subject property and obligates such future property owner to comply with said requirements.

3. **Clearing and Grubbing Permit**

a. This construction activity includes all items included in clearing (major) plus the removal of the stumps and root systems of all trees cut and removed.

b. A clearing and grubbing permit may be approved based on the approval of a concept plan and tree protection/replacement plan for the development. Appropriate soil erosion and sedimentation controls in accordance with Sec. 9.2 (Soil, Erosion, Sedimentation, and Pollution Control~~Soil, Erosion, Sedimentation, and Pollution Control~~) and tree protection

measures in accordance with Sec. 9.1.16 (Tree Preservation/Replacement Plan Specifications~~Tree Preservation/Replacement Plan Specifications~~) must be in-place and maintained as required.

c. A clearing and grubbing permit will expire unless activities are commenced within 60 days of issuance of the permit or activities lapse and the project is abandoned for more than 14 days. For this purpose, a lapse in or suspension of clearing and grubbing activity as authorized by a clearing and grubbing permit, as a direct result of action or inaction on the part of the completely beyond the control of the developer/owner, will not be considered as a lapse in activity causing the clearing and grubbing permit to expire. The 60 days within which clearing and grubbing activity must begin will exclude any such time period during which the activity is prohibited or has been caused to lapse by said City action or inaction.

d. A clearing and grubbing permit will be limited to the removal of trees and vegetation and stumps or roots from a property; the placement of required tree protection measures and soil erosion and sedimentation facilities, and may authorize the removal of existing structures on the property, at the option of the developer, and upon receiving an approved demolition permit (per structure). Under no circumstances may any grading (movement, removal, or addition of earth on a site by the use of mechanical equipment) or construction activity commence under a clearing and grubbing permit. The approval of a clearing and grubbing permit will not imply the approval of or authorization to construct any improvements, buildings, or other structures on the property.

e. All required (tree) replacement density (RRD) units, including special and specimen tree replacement density units, will be transferred with the project/property. The RRD units will be calculated in accordance with Sec. 9.1 (Tree Protection~~Tree Protection~~). Furthermore, the property owner must execute a covenant, in a form satisfactory to the City Attorney and recorded by the Clerk of the Superior Court of Gwinnett County, which discloses to any future property owner all requirements with respect to the required tree replacement density (RRD) units relating to the subject property and obligates such future property owner to comply with said requirements.

4. **Grading Permit**

a. This construction activity includes the movement, removal or addition of earth on a site by the use of mechanical equipment that alters the natural contour of the site.

b. Issuance of a grading permit, which may include clearing and grubbing, is dependent upon approved grading plans, erosion and sedimentation control measures, and stormwater management report (if applicable). All grading activities are to be consistent with the provisions of this UDO and any conditions of zoning approval.

c. A grading permit will be limited in its authorization to land grading along with associated tree protection, clearing, and grubbing, and may authorize the removal of existing structures on the property, at the option of the developer/owner, and upon receiving an approved demolition permit (per structure), and may authorize the construction of storm drainage improvements and soil erosion and sedimentation facilities as allowed by the

permit. Grading permit approval will not imply the approval of or authorization to construct any improvements, buildings, or other structures on the property, other than the construction of storm drainage improvements and soil erosion and sedimentation facilities.

d. A grading permit will expire 60 days after permit issuance unless clearing, grubbing and grading activities as authorized by the permit are initiated within the 60-day period or if such authorized activities lapse and the project is abandoned for more than 30 days. For this purpose, a lapse in or suspension of development activity as authorized by a grading permit, as a direct result of action or inaction on the part of the City completely beyond the control of the developer/owner, will not be considered as a lapse in activity causing the grading permit to expire. The 60-days within which clearing, grubbing, and grading activity must begin will exclude any such time period during which the activity is prohibited or has been caused to lapse by said City action or inaction. Any site for which the grading permit expires must immediately be stabilized to prevent erosion.

e. All required (tree) replacement density (RRD) units, including special and specimen tree replacement density units, will be transferred with the project/property. The RRD units will be calculated in accordance with Sec. 9.1 (Tree Protection~~Tree Protection~~). Furthermore, the property owner must execute a covenant, in a form satisfactory to the City Attorney and recorded by the Clerk of the Superior Court of Gwinnett County, which discloses to any future property owner all requirements with respect to the required tree replacement density (RRD) units relating to the subject property and obligates such future property owner to comply with said requirements.

C. **Development Permit**

1. **Development activities authorized**

A development permit must be issued to authorize all activities associated with the land development process, including clearing and grubbing, grading, and the construction of such improvements as streets, surface parking areas and drives, sewer systems, stormwater drainage facilities, sidewalks, or other structures permanently placed on or in the property except for buildings or other structures requiring the issuance of a building permit. Water system improvements must be authorized only upon approval by the Gwinnett County Department of Water Resources.

2. **Development Permit Approval**

a. Before the issuance of a site development permit, each permittee must designate a registered agent who is located within Gwinnett County by residence or office and who can be contacted 24 hours a day. This information will be kept by the Department and utilized when and if immediate action is required.

b. A development permit (which may include grading, clearing, and grubbing) will be issued at the developer's request following approval of a preliminary plat for a subdivision or a site plan for a non-subdivision project, along with approval of all other development plans and

documents required by this UDO. All plans approved for a development permit will expire after 6 months if no permit is issued within said time period.

c. All required (tree) replacement density units (RRD), including special and specimen tree replacement density units, will be transferred with the project/property. The RRD units will be calculated in accordance with Sec. 9.1 (Tree Protection~~Tree Protection~~). Furthermore, the property owner must execute a covenant, in a form satisfactory to the City Attorney and recorded by the Clerk of the Superior Court of Gwinnett County, which discloses to any future property owner all requirements with respect to the required tree replacement density (RRD) units relating to the subject property and obligates such future property owner to comply with said requirements.

3. **Expiration of Development Permits**

A development permit will expire 12 months after issuance unless the development activity authorized by the permit is initiated within the 12-month period or if such authorized activities lapse and the project is abandoned for more than 60 days. The Director may approve one extension not exceeding 3 months within which time development activity must commence or the permit will expire. The extension must be applied for within the first 12 months after the permit's issuance.

4. **Lapse in Construction Activity**

For the purposes of this Sub-section, a lapse in or suspension of development activity as authorized by a development permit, as a direct result of action or inaction on the part of the City completely beyond the control of the developer, will not be considered as a lapse in activity causing the development permit to expire. The 12 months within which development activity must begin will exclude any such time period during which the activity is prohibited or has been caused to lapse by said City action or inaction.

10.5.2. Building Permit

A. Applicability

1. **Building Permit Required**

No building or other structure may be erected, moved, added to or structurally altered without a building permit issued by the City. Structurally altered is defined as any change in either the supporting members of a building such as load-bearing walls, columns, beams, or girders, or in the roof and exterior walls.

2. **Exemptions**

Building permits are not required for the following:

a. Ordinary maintenance and repairs to existing structures.

b. Fences no more than 8 feet in height.

c. Retaining walls no more than 4 feet in height, measured from the bottom of the footing to the top of the wall.

d. Patios not attached to a structure.

e. Yard water features (not permanent water features.)

f. Playsets.

g. Dog houses.

Note: Electrical, plumbing, and grading permits may be required.

3. **Conformance Required**

No building permit will be issued except in conformance with the provisions of this Sub-section.

B. Planning and Zoning Commission Approval Required

The Planning and Zoning Commission must approve zoning compliance before issuing any building permit in the following circumstances:

1. Construction in any residential district, which partitions a dwelling into two or more non-interconnected spaces.
2. Construction in any residential district resulting in more than one kitchen in a dwelling or any kitchen in an accessory structure.

C. Application Requirements

All applications for building permits must be accompanied by the following:

1. Estimated cost of construction.
2. Plans, in duplicate, drawn to scale.
3. For new construction, additions, and accessory structures, a plan drawn to scale, which may be shown on a certified survey of the lot or any other drawing. The plan must show the following
   a. The actual dimensions of the lot to be built upon;
   b. The sizes and the locations on the lot of any existing buildings or structures, with all setback measurements noted;
   c. The shape, size, height, use and the location on the lot, with setback measurements noted, of the building or structure to be erected, moved, added to or structurally altered
   d. Percentage of lot coverage of all existing and proposed buildings or structures;
   e. For those dwellings on septic, the location of the septic tank and drain fields on the lot, noting setback measurements; and
   f. Such other information as may be necessary to provide for the enforcement of this UDO.
4. A Gwinnett County Health Department permit for new dwellings and additions or renovations in the immediate vicinity of the septic tank and drain field.

10.5.3. Demolition Permit

A. Applicability

1. **Demolition Permit Required**

   No building or other structure may be fully or partially demolished without a demolition permit issued by the City.

2. **Exemptions**

   Demolition permits are not required to demolish the following:

   a. Fences no more than 8 feet in height.

   b. Retaining walls no more than 4 feet in height, measured from the bottom of the footing to the top of the wall.

   c. Patios not attached to a structure.

   d. Yard water features (not permanent water features.)

   e. Playsets.

   f. Dog houses.

3. **Conformance Required**

   No demolition permit will be issued except in conformance with the provisions of this Sub-section.

B. After Demolition

1. After the demolition of the structure, the applicant must take all necessary action to ensure that the premises or location where the structure is demolished is left in a sanitary condition and free from all trash, debris and structures which might become a harboring place for insects, rodents or vermin, including, but not limited to:

   a. Remove all trash, debris, garbage, and other similar material.

   b. Fill all holes and depressions caused by the removal of any part of the structure, or caused as a result of compliance with this Sub-section, which might become a harboring place for insects, rodents or vermin.

   c. Tear down and remove all underpinnings, pilasters, steps, plumbing connections and fixtures above ground level.

   d. Seal, close-off, and make gastight and watertight all water, gas and sewer lines.

   e. Fill or cover all wells with a concrete cap.

2. The post-demolition actions specified in “1” above must be completed within 30 calendar days following the date of the removal of the structure specified. If the applicant fails to comply, the City is authorized to enter upon the premises and to perform the work necessary thereon to comply with this Sub-section. The work may be performed by the City, Gwinnett County, or by

parties employed by the City or County and the cost of the work charged against the person failing or refusing to comply. Any person, firm or corporation applying for a permit as provided in this Sub-section grants to the City and the County an easement on the premises to perform the work.

Sec. 10.6. Administrative Variances

10.6.1. Applicability

A. **General Provisions**

Administrative variances are allowed for:

1. Relief of up to 10% of any measurable standard in this UDO.
2. A conforming change to a nonconforming structure where such change does not increase the impact of the existing nonconformance aspects.
3. Relief as otherwise specified in this UDO.

B. **Limitations**

1. Administrative variances are not allowed for any of the following:
    a. Minimum lot area, minimum lot frontage on a street or minimum lot width;
    b. Building height;
    c. Sign height, sign area allocation or individual sign area;
    d. Specified materials;
    e. Use standards;
    f. Elimination of frontage improvement requirements;
    g. Permitted or accessory uses;
    h. Standards of Article 9 (Environmental Protection), unless specified; and
    i. Retroactively, which means the construction or activity requiring the relief has already occurred. Retroactive relief may only be granted through a variance.
2. Administrative variances are also not allowed if any prior administrative variance (granted or denied) was considered for the property involved within the last 12 months.
3. Multiple administrative variances for the same property are not allowed.

10.6.2. Initiation

Any person may apply for an administrative variance, provided they are the owner or the owner's representative of the property for which the application is being submitted.

10.6.3. Application Requirements

A. General Provisions

Administrative variances must be submitted in writing on forms provided by the Director. An application will not be considered complete until the required forms, applicable plan or other supporting documents, and applicable fees have been submitted to the Director.

B. Application Forms

Application forms must include any request for information deemed necessary by the Director and may include:

1. Drawings showing the dimensions of existing and proposed buildings;
2. Entrances and exits from the property described in the application;
3. The location of the subject property, including street number, if any;
4. The present zoning district classification for the subject property;
5. The name and address of the owner of the subject property; and
6. Such other information regarding the lot and neighboring lots as may be required by the Director to determine whether or not the relief should be approved.

C. Survey

A survey is not required unless the Director determines a survey is required to determine whether the relief should be approved.

10.6.4. Application Review

A. Director Review

1. The Director will examine the application and supporting materials for conformity with the requirements and stated intent of this Section, and must act on the application within 30 days, unless a longer period is mutually agreed upon.
2. The Director may approve the application as applied for, may approve the application conditional upon changes, specified in writing, as necessary to assure conformity with the requirements and stated intent of this UDO, or may deny the application, with written reasons for such denial.

10.6.5. Criteria for Review

The Director may grant an administrative variance only upon making all the following three findings:

A. Either of the following is met:

   1. A plan proposed by an applicant, while not strictly in accord with regulations applying generally within the district, meets public purposes and provides public protection to an equivalent or greater degree; or

   2. In the particular circumstances of the case, strict application of a particular regulation or regulations is not necessary for the accomplishment of public purposes or the provision of public protection, at the time or in the future. The preservation of trees is considered a public purpose.

B. That there are practical difficulties that prevent strict adherence to the requirement for which relief is requested.

C. The request for relief is the minimum amount necessary to eliminate the practical difficulty.

10.6.6. After Decisions

A. Time Limits

An administrative variance will be valid for 12 months from the date of approval by the Director. It will continue to be valid while an application for a building permit pursuant to that approval is pending or during the term of a valid building permit issued pursuant to that approval. The Director may extend the approval duration for amendment to a building permit.

B. Appeals

Decisions of the Director may be appealed to the Planning and Zoning Commission as specified in Sec. 10.7 (Quasi-Judicial Review).

Sec. 10.7. Quasi-Judicial Review

10.7.1. Applicability

Quasi-Judicial Review is required for the following:

A. **Variance.** A request for a deviation from the provisions of this UDO when meeting specific criteria, unless noted as an exception below:

1. The Planning and Zoning Commission will have no power to grant a variance for the following:
    a. A use which is prohibited or otherwise not permitted within the district.
    b. A sign which is prohibited or otherwise not permitted within the district regulations, except as provided in Sec. 7.5.15 (Nonconforming Signs~~Nonconforming Signs~~).
2. The Planning and Zoning Commission will not have power to grant administrative variances.

B. **Appeal of Administrative Decision**. An appeal of any decision made by the Director, the Planning and Zoning Commission Chairperson, or any other administrative official in the enforcement of this UDO, which will be heard and decided by the following review bodies:

1. The Planning and Zoning Commission will hear and decide appeals related to all Articles and Sections of this UDO, except Sec. 8.1 (Tree Protection); and
2. The City Council will hear and decide appeals related to Sec. 8.1 (Tree Protection).

All quasi-judicial reviews that constitute a zoning action must follow the Zoning Procedures Law, O.C.G.A. Title 36, Chapter 66.

10.7.2. Initiation

A. Variance

Any person may apply for a variance, provided they are the owner or the owner's representative of the property for which the application is being submitted.

B. Appeal of an Administrative Decision

1. Any aggrieved person may apply for an Appeal of an Administrative Decision within 30 days after the action appealed from was taken.
2. Any aggrieved person has only one opportunity to challenge the decision of the Director, the Planning and Zoning Commission Chairperson, or any other administrative official in the interpretation and enforcement of this UDO. The City must reject any appeal contrary to this.
3. Other than one with a legal or equitable interest in property that is the subject of the decision, "any person aggrieved" means one who demonstrates before the review body that their property will suffer special damage as a result of the decision complained of rather than merely some damage which is common to all property owners similarly situated.

4. When the appellant appeals the approval of a permit granted to another, the permit holder or applicant may elect at their own risk to proceed as authorized in the permit subject to the outcome of the appeal.
5. An appeal will stay all legal proceedings in furtherance of the action appealed unless the Director, the Planning and Zoning Commission Chairperson, or any other administrative official whose decision is appealed certifies that, by reason of facts stated in the certificate, a stay would, in their opinion, cause immediate peril to life and property. In such case, proceedings will not be stayed other than by the review body or by restraining order that may be granted by the Superior Court of Gwinnett County.
6. Upon receiving an appeal, the Director will collect all the papers constituting the record upon which the action appealed from was taken.

10.7.3. Application Requirements

A. Variance

1. **General Provisions**

   Variances must be submitted in writing on forms provided by the Director. An application will not be considered complete until the required forms, applicable plan or other supporting documents, and applicable fees have been submitted to the Director.

2. **Application Forms**

   Application forms must include any request for information deemed necessary by the Director and may include:

   a. Drawings showing the dimensions of existing and proposed buildings;
   b. Entrances and exits from the property described in the application;
   c. The location of the subject property, including street number, if any;
   d. The present zoning district classification for the subject property;
   e. The name and address of the owner of the subject property; and
   f. Such other information regarding the lot and neighboring lots as may be required by the Director to determine whether or not the relief should be approved.

3. **Survey**

   A survey is not required unless the Director determines a survey is required to determine whether or not the relief should be approved.

4. **Written Justification**

   A written explanation of how the subject property meets all the criteria specified in Sec. 10.7.4 is required, unless alternative criteria apply to the type of variance being requested.

B. Appeal of an Administrative Decision

1. General Provisions

Appeals of Administrative Decisions must be submitted in writing on forms provided by the Director. An application will not be considered complete until the required forms, applicable plan or other supporting documents, and applicable fees have been submitted to the Director.

10.7.4. Application Review

A. Director Review

1. The Director will review the facts of each application and will submit any record and written findings of fact to the review body at or before the time each application is heard.
2. In the case of variances, the Director may recommend that the review body impose one or more conditions of approval, whether proffered by the applicant or not, that they believe may be necessary in the particular case to protect the public interest should the variance be approved.

B. Public Hearing Notice and Process

The following standards apply to all quasi-judicial review:

1. Published Notice

At least 15 but no more than 45 days before the date of a public hearing, the Director must cause to be published a notice of the hearing within the official organ of Gwinnett County in which the sheriff's advertisements are published. The notice must state the date, time, place, and purpose of the hearing, the location of the property, and the proposed variance on the property or the decision being appealed.

2. Posted Notice

The Director must ensure that a sign containing the information specified in Sec. 10.7.4.B.1 above is erected in a conspicuous place on the property involved. The required sign must be erected at least 15 days and no more than 45 days before the public hearing. Failure to erect and maintain the sign as specified will invalidate any subsequent decision by the review body.

3. Mailed Notice

The Director must also cause notice of the date, time, and place of the public hearing and the nature of the proposed variance or appeal to be sent by regular mail, with mailing postmarked at least 15 days but no more than 45 days before the hearing, to the applicant of the subject property. The notice must also be sent to the property owner within the specified time if they are not also the applicant.

4. Public Hearing Process

Before taking action resulting in a decision, as described by state law (currently OCGA § 36-66-4(g)), the review body must conduct a hearing on the proposed action following the notice

specified above before voting on the request. Where the proposed action includes more than one variance for the same property, only one hearing will be required.

Public hearings must be conducted as follows:

a. First, applicants for quasi-judicial review must be afforded a reasonable opportunity to explain why the proposal is being sought.

b. Then, all interested persons must be given a reasonable opportunity to speak either for or against the proposal. The Chairperson of the Planning and Zoning Commission or the Mayor, as applicable, may limit speakers to a reasonable time, which may in no case be less than 10 minutes per side, and may limit irrelevant or repetitious comments and must maintain the order and dignity of the hearing process.

c. In no event may the size of the audience, nor the emotions of any of the attendees, be a valid consideration for acting upon a proposal.

d. Public comments should offer facts relevant to the applicable standards specified in Sec. 10.3.7 (Criteria for Review~~Criteria for Review~~).

5. **Action on Variance**

a. The Planning and Zoning Commission will make separate findings of fact and conclusions on each proposed variance to this UDO. The Planning and Zoning Commission may adopt in whole or in part the findings of fact and conclusions contained in the administrative staff report, or it may make its own findings of fact and conclusions.

b. The Planning and Zoning Commission may, by majority vote of the members present, approve, approve with conditions, or deny the proposed variance.

c. The Planning and Zoning Commission may impose one or more conditions of approval, whether or not proffered by the applicant, the Chairperson or another, relating to the variance application that it finds, based on actual evidence, that may be necessary in the particular case to protect the public interest.

d. The Director must provide a written decision to the applicant within a reasonable time.

6. **Action on Appeal of Administrative Decision**

a. The review body will fix a reasonable time for the hearings of the appeal and give notice thereof as well as due notice to the parties in interest. Upon hearing, any party may appear in person or by agent or by an attorney.

b. In exercising its powers, the review body may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end will have all the powers of the administrative official from whom the appeal was taken and may issue or direct the issuance of a permit provided all requirements imposed by the applicable laws other than these are met. The commission will decide the appeal within a reasonable time.

10.7.5. Criteria for Review

A. Variances

1. General Provisions

Variances may be granted in individual cases if the Planning and Zoning Commission finds that:

a. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape, or topography; and

b. The application of this UDO to this particular piece of property would create an unnecessary hardship; and

c. Such conditions are peculiar to the particular piece of property involved and may include the preservation of trees; and

d. Such conditions are not the result of any actions of the property owner; and

e. Relief, if granted, would not cause substantial detriment to the public nor impair the purposes or intent of this chapter; and

f. The variance is granted for a use of land or building or structure that is not prohibited by this UDO.

B. Appeal of Administrative Decision

~~1. Except as provided below, an appeal stays all legal proceedings in furtherance of the action appealed from unless the Director certifies to the review body after notice of appeal has been filed with them, that by reasons of facts stated in the certificate a stay would, in the Director's opinion, cause imminent peril to life and property. In such a case, proceedings will not be stayed otherwise than by a restraining order which may be granted by the review body as applicable, or a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.~~

~~2.~~1. Before hearing the merits of an appeal, the review body will inquire into its own jurisdiction, including the timeliness of the appeal and whether the appellant has standing to appeal. If the appeal is timely and standing is found, the review body will proceed to consider the merits. If the appeal is untimely or if standing is not found, the review body will dismiss the appeal.

~~3.~~2. An appeal ~~must~~will be sustained upon an expressed finding by the review body that ~~the action~~it is necessary to correct errors of fact, law, interpretation, application, and material procedure. Furthermore, in rendering its decision, the review body will have all the ~~Director or other administrative official~~powers of the Administrative Official from whom the appeal was ~~based on an erroneous finding~~taken and may issue or direct the issuance of a ~~material fact, or that they acted in an arbitrary manner~~permit provided all requirements imposed by all other applicable laws are met.

10.7.6. After Decision

A. Time Limits

A variance will be valid for 12 months from the date of approval by the Planning and Zoning Commission. It will continue to be valid while an application for a building permit pursuant to that approval is pending or during the term of a valid building permit issued pursuant to that certificate. The Director may extend the approval duration for amendment to a building permit.

B. Effect of Defeat

If the variance is denied, then the same property may not again be considered for the same variance until the expiration of at least 12 months immediately following the defeat.

C. Appeals

Any person aggrieved by a decision of the Planning and Zoning Commission or City Council, as applicable, may seek review of such decision in the manner prescribed in O.C.G.A. § 36-66-5.1. The Director or the Planning and Zoning Commission Chairperson will have the authority prescribed in O.C.G.A. § 36-66-5.1(c)(1) and the City Attorney will have the authority prescribed in O.C.G.A. § 36-66-5.1(c)(2).

Sec. 10.8. Plan and Plat Specifications

All concept plans, development plans, preliminary plats, and final plats must comply with this Section.

10.8.1. Concept Plan Specifications

A. General Provisions

The following are required elements of both the required and optional plans and plats specified throughout this UDO and especially Sec. 10.4.

B. Scale

The concept plan for a subdivision or site development must be clearly and legibly drawn at a scale of at least 1 inch = 100 feet. Sheet size may not exceed 48 inches by 36 inches, provided, however, a scale of 1 inch = 200 feet may be used to avoid sheets larger than 48 inches by 36 inches. The Director may approve other scales and sheet sizes as deemed appropriate.

C. Freehand Drawing

The concept plan may be prepared as a freehand drawing to approximate scale of the proposed improvements, right-of-way, lot lines, etc., shown on a boundary survey or other property outline map of the property.

D. Concept Plan Contents

The concept plan must contain the following:

1. Approximate total acreage.
2. Proposed total number of lots and minimum lot size.
3. Size and location of adjoining existing streets or access drives and proposed right-of-way, roadways, and access drives.
4. For multifamily and nonresidential site developments (not subdivisions), the approximate location and arrangement of buildings, parking areas, and other improvements including stormwater detention areas, and all required buffers.
5. Topography with contour intervals no greater than 10 feet.
6. Proposed method of sewage disposal, expressed as a note.
7. Boundary lines of the overall property showing bearings and distances along all lines and the bearings and distance to an existing street intersection or other recognized permanent landmark. The source of this boundary information must be indicated.
8. All contiguous property under the ownership or control of the developer, except those lands of a dissimilar zoning category specifically approved to be excluded by the Department. Areas not planned at the time of the submittal must be shown as “future development.”
9. Authorization statement on the concept plan to read as follows:

   I hereby submit this Concept Plan as authorized agent/owner of all property shown thereon, and certify that all contiguous property under my ownership or control is included within the boundaries of this Concept Plan, as required by the Unified Development Ordinance.

_____ _____
Signature of Authorized Agent/Owner *Date*

10. Location sketch (vicinity map).
11. Lakes, ponds, and floodplains and the source of floodplain data including the panel number of flood insurance rate maps.
12. Required recreation areas and other public areas to be dedicated to the public or held in common ownership by a homeowners' association or other similar entity.
13. Existing zoning of the property and adjoining properties.
14. Land lot and district.
15. Subdivider's name, address, and phone number.
16. Name of company or person who prepared the plan.
17. Boundaries of the Chattahoochee River Corridor and Chattahoochee River Tributary Protection Areas, if applicable to the property.
18. General development data (in tabular form) for individual multifamily or nonresidential site developments, such as number of residential units, number of gross square feet of nonresidential floor area by building, number of parking spaces, number of stories, etc.
19. General development data (in tabular form) for single-family developments, such as minimum lot size, floor area, and all relevant conditions of zoning.
20. Signature block to read as follows:

    This Concept Plan has been reviewed and approved for general compliance with the Unified Development Ordinance of the City of Berkeley Lake, Georgia.

    _____ _____
    City Administrator or Designee *Date*
    City of Berkeley Lake

21. The concept plan must be stamped and signed by a professional engineer, registered land surveyor, or landscape architect (as appropriate).

10.8.2. Subdivision Development Plan

A. Development Permit Application

An application for a development permit for a subdivision consists of the preliminary plat, a certified boundary survey, associated slope or construction easements (if any), and such other development plans as may be required by this UDO.

B. Conformance

Development plans must generally conform to the concept plan, if any, and must constitute only that portion of the approved concept plan which the subdivider proposes to construct at one time as a single unit, provided that such portion conforms to the requirements of these rules and

regulations. If no concept plan was approved on the property, the development plans must include the entire property being developed within the same zoning district.

C. Scale

Development plans must be clearly and legibly drawn at a scale of at least 1 inch = 100 feet. Sheet size may not exceed 48 inches by 36 inches. Plan and profile must have a horizontal scale of no less than 1 inch = 100 feet and a vertical scale of no less than 1 inch = 10 feet.

D. Certified Boundary Survey

1. The preliminary plat must be based on a certified boundary survey delineating the entirety of the property contained within the preliminary plat and tied to a point of reference (tie point) with the same degree of accuracy as the boundary survey itself. The survey must have an initial field closure precision of 1 foot in no less than 10,000 feet and must meet all requirements of Georgia law regarding the recording of maps and plats.
2. Each preliminary plat must be drawn on, accompanied by, or referenced to a boundary survey which must at least meet the requirements Sub-paragraph 1 above.

E. Preliminary Plat Contents

The preliminary plat must contain the following:

1. Proposed name of the subdivision.
2. Name, address, and telephone number of the owner of record and of the subdivider (if not the owner).
3. Name, address, and telephone number of each professional firm associated with the Development Plans (engineer, surveyor, landscape architect, etc.).
4. Date of survey, north point, and graphic scale, source of vertical datum, date of plat drawing, and space for revision dates.
5. Proposed use of the site, such as single-family dwellings, two-family dwellings, office park, industrial subdivision, etc. For residential uses, indicate the total number of dwelling units within the plat.
6. Location (land district and land lot), acreage, and density (if applicable).
7. Location sketch locating the subdivision in relation to the surrounding area with regard to well-known landmarks such as major thoroughfares or railroads. Sketches may be drawn freehand and at a scale sufficient to show clearly the information required, but at least 1 inch = 2,000 feet. U.S. Geological Survey maps may be used as a reference guide for the location sketch.
8. Name of former subdivision (including plat book and page) if any or all the land in the preliminary plat has been previously subdivided, showing boundaries of the same.
9. Boundary lines of the perimeter of the tract indicated by a heavy line giving lengths in feet and hundredths of a foot, and bearings in degrees, minutes, and seconds. Bearing and distance to designated tie point.
10. Directional flow arrows for street drainage and individual lot drainage when finished grading of lots is not shown.
11. Contour lines based on sea level datum, or other datum acceptable to the Department. These must be drawn at intervals of no more than 2 feet. Contour lines must be based on field surveys

or photogrammetric methods from aerial photographs. The basis for the topographic contour shown must be specified and dated.

12. Natural features within the proposed subdivision, including drainage channels, bodies of water, and other known significant features such as extensive exposed rock. On all watercourses leaving the tract, the direction of flow must be indicated. The 100-year floodplain must be outlined and the source of the depicted floodplain information must be indicated. For those lots containing floodplain, a floodplain lot chart must be provided showing the area (in square feet) of each lot lying inside and outside of the floodplain as though the land disturbance activity were completed.
13. Man-made and cultural features existing within and adjacent to the proposed subdivision including existing right-of-way measured from the centerline, pavement widths, and names of existing and platted streets; all easements, City, and County jurisdiction lines; cemeteries; existing structures on the site and their disposition, and other significant information. Location and dimensions of existing bridges; water, sewer, and other existing utility lines and structures; culverts and other existing features must be indicated.
14. Proposed layout including lot lines, lot numbers, and block letters; proposed street names, roadway, and right-of-way lines; and sites reserved through covenants, easement, dedication, or otherwise for public uses. Lots must be numbered in numerical order and blocks lettered alphabetically. Streets must be dimensioned to show right-of-way and roadway widths, central angles, intersection radii, and cul-de-sac roadway and right-of-way radii. Centerline curve data must be provided for all roadway curves [radius, length, amount of superelevation (if any), point of curvature (P.C.), point of tangency (P.T.), etc.] if not shown separately on construction drawings.
15. Identify the unit number, division, or stage of development, if any, as proposed by the subdivider.
16. Existing zoning of the property. Rezoning and variance case numbers, dates of approval and conditions (as applicable). Note minimum lot size and minimum yard setback requirements, and other applicable zoning requirements. Show and dimension any required buffers, landscape strips, no-access easements, etc. Note any approved waivers from these regulations.
17. All adjoining property owners, subdivision names, lot numbers and lot lines, block letters, and zoning.
18. Location of all known existing or previously existing landfills. A statement that no cut trees, timber, stumps, debris, rocks, stones, junk, rubbish, garbage, or other waste material of any kind may be buried in any right-of-way, under any proposed structure, or in any on-site/off-site pit.
19. Proposed open space or recreation areas, if any; area of the site; area and percent of the site within the 100-year floodplain; proposed disposition of the site (public ownership, homeowners' association, etc.).
20. Such additional information as may be reasonably required to permit an adequate evaluation of the subdivision.
21. Plans must be stamped and signed by a professional engineer, registered land surveyor or landscape architect (as appropriate).

F. Certificate of Development Plans Approval and Owner's Acknowledgment

Each preliminary plat must carry the following certificate printed or stamped thereon:

All requirements of the City of Berkeley Lake Unified Development Ordinance relative to the preparation and submission of a subdivision development permit application having been fulfilled, and said application and all supporting plans and data having been reviewed and approved by all affected City and Gwinnett County Departments as required under their respective and applicable regulations, approval is hereby granted, on this Preliminary Plat and all other development plans associated with this subdivision, subject to all further provisions of said Unified Development Ordinance and other City existing regulations.

_____ _____
City Administrator or Designee Date
City of Berkeley Lake

THIS CERTIFICATE EXPIRES TWELVE MONTHS FROM THE DATE OF APPROVAL UNLESS A DEVELOPMENT PERMIT IS ISSUED.

NOTE: The boundaries of the lots shown on this Plat have not been surveyed. This Plat is not for recording.

Owner's Acknowledgment for Preliminary Plat

(STATE OF GEORGIA)

(COUNTY OF GWINNETT)

The owner of the land shown on this plat and whose name is subscribed thereto, and in person or through a duly authorized agent, acknowledges that this plat was made from an actual survey, and accurately depicts the land owned by the undersigned and will dedicate to the use of the public forever all streets, sewer collectors, lift stations, drains, easements, and other public facilities and appurtenances thereon shown, and will transfer ownership of all public use areas in fee simple by deed, for the purposes therein expressed.

SUBDIVIDER _____ *OWNER*_____
DATE _____ _____

G. Additional Plans

The preliminary plat must be accompanied by other development plans showing the following information when same is not shown on, or evident from the preliminary plat. The various plans may be combined where appropriate and clarity can be maintained.

1. Erosion control plan prepared in accordance with the requirements of Sec. 9.2 (Soil, Erosion, Sedimentation, and Pollution Control~~Soil, Erosion, Sedimentation, and Pollution Control~~). Erosion control measures may be shown on the grading plan, if desired.
2. Grading plan prepared in accordance with Sec. 9.3 (

Grading

~~Grading~~) if grading is proposed beyond the street right-of-way.

3. Proposed stormwater drainage construction data:
   a. Location and size of all proposed drainage structures, including detention ponds, catch basins, grates, headwalls, pipes, and any extensions thereof, energy dissipators, improved channels, and all proposed drainage easements to be located outside street right-of-way lines.
   b. Profiles of all storm drainage pipes and slope of receiving channels. On storm drainage profiles a pipe chart must be shown which will include pipe numbers, pipe size, pipe material, pipe slope, pipe length, contributing drainage area, design flow, design storm frequency, runoff coefficient, and velocity. On all pipes, the 100-year storm line hydraulic grade line must be shown from the outlet to the farthest upstream catch basin, grated inlet or yard inlet. On all outfall structures from detention ponds, the hydraulic grade line must be shown for the 100-year storm.
   c. Profiles of all open channels and ditches including Mannings' 25-year storm normal depth and velocity. On storm drainage profiles an open channel chart must be shown which will include open channel numbers, conveyance size, lining material, length, channel slope, contributing drainage area, design storm frequency, runoff coefficient, and velocity.
   d. Hydrological study used in determining the size of structures, including a map of all contributing drainage basins and acreage.
4. If sanitary sewers are required by water pollution control, sanitary sewer plans, including the location and size of all proposed sewer lines, manholes, and any easements required therefore, together with sufficient dimensions to locate the same on the ground.
5. Construction data for new streets and street widenings:
   a. Centerline profiles and typical roadway sections of all proposed streets, as well as plans and profiles for all proposed major thoroughfares. Typical roadway sections must be provided for street widenings.
   b. Where sanitary or storm sewers are to be installed within a street, the grade; size, location, and bedding class of pipe; location and invert elevation of manholes must be indicated on the road profile.
   c. Profiles covering roadways that are extensions of existing roadways must include: elevations at 50-foot intervals for such distance as may be adequate to provide continuity consistent with the standards required by the Regulations for street improvements, but no less than 200 feet.
   d. All elevations must be coordinated and tied into the U.S. Coast and Geodetic Survey or Department of Transportation benchmarks where feasible, or into reference monuments established by the Federal Emergency Management Agency.
   e. Stub streets must be profiled at least 200 feet onto adjoining property (no tree cutting).
6. Buffer and landscape plan, if any such areas exist within the subdivision, prepared in accordance with the specifications under this Sub-section and other articles of this UDO.
7. Tree preservation/replacement plan, as applicable.
8. Floodplain management plans. If any floodplain areas are located on the property, such data as is required by Sec. 9.5 (Floodplain Protection) must be submitted.

H. Encroachments

Where construction is proposed on adjacent property, an encroachment agreement or easement must be submitted to the Department.

10.8.3. Final Plat Specifications

A. Scale

The final plat must be clearly and legibly drawn in black ink on Mylar or other permanent reproducible material. The scale of the final plat must be at least 1 inch = 100 feet. Sheet size must not exceed 48 inches by 36 inches.

B. Certified Boundary Survey

The final plat must be based on a certified boundary survey delineating the entirety of the property contained within the final plat and tied to a point of reference (tie point) with the same degree of accuracy as the boundary survey itself. The survey must have an initial field closure precision of 1 foot in no less than 10,000 feet and must meet all requirements of Georgia law regarding the recording of maps and plats.

C. Conformance

The final plat must substantially conform to the preliminary plat and it must constitute only that portion of the approved preliminary plat which the subdivider proposes to record at any one time, provided that such portion conforms to the requirements of these regulations, and said portion is not inconsistent with the public health, safety, or welfare. Any substantial deviation from the preliminary plat will require revision and reapproval of the preliminary plat.

D. Final Plat Contents

The final plat must contain the following information:

1. Name of the subdivision, unit number, land district, and land lot number.
2. Name, address, and telephone number of the owner of record, and the subdivider (if not the owner).
3. Name, address, and telephone number of each professional firm associated with the portion of the subdivision within the final plat (engineer, surveyor, landscape architect, etc.).
4. Date of plat drawing, graphic scale, north point; notation as to the reference of bearings to magnetic, true north or grid north, and an indication whether bearings shown are calculated from angles turned.
5. Location sketch of tract showing major surrounding features.
6. Name of former subdivision, if any or all of the final plat has been previously recorded.
7. Case number, date of approval and all provisions for any applicable rezoning, special use permit, variance or waiver affecting the property.
8. Location and dimension of any buffer, landscape strip, special setback, no-access easement, etc., required by this UDO.
9. Boundary lines of the tract, to be indicated by a heavy line, giving distances to the nearest one-hundredth foot and bearings to the nearest second. Bearing and distance to designated tie point must be shown. The plat must have an initial field closure precision of 1 foot in no less than 10,000 feet.

10. Municipal or county jurisdictional lines approximately tied to the lines of the subdivision by distance and angles when such lines traverse or adjoin the subdivision; land lot lines traversing or adjoining the subdivision must also be indicated.
11. Locations, widths, and names of all streets and alleys within and immediately adjoining the plat, the location and widths of all internal public crosswalks, and all other public rights-of-way.
12. Street centerlines showing angles of deflection and standard curve data including radii, length of arcs and tangents between curves, point of curvature (P.C.) and point of tangency (P.T.).
13. Lot lines with dimensions to the nearest one-tenth of a foot and bearings to the nearest second, and radii of rounded corners, as necessary to delimit each lot.
14. All setback lines along streets with dimensions.
15. When lots are located on a curve or when side lot lines are at angles other than 90 degrees, the lot width may be required to be shown, if deemed necessary by the Department.
16. Lots numbered in numerical order and blocks lettered alphabetically.
17. Location and size of all drainage pipes, location and extent of detention ponds, the location and size of all public water mains and fire hydrants, and the location, dimensions, and purpose of any easements, including construction or slope easements if required.
18. Location of any areas to be reserved, donated, or dedicated to public use with notes stating their purpose and limitations. Location of any areas to be reserved by private deed covenant for the common use of all property owners, or dedicated to a homeowners' association.
19. A statement of private covenants, if any and they are brief enough to be put directly on the plat; otherwise, if covenants are separately recorded, a statement as follows:
    This plat is subject to the covenants set forth in the separate document(s) attached hereto dated _____, which hereby become a part of this plat, and which were recorded _____ and signed by the owner.
20. Accurate location, material, and description of monuments and markers (all monuments must be in place before approval of the final plat). A minimum of two permanent markers is required for horizontal and vertical reference. Additional markers may be required on larger developments.
21. Certificates and statements specified below in these regulations.
22. Extent of the 100-year floodplain and a floodplain chart showing the area within and outside the floodplain for each lot containing any portion of the 100-year floodplain. The origin of the floodplain data must be indicated.
23. Street address numbers and block number designations for street name signs on abutting streets, where appropriate.
24. Individual lots must be designated HLP (house location plan), RDP (residential drainage plan) or RDS (residential drainage study) if required by the Director and to be approved before issuance of a building permit.
25. All other notes or notations as may be required by the Director.
26. The plat must be stamped and signed by a registered land surveyor.

E. Open Space Lands

If any lands are shown on the final plat for dedication to a property owners' association to meet minimum open space requirements of this UDO, a copy of the deed of transfer for such dedication

and a copy of the instrument of incorporation of the property owners' association must be submitted with the final plat application.

F. Certificates and Statements

Each final plat must bear the following certificates or statements printed or stamped thereon:

1. Final surveyor's certificate:

   It is hereby certified that this plat is true and correct as to the property lines and all improvements shown thereon, and was prepared from an actual survey of the property made by me or under my supervision; that all monuments shown hereon actually exist, and their location, size, type and material are correctly shown. 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, and contains a total of _____ acres. The equipment used to obtain the linear and angular measurements herein was _____ .

   By:_____
   REGISTERED GEORGIA LAND SURVEYOR
   REG NO _____
   DATE OF EXPIRATION _____

2. Owner's acknowledgment and declaration:
   (STATE OF GEORGIA)
   (COUNTY OF GWINNETT)

   The owner of the land shown on this plat and whose name is subscribed hereto, in person or through a duly authorized agent, acknowledges that this plat was made from an actual survey, and accurately depicts the land owned by the undersigned and dedicated by this Acknowledgment and Declaration to the use of the public forever all streets, sewer collectors, lift stations, drains, easements, and other public facilities and appurtenances thereon shown.

   _____ _____
   SIGNATURE OF SUBDIVIDER DATE SIGNED

   _____
   PRINTED OR TYPED NAME OF SUBDIVIDER

   _____
   SIGNATURE OF OWNER DATE SIGNED

   _____
   PRINTED OR TYPED NAME OF OWNER

3. Final plat approval:

   The Planning Commission Chairman and the Director of the City of Berkeley Lake, Georgia, certifies that this plat complies with the City of Berkeley Lake Unified Development Ordinance, and that it has been approved by all other operational City and county departments, as appropriate. This plat is approved subject to the provisions and requirements of the Development Performance

and Maintenance Agreement executed for this project between the Owner and the City of Berkeley Lake.

DATED THIS ____ DAY OF_____ , 20___.

_____
Planning Commission Chairman

_____
Director or Designee

4. Health department certification (for subdivisions served by septic tanks):

   The lots shown hereon have been reviewed by the Gwinnett County Health Department and with the exception of lots _____ are approved for development. Each lot is to be reviewed by the Gwinnett County Health Department and approved for septic tank installation prior to the issuance of a building permit.

   DATED THIS ____ DAY OF_____ , 20___.
   BY:_____
   TITLE:_____
   GWINNETT COUNTY HEALTH DEPARTMENT

   Note: The above authorization only constitutes approval by the Gwinnett County Health Department. Authorization for development shall not be considered complete and final until the procedure in Sec. 10.4.3.D (Final Plat Review~~Final Plat Review~~) *has been complied with.*

5. Public notice - drainage:
   Every single-family detached dwelling final plat must contain the following statement:

   a. *NOTE: The City of Berkeley Lake assumes no responsibility for overflow or erosion of natural or artificial drains beyond the extent of the street right-of-way, or for the extension of culverts beyond the point shown on the approved and recorded subdivision plat.*
   b. *NOTE: Stream Buffer Easements are to remain in a natural and undisturbed condition.*
   c. *NOTE: Structures are not allowed in drainage easements.*

   Every final plat that is not a single-family detached dwelling subdivision must contain the following statement:

   a. *NOTE: The City of Berkeley Lake assumes no responsibility for overflow or erosion of natural or artificial drains beyond the extent of the street right-of-way or for the extension of culverts beyond the point shown on the approved and recorded subdivision plat. The City of Berkeley Lake does not assume the responsibility for the maintenance of pipes in drainage easements beyond the City right-of-way.*
   b. *NOTE: Stream Buffer Easements are to remain in a natural and undisturbed condition.*
   c. *NOTE: Structures are not allowed in drainage easements.*

6. House Location Plans (HLP)
   On any final plat containing a lot for which a house location plan approval will first be required before issuance of a building permit, the following statement must be included:

HLP - HOUSE LOCATION PLAN

A House Location Plan must be approved by the Director before issuance of a building permit on those lots labeled "HLP." A House Location Plan is a scale drawing submitted by the builder at the time of permit. It is not required that this plan be prepared by a land surveyor or professional engineer. The purpose of this plan is to ensure that the house is properly located on the lot. Please refer to the City of Berkeley Lake Unified Development Ordinance or contact the Director for further information.

7. Residential drainage plan (RDP) or study (RDS):
   On any final plat containing a lot for which a residential drainage plan (RDP) or residential drainage study (RDS) will first be required before issuance of a building permit, the following statement must be included, as applicable:

   RDP - RESIDENTIAL DRAINAGE PLAN
   RDS - RESIDENTIAL DRAINAGE STUDY

   A Residential Drainage Plan or Residential Drainage Study must be approved by the Director before issuance of a building permit on those lots labeled "RDP" or "RDS," respectively. Please refer to the City of Berkeley Lake Unified Development Ordinance and contact the Berkeley Lake City Administrator for further information.

10.8.4. House Location Plan

A. Scale

House location plans (HLPs) must be drawn to scale and may be shown on a certified boundary survey of the lot or any other drawing showing the information required below. The Department may accept a house location plan drawn to the same scale as shown on the final plat where sufficient detail can be shown to support an adequate review and approval. The house location plan may be combined with a residential drainage plan (RDP) if an RDP is required for the lot.

B. Preparation

It is not the intent of this Sub-section that the house location plan must be prepared by a registered surveyor or engineer; rather, it may be done by the individual proposing the improvements on the lot. It is the intent, however, to receive a drawing with sufficient readability and accuracy to ensure that the proposed improvements are constructed on the lot in conformance with the requirements of this UDO or other regulations, as applicable.

C. Contents

House location plans must show the following as applicable:

1. Boundary lines of the lot, giving distances to the nearest one-tenth of a foot and bearings to the nearest minute.
2. Location and names of all abutting streets or other rights-of-way.

3. Minimum required front, side and rear building setback lines with dimensions, and notation of the existing zoning on the property.
4. The approximate outline of all buildings, driveways, parking areas, swimming pools, recreational courts, patios, accessory structures, and other improvements existing or proposed on the property, and dimensions of buildings and distances between all structures and the nearest property lines.
5. All easements, public water, sewer or storm drainage facilities traversing or located on the property, septic tank, and septic tank drain field.
6. Subdivision name, lot designation, land lot, and district.
7. North arrow and scale.
8. Limit of the 100-year floodplain and any applicable buffers or special building setback lines.
9. All other applicable requirements of this UDO or conditions of zoning approval.
10. Name, address, and telephone number of the owner and the person who prepared the HLP.

10.8.5. Residential Drainage Plan or Study

A. Scale

Residential drainage plans must be drawn to scale on a certified boundary survey of the lot prepared by a registered land surveyor, having an initial field error of closure not exceeding 1 foot in 5,000 feet. The residential drainage plan may be combined with an HLP if an HLP is required for the lot. The requirements contained herein also apply to lots which formerly required SPED (site plan - engineering division) approval before the issuance of a building permit.

B. Contents

Residential drainage plans must show the following, as applicable:

1. Boundary lines of the lot, giving distances to the nearest one-tenth of a foot and bearings to the nearest minute.
2. Location and names of all abutting streets or other rights-of-way.
3. The outline of all buildings, driveways, parking areas, swimming pools, recreational courts, patios, accessory structures, and other improvements existing or proposed on the property, and dimensions of buildings and distances between all structures and the nearest property lines as required to locate the major improvements on the lot.
4. All easements, public water or sewer facilities traversing or located on the property, and septic tank drain field.
5. Subdivision name, lot designation, land lot, and district.
6. North arrow and scale.

7. Contour lines based on sea level datum. These must be drawn at intervals of no more than 2 feet and must be based on a field survey. The proposed grading of the lot must be shown along with the finished floor elevation of the lowest habitable floor of the house.
8. Stormwater features, including swales, pipes, stormwater detention and other structures, all drainage (D.E.) easements, and directions of flow.
9. Floodplain features, including the limits of the flood hazard area, 100-year flood high water elevation, the origin of the floodplain data, and any proposed modifications to the floodplain limits.
10. Sedimentation and erosion control measures to be taken or placed on the lot during construction.
11. Names, address, and telephone number of the owner and person who prepared the RDP.
12. Seal, registration number, and date of expiration of the professional engineer or landscape architect who prepared the drainage improvements or modifications shown on the RDP.

C. Residential Drainage Study

1. A residential drainage study (RDS) must be conducted by the developer's or builder's design professional before issuance of a certificate of occupancy on those lots so noted on the final plat. The requirements for an RDS contained herein also apply to lots that formerly required SSED (site study - engineering division) approval before the issuance of a building permit.
2. The grading and construction of the lot must be field verified by the developer's or builder's design professional as being in conformance with grading plans and stormwater management studies approved for the subdivision before issuance of a certificate of occupancy.

D. Plans to be Field Verified

A certificate of occupancy may not be issued for the structure until a written certification has been received from the developer's or builder's design professional stating that the provisions or improvements required by the residential drainage plan or as a result of the residential drainage study have been field verified.

E. Notation of Stream or Floodplain on Development Plans or Plat

If an RDP or RDS is required because a stream or floodplain is on or adjacent to the lot, the notation on the development plans and plat should be “RDP-E” or “RDS-E,” as appropriate.

10.8.6. Site Development Plans

A. Application Criteria

An application for a development permit for a multifamily or nonresidential site must consist of the site plan, a certified boundary survey or final plat reference, associated slope or construction easements (if any), and such other development plans as may be required by this UDO.

B. Conformance

The development plans must generally conform to the concept plan, if any, and may constitute only that portion of the approved concept plan which the developer proposed to construct at one time as a single unit, provided that such portion conforms to the requirements of these rules and regulations and all setbacks, maximum density, and other zoning district restrictions. If no concept plan was approved on the property, the development plans must include the entire property being developed having the same zoning district.

C. Scale

The development plans must be clearly and legibly drawn at an engineering scale convenient to illustrate the details of the project. Sheet size may not exceed 48 inches by 36 inches. Plan and profile sheets, if any, must have a horizontal scale of no less than 1 inch = 100 feet and a vertical scale of no less than 1 inch = 10 feet.

D. Project Boundary Data

1. The site plan must be based on the boundaries of a lot as recorded on a final subdivision plat or on a certified boundary survey delineating the entirety of the property contained within the project, and tied to a point of reference (tie point) with the same degree of accuracy as the boundary survey itself. The survey must have an initial field closure precision of 1 foot in no less than 10,000 feet and must meet all requirements of Georgia law regarding the recording of maps and plats.
2. Each site plan must be drawn on, accompanied by, or referenced to a boundary survey which must at least meet the requirements of Sub-paragraph 1 above.

E. Site Plan Contents

The site plan must contain the following (on one or more sheets):

1. Proposed name of development. If the project is located within a subdivision, the name of the subdivision, lot, and block number must also be shown.
2. Name, address, and telephone number of the owner of record, and of the developer (if not the owner).
3. Name, address, and telephone number of each professional firm associated with the development plans (engineer, landscape architect, surveyor, etc.).
4. Date of survey, north point, and graphic scale, source of datum, date of plan drawing, and space for revision dates.
5. Proposed use of the site, including gross square footage for each different use type or building.
6. Location (land district and land lot), acreage or area in square feet, and density (if applicable).
7. Location sketch locating the development in relation to the surrounding area with regard to well-known landmarks such as major thoroughfares or railroads. Sketches may be drawn freehand and at a scale sufficient to show clearly the information required, but at least 1 inch = to 2,000 feet. U.S. Geological Survey maps may be used as a reference guide for the location sketch.

8. Size and location of all buildings, building setback lines, minimum yard lines, and distances between buildings and from buildings to property lines; location of outdoor storage areas; parking and loading areas, driveways, curb cuts and designated fire lanes. Each building must be identified with a number or letter.
9. Boundary lines of the perimeter of the tract indicated by a heavy line giving lengths to the nearest one-hundredth of a foot and bearings to the nearest second. Bearing and distance to designated tie point.
10. Directional flow arrows for street drainage.
11. Contour lines based on sea level datum. These must be drawn at intervals of no more than 2 feet and must include the entire site and all abutting public streets. Contour lines must be based on field surveys or photogrammetric methods from aerial photographs. The basis for the topographic contour shown must be specified and dated.
12. Natural features within the proposed development, including drainage channels, bodies of water, and other known significant features such as extensive exposed rock. On all watercourses leaving the tract, the direction of flow must be indicated. The 100-year floodplain must be outlined and the source of the depicted floodplain information must be indicated. The acreage or area in square feet within the floodplain must be indicated.
13. Man-made and cultural features existing within and adjacent to the proposed development including existing right-of-way measured from the centerline, pavement widths, and names of jurisdiction lines; existing structures on the site and their disposition, and other significant information. Location and dimensions of existing bridges; water, sewer, and other existing utility lines and structures; culverts and other existing features should be indicated.
14. Proposed street names, roadway and right-of-way lines and widths and sites reserved through covenants, easement, dedication or otherwise for public uses.
15. Identify the unit number, division or stage of development, if any, as proposed by the developer.
16. Show all adjoining property owners, subdivision names, lot numbers, lot lines and block letters, and zoning.
17. Show the location and number of parking spaces according to the size of the building on the plans. Show factors used in determining the number of spaces required by Sec. 7.1.4 (Accessible Parking~~Accessible Parking~~). Accessible parking spaces must be shown as required by the Georgia law.
18. Zoning district rezoning case number, date of approval and conditions (as applicable). Variances obtained on the property should be shown with the case number, date of approval and conditions (if applicable). Note any approved waivers from these regulations.
19. If buffers or other landscaping or screening treatments are required, show the location, size, and type (natural or planted) on the plans conforming to the tree preservation/replacement plan or buffer and landscape plan, as applicable.

20. Location, height, and size of all freestanding signs to be erected on the site, and an indication of whether lighted or unlighted.
21. Location of all known existing or previously existing landfills. A statement that no cut trees, timber, stumps, debris, rocks, stones, junk, rubbish, garbage, or other waste material of any kind may be buried in any right-of-way, under any proposed structure, or in any on-site/off-site pit.
22. Such additional information as may be reasonably required to permit an adequate evaluation of the project.
23. Plans must be stamped and signed by a professional engineer, registered land surveyor or landscape architect (as appropriate).

F. Certificate of Development Plans Approval and Owner's Acknowledgment

Each site plan must carry the following certificate printed or stamped thereon:

All requirements of the City of Berkeley Lake Regulations relative to the preparation and submission of a development permit application having been fulfilled, and said application and all supporting plans and data having been reviewed and approved by all affected city and county departments as required under their respective and applicable regulations, approval is hereby granted of this site plan and all other development plans associated with this project subject to all further provisions of said development and other city regulations.

_____ _____
City Manager or Designee *Date*
City of Berkeley Lake

THIS CERTIFICATE EXPIRES TWELVE MONTHS FROM THE DATE OF APPROVAL UNLESS A DEVELOPMENT PERMIT IS ISSUED

Owner's Acknowledgment and Declaration:

(STATE OF GEORGIA)
(COUNTY OF GWINNETT)

The owner of the land shown on this plat and whose name is subscribed thereto, and in person or through a duly authorized agent, acknowledges that this plat was made from an actual survey, and accurately depicts the land owned by the undersigned and dedicated by this declaration to the use of the public forever all streets, sewer collectors, lift stations, drains, easements, and other public facilities and appurtenances thereon shown, and transfers ownership of all public use areas in fee simple by deed, for the purposes therein expressed.

SUBDIVIDER _____ *OWNER* _____

DATE _____ *DATE* _____

G. Additional Plans

The site plan must be accompanied by other development plans showing the following information when same is not shown on, or evident from the site plan. The various plans may be combined where appropriate and clarity can be maintained.

1. Erosion control plan prepared in accordance with the requirements of Sec. 402-2 (Soil Erosion and Sedimentation Control). Erosion control measures may be shown on the grading plan, if desired.
2. Grading plan, prepared in accordance with the requirements Sec. 402-1 (Grading).
3. Stormwater drainage construction data:
    a. Location and size of all proposed drainage improvements, and all proposed drainage easements to be located outside street right-of-way lines.
    b. Profiles of all storm drainage pipes and slope of receiving channels. The hydraulic grade line for the 100-year storm is to be shown on all pipes and detention basin outfalls. On storm drainage profiles a pipe chart must be shown, including pipe numbers, pipe size, pipe material, pipe slope, pipe length, contributing drainage area, design flow, design storm frequency, runoff coefficient and velocity. Profiles of all open channels and ditches must be shown including the design flow normal depth and velocity. On storm drainage profiles an open channel chart must be shown which will include open channel numbers, conveyance size, lining material, length, channel slope, contributing drainage area, design flow, design storm frequency, runoff coefficient and velocity for the required design flow.
    c. Acreage of drainage areas and hydrological study used in determining the size of structures, including a map of all contributing drainage basins and acreages.
4. Sewage disposal plans, as follows:
    a. Sanitary sewer plans, including the profiles and other information as may be required by Gwinnett County Water Pollution Control.
    b. For projects proposed to be served by on-site sewage disposal systems, location and extent of the septic tank, drain field and attendant structures, and other information required by the Gwinnett County Health Department.
5. Street widening and construction data:
    a. Centerline profiles and typical roadway sections of all proposed streets, as well as plans and profiles for all proposed major thoroughfares. Profiles (and plans, where required) must be drawn on the standard plan and profile sheet with plan section showing street layout, pavement and right-of-way width, curvature, and required drainage facilities. Typical roadway sections must be provided for street widenings.
    b. Where sanitary or storm sewers are to be installed within a street, the grade, size, location and bedding class of pipe; location and invert elevation of manholes must be indicated on the road profile.

c. Profiles covering roadways that are extensions of existing roadways must include elevations at 50-foot intervals for such distance as may be adequate to provide continuity consistent with the standards required by these regulations for street improvements, but no less than 200 feet.

d. All elevations must be coordinated and sited into U.S. Coast and Geodetic Survey or Department of Transportation benchmarks where feasible or into reference monuments established by the Federal Emergency Management Agency.

e. Buffer and landscape plan, if any such areas exist within the site, prepared in accordance with the specifications here, and otherwise required by this UDO.

f. Tree preservation/replacement plan, as applicable.

g. Floodplain management plans if any floodplain areas are located on the property. Such data as is required by the floodplain management ordinance must be submitted.

h. Private water system plans, if any, indicating proposed water main size and location, with fire hydrants, on the site. The distance and direction to all other fire hydrants within 500 feet of the site or buildings along existing streets or other access drives must also be indicated.

i. Street striping plan, showing striping in accordance with the Manual on Uniform Traffic Control Devices, for any street newly constructed to four or more lanes, and all newly constructed or widened major thoroughfares.

H. Encroachments

Where construction is proposed on adjacent property, an encroachment agreement or easement must be submitted to the Department.

I. Public Notice, Drainage

Every site plan must contain the following statement:

1. NOTE: The City of Berkeley Lake assumes no responsibility for overflow or erosion of natural or artificial drains beyond the extent of the street right-of-way or for the extensions of culverts beyond the point shown on the approved and recorded plan. The City of Berkeley Lake does not assume the responsibility for the maintenance of pipes in drainage easements beyond the City right-of-way.
2. NOTE: Stream Buffers are to remain in a natural and undisturbed condition.
3. NOTE: Structures are not allowed in drainage easements.

10.8.7. Tree Preservation/Replacement Plans

A. Conformance

A tree preservation/replacement plan is required only when indicated in Sec. 9.1.16 (Tree Preservation/Replacement Plan Specifications~~Tree Preservation/Replacement Plan Specifications~~)

B. Additional Plans

Tree preservation/replacement plans must be prepared in accordance with the specifications contained in Sec. 9.1.16 (Tree Preservation/Replacement Plan Specifications~~Tree Preservation/Replacement Plan Specifications~~). At the developer's option, the plan may be combined with other plans such as a general landscaping plan for the project.

10.8.8. Buffer and Landscape Plans

A. Required

A buffer and landscape plan is required when indicated in this UDO.

B. Conformance

The buffer and landscape plans must be prepared in accordance with this UDO. At the developer's option, the plan may be combined with other plans such as a general landscaping plan.

Sec. 10.9. Fees

A. Schedule of Fees

1. The Schedule of Fees has been established by the City Council to help defray the cost of processing applications under this UDO.
2. The current Schedule of Fees is available on-line on the City's website and kept on file by the Director. The current Schedule of Fees is available for public inspection at City Hall.
3. The Schedule of Fees will be periodically updated by the City Council.

B. Payment Required

All required fees must be paid in full before an application will be reviewed.

C. Nonrefundable

Required fees are nonrefundable.

Sec. 10.10. Nonconformities

10.10.1. Intent

Within the districts established by this UDO, or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before the UDO was passed or amended but which would be prohibited, regulated, or restricted under the terms of this UDO. These are called nonconforming lots, nonconforming structures, and nonconforming uses, as the case may be. These nonconformities are declared by the UDO to be incompatible with permitted uses in the districts involved. Based on that incompatibility, the following intents are stated:

A. It is the intent of this UDO to allow continuation of these nonconformities until the end of their useful life, while encouraging conformance with this UDO when it becomes reasonable to do so. Nonconformities run with the land and benefit a subsequent purchaser. The burden belongs to the one who seeks to use land in a way that would be prohibited by this UDO to establish legal nonconforming status under the terms of this Section. They must show that the use or structure was lawful from inception based on the regulations in effect at the time of initial use and that the use remains legally nonconforming as provided herein.

B. It is the intent of this UDO that nonconformities will not be used as grounds for adding other structures or uses prohibited elsewhere in the same district and will not be enlarged, extended, or expanded except as provided in this Section.

C. It is the intent of this UDO that nonconforming uses of land, structures, or land and structures in combination will not be extended or enlarged after passage of the UDO. This includes, but is not limited to, attachment on a building or premises of signs intended to be seen from off the premises, or by addition of other uses, of a nature generally prohibited in the district involved.

D. It is not the intent of this Section to affect rights which accrued before the adoption of this part or to impair or eliminate vested rights acquired under existing laws for future use of land or to create a new obligation.

10.10.2. Nonconforming Lots

Existing lots platted and recorded in Gwinnett County plat books at the effective date of adoption or amendment of this UDO may not meet the minimum regulations or requirements of the zoning districts they are located in. Where existing lots of record are below the minimum dimensions established by the UDO, the following standards apply:

A. Except as stated in Paragraph B immediately below, a nonconforming lot of record in any district that is below the required lot area, lot width, or lot depth for the district may be used for any use permitted by the district, provided all other standards of the district are met.

B. In the case of such nonconforming lot of record, when the lot was previously approved in a final plat for use as a common area, open space, private alley, stormwater facilities, or a similar amenity or infrastructure use, it may not be used for any permitted use in the district.

C. Where relief is necessary to make an existing lot of record buildable, a variance may be considered by the Planning and Zoning Commission as specified in Sec. 10.7 (Quasi-Judicial Review~~Quasi-Judicial Review~~).

10.10.3. Nonconforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this UDO that could not be built under the terms of this UDO by reasons of restriction on area, lot coverage, height, setbacks, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it is and remains otherwise lawful subject to the following provisions:

A. Enlargement or Alteration

1. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity.
2. Where a structure is used for a permitted use, any structure, or portion thereof, may be enlarged or altered if the degree of its nonconformity remains the same or is decreased.

B. Reconstruction After Destruction

Whenever a nonconforming structure is damaged, it may be restored subject to the following:

1. **Single-family- and Two-family Dwelling Principal Buildings**

   If any nonconforming principal building containing a single-family or two-family dwelling, or nonconforming portion thereof, is destroyed, by any means, it may be rebuilt in the same location and upon its previous foundation and to its previously existing height, as long as the reconstruction does not increase the previously existing degree of nonconformity.

2. **Other Principal Buildings**

   If any nonconforming principal building not specified in "1" immediately above, or nonconforming portion thereof, is destroyed by any means, the structure may only be restored if the extent of the damage is 40% or less of the floor area of the structure or 40% or less of the replacement value of the structure, as determined by the Director or submittal of a signed statement by a licensed professional building contractor to provide a fair and accurate valuation.

3. **Accessory Structures**

   If any other nonconforming structure, or nonconforming portion of structure, is destroyed by any means, the structure may only be restored if the extent of the damage is 25% or less of the floor area of the structure or 25% or less of the replacement value of the structure, as determined by the Director or submittal of a signed statement by a licensed professional building contractor to provide a fair and accurate valuation.

4. **Conformance Required**

If the damage exceeds 40% of the floor area or replacement value of the principal structure or 25% of the floor area or replacement value of the accessory structure, as determined by the Director, the structure may only be restored in conformity with this UDO.

5. **Fair and Accurate Valuation**

   If the Director has cause to suspect that a signed statement submitted by a licensed professional is not a fair and accurate valuation, the Director will have the authority to require up to two additional signed statements from other licensed professional contractors. Neither the original licensed contractor nor any additional licensed contractor may be employed by the same business.

6. **Time Limit**

   Restoration must ~~be completed~~start within six months of the date of destruction and must be complete within 18 months of the date of destruction.

C. Moving

1. A nonconforming structure may be moved on its own lot only if the Director determines that such movement reduces the degree of nonconformity to the maximum extent reasonably feasible, or eliminates such nonconformity, but must in no case be moved on its own lot in such a manner as to increase the degree of nonconformity.
2. Where a nonconforming structure is moved off its previous lot, it must thereafter conform to the regulations for the district in which it is located after it is moved.

D. Strengthening

Nothing contained in this Sub-section prevents the strengthening or restoring to safe condition of any structure, or portion thereof, declared unsafe by any public official charged with protecting the public safety, upon order of such official.

E. Reduction of Building Setbacks

If land is taken from an existing lot of record for public purposes in such manner as to reduce building setbacks previously provided in relation to a portion of a structure below setback requirements generally applicable within the district, the portion of the structure involved will be considered nonconforming.

10.10.4. Nonconforming Uses

Where a lawful use of land or a structure exists at the effective date of adoption or amendment of the UDO that is not allowed under the terms of the UDO, such use of land or structure may be continued so long as it is and remains otherwise lawful subject to the following provisions:

A. Enlargement or Alternation

~~A.~~1. No nonconforming use or nonconforming use of land may in any way be extended, either on the same or adjoining property.

~~B.~~2. The use may not be extended to occupy a greater area of a building or structure unless such additional area of the building or structure existed at the effective date of adoption or amendment of the UDO and was clearly designed to house the same use as the nonconforming use occupying the other portion of the building or structure.

~~C. The use may not be reestablished after discontinuance for six months.~~

~~D. The use may not be changed to another nonconforming use.~~

B. Change of Use

A nonconforming use may be changed to any other use that is allowed in the subject zoning district. Once changed to a conforming use, a nonconforming use may not be re-established.

C. Loss of Nonconforming Status

1. Abandonment

a. Once a nonconforming use is abandoned, its nonconforming status is lost and any new, replacement use must comply with the regulations of the zoning district in which it is located.

b. A nonconforming use is presumed abandoned when the use is discontinued or ceases for a continuous period of 6 months or more.

c. A nonconforming use is also presumed abandoned when the owner and/or operator fails to obtain a business license or renew an existing business license, as required under the City Code, for the operation of such nonconforming use.

d. Any period of discontinued use caused by government action, unintended fire or natural disaster will not be counted in calculating the length of discontinuance.

2. Change to Conforming Use

If a nonconforming use is changed to a conforming use, no matter how short the period of time, all nonconforming use rights are lost and re-establishment of the nonconforming use is prohibited.

3. Damage or Destruction

a. When a building containing a nonconforming use is intentionally destroyed, razed or dismantled by a deliberate act of the owner or the owner's agent, re-establishment of the nonconforming use is prohibited.

b. Unless a building containing a nonconforming use loses its nonconforming use rights due to intentional destruction, the building and use may be restored or repaired provided that no new nonconformities are created and that the existing degree of nonconformity is not increased. A building permit to reconstruct a destroyed or damaged building must be obtained within 2 years of the date of occurrence of such damage.

10.10.5. Nonconforming Signs

For requirements, see Sec. 7.5.15 (Nonconforming Signs~~Nonconforming Signs~~).

Sec. 10.11. Enforcement

10.11.1. General Provisions

A. The Director will administer and enforce this UDO as specified in Sec. 10.2.2.B.

B. The Director will enforce performance surety for trees and landscaping as specified in Sec. 7.3.6.

10.11.2. Penalties

A. The penalties in Sec. 10.11.2.B below will apply, except where otherwise specified by this UDO.

B. Any person, firm or corporation violating any of the provisions of this UDO will be deemed guilty of an offense and upon conviction thereof will be punished as provided in the Code of the City of Berkeley Lake, Sec. 1-8. Each day's continuance of a violation will be considered a separate offense. The owner of any buildings or premises or parts thereof, where anything in violation of this part exists, and any architect, builder, contractor or agent of the owner, or any tenant, who commits or assists in the commission of any violation, will be guilty of a separate offense.

Article 11. Definitions

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Article 11. Definitions

Sec. 11.1. General Provisions

11.1.1. Rules of Interpretation

A. Words used in this UDO are defined by their dictionary meaning unless defined in this Article, elsewhere in this UDO, or another City ordinance.

B. The dictionary meaning is the meaning given by common and ordinary use as defined by the latest edition of Webster's Third New International Dictionary.

C. When definitions are provided in an individual Article or Section of this UDO, those definitions only apply in that Article or Section. If the same term or phrase is also defined in this Section, the definition in this Section does not apply in that instance.

D. The words "must," "will," and "shall" are mandatory and not discretionary.

E. The word "may" is permissive.

F. The word "cannot" and the phrases "must not," "may not," and "shall not" are prohibitive.

G. When appropriate to the context, words used in the singular include the plural, and the plural the singular; words used in the present tense include the future tense, and vice versa.

H. Words have the same meaning when capitalized or uncapitalized.

I. The word "person" includes the words "individuals," "firms," "partnerships," "corporations," "associations," "governmental bodies" and all other legal entities.

J. The word "lot" includes the words "plot" or "parcel."

K. The word "erected" includes the words "built," "moved," "located," or "relocated."

L. The word "zoning map" means the Official Zoning Map of Berkeley Lake, Georgia.

M. The words "used" or "occupied" include the words "intended, maintained, arranged, or designed to be used or occupied."

N. The words "zone," "zoning district" and "district" have the same meaning and refer to the zoning districts established by this UDO.

O. Use of the word "and" is inclusive and requires that all the component phrases so connected must be present or fulfilled for sufficiency.

P. Use of the word "or" is not exclusive (as in "either ... or") and requires that at least one of the component phrases so connected must be present or fulfilled for sufficiency. The word "or" may allow more than one component phrase to be present or fulfilled, as is implied by the common term "and/or."

Q. Whenever the term “dwelling unit,” “dwelling,” “premises,” “building,” or “story” is stated in this UDO, it will be construed as though it was followed by the words “or any part thereof.”

11.1.2. Abbreviations

The following abbreviations appear in this UDO.

Abbreviation	Full Term
‘	Feet/foot
“	Inch/inches
AASHTO	American Association of State Highway and Transportation Officials
ADA	Americans with Disabilities Act
avg.	Average
DBH	Diameter at breast height
DRI	Development of Regional Impact
EIFS	Exterior Insulation Finishing Systems
EPD	Georgia Environmental Protection Division
FAA	Federal Aviation Administration
FCC	Federal Communications Commission
FEMA	Federal Emergency Management Agency
ft.	Feet/foot
GDOT	The Georgia Department of Transportation
HSG	Hydrologic soils group
LED	Light-emitting diode
max.	Maximum
min.	Minimum
O.C.G.A.	Official Code of Georgia Annotated
ROW	Right-of-way
sf.	Square foot/square feet
TDU	Tree density units

Sec. 11.2. Defined Terms

A.

Accessory buildings and uses. A subordinate building or portion of the main building, the use of which is incidental to that of the dominant use of the main building or land, including bona fide domestic employee quarters. An accessory use is one which is incidental to the main use of the premises.

Accessory structure. A detached subordinate structure, the use of which is clearly incidental or related to that of the principal structure or use of the land, and which is located on the same lot as that of the principal structure or use.

Adjoining and adjacent. Lying near, close; neighboring.

B.

Basement. An area below the first floor which may have part, but no more than one-half, of its height above ground level.

Berm. An earthen ledge or shoulder along the edge of a road or sidewalk.

Buffer. Land area which separates land use areas from one another through screening and distance, to shield or block noise, light, glare, visual or other conditions, or to minimize physical passage to nonsimilar areas, or reduce air pollution, dust, dirt and litter.

Buffer, construction. A temporary buffer which remains an active buffer until work is inspected and verified as complete by the proper authorities or a Certificate of Occupancy is issued.

Buffer, permanent. A buffer which is designed to be permanent and which may include, but is not limited to, undisturbed buffers, stream buffers, and buffers separating zoning districts.

Buffer, undisturbed. An area of land on public or private property that has been designated on a plat as a nondisturb buffer, undisturbed buffer, or natural buffer. No disturbance or grading is allowed except for approved perpendicular access and utility crossings.

Buffer, zoning. A permanent buffer required by Sec. 7.2.1 or as a condition of zoning, special use or variance approval for a specific property.

Building. A structure which is designed and suitable for the habitation or shelter of human beings, or animals, or the shelter or storage of property, or for use and occupation for some purpose of trade or manufacture.

Building, detached. A building having no party wall common with another building.

Building lot. A lot occupied or to be occupied by a building and its accessory structures, plus any open spaces required by this UDO, that meets the minimum area and width requirements of its zoning district. The term excludes lots used exclusively for common areas, open spaces, private alleys, stormwater facilities, subdivision entrance signs, or subdivision entrance landscape features.

Building line and setback line. A line dropped from the outer edge of any portion of the structure to the surface of the ground.

Business and business use. Necessarily requiring employment for one or more persons for the purpose of earning a livelihood, activities or person to improve their economic conditions and desires, and generally relate to commercial and industrial engagements.

C.

Caliper. An American Nursery and Landscape Association (ANLA) standard for trunk measurement of nursery stock. Caliper of the trunk must be taken 6 inches above the ground for up to and including four-inch caliper size, and 12 inches above the ground for larger sizes.

Carport. A structure, open on at least two sides, consisting of a roof and either walls or columns for the purpose of housing vehicles.

City arborist. A professional arborist retained by the City as needed to advise the Director on matters relating to this tree planting and preservation. The arborist may be a representative of the state forestry commission, the University of Georgia Extension Service or a private certified arborist.

City. The City of Berkeley Lake, Georgia.

City Council. The City Council of Berkeley Lake, Georgia.

City Engineer. The person designated by the Director to assist in reviewing and administering the engineering provisions of this UDO.

Clearing. The removal of vegetation from a property, whether by cutting or other means.

Comprehensive Plan. The currently adopted comprehensive plan of the City of Berkeley Lake, Georgia.

County. Gwinnett County, Georgia.

Critical root zone (CRZ). The minimum area beneath a tree that must be left undisturbed to preserve a sufficient root mass to give the tree a reasonable chance of survival. The CRZ will typically be represented by a concentric circle centering on the tree's trunk with a radius equal in feet to 1.5 times the number of inches of the trunk's diameter.

D.

Dense Graded Aggregate (DGA). A well-graded mixture of crushed stone and fine particles, typically ranging in size from 1 inch or ¾ inch down to stone dust. It is commonly used as a compacted, stable subbase for roads, driveways, and hardscape surfaces because it achieves high density and has lower permeability than open-graded aggregate. Dense-graded aggregate is also commonly referred to as quarry process, crusher run, or ¾-inch minus.

Developed. Areas of land that have been altered as specified in “previously developed site.”

Development activity. Any alteration of the natural environment which requires the approval of a development or site plan and issuance of a development permit. Development activity also includes the “thinning” or removal of trees from undeveloped land in conjunction with a forest management program, and the removal of trees incidental to the development of land or to the marketing of land for development.

Development permit. A permit issued by the City that authorizes construction of site improvements.

Diameter at breast height (DBH). A standard measure of tree size where the widest cross sectional dimension of a tree trunk is measured at a point 4.5 feet above the ground. If a tree splits into multiple trunks below 4½ feet, then the trunk is measured at its most narrow point beneath the split.

Director. The City Administrator or their designee.

District. A zoning district, unless otherwise specified.

Disturb. See "land disturbance."

Dripline. A line on the ground established by a vertical plane extending from the tree's outermost branch tips to the ground, i.e., the line enclosing the area directly beneath the tree's crown from which rainfall would drip.

Driveway, ribbon. A specialized residential driveway consisting of two parallel paved wheel tracks separated by a vegetated or pervious strip, such as grass or crushed stone.

Dwelling unit. A room or suite of two or more rooms that is designed for the occupancy, cooking and sleeping of one or more individuals living as a family.

Dwelling. A building or portion thereof designed exclusively for residential use, including all household living uses, but excluding all other uses.

E.

[Reserved]

F.

Family. Any number of individuals related by blood, marriage, adoption, or guardianship; or up to three individuals not so related who live together in a dwelling unit as a single housekeeping unit under a common lease or ownership arrangement, based on an intentionally structured relationship providing organization and stability, and where all individuals that constitute the family have common access to, and common use of, all areas within the dwelling unit. For the purposes of calculating the number of individuals who live in a dwelling, family members who are related by blood, marriage, adoption, or guardianship count as one individual.

Floodplain, 100-year. Those lands subject to flooding, which have at least a 1% probability of a flooding occurrence in any calendar year, and specifically, the floodplain as shown on the flood boundary and floodway map as prepared by the federal emergency management agency (FEMA).

Front and frontage. That side of a lot abutting on a street or way and ordinarily regarded as the front of a lot, but it will not be considered as the ordinary side of a corner lot.

G.

Garage, residential. See Sec. 6.8.2.M

Grading. The placement, removal, or movement of earth by use of mechanical equipment on a property.

Greenhouse. A building or structure constructed chiefly of glass, glass-like translucent material, cloth, lath or similar materials which is devoted to the protection or cultivation of flowers and other plants.

Ground cover. A category of plants usually ranging from a few inches to 1 foot or more in height. Some ground covers are excellent for preventing soil erosion; others are helpful in carrying out design patterns.

Ground Story. The lowest story, or the first floor of story of a building (measured along the facade closest to the front lot line) and having direct access to the exterior.

Ground-story. An adjective describing uses located on the ground story of a building.

Grubbing. The removal of tree stumps and roots.

H.

Holiday. A day fixed by law or custom commemorating an event or honoring a person.

I.

Improvement. Any building, structure, place, work of art or other object constituting a physical betterment of real property, or any part of such betterment.

Incompatible use. A use which is incapable of existing in harmony with other uses situated in its immediate vicinity.

Invasive species. A plant listed on the Georgia Invasive Species Council's Invasive Species List.

J.

[Reserved]

L.

Land disturbance. Clearing, grading, excavation, or grubbing activities on a site or portion of a site.

Land disturbance permit (LDP). Any permit issued by the City that authorizes clearing, grading or grubbing activities on a site or portion of a site. An LDP may be a clearing, clearing and grubbing, grading or development permit as defined and authorized under this UDO.

Landscape strip. Land area located within the boundary of a lot and required to be set aside and used for landscaping upon which only limited encroachments are authorized.

Lot. See Sec. 2.2.2.A.

Lot area. See Sec. 2.2.2.D.

Lot, building. Land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required in the provisions of this UDO, having not less than the minimum area and width required by this UDO for a lot in the district in which such land is situated, and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of the law to be adequate as a condition of the issuance of a building permit for building on such land.

Lot, corner. See Sec. 2.2.2.B.1.

Lot coverage. See Sec. 2.2.3.A.

Lot depth. See Sec. 2.2.2.F.

Lot, flag. See Sec. 2.2.2.B.2.

Lot frontage. See Sec. 2.2.2.E.

Lot, interior. See Sec. 2.2.2.B.3.

Lot, regular. See Sec. 2.2.2.C.

Lot, through. See Sec. 2.2.2.B.4.

Lot width. See Sec. 2.2.2.G.

M.

Mayor. The Mayor of Berkeley Lake, Georgia.

Mixed-use. A combination of at least two use categories.

Mobile home. A detached, single-family dwelling designed for long-term occupancy; designed to be transported after fabrication on its own wheels, arriving at a site where it is to be occupied as a complete dwelling unit usually, but not necessarily, including appliances and furniture and ready for occupancy. Any such structure will be deemed to be a mobile home whether or not the wheels have been removed therefrom and whether or not resting upon a temporary or permanent foundation. Travel trailers or camp-type trailers are not mobile homes.

Mulch, organic. A layer of organic material placed on the surface of soil to retain moisture, moderate soil temperature, reduce weed growth, prevent erosion, improve appearance, and protect plant roots. Organic mulch may include bark, wood chips, pine straw, leaves, or composted material. The term specifically excludes mulch made from tires, stone, or similar non-living materials.

N.

No-access easement. A strip of land allowed by this UDO along the property line of double frontage lots.

Nonconforming building or structure. A building or structure that does not meet current zoning regulations or building code requirements in its current zoning district; a legal nonconforming structure does not meet all current zoning and building code requirements within its current zoning district. However, it did meet zoning and building codes in effect at the time of construction and issuance of a certificate of occupancy for the building. Nonconforming structures are typically allowed to continue under certain conditions, but may be subject to certain restrictions or requirements of this UDO and current building codes.

Nonconforming use. A use of a building or land that does not comply with the current zoning regulations of the zoning district in which it is located. A legal nonconforming use refers to a use that was lawful before subsequent changes to the zoning regulations. An illegal nonconforming use, on the

other hand, was never lawful and does not conform to current zoning laws. Nonconforming uses are typically allowed to continue under certain conditions, but may be subject to certain restrictions or requirements of this UDO.

Non-development activity. Any alteration of the natural environment which does not require development or site plan approval, but which would include the proposed removal or destruction of tree(s).

Noxious matter. Material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.

O.

Occupancy. Pertains to and is the purpose for which a building is used or intended to be used. A change of occupancy is not intended to include a change of tenants or proprietors.

Occupant. With regard to a dwelling unit, any individual who resides in, or uses for living or sleeping purposes, a dwelling unit for more than 14 days, whether or not consecutive, within any 30-day period, or for more than 30 days, whether or not consecutive, within any 180-day period. An individual may be an occupant of a dwelling unit whether or not the individual is present in the dwelling unit every day and whether or not the individual maintains a residence elsewhere. Occupants are included when calculating the number of persons who live in a dwelling unit.

Occupants will be considered part of the family occupying the dwelling unit.

Office. See Sec. 6.6.5

Open space. An unoccupied space open to the sky on a single lot with a building.

P.

Parcel. See “lot.”

Park. An outdoor area designated for recreation of the public, often featuring amenities like playgrounds, sports fields, or open spaces. The term also includes natural features preserved for recreation and environmental protection, such as forests, lakes, and trails.

Pea stone or pea gravel. A small, naturally or artificially weathered, and rounded smooth stone, typically ranging from 1/8 to 3/8 inches in diameter.

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.

Porch, open. A roofed open structure projecting from the outside wall of a building without window sash or any other form of permanent enclosure.

Previously developed site. A site that has been altered by paving, construction, or land-disturbing activity.

Principal use. The primary purpose that a lot serves or is intended to serve.

Private agreements or covenants. Private deed restrictions, private covenants, or other private legal instruments that are imposed on land by private landowners. They bind and restrict land in the hands of present owners and subsequent purchasers. They are enforced only by the landowners' or homeowners' associations involved and not by any city or other public agency.

Property owner. The owner of real property or their legally authorized agent.

Public use. See Sec. 6.5.1.B

R.

Residential district. A residential zoning district.

S.

Schedule of Fees. The City of Berkeley Lake Schedule of Fees as established in Sec. 10.9 (Fees).

Screening. A method of shielding or obscuring one abutting or nearby structure or use from another by opaque fencing, walls, berms, densely planted vegetation, or the like.

Shopping center. A group of two or more commercial establishments, planned, generally built, and managed as a single entity, with parking provided on-site under common control or shared under a reciprocal agreement.

Short-term rental. See Sec. 6.6.3.C

Shrub. A woody plant of relatively low height, typically distinguished from a tree by having several stems rather than a single trunk.

Standard drawings. The Modified Gwinnett County Department of Planning and Development standard drawings and Berkeley Lake Standard Drawings.

Start and commencement. The doing of some legally permitted act upon the ground on which the building is to be erected, and in pursuance of a design to erect, the result of which act would make known to a person viewing the premises, from observation alone, that the erection of a building on that land had been commenced.

State Route. A roadway maintained by GDOT.

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.

Storage. With regarding to Article 6 (Use Provisions), "storage" means holding or safekeeping of goods in a warehouse or other depository to await the happening of some future event or contingency which will call for removal of goods.

Street. A public thoroughfare which affords the principal means of access to abutting property.

Street-facing facade. Any building facade that would be intersected by a line drawn at a right angle (perpendicular) inward from a front lot line or side street lot line.

Structurally altered. Any change in either the supporting members of a building such as load-bearing walls, columns, beams, or girders, or in the roof and exterior walls.

Structural Root Plate (SRP). A zone of rapid root taper that provides the tree stability against windthrow. The radius of the root plate is proportional to the stem diameter (DBH) of a tree as specified below:

DBH	6-7”	8”	9-11”	12-14”	15-19”	20-24”	25-31”	32”	33-38”	39-48”
SRP Radius	5’	5.5’	6’	7’	8’	9’	10’	10.5’	11’	12’

Structure. Anything built or erected, the use of which requires a location on the ground or attached to something having a location on the ground. A single structure encompasses all materials which are assembled into a tightly integrated shape to form the whole.

Surety bond. A bond given to ensure the timely performance of a contract or compliance with a provision of this UDO.

T.

Terrace and **patio.** A structure consisting of a level surface without a roof.

Timber harvesting. The felling, loading, and transporting of timber products (pulpwood, etc.). The term “timber harvesting” may include both clear-cutting and selective cutting of timber.

Townhouse. See Sec. 6.4.1.D.

Travel Trailer. A towable vehicle designed to provide temporary living or sleeping accommodations for recreational, camping, or travel purposes.

Tree. Any self-supported woody perennial plant, usually having a main stem or trunk and many branches, and at maturity usually attaining a diameter greater than 3 inches at any point and a height of over 10 feet. For the purposes of the application of the City of Berkeley Lake Tree Protection Ordinance, a tree must have a diameter equal to or greater than 3 inches at 4.5 feet aboveground.

Tree, hardwood. Any tree that is not coniferous (cone bearing) or needle bearing.

Tree, overstory. A tree that composes the top layer or canopy of vegetation and will generally reach a mature height of greater than 40 feet.

Tree, softwood. Any coniferous (cone bearing) tree.

Tree, specimen. Any tree which qualifies for special consideration for preservation due to its size, type, and condition as defined in the City of Berkeley Lake Tree Protection Ordinance.

Tree, understory. A tree that, under normal forest conditions, grows to maturity beneath overstory trees and will generally reach a mature height of 10 to 40 feet.

Tree density standard (TDS). The minimum number of Tree Density Units per acre which must be achieved on a property.

Tree density unit (TDU). A credit assigned to a tree, based on the diameter of the tree, in accordance with tables contained in the City of Berkeley Lake Tree Protection Ordinance.

Tree preservation or **tree replacement plan (TP/TRP).** A plan that identifies tree protection areas and shows existing trees to be retained and proposed trees to be planted on a property to meet minimum requirements, as well as methods of tree preservation to be undertaken on the site.

Tree protection area (TPA). Any portion of a site on which trees are proposed to be retained to comply with the requirements of the City of Berkeley Lake Tree Protection Ordinance. The tree protection area must include no less than the total area beneath the tree canopy as defined by the dripline of the tree or group of trees collectively, but preferably the combined critical root zone of the trees collectively.

Tree survey. A site survey and documentation of existing trees within a proposed area to be developed.

Tree thinning. Selective cutting or thinning of trees only for the clear purpose of good forestry management to protect said forest from disease or infestation; it does not include clear-cutting.

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

U.

Use.

1. Any purpose for which a building or structure or tract of land may be designed, arranged, intended, maintained or occupied, or
2. Any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

W.

Watershed. The land area which drains into a particular stream.

Way. A street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

Width. A dimension measured from side to side at right angles to length.

Y.

Yard. See Sec. 2.2.5.A

Yard, front. See Sec. 2.2.5.C

Yard, rear. See Sec. 2.2.5.E

Yard, side interior. See Sec. 2.2.5.F

Yard, side street. See Sec. 2.2.5.D

Z.

Zone, zoning district. A defined area within which certain uses of land and buildings are permitted and regulated, and certain others are prohibited. Yards and other open space are required, lot areas, building height limits and other requirements are established, all the foregoing being identical for the zone in which they apply.

V2 DRAFT
8/23/26

Johns Creek

Duluth

Peachtree Corners

Berkeley Lake

Fulton County

Gwinnett County

Chattahoochee River

Chattahoochee River

Chattahoochee River Tributary

River Club

N BERKELEY LAKE RD

FREDERICA LN

FREDERICA RD

WASSAW LN

CLOISTER PL

HERMITAGE DR

SAINT CLAIR CIR

DOGWOOD BEND TER

DOGWOOD BEND PARK

CENTRAL RIVER PARK

WESTRIVER PARK

RIVER DISTRICT WAY

RIVER DISTRICT DR

VALLEY VIEW LN

VISTA POINTE DR

CHASELTON CT

DUCKPOND TRCE

BACKPOND CT

BERKELEY VIEW CT

BERKELEY VIEW DR

LAKEVIEW LN

HILLTOP LN

DOVE PT

RIDGE RD

LAKESHORE DR

HABERSHAM LN

BAYWAY CIR

BUSH RD

RIVER MANSIONS TRCE

MANSIONS PKWY

RIVER MANSIONS CV

LAKEFIELD BND

KINGSLAND CIR

LITTLE RIDGE RD

S BERKELEY LAKE RD

BERKELEY WALK PT

GLEN DEVON LN

BRIAR HILL CV

COMMONS GATE BND

BALMORAL GLEN DR

HIGHGATE CHASE CT

PEACHTREE LAKES DR

PEACHTREE INDUSTRIAL BLVD

TURMAN DR

PEACHTREE INDUSTRIAL BLVD NW

PIB ACCESS RD

BLUE RIDGE CT

S OLD PEACHTREE RD

R-1

R-2

C-1

C-2

O-I

M-1

Gwinnett Country Fire Station 19

Public Storage

Valero

Ryerson

King's Brothers Center

Mount Tabor Church

Pittman

I certify that this is the Official Zoning Map of the City of Berkeley Lake, Georgia. Upon adoption, this map will amend and replace previous versions of the zoning map.

Mayor, City of Berkeley Lake — Date

Berkeley the City of Lake

4040 South Berkeley Lake Road
Berkely Lake, GA 30096

(770) 368-9484 www.berkeley-lake.com

Official Zoning Map of the City of Berkeley Lake

V4 DRAFT
10/27/26

Legend

- City of Berkeley Lake
- Parcels
- County Boundaries

Zoning District

- R-1 (Single-family Residential)
- R-2 (Two-Family Residential)
- R-3 (Cottage Residential)
- C-1 (Neighborhood Commercial)
- C-2 (General Business)
- O-I (Office Institutional)
- MX-1 (Neighborhood Mixed-Use)
- MX-2 (Corridor Mixed-Use)
- M-1 (Light Industrial)

N W E S

Scale: 1 " = 450 '
1:5,400

Map Notes: Incorporated Areas outside of Berkeley Lake are current as of the date this map was prepared.

Disclaimer: All data is provided as is, with all faults, without warranty of any kind, either expressed or implied. This map is the property of the City of Berkeley Lake, Georgia and its assigns. All rights reserved.

CHAPTER 34 - LICENSING AND BUSINESS REGULATION

ARTICLE II - BUSINESSES REGULATED

DIVISION 6 - SEXUALLY ORIENTED BUSINESSES

34-143 License required.

(a) **Business license.** It shall be unlawful for any person to operate a sexually oriented business in the City without a valid sexually oriented business license.

(b) **Employee license**. It shall be unlawful for any person to be an "employee," as defined in this division, of a sexually oriented business in the City without a valid sexually oriented business employee license, except that a person who is a licensee under a valid sexually oriented business license shall not be required to also obtain a sexually oriented business employee license.

(c) **Application.** An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at the office of the City Clerk a completed application made on a form provided by the City Clerk. A sexually oriented business may designate an individual with an influential interest in the business to file its application for a sexually oriented business license in person on behalf of the business. The application shall be signed as required by subsection (d) herein and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in this subsection (c), accompanied by the appropriate licensing fee:

(1) The applicant's full legal name and any other names used by the applicant in the preceding five (5) years.

(2) Current business address or another mailing address for the applicant.

(3) Written proof of age, in the form of a driver's license, a picture identification document containing the applicant's date of birth issued by a governmental agency, or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.

(4) If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business.

(5) If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.

(6) A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in this division, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.

(7) A statement of whether any sexually oriented business in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):

a. Been declared by a court of law to be a nuisance; or

b. Been subject to a court order of closure or padlocking.

(8) An application for a sexually oriented business license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor area occupied by the business and a statement of floor area visible or accessible to patrons for any reason, excluding restrooms. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who are required to comply with the stage, booth, and/or room configuration requirements of this division shall submit a diagram indicating that the setup and configuration of the premises meets the requirements of the applicable regulations. The City Clerk may waive the requirements of this subsection (8) for a renewal application if the applicant adopts a legal description and a sketch or diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

The information provided pursuant to this subsection (c) shall be supplemented in writing by certified mail, return receipt requested, to the City Clerk within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

(d) **Signature.** A person who seeks a sexually oriented business employee license under this section shall sign the application for a license. If a person who seeks a sexually oriented business license under this section is an individual, he shall sign the application for a license as applicant. If a person who seeks a sexually oriented business license is other than an individual, each person with an influential interest in the sexually oriented business or in a legal entity that controls the sexually oriented business shall sign the application for a license as applicant. Each applicant must be qualified under this division and each applicant shall be considered a licensee if a license is granted.

(e) **Disclosure.** The information provided by an applicant in connection with an application for a license under this division shall be maintained by the office of the City Clerk on a confidential basis, and such information may be disclosed only as may be required, and only to the extent required, by governing law or court order. Any information protected by the right to privacy as recognized by state or federal law shall be redacted prior to such disclosure.

34-144 Issuance of license.

(a) **Business license**. Upon the filing of a completed application for a sexually oriented business license, the City Clerk shall immediately issue a temporary license to the applicant if the completed application is from a preexisting sexually oriented business that is lawfully operating in the City and the completed application, on its face, indicates that the applicant is entitled to an annual sexually

oriented business license. The temporary license shall expire upon the final decision of the City to deny or grant an annual license. Within twenty (20) days of the filing of a completed sexually oriented business license application, the City Clerk shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The City Clerk shall issue a license unless:

(1) An applicant is less than eighteen (18) years of age.

(2) An applicant has failed to provide information required by this division for issuance of a license or has falsely answered a question or request for information on the application form.

(3) The license application fee required by this division has not been paid.

(4) The sexually oriented business, as defined herein, is not in compliance with the interior configuration requirements of this division.

(5) The sexually oriented business, as defined herein, is not in compliance with locational requirements of this division or the locational requirements of any other part of the Berkeley Lake Code of Ordinances. However, this ground for denial of a license to operate a sexually oriented business shall not prevent issuance or renewal of a license for a sexually oriented business that was in a location where a sexually oriented business was allowed under law prior to the effective date of this subsection, provided that the sexually oriented business has not been enlarged; extended; removed; discontinued or abandoned for six (6) months or more; or had its structure destroyed to an extent of more than sixty (60) percent of the structure's fair market value at the time of destruction.

(6) Any sexually oriented business in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):

a. Been declared by a court of law to be a nuisance; or

b. Been subject to an order of closure or padlocking.

(7) An applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this division.

(b) **Employee license.** Upon the filing of a completed application for a sexually oriented business employee license, the City Clerk shall immediately issue a temporary license to the applicant if the applicant seeks licensure to work in a licensed sexually oriented business and the completed application, on its face, indicates that the applicant is entitled to an annual sexually oriented business employee license. The temporary license shall expire upon the final decision of the City to deny or grant an annual license. Within twenty (20) days of the filing of a completed sexually oriented business employee license application, the City Clerk shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The City Clerk shall issue a license unless:

(1) The applicant is less than eighteen (18) years of age.

(2) The applicant has failed to provide information as required by this division for issuance of a license or has falsely answered a question or request for information on the application form.

(3) The license application fee required by this division has not been paid.

(4) Any sexually oriented business in which the applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):

a. Been declared by a court of law to be a nuisance; or

b. Been subject to an order of closure or padlocking.

(5) The applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this division.

(c) **Information and placement.** The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be read at any time that the business is occupied by patrons or is open to the public. A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing.

34-145 Fees.

The initial license and annual renewal fees for sexually oriented business licenses shall be as passed by City Council by resolution as part of a fee schedule; sexually oriented business employee licenses shall be as follows: fifty dollars ($50.00) for the initial sexually oriented business employee license and twenty-five dollars ($25.00) for annual renewal.

34-146 Inspection.

Sexually oriented businesses and sexually oriented business employees shall permit the City Clerk and his or her agents to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this division, during those times when the sexually oriented business is occupied by patrons or is open to the public. This section shall be narrowly construed by the City to authorize reasonable inspections of the licensed premises pursuant to this division, but not to authorize a harassing or excessive pattern of inspections.

34-147 Expiration and renewal of license.

(a) Each license shall remain valid for a period of one calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in this division.

(b) Application for renewal of an annual license should be made at least ninety (90) days before the expiration date of the current annual license, and when made less than ninety (90) days before the expiration date, the expiration of the current license will not be affected.

34-148 Suspension.

(a) The City Clerk shall issue a written notice of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) days if the sexually oriented business licensee has knowingly or recklessly violated this division or has knowingly or recklessly allowed an employee or any other person to violate this division.

(b) The City Clerk shall issue a written notice of intent to suspend a sexually oriented business employee license for a period not to exceed thirty (30) days if the employee licensee has knowingly or recklessly violated this division.

34-149 Revocation.

(a) The City Clerk shall issue a written notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if the licensee knowingly or recklessly violates this division or has knowingly or recklessly allowed an employee or any other person to violate this division and a suspension of the licensee's license has become effective within the previous twelve-month period.

(b) The City Clerk shall issue a written notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if:

(1) The licensee has knowingly given false information in the application for the sexually oriented business license or the sexually oriented business employee license;

(2) The licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances on the premises of the sexually oriented business;

(3) The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises of the sexually oriented business;

(4) The licensee knowingly or recklessly operated the sexually oriented business during a period of time when the license was finally suspended or revoked;

(5) The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity or specified criminal activity to occur in or on the premises of the sexually oriented business;

(6) The licensee has knowingly or recklessly allowed a person under the age of twenty-one (21) years to consume alcohol on the premises of the sexually oriented business; or

(7) The licensee has knowingly or recklessly allowed a person under the age of eighteen (18) years to appear in a semi-nude condition or in a state of nudity on the premises of the sexually oriented business.

(c) The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.

(d) When, after the notice and hearing procedure described in this division, the City revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for one (1) year from the date revocation becomes effective.

34-150 Hearing; license denial, suspension, revocation; appeal.

(a) When the City Clerk issues a written notice of intent to deny, suspend, or revoke a license, the City Clerk shall immediately send such notice, which shall include the specific grounds under this division for such action, to the applicant or licensee (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the City Clerk for the respondent. The notice shall also set forth the following: The respondent shall have ten (10) days after the delivery of the written notice to submit, at the office of the City Clerk, a written request for a hearing. If the respondent does not request a hearing within said ten (10) days, the City Clerk's written notice shall become a final denial, suspension, or revocation, as the case may be, on the thirtieth day after it is issued, and shall be subject to the provisions of subsection (b) of this section.

If the respondent does make a written request for a hearing within said ten (10) days, then the City Clerk shall, within ten (10) days after the submission of the request, send a notice to the respondent indicating the date, time, and place of the hearing. The hearing shall be conducted not less than ten (10) days nor more than twenty (20) days after the date that the hearing notice is issued. The City shall provide for the hearing to be transcribed.

At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the City's witnesses. The City shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two (2) days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The hearing officer shall issue a final written decision, including specific reasons for the decision pursuant to this division, to the respondent within five (5) days after the hearing.

If the decision is to deny, suspend, or revoke the license, the decision shall advise the respondent of the right to appeal such decision to the Henry County Superior Court by petition for Writ of Certiorari pursuant to Georgia law, and the decision shall not become effective until the thirtieth day after it is rendered. If the hearing officer's decision finds that no grounds exist for denial, suspension, or revocation of the license, the hearing officer shall, contemporaneously with the issuance of the decision, order the City Clerk to immediately withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by certified mail of such action. If the

respondent is not yet licensed, the City Clerk shall contemporaneously therewith issue the license to the applicant.

(b) If any court action challenging a licensing decision is initiated, the City shall prepare and transmit to the court a transcript of the hearing within thirty (30) days after receiving written notice of the filing of the court action. The City shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings. The following shall apply to any sexually oriented business that is lawfully operating as a sexually oriented business, or any sexually oriented business employee that is lawfully employed as a sexually oriented business employee, on the date on which the completed business or employee application, as applicable, is filed with the City Clerk: Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the City's enforcement of any denial, suspension, or revocation of a temporary license or annual license, the City Clerk shall immediately issue the respondent a provisional license. The provisional license shall allow the respondent to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin the City's enforcement.

34-151 Transfer of license.

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

34-152 Hours of operation.

No sexually oriented business shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.

34-153 Regulations pertaining to exhibition of sexually explicit films on premises.

(a) A person who operates or causes to be operated a sexually oriented business which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.

(1) Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, video cassettes, digital video discs, or other video reproductions. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each

diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The City Clerk may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

(3) The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5) foot candles as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.

(4) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no specified sexual activity occurs in or on the licensed premises.

(5) It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:

a. That the occupancy of viewing rooms less than one hundred fifty (150) square feet is limited to one (1) person.

b. That specified sexual activity on the premises is prohibited.

c. That the making of openings between viewing rooms is prohibited.

d. That violators will be required to leave the premises.

e. That violations of these regulations are unlawful.

(6) It shall be the duty of the operator to enforce the regulations articulated in subsections (a)(5)a. though d. above.

(7) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one (1) of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one (1) employee is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees

present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

(8) It shall be the duty of the operator to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.

(b) It shall be unlawful for a person having a duty under subsections (a)(1) through (a)(8) to knowingly or recklessly fail to fulfill that duty.

(c) No patron shall knowingly or recklessly enter or remain in a viewing room less than one hundred fifty (150) square feet in area that is occupied by any other patron.

(d) No patron shall knowingly or recklessly be or remain within one (1) foot of any other patron while in a viewing room that is one hundred fifty (150) square feet or larger in area.

(e) No person shall knowingly or recklessly make any hole or opening between viewing rooms.

34-154 Loitering, exterior lighting and monitoring, and interior lighting requirements.

(a) It shall be the duty of the operator of a sexually oriented business to: (i) ensure that at least two (2) conspicuous signs stating that no loitering is permitted on the premises are posted on the premises; (ii) designate one (1) or more employees to monitor the activities of persons on the premises by visually inspecting the premises at least once every ninety (90) minutes or inspecting the premises by use of video cameras and monitors; and (iii) provide lighting to the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. Said lighting shall be of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one (1) foot candle as measured at the floor level. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.

(b) It shall be the duty of the operator of a sexually oriented business to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five (5) foot candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.

(c) No sexually oriented business shall erect a fence, wall, or similar barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right-of-way.

(d) It shall be unlawful for a person having a duty under this section to knowingly or recklessly fail to fulfill that duty.

34-155 Penalties and enforcement.

(a) Any violation of this division shall be subject to punishment as provided in section 1-8 of the Municipal Code of the City of Berkeley Lake, Georgia.

(b) The City's legal counsel is hereby authorized to institute civil proceedings necessary for the enforcement of this division to enjoin, prosecute, restrain, or correct violations hereof. Such proceedings shall be brought in the name of the City, provided, however, that nothing in this section and no action taken hereunder, shall be held to exclude such criminal or administrative proceedings as may be authorized by other provisions of this division, or any of the laws in force in the City or to exempt anyone violating this Code or any part of the said laws from any penalty which may be incurred.

34-156 Applicability of division to existing businesses.

(a) **Licensing requirements.** All preexisting sexually oriented businesses lawfully operating in the City in compliance with all state and local laws prior to the effective date of this division, and all sexually oriented business employees working in the City prior to the effective date of this division, are hereby granted a De Facto temporary license to continue operation or employment for a period of ninety (90) days following the effective date of this division. By the end of said ninety (90) days, all sexually oriented businesses and sexually oriented business employees must apply for a license under this division.

(b) **Interior configuration requirements.** Any preexisting sexually oriented business that is required to, but does not, have interior configurations or stages that meet at least the minimum requirements of section 34-153 and subsection 34-157(b) shall have ninety (90) days from the effective date of this division to conform its premises to said requirements. During said ninety (90) days, any employee who appears within view of any patron in a semi-nude condition shall nevertheless remain, while semi-nude, at least six (6) feet from all patrons.

(c) **Other requirements.** Except as provided for in subsections 34-156(a) and (b), sexually oriented businesses shall comply with this division on the date that it takes effect.

34-157 Prohibited conduct.

(a) No patron, employee, or any other person shall knowingly or intentionally, in a sexually oriented business, appear in a state of nudity or engage in a specified sexual activity.

(b) No person shall knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six (6) feet from all patrons and on a stage at least eighteen (18) inches from the floor in a room of at least six hundred (600) square feet.

(c) No employee who appears semi-nude in a sexually oriented business shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually oriented business.

(d) No person shall possess, use, or consume alcoholic beverages on the premises of a sexually oriented business.

(e) No person shall knowingly or recklessly allow a person under the age of eighteen (18) years to be or remain on the premises of a sexually oriented business.

(f) No operator or licensee of a sexually oriented business shall knowingly violate the regulations in this section or knowingly or recklessly allow an employee or any other person to violate the regulations in this section.

(g) A sign in a form to be approved by the City Manager or designee, and summarizing the provisions of subsections (a), (b), (c), (d), and (e), shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry. No person shall cover, obstruct, or obscure said sign.

34-158 Scienter required to prove violation or business licensee liability.

This division does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a reckless mental state is necessary to establish a violation of a provision of this division. Notwithstanding anything to the contrary, for the purposes of this division, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for purposes of finding a violation of this division, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

34-159 Failure of City to meet deadline not to risk applicant/licensee rights.

In the event that a City official is required to act or to do a thing pursuant to this division within a prescribed time, and fails to act or to do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the act required of the City official under this division, and not completed in the time prescribed, includes approval of condition(s) necessary for approval by the City of an applicant or licensee's application for a sexually oriented business license or a sexually oriented business employee's license (including a renewal), the license shall be deemed granted and the business or employee allowed to commence operations or employment the day after the deadline for the City's action has passed.

34-160 Location of sexually oriented businesses.

(a) It shall be unlawful to establish, operate, or cause to be operated a sexually oriented business in Berkeley Lake unless said sexually oriented business is at least:

(1) Five hundred (500) feet from any parcel occupied by another sexually oriented business or by a business licensed by the State of Georgia to sell alcohol at the premises;

(2) Two hundred-fifty (250) feet from any parcel zoned for residential purposes or occupied by a house of worship, public or private elementary or secondary school, public park, or any residence; and

(3) Meets all City of Berkeley Lake zoning ordinance standards and requirements regarding sexually oriented businesses.

(b) For the purpose of this section, measurements shall be made in a straight line in all directions from the structure or tenant space of the applicable sexually oriented business to the closest property line of the zoned property or uses outlined in subsection (a), above. Where property conditioned for residential purposes is part of a mixed use development, the distance shall be measured to the closest boundary of the area shown on the approved site plan as conditioned for residential purposes. Where a use listed in subsection (a) is located in a structure or tenant space in a multi-tenant development, the distance shall be measured to the structure or tenant space of that use rather than the property line of the overall development, so as to maximize the number of locations available to sexually oriented businesses. The zoning and/or use of land in adjacent jurisdictions shall not disqualify any location within the City of Berkeley Lake from being available to a sexually oriented business.

CHAPTER 70 - STREETS, CURBS AND SIDEWALKS

ARTICLE I - IN GENERAL

Sec. 70-1 General regulations.

(a) Maintenance and repair of public streets. All maintenance and repair of public streets, alleys, curbs, sidewalks, and other public ways shall be under the supervision of the city engineer. The OEO shall have the responsibility of enforcing all provisions of this code and all ordinances of the city relating

(b) Maintenance of property between sidewalks and streets. All persons (as used in this chapter, "person" or "persons" shall mean any person, firm, company or corporation) who own real estate in the city abutting upon any paved sidewalks shall be required to keep that portion of such sidewalks which lies between the property line and the curb line of the adjoining street, and upon which his real estate abuts, in good and smooth condition and free from growing weeds and other obnoxious and unsightly vegetation or other things which would mar or detract from the beauty and cleanliness of the street upon which their property abuts. Any property owner who shall place or allow grass to grow upon the portion of the sidewalk lying between the property line and the curb line of the street as aforesaid, and upon which his real estate abuts, shall keep such grass properly mowed and free from rubbish of all kinds. If such owners are not in the possession of their property, then this section shall apply to their tenants or those who have possession or control of the same.

(c) Defacing sidewalks, streets, and curbs. Unless authorized by the city, it shall be unlawful for any person to deface any public sidewalk, street, or curb in the city by painting any signs thereon, whether for commercial advertising purposes or not. It shall also be unlawful to walk or drive any vehicle upon or injure in any way any newly laid street, sidewalk, or curbing pavement while the same is guarded by a warning sign or barricade or is soft or newly laid.

(d) Obstructions. It shall be unlawful for any person to cause, create, or maintain any obstruction on any street, alley, sidewalk, or other public way, except as may be provided in this chapter or in the ordinances and laws of the city.

(e) Deposits and discharges onto streets and sidewalks.

(1) It shall be unlawful for any person to deposit on any street or sidewalk any material which may be harmful to the pavement thereof, or any waste material, or any glass or other article which may do injury to any person, animal, or property.

(2) It shall be unlawful for any person to discharge or allow to be discharged onto any public street or sidewalk any water or other fluid material containing objectionable material such as sewage, waste milk, or other organic material.

(f) Report of defects, obstructions, deposits, and discharges. It shall be the duty of every city officer and employee who becomes aware of any defect or obstruction, or of any unlawful deposit or discharge, in or on any public street, alley, curb, sidewalk, or other public way of the city to report the same to the OEO as soon as possible.

(g) Private use. It shall be unlawful for any person to use any street, sidewalk, or other public place as space for the display of goods or merchandise for sale; or to write or make any signs or advertisement on any such pavement.

(h) Encroachments.

(1) It shall be unlawful for any person to erect or maintain any building or structure, including but not limited to walls, fences, and parking pads, which encroaches upon any public street or property, except as otherwise provided in section 70-1(h)(2).

(2) It shall be unlawful for any person to place a dumpster, portable bathroom or any temporary blockage which encroaches upon any public street or property or to erect any poles or wires or maintain any poles or wires over any public place, street, alley, or other public way, without having first secured a permit from the city building inspector or his designee in the manner specified in this chapter.

(i) Openings. It shall be unlawful for any person to construct or maintain any opening or stairway in any public street, sidewalk, or alley without first obtaining a permit from the city building inspector or his designee in the manner specified in this chapter. All such lawfully maintained openings shall be guarded by a suitable strong cover or railing approved by the city building inspector.

(j) Trees and shrubs.

(1) Planting and removal. It shall be unlawful for any person to plant, remove, injure, or cut any tree, bush, or shrub in or from any public street, parkway, or other public place without first obtaining a permit therefore from the OEO or his designee in the manner specified elsewhere in this Code.

(2) Advertisements. It shall be unlawful for any person to attach any sign, advertisement, or notice to any tree or shrub in any public place.

(3) Dangerous trees. Any tree or shrub which overhangs any sidewalk, street, or other public place in the city in such a way as to impede or interfere with traffic or travel shall be trimmed by the owner of the premises on which such tree or shrub grows so that the obstruction shall cease. Any tree or limb of a tree which is likely to fall on or across any public way or place shall be removed by the owner of the premises on which such tree grows or stands. The OEO or his designee may cause to be trimmed or removed, at the owner's expense, any and all such trees or shrubs so that the obstruction or danger to traffic or passage shall be removed. The removal of any tree or limb pursuant to this section shall require a permit as set forth above.

(4) The city reserves the right to trim any tree or shrub in the designated right-of-way as provided by state law.

(5) Poles and wires. Any person which maintains poles and wires in the streets, alleys, or other public places of the city shall keep such wires and poles free and away from any nearby trees or shrubs in such places, and keep all such trees and shrubs properly trimmed, subject to the supervision of the OEO, so that no injury shall befall either the poles and wires or the shrubs and trees by their contact.

(k) Burning of leaves and rubbish. It shall be unlawful for any person to burn any leaves, paper, rubbish,

(l) Mailboxes. It shall be unlawful for any person to erect a mailbox that does not meet the following requirements:

(1) To prevent erosion of shoulder areas, mailboxes shall be placed at road's edge such that the mailbox door is between six and eight inches from the edge of pavement, unless the Ordinance Enforcement Officer determines that road conditions warrant a different location to ensure traffic safety.

(2) The following types of mailboxes are permitted:

a. Stake-and-arm mailboxes.

b. Any structure which supports a mailbox and/or decorative covers for mailbox supports which are approved by the Federal Highway Administration (FHWA) to be used on the National Highway System (NHS) right-of-way. For all mailbox designs other than the traditional stake and arm design, the homeowner shall provide a letter to the city from the structure manufacturer or directly from the FHWA that states the structure installed meets the guidelines outlined in the National Cooperative Highway Research Program (NCHRP) Report 350. Any modifications to an approved pre-manufactured structure shall require a letter from the manufacturer or the FHWA stating that the modified structure meets the guidelines outlined in the NCHRP Report 350.

Sec. 70-2 Street construction and improvements.[CR1.1]

(a) Specifications.

(1) In general. All street and sidewalk pavements and all curbing shall be laid in conformity with the specifications established or approved from time to time by the mayor and council.

(2) Curb ramping. The standard for construction of curbs on each side of any city street, or any connecting street or road for which curbs have been prescribed, shall be not less than one ramp per lineal block giving on the crosswalks at intersections. Such ramps shall be at least 40 inches wide and so constructed as to allow reasonable access to the crosswalk for physically handicapped persons. Such curbs and ramps shall also conform fully with all applicable federal and state regulations.

(b) Construction, traffic and pedestrian safety. Any person laying or repairing any pavement on a street, sidewalk, or other public place shall maintain suitable barricades to prevent injury to any person or vehicle by reason of the work, which barricades shall be protected by a light at night time.

Sec. 70-3 Driveways and curbs.

(a) Permit required. No person shall begin to construct, reconstruct, repair, alter, or grade any driveway, curb, or curb-cut on the public streets without first obtaining a permit from city hall in the manner specified in this chapter.

(b) Fee. The permit fee shall be in accordance with the fee schedule as adopted by the city council.

(c) Bond. The building inspector or his designee shall have the authority to require an applicant for a permit hereunder to file a bond with his application conditioned to protect and save harmless the city from all claims for damages or injury to any persons by reason of the proposed alteration work.

(d) Standards for issuance of permit. The building inspector or his designee hereunder shall issue a permit when he or she finds:

(1) That the work shall be done according to the standard specifications of the city for public work of like character. Driveways shall be constructed in accordance with the standards specified in the City of Berkeley Lake Unified Development Ordinance.

(2) That the operation will not unreasonably interfere with vehicular and pedestrian traffic and the means of ingress to and egress from the affected and adjacent properties; and

(3) That the health, welfare, and safety of the public will not be unreasonably impaired.

Sec. 70-4 Procedure for the issuance of permits.

(a) Application. Every person required to procure a permit under the provisions of this chapter or any ordinance or law of this municipality relating to the subject matter of this chapter shall submit a completed permit application to city hall for review by the building inspector or his designee.

(b) Permit fee. Unless otherwise provided, each application for a permit under this section shall be accompanied by a permit fee in accordance with the fee schedule as adopted by the city council.

(c) Display of permit. It shall be the duty of any permittee hereunder to keep the permit issued to him in a conspicuous place at the site of the work or activity to be engaged in. It shall be unlawful for any person to exhibit such permit at or about any location not covered thereby, or to misrepresent the number of the permit or the date of expiration of the permit.

(d) Limitation on issuance. Notwithstanding any other provision of this section, no permit shall be issued to any applicant therefore who has failed to satisfy any bonding requirements imposed upon persons engaged in the kind of work or activity proposed to be done or carried out by such applicant.

(e) Condition(s) for approval. Should the OEO determine that the issuance of a right-of-way permit for encroachment may create a public safety hazard, the right-of-way permit for encroachment shall only be issued with the provision that the applicant provide lighted barricades around the encroachment to alert traffic to a potential hazard. The OEO shall inspect the lighted barricades at the beginning of the project and periodically throughout the course of the project to determine

compliance with this requirement. If the OEO determines that the encroachment is not properly barricaded, the right-of-way permit shall become invalid and the applicant shall be subject to penalties under this chapter until such time that the proper barricades are installed and approved by the OEO.

Sec. 70-5 Penalties.

(a) Any person found to be in violation of this article will be issued a citation and, if found guilty of such violation, shall be punished as provided for in the Code of Ordinances of the city. Each day of violation shall constitute a separate offense. In the alternative, any person so cited may pay a $50.00 fine to the city clerk within 30 days of the date of the citation and make restitution for any damaged property.

(b) All ordinances or parts of ordinances in conflict with this article are repealed to the extent of any such conflict.

ARTICLE II - UTILITY ACCOMMODATION POLICY

Sec. 70-6 Declaration of findings and purpose, scope, definitions.

(a) Intent and purpose. The City of Berkeley Lake (the "city") is vitally concerned with the use, construction within, and occupancy of all rights-of-way in the city as such rights-of-way are a valuable and limited resource which must be utilized to promote the public health, safety, welfare, economic development of the city and to protect public work infrastructure.

(b) Authority. Pursuant to O.C.G.A. § 32-4-92(a)(10) the city may grant permits and establish reasonable regulations for the installation, construction, maintenance, renewal, removal, and relocation of pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, facilities, or appliances of any utility in, on, along, over, or under any part of its municipal street system and of a county road system lying within its municipal limits. Further, 47 U.S.C. § 253(c) provides that the city has authority to manage its public rights-of-way.

(c) Scope. The provisions of this article shall apply to all utilities and facilities occupying the rights-of-way as provided herein.

(d) Definitions. For the purposes of this article, the following terms, phrases, words, and their derivations have the meanings set forth herein. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning. References hereafter to "sections" are, unless otherwise specified, references to sections in this article. Defined terms remain defined terms whether or not capitalized.

> **Broadband services** means a wired or wireless terrestrial service that consists of the capability to transmit at a rate of not less than 25 megabits per second in the downstream direction and at least three megabits per second in the upstream direction to end users in combination with such service provides:

(i) Access to the internet: or

(ii) Computer processing information, storage, or protocol conversion.

City means the City of Berkeley Lake, Georgia.

Codified ordinances means the Codified Ordinances of the City of Berkeley Lake, Georgia.

Construct means, but shall not be limited to, dig, bore, tunnel, trench, excavate, obstruct, install or remove signs, or facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under, or through any part of the rights-of-way. Construct shall also include the act of opening and/or cutting into the surface of any paved or improved surface that is any part of the right-of-way.

Construction means, but shall not be limited to, the act or process of digging, boring, tunneling, trenching, excavating, obstructing, installing or removing signs or facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under, or through any part of the rights-of-way. Construction shall also include the act of opening, boring and/or cutting into the surface of any part of the right-of-way.

Emergency means a clear and immediate danger to life, health, or safety of a person, or of significant damage or loss of real or personal property.

Facility or **facilities** means any tangible thing, including, but not limited to, pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, appurtenances, appliances and future technology of any utility in, on, along, over, or under any part of the rights-of-way within the city;

Facilities representative(s) means the specifically identified agent(s)/employee(s) of a utility who are authorized to direct field activities of that utility and serve as official notice agent(s) for facilities related information. Utility shall be required to make sure at least one of its facilities representatives is available at all times to receive notice of, and immediately direct response to, facilities related emergencies or situations;

FCC means the Federal Communications Commission or any successor thereto;

Permit means an authorization which grants permission to conduct specific regulated activities on, in, over, under or within any public right-of-way, and which may be subject to conditions specified in a written agreement with the city or in a related provision of this Code of Ordinances;

Right(s)-of-way means the surface and space in, on, above, within, over, below, under or through any real property in which the city has an interest in law or equity, whether held in fee, or other estate or interest, or as a trustee for the public, including, but not limited to any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, parkway, or any other place, area, or real property owned by or under the legal or equitable control of the city, now or hereafter, that consistent with the purposes for which it was dedicated, may be used for the purposes of constructing, operating, repairing or replacing facilities. The term "rights-of-way"

shall not include buildings, parks, bridges, rivers, tunnels, viaducts, conduits or other public property or easements that have not been dedicated to compatible uses, except to the extent the use or occupation of such property is specifically granted in a permit or by law. The terms "rights-of-way" shall not include private easements or public property, except as set forth in this definition or to the extent the use or occupation of public property is specifically granted in a written approval of registration.

Service(s) means the offering of any service by a utility for a fee or rate directly to the public, or to such classes of users as to be effectively available directly to the public, or alternatively, the provision of any service by a utility between two or more points for a proprietary purpose to a class of users other than the general public.

Service agreement means a valid license agreement, service agreement, franchise agreement, or operating agreement issued by the city or state pursuant to law and accepted by a utility or entered into by and between the city and a utility, which allows such utility to operate or provide service within the geographic limits of the city.

Street or **streets** means the surface of, as well as the spaces above and below, any and all the streets, alleys, avenues, roads, bridges, and tunnels of the city within the corporate limits of the city, as the same now exist or may be hereafter extended or altered, and any location thereon, thereover or thereunder, and any portion thereof.

Utility or **utilities** means all privately, publicly, or cooperatively owned systems for producing, transmitting, or distributing communication, broadband services. data, information, telecommunication, cable television, video services, power, electricity, light, heat, gas, oil, crude products, water/sewer, steam, fire and police signals, traffic control devices, and street lighting systems, and housing or conduit for any of the foregoing, which directly or indirectly serve the public or any part thereof. The term "utility" may also be used to refer to the owner, operator, utility, service, contractor or subcontractor, or any agent thereof, of any above-described utility or utility facility.

Sec. 70-7 Construction permits required.

(a) Permit required. It shall be unlawful for any utility to excavate or to construct, install, maintain, renew, remove or relocate facilities in, on, along, over or under the public roads of the city without a utility permit from the city in accordance with the terms of this article.

(b) Permit procedure. Utility permits shall be obtained from the city administrator (or such other person as the city administrator may designate) upon application made on forms prescribed by the city administrator. The written application shall include the following:

(1) The name and address of the utility;

(2) The nature, extent, and location of any work proposed to be done, along with satisfactory plans as attachments showing in detail the location of the proposed facility or operations as described in the permit application. The plans shall show the size or capacity of facilities to be

installed; their relationship to street features such as right-of-way lines, pavement edge, structures, etc., horizontal and vertical clearance to critical elements of the roadway and any other information necessary to evaluate the impact on the street and its operation;

(3) The name and physical address of the person or firm who is to do such work;

(4) The name, street address, email address if applicable and telephone and facsimile numbers of one or more facilities representative(s);

(5) The projected dates for the work to be started and finished;

(6) An indemnity bond or other acceptable security in an amount to be set by the city to pay any damages to any part of the city road system or other city property or to any city employee or member of the public caused by activity or work of the utility performed under authority of the permit issued;

(7) A copy, if requested, of the registrant's certificate of authority (or other acceptable evidence of authority to operate) from the Georgia Public Service Commission and/or the FCC and any other similar approvals, permits, or agreements; and

(8) A copy, if requested, of the service agreement, if applicable or other legal instrument that authorizes the utility to use or occupy the right-of-way for the purpose described in the application.

(c) Permit fees. Fees shall be determined by the city administrator, subject to the approval by resolution of the city council. A fee schedule shall be available at the offices of the city administrator and the city clerk and open for public inspection.

(d) Issuance of permit. If the city administrator determines the applicant has satisfied the following requirements, the city administrator may issue a permit.

(1) Whether issuing of the approval will be consistent with this article; and

(2) Whether applicant has submitted a complete application and has secured all certificates and other authorizations required by law, if applicable, in order to construct facilities in the manner proposed by the applicant; and

(3) The impact on safety, visual quality of the streets, traffic flow, and other users of the right-of-way and the difficulty and length of time of the project, construction or maintenance.

(e) Emergency situations.

(1) Each utility shall, as soon as reasonably practicable, notify the city administrator of any event regarding its facilities which it considers to be an emergency. The utility may proceed to take whatever actions are necessary in order to respond to the emergency. A utility who engages in an emergency excavation shall take all reasonable precautions to avoid or minimize damage to any existing facilities.

(2) In the event that the city becomes aware of an emergency regarding utility facilities, the city may attempt to contact the affected utility or facilities representative. The city may take

whatever action it deems necessary in order to respond to the emergency, including cut or move any of the wires, cables, amplifiers, appliances, or other parts of the facilities. The city shall not incur any liability to the utility, for such emergency actions, and the cost of such shall be paid by each utility affected by the emergency.

(f) Effective period of permit.

(1) Each permit shall have a set commencement and expiration date based on information provided in the applicant's permit application.

(2) The permit shall remain in place until construction is completed or until its expiration date unless the utility is in default. The city administrator may give written notice of default to a utility if it is determined that a utility has:

a. Violated any provision or requirement of the issuance or acceptance of a permit application or any law of the city, state, or federal government;

b. Attempted to evade any provision or requirement of this article;

c. Practiced any fraud or deceit upon the city; or

d. Made a material misrepresentation or omission of fact in its permit application.

(g) Cancellation for cause. If a utility fails to cure a default within 20 working days after such notice is provided to the utility by the city, then such default shall be a material breach and city may exercise any remedies or rights it has at law or in equity to terminate the permit. If the city administrator decides there is cause or reason to terminate, the following procedure shall be followed:

(1) City shall serve a utility with a written notice of the reason or cause for proposed termination and shall allow a utility a minimum of 15 calendar days to cure its breach.

(2) If the utility fails to cure within 15 calendar days, the city may declare the permit terminated.

(h) Expiration of permit. If work has not commenced within six months of the date of issuance, the permit will automatically expire.

Sec. 70-8 Insurance and bonding requirements.

(a) Any person seeking to obtain a right-of-way permit shall provide proof of insurance self-insurance to the city administrator. Such insurance shall cover all work done by such person upon, under, and over the public roads and highways and rights-of-way located within the city and shall be maintained during all periods such work is being done.

(b) If deemed necessary, the city may require any person seeking to obtain a right-of-way permit to provide a surety bond before issuance of the permit. Such bond shall cover all work done by such person upon, under, along, and over the public roads and highways and rights-of-way located within the city and shall be maintained during all periods such work is being done.

(c) In situations where the city requires the person to provide a surety bond, the person shall deposit with the city administrator a surety bond in an amount determined by the city administrator to be

sufficient to ensure satisfactory completion of the work from a surety company authorized to do business in Georgia and fulfillment of the warranty provided for herein and in a form approved by the city attorney. Said bond shall guarantee completion to the satisfaction of the city of all excavation and street restoration work required by this chapter and by the conditions of the permit within the time limits set on the permit. Said bond shall further guarantee that all excavation and street restoration work shall be free from settling and defects in workmanship or materials for a period of two years after the date said work is completed and accepted by the city. The bond shall be conditioned to protect and save harmless the city and the city council from all claims and damagers for cleaning or repairing any damage by the person and will be used to reimburse the city for any cost incurred to clean or repair city roads or rights-of-way, to re-ditch or repair existing ditch infrastructure or for other damage caused as a result of the actions of the person after the issuance of the right-of-way permit.

(d) In instances where the city has required a surety bond under paragraph (b) of this section in an amount greater than $50,000.00 the person may opt to secure their right-of-way permit by providing an irrevocable bank letter or credit attesting solvency to the city in the amount of $50,000.00.

(e) Such bond or irrevocable letter of credit shall protect the city against any damage caused by such person or firm, tendering the surety bond or letter of credit, or any agent, employee or contractor or said person or firm and will be used to reimburse the city for any cost incurred to clean or repair city roads or rights-of-way, to re-ditch or repair existing ditch structure or for other damage caused as a result of the actions of the person after the issuance of right-of-way permit. The person responsible for operations under the right-of-way permit will be given notice of the damage and allowed 72 hours to restore the road and right-of-way to a safe and operable condition as determined by the city marshal and the city administrator. All repairs, materials used and final releasing conditions shall be approved and accepted by the city marshal and the city administrator.

(f) The bond or letter of credit may be released by the municipal governing authority of the city upon notification of completion by the person or firm obtaining the rights-of-way and city roads. The bond or letter of credit may be retained against future or continuing operations by the person in the city.

(g) A surety bond shall be issued by a surety acceptable to the city, and shall contain the following endorsement: "This bond may not be canceled or allowed to lapse until thirty (30) days after receipt by the city, by certified mail, return receipt requested, of a written notice from the issuer of the bond of the intent to cancel or not to renew."

(h) The municipal governing authority may require verification of continuing coverage as needed.

Sec. 70-9 Required minimum standards.

(a) Utility accommodation manual adopted. The Georgia Department of Transportation ("GDOT") 2016 Utility Accommodation Policy and Standards Manual, including all references contained therein to codes, rules, regulations, schedules, forms and appendix items, promulgated by GDOT, as may be

amended from time to time is hereby adopted by reference and incorporated in this article as if fully set forth herein, subject to the amendments and modification contained in this article. A copy of the manual shall be maintained at the offices of the city administrator or his designee and open for public inspection. Any conflicts between the provisions of this article and the manual shall be resolved in favor of the manual. References to state personnel, agencies, and fees shall be interpreted, where required, as meaning the City of Berkeley Lake municipal equivalents.

(b) Protection of traffic and roadway. Unless specifically in the permit, no utility may occupy the city rights-of-way unless sufficient space is available so that the free flow and safety of traffic and other capacity considerations are not unduly impaired and the installation does not prevent the city from reasonably maintaining the streets, structures, traffic control devices and other appurtenant facilities, and further provided that maintenance and operations of the facilities do not jeopardize the traffic, street structure, other users of the right-of-way or the right-of-way itself or otherwise cause issues related life, health, or safety of a person, or of significant damage or loss of real or personal property.

(c) Grading. If the grades or lines of any street within the city right-of-way are changed at any time by the city during the term of the permit and this change involves an area in which the utility's facilities are located, then the utility shall, at its own cost and expense and upon the request of the city upon reasonable notice, protect or promptly alter or relocate the facilities, or any part thereof, so as to conform with such new grades or lines. In the event the utility refuses or neglects to so protect, alter, or relocate all or part of the facilities, the city shall have the right to break through, remove, alter, or relocated all or any part of the facilities without any liability to the utility and the utility shall pay to the city the costs incurred in connection with such breaking through, removal, alteration, or relocation.

(d) Installation of poles and other wireholding structures and relocation. Unless otherwise provided in a valid service agreement, no placement of any pole or wireholding structure of the utility is to be considered a vested interest in the right-of-way, and such poles or structures are to be removed, relocated underground, or modified by the utility at its own expense whenever the city determines that the public convenience would be enhanced thereby. The facilities shall be so located and installed as to cause minimum interference with the rights and convenience of property owners.

(e) Notice of intent to demolish. No utility shall commence, perform, or engage in blasting or in excavating with mechanized excavating facilities unless and until the utility planning the blasting or excavating has given 48 hours' notice by submitting a locate request to the One Call Center, beginning the next working day after such notice is provided, excluding hours during days other than working days.

Sec. 70-10 Restoration of property.

(a) Each utility shall be responsible for the cost of repairing any facilities in the rights-of-way and adjoining property or other facilities which it or its facilities damage.

(b) A utility shall be liable, at its own cost and expense, to replace, restore or repair, any street, facilities or property or structure thereon, thereunder, thereover or adjacent thereto that may become disturbed or damaged as a result of the construction or installation, operation, upgrade, repair or removal of facilities to a condition as good as or better than its condition before the work performed by the utility that caused such disturbance or damage. If the utility does not commence such replacement or repair after 20 calendar days following written notice from the city, the city or the owner of the affected structure or property may make such replacement or repair and the utility shall pay the reasonable and actual cost of the same.

Sec. 70-11 Inspection.

(a) The utility shall make the construction site available to the city administrator and to all others as authorized by law for inspection at all reasonable times during the execution and upon completion of the construction.

(b) At any time, including the time of inspection, the city administrator may order the immediate cessation of any work which poses a serious threat to the health, safety, or welfare of the public, violates any law, or which violates the terms and conditions of the permit and/or this article or issue an order to correct work which does not conform to the permit and/or applicable standards, conditions or codes.

(c) When the construction under any permit is completed, the utility shall notify the city.

Sec. 70-12 Other approvals, permits and agreements.

(a) Additional permits required. The utility shall obtain all construction, building or other permits or approvals as according to city ordinance, state or federal law. In addition, a permittee shall comply with all requirements of laws, shall complete work in a way as to not cause any unnecessary or unauthorized obstructions of sidewalks, streets, waterways or railways, and is responsible for all work done in the rights-of-way regardless of who performs the work. No rights-of-way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for such work, except in the case of an emergency as outlined in section 70-7(e).

Sec. 70-13 Penalties.

(a) Every utility convicted of a violation of any provision of this article shall be punished by a fine not exceeding $1,000.00 per violation. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits. This shall include the right to stop work which is in violation of this article, or other applicable provisions of the city's code and state law.

(b) A utility constructing within the rights-of-way without permission or a permit is considered criminal trespassing. This covers not only buildings but also land, vehicles and watercraft. Generally,

unauthorized entry is considered criminal trespass, which is charged as a misdemeanor, punishable in accordance with applicable law.

Sec. 70-14 Aesthetic standards.

(a) The city finds it is in the best interest of the city and its residents and businesses to establish aesthetic requirements and other specifications and reasonable conditions regarding placement of facilities in the rights-of-way. These requirements, specifications and conditions are adopted in order to protect the public health, safety and welfare of the residents and businesses of the city and to reasonably manage and protect the rights-of-way and its uses in the city. All standards in this section are based upon the written determinations of the city so long as such determinations are in compliance with federal and state laws, rules, and regulations.

(b) The objective of this section is to ensure use of the rights-of-way:

(1) Is consistent with the design, appearance and other features of nearby land uses;

(2) Protects the integrity of historic, cultural and scenic resources; and

(3) Does not harm resident's quality of life.

(c) This section applies to all requests to locate facilities in the rights-of-way and ongoing use of the rights-of-way for such facilities.

(d) Placement or modification of facilities in the right-of-way shall comply with this section at the time the permit for installation or modification is approved and as amended from time to time. Permittees are required to comply with city code and applicable law and regulations.

(e) Facilities standards.

(1) Facilities must be compatible in size, mass, and color to similar facilities in the same zoning area, with a goal of minimizing the physical and visual impact on the area.

(2) Facilities in the R-100 district shall be visually and architecturally integrated with the residential character of the area and shall not interfere with prominent vistas or significant public view corridors.

(3) Facilities must be located in alignment with existing trees and/or facilities.

(4) Facilities must maintain the integrity and character of the neighborhoods and corridors in which the facilities are located.

(f) Camouflaging. Facilities must be designed using camouflaging techniques that make them as unobtrusive as possible if:

(1) It is not possible or desirable to match the design and color of facilities with the similar facilities in same zoning area as required in section 70-15(a); or

(2) Existing facilities in the area are out of character with a streetscape plan or other aesthetic plan that has been adopted by the city.

(g) Concealment. Facilities shall incorporate specific concealment elements to minimize visual impacts.

(h) Installation and modification of standards. Installation of new facilities in, or, along, over, or under the rights-of-way or modification of existing facilities in, or, along, over, or under the rights-of-way shall:

(1) Minimize risks to public safety;

(2) Ensure that placement of facilities on existing structure is within the tolerance of those structures;

(3) Ensure that installations and modifications are subject to periodic review to minimize the intrusion on the right-of-way;

(4) Ensure that the city bears no risk or liability as a result of the installations or modifications; and

(5) Ensure that the use of the rights-of-way does not inconvenience the public, interfere with the primary uses of the rights-of-way, or hinder the ability of the city or other government entities to improve, modify, relocate, abandon, or vacate the right-of-way or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the

(i) Plans for use. No facilities shall be placed in, on, along, over, or under the public rights-of-way unless:

(1) There are immediate plans to use the proposed facility; or

(2) There is a contract with another party that has immediate plans to use the proposed facility.

(j) Contact information. Every facility placed in the rights-of-way shall at all times display signage that accurately identifies the facility owner and provides the facility owner's unique site number, and also provide a local or toll-free telephone number to contact the facility owner's operations center.

Sec. 70-15 Fiber instillations fees and broadband service compensation.

(a) Permits for fiber installations. In accordance with O.C.G.A. § 46-5-1(b)(19)(B) there will be a $100.00 permit fee for any new permit issues for fiber installations.

(b) Compensation for broadband services. In accordance with O.C.G.A. § 46-5-1(b)(19)(a), any telephone companies that provide broadband services to any location within the geographic limits of the city, payment at the rate of five cents per linear foot annually shall be considered due compensation, and for telephone companies that do not provide any broadband service to any location within the geographic limits of the city, payment at the rate of $0.10 per linear foot annually maybe considered the payment of due compensation.

Sec. 70-16 Other provisions.

(a) Severability. If any section, subsection, sentence, clause, phrase, or portion of this article is for any reason held invalid or unconstitutional by any court or administrative agency 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.

(b) Reservation of regulatory and police powers. The city by issuing a permit under this ordinance [article], does not surrender or to any extent lose, waive, impair, lessen the lawful powers and rights, which it has now or may be hereafter vested in the city under the Constitution and Laws of the United States, State of Georgia, or the City Charter, or under the provisions of the codified ordinances to regulate the use of the rights-of-way. The utility by applying for and being issued a written permit, is deemed to acknowledge that all lawful powers and rights, regulatory power, or police power, or otherwise as are or the same may be from time to time vested in or reserved to the city, shall be in full force and effect and subject to the exercise thereof by the city at any time. A utility is deemed to acknowledge that its interests are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general laws enacted by the city pursuant to such powers. All utilities shall comply with city zoning and other land use requirements pertaining to the placement and specifications of facilities.

(c) Compliance. No person shall be relieved of its obligation to comply with any of the provisions of this article by reason of any failure of city to enforce compliance.

(d) Appeal of administrative decisions. All appeals provided for by this article and any notification to the city required by this article shall be in writing and sent via certified mail to the city administrator as specified in this article.

(e) Article headings. Article headings are for convenience only and shall not be used to interpret any portion of this article.

CHAPTER 77 - STANDARDS FOR WIRELESS COMMUNICATION FACILITIES

Sec. 77-1 Purpose and intent.

The purpose of this chapter is to establish guidelines for the siting of all wireless communications towers and antennas which will encourage the development of wireless communications while protecting the health, safety and welfare of the public and maintaining the aesthetic integrity of the community. The goals of this chapter are as follows:

(a) To protect residential areas and land uses from potential adverse impact of telecommunication towers, antenna support structures and wireless communications facilities;

(b) To minimize the total number of towers and antennas within the community necessary to provide adequate personal wireless services to residents of Berkeley Lake;

(c) To locate telecommunications towers and antennas in areas where adverse impacts on the community are minimized;

(d) To encourage the design and construction of towers and antennas to minimize adverse visual impacts;

(e) To avoid potential damage to property caused by wireless communications facilities by insuring that such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or when determined to be structurally unsound;

(f) To avoid and preserve those areas of significant scenic merit;

(g) To promote and encourage the joint use of new and existing tower sites among service providers;

(h) To enhance the ability of the providers of wireless communications services to deliver such services to the community effectively and efficiently.

Sec. 77-2 Definitions.

Accessory use. A tower and/or antenna is considered a principal use if located on any lot or parcel of land as the sole or primary structure, and is considered an accessory use if located on a lot or parcel shared with a different existing primary use or existing structure.

Alternative tower structure means man-made structures resembling trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that, in the opinion of the city clerk, are compatible with the natural setting and surrounding structures, and effectively camouflage or conceal the presence of antennas or towers.

Antenna means any exterior transmitting or receiving devices mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog

signals, radio, wireless telecommunications signals or other communications signals. Such definition does not include for purposes of this article, radar antennas, amateur radio antennas, satellite earth stations, MMDS antennas, television receiving antennas and direct broadcast satellite dishes.

Co-location means the placement of antennas of two or more service providers on the same tower or alternative tower structure.

Height when referring to a tower or other structure means distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna. If the base pad or support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating height.

Microcell means a wireless communication facility comprised of antennas extending no more than four feet above the structure to which it is attached, and with an area no larger than 576 square inches (e.g. 3′ × 1½′) panel antenna or a two-foot diameter parabolic antenna as viewed from any one point.

Preexisting towers and preexisting antennas mean any tower or antenna for which a building permit has been properly issued prior to the effective date of this chapter, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

Scenic views mean geographic areas in Berkeley Lake which have been included in any nature preserve or scenic preservation efforts; or have sufficient scenic merit as determined by council so as to require preservation. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway or path.

Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supported monopole towers, common-carrier towers, and cellular telephone or PCS towers.

Wireless transmission facilities means the buildings, cabinets, equipment and property, including but not limited to, generating and switching stations, repeaters, cables, wires, conduits, ducts, pedestals, antennas, towers, alternative tower structures, electronics and other appurtenances used to transmit, receive, distribute, provide or offer low-power mobile voice transmission, data transmission or other wireless communications by linking a wireless network or radio wave transmitting device through a series of short range, contiguous cells that are part of an evolving cell grid.

Sec. 77-3 Applicability.

All new towers and antennas shall be subject to the regulations contained within this chapter except as provided in subsections (1) through (3), inclusive:

(1) Public property. Nothing in this article shall be read to prohibit a government owned tower from being located at a specific site when the tower is required to protect the public welfare or safety.

(2) Amateur radio; receive-only antennas. This chapter shall not govern any amateur radio tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by

a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.

(3) Pre-existing towers and antennas. Any tower or antenna for which a permit has been properly issued prior to the effective date of this chapter shall not be required to meet the provisions of this chapter, other than the requirements of section 77-10. Any such towers or antennas shall be referred to in this chapter as "preexisting towers" or "preexisting antennas." However, in the event a preexisting tower or antenna ceases to function, then the subject tower, antenna and related equipment shall be removed from the subject property within 90 days at the facility owner's expense.

Sec. 77-4 Permitted uses.

(a) Upon approval by the planning and zoning commission and receipt of an appropriate building permit, freestanding communication towers may be located in the zoning districts specified in the Sec. 6.1.2. Use Table of the City of Berkeley Lake Unified Development Ordinance, however, such towers shall satisfy all of the conditions of this chapter.

(b) Upon approval by the planning and zoning commission and receipt of an appropriate building permit, rooftop mounted communications towers and antennas may be located on any nonresidential building and alternative tower structure in the city so long as:

(1) Antennas attached to the roof or a supporting structure on a rooftop maintain a 1:1 setback ratio (example: ten-foot high antenna and supporting structure requires ten-foot setback from edge of roof) unless an alternative placement is shown to reduce visual impact;

(2) Such tower or antenna is set back from any existing or proposed off-site residence and separated from any residentially zoned property at least a distance equal to two times the full height of the tower and antenna, but in no event less than 100 feet.

(3) The existing free-standing nonresidential structure other than a tower on which such tower or antenna will be placed is 50 feet in height or greater and the tower or antenna will add no more than 20 feet total to the height of said existing structure;

(4) No advertising or writing is permitted on an antenna or tower;

(5) No signs or illumination are permitted on an antenna or tower unless required by the FCC, FAA or other state or federal agency of competent jurisdiction in which case the planning and zoning commission may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding uses and views; and

(6) The number and location of antennas, communication towers or other receiving or transmitting devices located on a single structure is not excessive and does not adversely affect properties and views.

(c) Prohibitions.

(1) No new tower may be located in a zoning district where prohibited by the Sec. 6.1.2. Use Table of the City of Berkeley Lake Unified Development Ordinance.

(2) No new tower may be established if there is a technically suitable space available on an existing tower within the search area that the new tower is to serve.

(3) No new tower except a camouflaged tower shall be located within 300 feet of a residential zoning district.

Sec. 77-5 General requirements.

(a) **Application for construction/placement.** An application shall be required for the construction or placement of all new wireless transmission facilities and new co-location facilities, antennas or towers within the city limits. Each application shall include plans, specifications and fees as required by this chapter.

(b) **Structural integrity.** To ensure the structural integrity of communication towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes. Tower owners shall conduct periodic inspections of communication towers at least once every two years to ensure structural integrity. Inspections shall be conducted by a structural engineer licensed to practice in Georgia. The results of such inspection shall be provided to the city clerk. The owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within said 30 days, the city may remove such tower at the owner's expense.

(c) **Regulatory compliance.** All towers and antennas must meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC) and any other agency of the state or federal government with the authority to regulate communications towers and antennas. If such standards and regulations are changed then the owners of the communications towers and antennas governed by this chapter shall bring such communications towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Tower owners shall provide documentation showing that each communication tower is in compliance with all federal requirements. Evidence of compliance must be submitted to the city clerk every 12 months.

(d) **Ownership.** Tower owners shall register ownership annually with the city and ownership changes with the city within 30 days of any change.

(e) **Letter of intent for use.** The tower owner must file with the city a letter of intent for use every 24 months and provide the city with a copy of any notice to the FCC of intent to cease operations within 60 days of the date planned to cease.

(f) **Security.** Communication towers shall be enclosed by visually pleasing, decay-resistant security fencing not less than six feet in height and shall be equipped with an appropriate anti-climbing

device; provided, however, the planning and zoning commission may waive such requirements for alternative tower structures. Chain-linked fencing is not permitted.

(g) **Lighting.** No illumination is permitted on any antenna or tower unless required by the FCC, FAA or other state or federal agency of competent jurisdiction in which case the planning and zoning commission may review the available lighting alternatives and approve the design that would cause the lease disturbance.

(h) **Advertising.** No advertising is permitted on telecommunications facilities.

(i) **Visual impact.** Proposed facilities shall be designed to avoid having an undue aesthetic impact on prominent ridgelines, Greenspace conservation areas, adjacent residential areas and shall not unreasonably interfere with the view from any public park, natural scenic vista, Lake Berkeley, or major view corridor. Height and mass of facilities shall not exceed that which is essential for the intended use and public safety. The planning and zoning commission shall have the authority to impose conditions consistent with the purpose of this section in approving a proposed facility. Furthermore, the planning and zoning commission may designate an alternative location for the tower to be evaluated by the applicant if it is determined that the proposed location would result in undue adverse aesthetic impacts. In consideration of this, the applicant may revise its application to include such a site, assuming it is available to the applicant and reasonably technically feasible to meet the applicant's communication objectives.

(1) In order to protect public safety and to preserve the scenic character and appearance of the area, the height limit for towers, antennas and tower-related fixtures shall be not more than 20 feet above the average height of the tree line measured within 100 feet of the highest vertical element of the telecommunications facility. Notwithstanding the above, additional height may be approved upon a finding by the planning and zoning commission that the additional height is necessary in order to provide adequate coverage in the City of Berkeley Lake or to accomplish collocation of facilities and that the additional height will not cause an undue visual impact on the scenic character or appearance of the area.

(2) Towers, antennas and any necessary support structures shall be designed to blend into the surrounding environment through the use of color camouflaging and architectural treatments use of stealth design, including those which imitate natural features, is encouraged and may be required in visually sensitive locations.

(3) Any tower applicant that is not proposing a camouflaged tower must provide a detailed explanation why they are not proposing a camouflaged tower. Explanation must discuss items other than economics.

(4) Non-camouflaged towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable federal or state agency, be painted a neutral color, so as to reduce visual obtrusiveness.

(5) 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 to, or closely

compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(6) Towers clustered at the same site shall be of similar design and scale.

(7) Towers shall be the minimum height necessary to provide parity with existing similar tower supported antenna, and shall be freestanding where the negative visual effect is less than would be created by use of a guyed tower.

(j) **Landscaping.** Landscaping shall be used to effectively screen the view of the tower compound from adjacent public ways, public property and residential property and shall be as follows:

(1) Tower facilities shall be landscaped with a landscaped strip of plant materials, which effectively screens the view of the tower compound. Landscaped strips shall be a minimum of ten feet in width and located outside the fenced perimeter of the compound. Landscaped strips shall satisfy the minimum design and planting requirements for buffers established in Article VII, "Buffers, Landscape and Tree Regulations".

(2) All existing mature tree growth and natural land forms on the site shall be preserved to the greatest extent practical. Where natural vegetation around the perimeter of the site would provide an adequate visual screen, an undisturbed buffer may be utilized. The applicant shall provide a site plan showing existing trees to be removed, and vegetation to be replanted to replace that lost.

(3) In lieu of these standards, the planning and zoning commission may allow use of an alternate detailed plan and specifications for landscape and screening, including plantings, fences, walls and other features designed to screen and buffer towers and accessory uses. The plan shall accomplish the same degree of screening achieved by the provisions above.

(k) Principal, accessory and joint uses.

(1) Accessory structures used in direct support of a tower shall be allowed but not be used for offices, vehicle storage or other outdoor storage. Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site of the tower, unless repairs to the tower are being made.

(2) Towers may be located on sites containing another principal use in the same buildable area. The minimum distance between a tower and other principal use located on the same lot shall be the greater of 100 percent of the breakpoint or 25 feet for a monopole, lattice or guy tower. This separation is required to assure compatibility of land uses and to provide for the health, safety and welfare of individuals and structures occupying the same site.

(3) Joint use of a site is prohibited when a proposed or existing principal use includes the storage, distribution or sale of volatile, flammable, explosive or hazardous materials such as propane, gasoline, natural gas and dangerous chemicals.

(l) Setbacks and separation.

(1) Towers must be setback from adjoining property lines a minimum distance equal to the tower height, including antennas and other vertical appurtenances.

(2) Placement of more than one tower on a lot shall be permitted, provided all setbacks, design and landscape requirements are met as to each tower. Structures may be located as close to each other as technically feasible, provided tower failure characteristics of the towers on the site will not lead to multiple failures in the event that one fails.

(3) All guy wires and above-ground accessory facilities associated with the communication tower shall be located to meet the setbacks required by the underlying zoning district where the tower is to be located.

(4) The planning and zoning commission shall have the authority to reduce or waive any required setback upon the request of the applicant if the tower or support structure will be less visible as a result of the diminished setback. The planning and zoning commission must also find that the reduction or waiver of the setback is consistent with the purposes and intent of this chapter. The structure must still meet the underlying setback requirements of the zoning district in which it is located.

Sec. 77-6 Tower requirements.

(a) **Application: Contents; fee.** All applications for permission to construct new telecommunications towers shall be submitted to the planning and zoning commission. Each application shall contain as a part thereof detailed plans and specifications as set forth in section 77-5. An application shall not be accepted for processing without the information required in this chapter. An application fee shall be charged by the city in an amount stated in the schedule of fees.

(b) **Exhibits required.** Each applicant requesting permission to construct a new telecommunications tower under this chapter shall submit a scaled site plan, scaled elevation view and supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements including topography (utilizing minimum two-foot contour intervals), tower height requirements, setbacks, access driveways or easements, parking, fencing, landscaping, adjacent land use, and any other information deemed by the city to be necessary to assess compliance with this chapter and compatibility with surrounding uses.

(c) **Co-location of antennas.** No new tower shall be permitted unless the applicant demonstrates by reasonable and credible evidence that no existing tower or structure is available to accommodate the applicant's proposed antenna as set forth in section 77-8 contained herein. Supporting evidence may consist of any of the following conditions:

(1) No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements.

(2) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements, and modification of existing towers or structures can not be made at a reasonable cost.

(3) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment, and modification of existing towers or structures can not be made at a reasonable cost.

(4) The applicant's proposed system would cause electromagnetic interference with the system on the existing tower or structure, or the system on the existing tower or structure would cause interference with the applicant's proposed system, and the interference can not be eliminated at a reasonable cost.

(5) The fees, cost or contractual provisions required by the owner to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable.

(6) The applicant demonstrates that there are other limiting factors that render existing towers or structures unsuitable.

(7) Costs are considered reasonable if they conform to contractual terms standard in the industry and do not exceed the cost of new tower development by more than 25 percent.

(d) **Considerations for reviewing new telecommunication towers.** Any denial of a request to place, construct or modify a telecommunications facility shall be in writing and supported by substantial evidence contained in a written record. The planning and zoning commission shall consider the following factors in reviewing applications for new telecommunication towers:

(1) The height and setbacks of the proposed tower;

(2) The proximity of the tower to residential structures and residential district boundaries;

(3) The nature of uses on adjacent and nearby properties;

(4) The surrounding topography;

(5) The surrounding tree coverage and foliage;

(6) The design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

(7) The proposed ingress and egress;

(8) The availability of suitable existing towers or other structures for antenna co-location or alternative technologies (microcells) not requiring the use of towers or structures;

(9) The impact of the proposed tower upon scenic views and visual quality of the surrounding area; and

(10) Demonstrated need for the telecommunications facility at the specified site.

Sec. 77-7 Shared use.

All new towers shall be designed to structurally accommodate the maximum number of additional users technically practicable.

(1) Once a new tower is approved, additional antennas and accompanying accessory uses may be added to it in accordance with the approved share plan if the planning and zoning commission finds that the standards of this chapter are met.

(2) For a new tower to be approved, the owner shall be required as conditions of approval to do the following:

a. Record the letter of intent to include a project contact and a brief description of the site where the tower is located at the City of Berkeley Lake in the office of the city clerk;

b. Respond in a timely, comprehensive manner to a request for information from a potential shared use applicant;

c. Negotiate in good faith for shared use by third parties; and

d. Allow shared use where the third party seeking such agrees in writing to pay reasonable, pro rata charges for sharing, including all charges necessary to modify the tower and transmitters to accommodate shared used, but not total tower reconstruction, and to observe whatever technical requirements as necessary to allow shared use without creating interference.

(3) Willful, knowing failure of an owner whose tower is approved after the effective date of this chapter to comply with the requirements of a. through d. above shall be grounds for withholding approval of any application by such owner for a building permit for any tower or antenna.

(4) Such conditions shall run with the land and be binding on subsequent purchasers of the tower site.

Sec. 77-8 Application procedures.

Application for a development permit for any communication tower or use of an alternative tower structure shall be made to the planning and zoning commission. An application will not be considered until it is complete. A complete application must contain the following:

(1) A complete inventory of all existing wireless transmission facilities including towers and receivers/transmitters located within the City of Berkeley Lake or a four-mile radius surrounding the proposed site, including each asset's location (plane coordinates), height and co-location usage or capabilities, and any special design features. The city shall utilize such information, subject to any restrictions or disclosure requested by the applicant, to promote co-location alternatives for other applicants.

(2) Site plan or plans to scale specifying the location of tower(s), guy anchors (if any), transmission building and/or other accessory uses/structures, access, fences, landscaped areas, and adjacent land uses.

(3) Landscape plan to scale indicating size, spacing and type of plantings required in section 77-5(j).

(4) Elevation drawings of the proposed tower, accessory structure(s), and any other structures including a site specific description and artistic renderings depicting how the tower will be camouflaged at the time of construction (camouflage will be consistent with existing vegetation and terrain) to overcome negative visual impact on non-industrial and residential areas.

(5) Utilities inventory showing the locations of all water, sewage, drainage and power lines impacting the proposed tower site.

(6) A certified statement prepared by an engineer licensed to practice in Georgia that the construction of the tower, including reception and transmission functions, will not interfere with the usual and customary transmission or reception of radio, television, etc., service enjoyed by adjacent properties.

(7) A report from a professional structural engineer licensed in the state of Georgia documenting the following:

a. Telecommunication facility height and design, including technical, engineering, economic, and other pertinent factors governing selection of the proposed design;

b. Total anticipated capacity of the telecommunications facility, including numbers and types of antennae which can be accommodated;

c. Evidence of structural integrity of the tower structure (i.e. engineer's statement that structure is built to meet or exceed Standard Building Code);

d. Structural failure characteristics of the telecommunications tower(s) and demonstration that site and setbacks are of adequate size to contain debris;

(8) Written statements from the FAA, FCC and any appropriate state review authority stating that the proposed tower complies with regulations administered by that agency or that the tower is exempt from those regulations.

(9) Letter of intent to lease excess space on the tower structure and to lease additional excess land on the tower site when the shared use potential of the tower is absorbed, if structurally and technically possible.

(10) A reasonable pro rata charge may be made for shared use, consistent with an appropriate sharing of construction, financing and maintenance costs. Fees may also be charged for any structural or RF changes necessitated by such shared use. Such sharing shall be a condition of approval.

a. The applicant shall describe what range of charges are reasonably expected to be assessed against shared users.

b. The applicant shall base charges on Generally Accepted Accounting Principles (GAAP) and shall explain the elements included in the charge.

(11) The applicant shall quantify the additional tower capacity anticipated, including the approximate number and types of antennas. The applicant shall also describe any limitations on the ability of the tower to accommodate other uses, e.g., radio frequency interference, mass height, frequency or other characteristics. The applicant shall describe the technical options available to overcome those limitations and reasons why the technical options considered were not chosen to be incorporated. The planning and zoning commission shall approve those limitations if they cannot be overcome by reasonable technical means.

(12) Evidence of the lack of space on all suitable existing towers and alternative tower structures to locate the proposed antenna and of the lack of space on existing tower sites and alternative tower structures to construct a tower for the proposed antenna.

(13) A definition of the area of service to be served by the antenna or tower and whether such antenna or tower is needed for coverage or capacity.

(14) Any other information which may be requested by the planning and zoning commission to fully evaluate and review the application and the potential impact of a proposed tower and/or antenna.

(15) Applications shall meet all Federal, State, and local laws regulations and will be processed as per Federal Communications Commission requirements.

Sec. 77-9 Appeals.

(a) Appeals from any decision of the planning and zoning commission shall be to the Berkeley Lake City Council within ten days of receipt of the decision. Any appeal of a decision of the Berkeley Lake City Council shall be made to the Superior Court of Gwinnett County within 30 days of the decision.

(b) All appeals shall be in writing and must be supported by substantial evidence in a written record.

Sec. 77-10 Maintenance of facilities.

(a) All wireless transmission facilities and related landscaping shall be maintained by the facility owner in good condition, order, and repair so that they shall not endanger the life or property of any person, nor shall they be a blight upon the property.

(b) Any antenna or tower that is not operated for a continuous period of 12 months or is not properly maintained shall be considered abandoned, and the owner of such antenna or tower shall remove same and any structures housing supporting equipment within 90 days of receipt of notice from the city of such abandonment. If such antenna or tower is not removed or returned to good condition within said 90 days, the city may remove such antenna or tower and accessory building(s) and place

a lien upon the property for costs of removal. The city may pursue all legal remedies available to it to insure that abandoned communications towers and antennas are removed. Delay by the city in taking action shall not in any way waive the city's right to take action. The city may seek to have the communication tower or antenna removed regardless of the owner's or operator's intent to operate the tower or antenna and regardless of any permits, federal, state or otherwise, which may have been granted.

In addition, prior to the issuance of any tower construction permit, the applicant shall submit security for the costs of removal of the structure in an amount estimated by the applicant and approved by the building inspector as sufficient to cover the costs of removal. Such security may be in the form of:

(1) An 18-month security bond from a surety bonding company authorized to do business in the State of Georgia, payable to the City of Berkeley Lake; the security bond shall be renewed at the time the annual owner registration is renewed in an amount sufficient to cover the costs of removal at the time of renewal. Such renewal bond must be approved by the building official.

(2) A deposit of cash with the City of Berkeley Lake or an escrow of any other instrument readily convertible to cash at face value with a financial institution; and in case of an escrow account, the bank with which the funds are deposited, being subject to the approval of the City of Berkeley Lake. In the case of an escrow account, the applicant shall file with the City of Berkeley Lake an agreement between the financial institution and the applicant specifying the funds that are in the escrow account shall be held in trust until released by the City of Berkeley Lake and may not be used or pledged by the applicant as security in any other matter during that period and that, in the case of the applicant's failure to remove the tower and antennas in accordance with the terms set forth above, then the bank shall immediately make the funds available to the City of Berkeley Lake for use of completion of the removal of the structure. Said deposit of cash shall be kept current to cover the actual costs of removal.

(3) A letter of credit from a financial institution in a form approved by the City of Berkeley Lake providing that the financial institution does guarantee funds in an amount equal to the aforementioned cost of removal and that in the event the applicant fails to remove the structure in accordance with the terms set forth above, the financial institution shall pay to the City of Berkeley Lake immediately and without further action, such funds as necessary to finance the removal of the structure up to the amount specified in the letter of credit. Such amount shall be kept current to cover the actual costs of removal.

(c) If the owner of an abandoned tower or antenna wishes to use such abandoned tower or antenna, the owner first must apply for and receive all applicable permits and meet all of the conditions of this chapter as if such tower or antenna were a new tower or antenna.

Sec. 77-11 Facilities lease.

The city council may approve facilities leases for the location of wireless transmission facilities and other telecommunications facilities upon city-owned property. Neither this section, nor any other

provision of this article shall be construed to create an entitlement or vested right in any person or entity of any type.

Sec. 77-12 Lease application.

Any person that desires to solicit the city's approval of a facilities lease pursuant to this article shall file a lease proposal with the city clerk which, in addition to the information required by section 77-8, shall include the following:

(1) A description of the wireless transmission facilities or other equipment proposed to be located upon city property;

(2) A description of the city property upon which the applicant proposes to locate wireless transmission facilities or other equipment;

(3) Preliminary plans and specifications in sufficient detail to identify:

   a. The location(s) of existing wireless transmission or telecommunications facilities or other equipment upon the city property, whether publicly or privately owned;

   b. The location and source of electric and other utilities required for the installation and operation of the proposed facilities;

(4) Accurate scaled conceptual drawings and diagrams of sufficient specificity to analyze the aesthetic impacts of the proposed wireless transmission facilities or other equipment;

(5) Whether the applicant intends to provide cable service, video dial tone service or other video programming service from the facility, and sufficient information to determine whether such service is subject to cable franchising;

(6) An accurate map showing the location of any wireless transmission or telecommunications facilities in the city that applicant intends to use or lease;

(7) A landscaping bond in an amount to be determined by the city;

(8) Such other and further information as may be requested by the city; and

(9) An application fee for lease negotiation in an amount stated in the schedule of fees.

Sec. 77-13 Determination by the city.

Recognizing that the city is under no obligation to grant a facilities lease for the use of city property, the city shall strive to consider and take action on applications for facilities leases within 60 days after receiving a complete application for such a lease. When such action is taken, the city shall issue a written determination granting or denying the lease in whole or in part, applying the standards set forth below, or any other such criteria as the mayor and city council may choose to apply. If the lease

application is denied, the determination shall include the reason for denial following review of these factors:

(1) The capacity of the city property and public rights-of-way to accommodate the applicant's proposed facilities.

(2) The capacity of the city property and public rights-of-way to accommodate additional utility and wireless transmission or telecommunications facilities if the lease is granted.

(3) The damage or disruption, if any, of public or private facilities, improvements, service, travel or landscaping if the lease is granted.

(4) The public interest in minimizing the cost and disruption of construction upon city property and within the public ways.

(5) The service that applicant will provide to the community and region. The effect, if any, on public health, safety, and welfare if the lease requested is approved. The availability of alternate locations for the proposed facilities.

(6) Whether the applicant is in compliance with applicable federal and state telecommunications laws, regulations and policies, including, but not limited to, the registration requirements administered by the Georgia Public Service Commission.

(7) The potential of radio frequency and other interference with existing public and private telecommunications or other facilities located upon the city property.

(8) The potential for radio frequency and other interference or impact upon residential, commercial, and other uses located within the vicinity of the city property.

(9) (The potential impact on park and recreation activities.

(10) Such other factors, such as aesthetics, as those factors may impact the community.

(11) (The maximization of co-location opportunities with other similar uses.

Sec. 77-14 Agreement.

No facilities lease shall be deemed to have been granted hereunder until the applicant and the city have executed a written agreement setting forth the particular terms and provisions under which the lessee has been granted the right to occupy and use the city property.

Sec. 77-15 Nonexclusive lease.

No facilities lease granted under this article shall confer any exclusive right, privilege, license, or franchise to occupy or use city property for delivery of telecommunications services or any other purposes nor shall approval of a lease entitle the applicant to a permit to construct or place a wireless transmission facility.

Sec. 77-16 Term of facilities lease.

Unless otherwise specified in a lease agreement, a facilities lease granted hereunder shall be valid for a term of up to five years, with the lessee granted a maximum of three five-year renewal options which options shall also be subject to approval of council. The term of any such agreement shall not exceed 20 years.

Sec. 77-17 Sec. 77-17. Rights granted.

No facilities lease granted under this article shall convey any right, title or interest in the city property, but shall be deemed a license only to use and occupy the city property for the limited purposes and term stated in the lease agreement. Further, no facilities lease shall be construed as any warranty of title.

Sec. 77-18 Interference with other users.

No facilities lease shall be granted under this article unless it contains a provision which is substantially similar to the following:

The city has previously entered into leases with other tenants for their equipment and wireless transmission facilities. Lessee acknowledges that the city is also leasing the city property for the purposes of transmitting and receiving telecommunication signals from the city property. The city, however, is not in any way responsible or liable for any interference with lessee's use of the city property which may be caused by the use and operation of any other tenant's equipment, even if caused by new technology. In the event that any other tenant's activities interfere with the lessee's use of the city property, and the lessee cannot work out this interference with the other tenants, the lessee may, upon 30 days' notice to the city, terminate this lease and restore the city property to its original condition, reasonable wear and tear excepted. The lessee shall cooperate with all other tenants to identify the causes of and work towards the resolution of any electronic interference problem. In addition, the lessee agrees to eliminate any radio or television interference caused to city-owned facilities or surrounding residences at lessee's own expense and without installation of extra filters on city-owned equipment. Lessee further agrees to accept such interference as may be received from city operated telecommunications or other facilities located upon the city property subject to this lease.

Sec. 77-19 Ownership and removal of improvements.

No facilities lease shall be granted under this article unless it contains a provision which states that all buildings, landscaping, and all other improvements, except telecommunications equipment, shall become the property of the city upon expiration or termination of the lease. In the event that the city requires removal of such improvements, such removal shall be accomplished at the sole expense of the lessee and completed within 90 days after receiving notice from the city requiring removal of the improvements. In the event that wireless transmission facilities or other equipment are left upon city

property after expiration or termination of the lease, they shall become the property of the city if not removed by the lessee upon 30 days' written notice from the city.

Sec. 77-20 Compensation to the city.

Each facilities lease granted under this article on city-owned property is subject to the city's right, which is expressly reserved, to annually fix a fair and reasonable compensation to be paid for the rights granted to the lessee; provided nothing in these sections shall prohibit the city and a lessee from agreeing to the compensation to be paid. Such compensation shall be payable in advance of the effective date of the lease and on or before January 31st of each calendar year. Any payments received after the due date shall include a late payment penalty of two percent of the annual rental fee for each day or part thereof past the due date. The compensation shall be negotiated by the city clerk or his designee, subject to the city council's final approval, based on the following criteria:

(1) Comparable lease rates for other public or private property;

(2) In the case land is leased, an appraisal opinion upon which the land and air space is rented;

(3) If structure of another user is involved, any amount needed to reimburse that user; in addition to the above;

(4) A yearly escalator rate commonly used in comparable leases;

(5) The additional rent such structure may generate if leased to additional users (the city should be entitled to rent as a result of a sublease); and

(6) Additional fees or charges may be established by the city to cover actual costs of processing the application, including engineering review, inspection and appraisal cost, legal, administration of the agreement, providing on-site services, and /or other direct or indirect costs.

Sec. 77-21 Amendment of facilities lease.

Except as provided within an existing lease agreement, a new lease application and lease agreement shall be required of any telecommunications carrier or other entity that desires to expand, modify, or relocate its telecommunications facilities or other equipment located upon city property. If ordered by the city to locate or relocate its telecommunications facilities or other equipment on the city property, the city shall grant a lease amendment without further application. Such amendment must be approved by council.

Sec. 77-22 Renewal application.

A lessee that desires to exercise a renewal option in its facilities lease under this article shall, not more than 180 days nor less than 120 days before expiration of the current facilities lease term, file an application with the city for renewal of its facilities lease which shall include the following:

(1) The information required pursuant to section 77-12 of this chapter;

(2) Any information required pursuant to the facilities lease agreement between the city and the lessee;

(3) A report certified by a radio frequency engineer that the site is in compliance with current FCC radio emission standards;

(4) All deposits or charges required pursuant to this article; and

(5) An application fee which shall be set by the city council as referenced in this chapter.

Sec. 77-23 Renewal determination.

Recognizing that the city is under no obligation to grant a renewal of a facilities lease for the use of city property, the city shall strive to consider and take action on applications for renewal of such leases within 30 days after receiving a complete application for such a lease renewal. When such action is taken, the city shall issue a written determination granting or denying the lease renewal in whole or in part, applying the standards set forth below, or any other such criteria as the city council may choose to apply. If the renewal application is denied, the written determination shall include the reason for denial; such denial may be made after review of these factors or on other grounds as determined by mayor and council:

(1) The financial and technical ability of the applicant.

(2) The legal ability of the applicant

(3) The continuing capacity of the city property to accommodate the applicant's existing facilities.

(4) The applicant's compliance with the requirements of this article and the lease agreement.

(5) Applicable federal, state and local telecommunications laws, rules and policies.

(6) Continued need for the facility in light of technological advances and current industry standards.

(7) Such other factors as may demonstrate that the continued lease to use city property will serve the community interest.

Sec. 77-24 Obligation to cure as a condition of renewal.

No facilities lease shall be renewed until any ongoing violations or defaults in the lessee's performance of the lease agreement, or of the requirements of these sections, have been cured, or a plan detailing the corrective action to be taken by the lessee has been approved by the city. In no event shall a facilities lease be renewed if lessee fails to cure.

CHAPTER 42 - NATURAL RESOURCES

ARTICLE I - RESERVED

ARTICLE II - RESERVED

ARTICLE III - RESERVED

ARTICLE IV - RESERVED

ARTICLE V - RESERVED

ARTICLE VI - RESERVED

ARTICLE VII - RESERVED

ARTICLE VIII - RESERVED

ARTICLE IX - ARTICLE IX. WATER CONSERVATION MEASURES

DIVISION 1 - RAIN SENSOR SHUT-OFF SWITCH

Sec. 42-940 Purpose.

Lawn and landscape irrigation practices within the City of Berkeley Lake, especially during the summer months, can cause a waste of valuable water resources. The purpose of this article is to mandate that water be used for lawn and landscape irrigation in a manner that prevents waste, conserves water resources for their most beneficial and vital uses, and protects the public health.

Sec. 42-941 Definitions.

For the purpose of this article, the following words and terms shall have the meanings respectively ascribed:

Rain sensor shut-off switch means an electric device that detects and measures rainfall amounts and overrides the cycle of an irrigation system so as to turn off such system when a predetermined amount of rain has fallen.

Sec. 42-942 Installation of rain sensor shut-off switch, required.

Any irrigation system installed within the city on or after September 1, 2009, shall be equipped with a rain sensor shut-off switch.

Sec. 42-943 Exemption.

Section 42-942 shall not apply to landscape irrigation systems installed on golf courses or any system dependent upon a nonpublic water source.

Sec. 42-944 Violation; penalty.

Any person who fails to comply with this article shall be subject to a fine not to exceed $100.00 for each violation. Each day a violation occurs shall be considered a separate and distinct violation.

Secs. 42-945—42-950. Reserved.

DIVISION 2 - OUTDOOR WATERING RESTRICTIONS

Sec. 42-951 Restriction on outdoor water of landscape.

Outdoor watering for purposes of planting, growing, managing, or maintaining ground cover, trees, shrubs, or other plants may occur only between the hours of 4:00 p.m. and 10:00 a.m.; provided, however, that this limitation shall not create any limitation on the following outdoor water uses:

(a) Commercial raising, harvesting, or storing of crops; feeding, breeding, or managing livestock or poultry; the commercial production or storing of feed for use in the production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep, and rabbits, or for use in the production of poultry, including, but not limited to, chickens, hens, ratites, and turkeys; producing plants, trees, fowl, or animals; or the commercial production of aquacultural, horticultural, dairy, livestock, poultry, eggs, and apiarian products or as otherwise defined in O.C.G.A. § 1-3-3;

(b) Capture and reuse of cooling system condensate or storm water in compliance with applicable local ordinances and state guidelines;

(c) Reuse of gray water in compliance with O.C.G.A. § 31-3-5.2 and applicable local board of health regulations;

(d) Use of reclaimed waster water by a designated user from a system permitted by the Environmental Protection Division of the Georgia Department of Natural Resources to provide reclaimed waste water;

(e) Watering personal food gardens;

(f) Watering new and replanted plant, seed, or turf in landscapes, golf courses, or sports turf fields during installation and for a period of 30 days immediately following the date of installation;

(g) Drip irrigation or irrigation using soaker hoses;

(h) Hand watering with a hose with automatic cutoff or handheld container;

(i) Use of water withdrawn from private water wells or surface water by an owner or operator of property if such well or surface water is on said property;

(j) Watering horticultural crops held for sale, resale, or installation;

(k) Watering athletic fields, golf courses, or public turf grass recreational areas;

(l) Installation, maintenance, or calibration of irrigation systems; or

(m) Hydroseeding.

Sec. 42-952 Enforcement.

(a) No person shall use or allow the use of water in violation of the restrictions on outdoor water use contained in this article.

(b) The ordinance enforcement officer shall be the enforcement authority for this article.

(c) Any person who fails to comply with the outdoor watering restrictions found in this article shall be subject to a fine of not more than $1,000.00 for each violation. Each day a violation occurs shall be considered a separate and distinct violation.

CHAPTER 26 - ENVIRONMENT

ARTICLE I - IN GENERAL

Secs. 26-1—26-18. Reserved.

ARTICLE II - AIR QUALITY CONTROL

Secs. 26-19—26-21. Reserved.

Sec. 26-22 Findings and purpose.

(a) The mayor and council find:

(1) Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer.

(2) Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive disease. Children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, sudden infant death syndrome, developmental abnormalities, and cancer.

(b) Accordingly, the mayor and council find and declare that the purposes of this article are:

(1) To protect the public health and welfare by prohibiting smoking in public places and public and private places of employment;

(2) To guarantee the right of nonsmokers to breathe smoke-free air; and

(3) To recognize that the need to breathe smoke-free air shall have priority over the desire to smoke.

Sec. 26-23 Definitions.

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

Attached bar means the bar area of a restaurant or anywhere in a restaurant where alcoholic beverages are served.

Children's daycare facility means a structure wherein is provided care and supervision of children away from their place of residence for less than 24 hours per day on a regular basis for

compensation. For the purpose of this article, the term "children's daycare facility" shall include, but not be limited to, the terms "nursery school," "early learning center," "pre-kindergarten," "private kindergarten," "play school," or "preschool."

Dining area means an interior or exterior area (such as porch, patio or courtyard) containing a counter or tables upon which food is served.

Employee means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit.

Employer means any person who employs the services of an individual person.

Enclosed means all space between a floor and ceiling that is bordered on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling. The term "enclosed" includes areas commonly described as public lobbies or lobbies.

Establishment means any business, store, office or other place where goods or services are sold or provided as part of a commercial venture. The term "establishment" includes but is not limited to the following:

(1) Automobile dealerships, furniture or other showrooms for the display of merchandise offered for sale;

(2) Grocery, pharmacy, specialty department and other stores which sell goods or merchandise;

(3) Service stations, stores or shops for the repair or maintenance of appliances, shoes, motor vehicles or other items or products;

(4) Barbershops, beauty shops, cleaners, laundromats and other establishments offering services to the general public;

(5) Video arcade, pool hall, and other amusement centers;

(6) Offices providing professional services such as legal, medical, dental, engineering, and architectural services;

(7) Banks, savings and loan offices, and other financial establishments;

(8) Hotels and motels and other places that provide accommodations to the public; and

(9) Restaurants and cafeterias.

Place of employment means any enclosed area under the control of a public or private employer which employees frequent during the course of employment including, but not limited to, work areas, restrooms, hallways, employee lounges, cafeterias and snack bars, conference and meeting rooms, lobbies and reception areas. A private residence is not a place of employment unless it is used as a childcare facility, an adult daycare facility, or a health care facility. The dining area of a restaurant shall be treated as a place of employment under this article.

Public place means any enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, restaurants, stores, waiting rooms, lobbies, reception areas, hallways, public transit, restrooms, enclosed shopping malls, elevators, service lines, service stations, offices providing professional services, banks and other financial institutions, educational, recreational and health care facilities, child care facilities, auditoriums, theaters, arenas, meeting rooms, repair shops, automobile dealerships, convention halls, bowling facilities, polling places, and bingo games. Porches, courtyards or decks with a contiguous connection to a public place shall be considered a public place. A private residence is not a public place unless it is used as a childcare facility, an adult daycare facility or a healthcare facility.

Restaurant means an eating and drinking establishment, including but not limited to coffee shops, cafeterias, private clubs, sandwich stands, and private and public school cafeterias, which gives or offers for sale food and alcoholic beverages to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" includes an attached bar as defined in this section. Food courts within enclosed shopping malls shall be treated as restaurants under this article.

Retail tobacco store means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

Service line means any indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

Smoking means inhaling, exhaling, or carrying any lighted cigar, cigarette, pipe, weed, plant or other combustible substance in any manner or in any form.

Sec. 26-24 Smoking prohibited.

Except as otherwise provided in this article, smoking is prohibited in all public places and places of employment within the city.

Sec. 26-25 Prohibition of smoking applicable to city property.

This article shall apply to all enclosed facilities including buildings and vehicles owned or operated by the city.

Sec. 26-26 Reasonable distance.

Smoking may occur outdoors but no less than 20 feet from any public entrance to any public place or place of employment where smoking is prohibited.

Sec. 26-27 Exceptions.

(a) The smoking prohibition shall not apply in the following areas:

(1) Retail tobacco stores;

(2) Private residences, including private residences which may serve as an office workplace, except if used as a childcare facility, an adult daycare facility or a health care facility, where such uses are otherwise permitted;

(3) Any property owned or leased by the federal government; and

(4) Outdoor areas of places of employment, except where an owner or employer declares that the outdoor area is a smoke-free environment, as provided in this article.

(b) Notwithstanding any other provision of this article, any owner, operator, manager or other person who controls any establishment described in this article may declare that the entire establishment is a nonsmoking establishment.

Sec. 26-28 Employers' responsibility.

(a) t is the responsibility of employers to provide a smoke-free workplace for all employees in public places and places of employment, but employers are not required to make expenditures or structural changes to create a smoke-free work area.

(b) Each employer having an enclosed place of employment located within the city is encouraged to adopt, implement, make known and maintain a written smoking policy that incorporates the smoking prohibitions of this article.

(c) The written smoking policy should be provided to all employees.

(d) An owner, manager, operator, or employee of an establishment regulated by this article shall inform persons violating this article of the appropriate provisions thereof.

Sec. 26-29 Enforcement.

(a) Health department officials, the ordinance enforcement officer, or any police officer as defined by state law may issue a citation for any violation of this article.

(b) Any citizen who desires to register a complaint under this article may initiate enforcement with the city's ordinance enforcement officer, the chief of police, or designee.

(c) Any owner, operator or manager of any establishment regulated by this article shall inform persons whom they witness violate this article of the appropriate provisions and request compliance. In the event persons violating this article refuse to comply with this article after being informed by such owner, operator or manager, the person smoking, and not the owner, operator, or manager, shall be subject to an action for violation of this article.

Sec. 26-30 Nonretaliation.

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee, applicant for employment, or customer because such employee, applicant, or customer exercises any right to a smoke-free environment as afforded by this article.

Sec. 26-31 Violations and penalties.

Any person who violates any provision of this article shall be subject to the following penalties:

(1) A fine not exceeding $50.00 for a first violation;

(2) A fine not exceeding $75.00 for a second violation of this article within one year; and

(3) A fine not exceeding $100.00 for each additional violation of this article within one year.

Sec. 26-32 Other applicable laws and disclaimer.

This article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable law. By regulating smoking, the city is assuming and undertaking only to promote the general health and welfare of its citizens. By this enactment, neither the city, its officers nor its employees shall be liable in money damages to any person who claims that any breach of this article caused injury.

Secs. 26-33 — 26-52. Reserved.

ARTICLE III - NOISE CONTROL

Sec. 26-53 Definitions.

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

Community event means any event the city or a homeowners' association has approved prior to its occurrence and that is sponsored or attended by a local organization or group of people.

Construction, street work, street repair, drilling or demolition tools or equipment means machines or mechanically powered items that are typically used on commercial construction projects and involve more than routine repairs or work on residential property for residential occupants.

Domestic power tool means a mechanically powered saw, sander, drill, grinder, lawnmower, weed eater or edger, lawn or garden tool, snow blower, leaf blower or similar device that is used in residential areas for work that is typically done by or for residential occupants.

Noise sensitive unit means any building, structure, or portion thereof that has the doors and windows closed and that is used as a church, day care center, hospital, nursing care center or school, or place of overnight accommodation, including, but not limited to, individual homes, apartments and mobile homes.

OEO means the city ordinance enforcement officer or his designee.

Outdoor activity means an athletic, entertainment or similar activity.

Permit, permitting and permission means to allow, consent to, or expressly assent or agree to the doing of an act.

Person means an individual person, association, trust, partnership, firm or corporation.

Plainly audible means any sound, the content of which can be clearly heard by a listener of ordinary hearing capabilities.

Sec. 26-54 Sec. Purpose.

The city council has determined it necessary to control and abate noises which unreasonably annoy, disturb, injure or endanger the comfort, repose, health, peace, safety and welfare of the people of the city, and this article shall be construed to effectuate that purpose.

Sec. 26-55 Unreasonable noises prohibited.

No person shall make, assist in making, permit or allow to continue any unreasonable noise in the city. A noise is unreasonable when two or more of the following circumstances exist:

(1) The noise is made between the hours of 9:00 p.m. and 7:00 a.m.;

(2) The noise is plainly audible within a noise sensitive unit that is not the source of the noise;

(3) The noise is amplified by a machine or object;

(4) The tone of the noise is abnormally high or low according to the perception of a listener with normal hearing capabilities;

(5) The noise remains constant for at least five minutes; or

(6) The noise is repeated at least three times during a 30-minute time period.

Sec. 26-56 Specific noises prohibited.

(a) The following acts are presumed unreasonable noises in violation of this article:

(1) The use, operation or playing of any radio, television, phonograph, compact disc player, tape player, loudspeaker, musical instrument, or other similar machine or device that is used for the production of noise between the hours of 10:00 p.m. and 7:00 a.m. when the noise is plainly audible within a noise sensitive unit that is not the source of the noise.

(2) The loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, or similar objects between the hours of 9:00 p.m. and 7:00 a.m. when the noise is plainly audible within a noise sensitive unit that is not the source of the noise.

(3) The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle, except as a danger signal.

(4) The use of any automobile, motorcycle or other kind of vehicle in a manner that creates loud grating, grinding, revving, rattling or other similar noise.

(5) The use of exhaust brakes, except when used in an emergency to stop or slow a vehicle to avoid a collision.

(6) The discharging of exhaust from any steam engine, stationary internal combustion engine, motorboat, motorcycle or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises.

(7) The making of, or assisting with the making of, noise in a public park when the noise is plainly audible within a noise sensitive unit that is not the source of the noise.

(8) The use of construction, street work, street repair, drilling or demolition tools or equipment during the following hours:

a. Monday through Friday before 7:00 a.m. or after 9:00 p.m.;

b. Saturdays before 8:00 a.m. or after 7:00 p.m.; and

c. Sundays before 10:00 a.m. or after 7:00 p.m.

(9) The use of domestic power tools during the hours of 10:00 p.m. and 7:00 a.m.

(10) Noise created by animals when it violates the standards adopted in the county animal control ordinance. Enforcement of this subsection shall be the responsibility of the OEO and the county animal control, unless otherwise designated by the council.

(b) The enumeration of unreasonable noises in subsection (a) of this section shall not limit the city from investigating and declaring other noises unreasonable as provided for in section 26-55.

Sec. 26-57 General exceptions.

The following acts are exceptions to the prohibitions in section 26-55:

(1) Noise emanating from aircraft and aircraft operations, railway locomotives and nonstationary farming equipment.

(2) Noise created by the normal operation of construction, street work, street repair, drilling or demolition tools or equipment provided the construction, street work, street repair, drilling or demolition work occurs during the following hours:

a. Monday through Friday, 7:00 a.m. to 9:00 p.m.;

b. Saturday 8:00 a.m. to 7:00 p.m.; or

c. Sunday 10:00 a.m. to 7:00 p.m.

(3) Noise created by the operation of any domestic power tool provided that operation of the domestic power tool occurs during the hours of 7:00 a.m. and 9:00 p.m.

(4) Noise created by an outdoor activity or community event conducted on public parks, playgrounds, grounds owned by a homeowners' association, and public or private school grounds.

(5) Noise created by an animal that does not violate section 26-56(a)(10).

(6) Noise that constitutes constitutionally protected speech when the noise occurs during the hours of 7:00 a.m. and 10:00 p.m. and is not so loud that it is plainly audible within a noise sensitive unit that is not the source of the sound.

Sec. 26-58 Exception due to emergency situation.

It shall be a defense to violation of section 26-55 that at the time of the violation there existed an emergency which compelled the person to cause the noise or sound in question.

Sec. 26-59 Reserved.

Sec. 26-60 Nonexclusivity.

This article shall not affect the validity or enforceability of any other state law or city or county ordinance, which is or may in the future be in effect and which relates to the activities regulated by this article.

Sec. 26-61 Each incident deemed separate violation.

Each incident constituting a violation of section 26-55 or 26-56 shall constitute a separate offense. Upon citation for violation of section 26-55 or 26-56, the failure of the person to abate the noise shall result in the issuance of further citations.

Sec. 26-62 Violation; penalty.

Any person who is convicted of a violation of this article shall be fined not more than $1,000.00 for each violation. Each day a violation occurs shall be considered a separate and distinct violation.

Secs. 26-63 — 26-82. Reserved.

ARTICLE IV - NUISANCES

Sec. 26-83 Definitions.

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

Nuisance means anything that causes hurt, inconvenience, or damage to another, provided that the hurt, inconvenience, or damage complained of shall not be fanciful, or such as would affect only one of fastidious taste, but rather such as would affect an ordinary reasonable man; and the fact that the act done may otherwise be lawful shall not keep it from being a nuisance.

Nuisance per se means an act, occupation, or structure which is a nuisance at all times and under any circumstances, regardless of location or surroundings.

Private nuisance means a nuisance limited in its injurious effects to one of a few individuals.

Public nuisance means a nuisance which damages all persons who come within the sphere of its operation, though it may vary in its effects on individuals.

Sec. 26-84 Abatement proceedings.

Any nuisance existing within the corporate limits of this city, except for a nuisance hereinafter excepted, shall be abated in the manner set forth in this article.

(1) Initiation. Proceedings to abate a nuisance, whether public or private, shall be initiated by the filing of a complaint with the city clerk, which such complaint shall state the nature and location of the nuisance and the name and address of the complainant. In the case of a private nuisance, the complaint shall be filed by the person or persons injured by the nuisance; in the case of a public nuisance, the complaint shall be filed on behalf of the public by a city official or by a citizen specially injured by the nuisance.

(2) Notice of hearing. Upon the filing of a complaint as hereinabove provided, the city clerk shall issue a notice directed to the owner of the premises upon which the nuisance complained of is located and, if the person maintaining the same be a different person from the owner, then also to the person maintaining the nuisance, calling on such person to show cause, either personally or by attorney, at the time and place directed by the city clerk, why such activity alleged to be a nuisance should not be ordered abated and removed by the mayor and council. Such notice shall be served at least two days prior to the date set for the hearing by the OEO, and shall be made either personally or by leaving a copy at the party's most notorious place of abode. A copy

(3) Order of abatement. If after hearing all the evidence the mayor and council should decide that the activity complained of is a nuisance, the mayor shall issue an order directed to the OEO, commanding that the nuisance be abated. A copy of such order of abatement shall be served on the party or parties maintaining the nuisance.

(4) Effect of noncompliance. In the event of a refusal to comply with the order of abatement issued by the mayor, the person maintaining the nuisance shall be subject to arrest for violation of law.

Sec. 26-85 Sec. Summary abatement.

Nothing contained in the foregoing section shall prevent the mayor and city council from summarily and without notice ordering the abatement of or abating any nuisance that is a nuisance per se in the law or where the case is an urgent one and the health and safety of the public or a portion thereof is in imminent danger.

Sec. 26-86 Graffiti.

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

Graffiti means the defacing, damaging or destroying by spraying of paint or marking of ink, chalk, dye or other similar substances, or by carving or scratching on public or private buildings, structures, places and properties.

Graffiti abatement procedure means the abatement procedure which identifies graffiti, issues notices to the landowner to abate the graffiti, and cures in absence of a response.

Private contractor means any person with whom the city shall have contracted to remove graffiti.

(b) Nuisance. Graffiti and other defacement of public and private property, including walls, rocks, bridges, buildings, fences, gates, signage, and other structures, trees, and other real and personal property within the city constitutes a nuisance.

(c) Prohibited. It shall be a violation of this article for any person to write, paint or draw, carve or scratch upon any wall, rock, bridge, building, fence, gate, signage, and other structure, tree, and other real or personal property, either publicly or privately owned, any drawing, inscription, figure or mark of the type which is commonly known and referred to as graffiti within the city without permission from the city.

(d) Violation. A violation of any of the provisions of this section shall be punished by a fine of up to $1,000.00 and a jail term of up to 60 days. Each day a violation occurs shall be considered a separate and distinct violation.

(e) Notice of removal.

(1) Whenever the OEO determines that graffiti exists on any public or private buildings, structures, and places which are visible to any person utilizing any public road, parkway, alley, sidewalk or other right-of-way within the city and when weather conditions permit the painting of exterior surfaces, the OEO shall cause a notice to be issued to abate such nuisance. The property owner

shall have two business days after the date of the notice to remove the graffiti or the same will be subject to abatement by the city.

(2) The notice to abate graffiti pursuant to this section shall be a written notice to be served upon the owner of the affected premises, as such owner's name and address appears on the last property tax assessment rolls of the county. If there is no known address for the owner, the notice shall be sent in care of the property address. The notice required by this section may be served in any one of the following manners:

a. By personal service on the owner, occupant or manager of the property; or

b. By registered or certified mail addressed to the owner at the last known address of said owner. If this address is unknown, the notice will be sent to the property address.

(f) City costs enforceable as a lien. Any and all costs incurred by the city in the abatement of the graffiti nuisance as provided in this section shall constitute a debt owed to the city by the property owner and shall be enforceable as a lien against the property upon which such nuisance existed, in addition to the other legal remedies available for enforcement of debts.

(g) Removal by city. Upon failure of persons to comply with the notice by the designated date, or such continued date thereafter as the OEO approves, then the graffiti may be abated by city forces or by private contractor, and the city or its private contractor is expressly authorized to enter the premises for such purposes during regular business hours or at times mutually agreeable with the property owner or occupant. All reasonable efforts to minimize damage from such entry shall be taken by the city. If the city provides for the removal of the graffiti, it shall not authorize nor undertake to provide for the painting or repair of any more extensive area than the area where the graffiti is located. When graffiti is painted over, the city or its private contractor shall attempt to match the paint with the underlying color of the defaced surface. Property owners in the city may consent in advance to city entry onto private property for graffiti removal purposes.

(h) Provisions not mandatory.

(1) It is the specific intent of this article that no provision nor any term used in this article is intended to impose any duty whatsoever upon the city or any of its officers or employees, for whom the implementation and enforcement of this article shall be discretionary and not mandatory.

(2) Nothing contained in this article is intended to be, nor shall be, construed to create or form the basis of any liability on the part of the city, or its officers, employees, or agents, for any injury or damage resulting from any action or inaction on the part of the city related in any manner to the enforcement of this article by its officers, employees, or agents.

CHAPTER 32 - GREENSPACE

ARTICLE I - IN GENERAL

Sec. 32-1 Definitions.

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

Greenspace is defined as any city property protected by the Georgia Piedmont Land Trust (GPLT) currently comprised of Tax Parcels R6267 003C, R6267 065 and R6289 215, said parcels being situated adjacent to the right-of-way of Peachtree Industrial Boulevard.

Sec. 32-2 Prohibited activities.

The following activities and uses of city property subject to a deed of conservation easement, hereinafter "greenspace," are expressly prohibited:

(1) **Motorized vehicle use.** Motorized vehicle activities are prohibited, except for emergency vehicles requiring access to the greenspace. Disabled individuals requiring motorized devices for personal locomotion are exempt from this prohibition.

(2) **Commercial use.** Commercial activities are prohibited.

(3) **Signage.** Display of signs or advertisements is prohibited on or over the greenspace, except for educational, informational or directional signage that may be displayed by or authorized by the city.

(4) **Dumping.** Disposal of any materials of any kind, including but not limited to biohazards and personal wastes, landscape waste, soil, trash, ashes, garbage, waste, abandoned vehicles, appliances, machinery, or other materials, is prohibited.

(5) **Disturbance of vegetation.** The cutting or transplanting of any trees, bushes, wildflowers, and other flora native to the Piedmont Region of the state is prohibited, unless specifically approved in writing and in advance of any cutting or transplanting activity, by the city. The introduction of any non-native species of flora in the greenspace is prohibited. Any change, disturbance, alteration or impairment of the natural, scenic and aesthetic features is prohibited.

(6) **Hunting.** Hunting is prohibited.

(7) **Activities and uses prohibited.** Specific activities and uses prohibited in the greenspace include but are not limited to:

   (1) On- or off-trail camping;

   (2) Overnight camping;

(3) Use of open fires of any kind, including barbeque grills and camp stoves;

(4) Use of bicycles or mountain bikes;

(5) Formal or sponsored activities, races, classes, tours, and like activities other than certain educational and low-impact recreational activities approved by the city;

(6) Trimming or grooming of trails unless authorized by the city; and

(7) Disturbing, trapping, poisoning, killing or harming in any way any species of wildlife, flora and/or fauna in or on the greenspace during seasonal, transient, or residential patterns with the exception of the removal of invasive species and exotics and other minimal management activities consistent with the deed of conservation easement and authorized by the city and GPLT.

Sec. 32-3 Application.

This chapter shall not apply to persons authorized to take actions within the greenspace by the city.

Sec. 32-4 Penalties for violations.

Any person who violates any provisions of this article in this chapter may upon conviction be punished by a fine of not less than $1,000.00 for each offense and/or 60 days in jail, unless a different penalty is set out herein. Each day a violation occurs shall be considered a separate and distinct violation.

Secs. 32-5—32-50. Reserved.

STATE OF GEORGIA
COUNTY OF GWINNETT
CITY OF BERKELEY LAKE

ORDINANCE

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF BERKELEY LAKE TO REZONE CERTAIN PROPERTY IN THE CITY OF BERKELEY LAKE FROM THE OFFICE-INSTITUTIONAL CLASSIFICATION TO A COMBINATION OF THE OFFICE-INSTITUTIONAL AND COMMERCIAL ZONING CLASSIFICATIONS; TO AMEND THE CITY ZONING MAP TO REFLECT SAID CLASSIFICATIONS; TO GRANT CONCURRENT VARIANCES TO CERTAIN PROVISIONS OF THE CITY OF BERKELEY LAKE ZONING ORDINANCE AS THEY RELATE TO THIS PROPERTY; AND FOR OTHER PURPOSES.

WHEREAS, there is a certain tract of real property in the City of Berkeley Lake comprising approximately 9.28 acres at the corner of North Berkeley Lake Road and Peachtree Industrial Boulevard, Map Reference 6289-215 which is currently owned by Berkeley Lake Investments, L.P., and James Andrew, as Administrator CTA of the Estate of Dorothy Ar'lyn Bagwell; and

WHEREAS, the property is currently zoned office-institutional; and

WHEREAS, it appears to the Council of the City of Berkeley Lake that a combination of zoning classifications may be more appropriate for this property; and

WHEREAS, it has been determined to be in the best interests of the health, safety and welfare of the citizens of the City of Berkeley Lake to rezone the subject property to a mix of the office-institutional and commercial zoning classifications; and

WHEREAS, the Council of the City of Berkeley Lake has reviewed the standards and conditions governing the granting of variances as they relate to this property and finds such standards and conditions are met to grant certain variances as they relate to the property.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Berkeley Lake as follows:

That the zoning ordinance of the City of Berkeley Lake be and is hereby amended to rezone that certain tract of property in the City of Berkeley Lake comprising 9.28 acres at the corner of North Berkeley Lake Road and Peachtree Industrial Boulevard, Map Reference 6289-215, from the office-institutional classification to the office-institutional and commercial zoning classifications, subject to the following conditions and as modified by the variances granted concurrently with said rezoning:

1. No more than four and one-half (4 1/2) acres of the property shall be used for commercial purposes. The remaining portion of the property shall be used under the office-institutional classification.

2. The precise location of the commercial uses shall be determined by the owner or user of the property; provided that the owner or user of the property shall endeavor to place the commercial uses nearest the southernmost and northernmost portions of the property.

3. The only commercial uses permitted on the property shall be those listed below:

(a) Alteration and/or tailoring services
(b) Animal hospital, veterinary services and pet grooming
(c) Art galleries
(d) Assembly hall
(e) Audio and video product sales and/or services
(f) Banks, financial institutions and financial services, including drive-through teller windows and islands and automated teller machines (ATMS) located on the exterior of said institutions and service providers
(g) Medical and/or dental clinics, chiropractic clinics or offices and specialized medical treatment and/or diagnostic facilities (*e.g.*, cancer treatment or radiology facilities)
(h) Club or lodge (non-commercial)
(i) Computer and/or technology-related product sales, service, training and/or education
(j) Drug store
(k) Exercise facility/gymnasium/health club
(l) Farm and garden supply store
(m) Floral shop
(n) Hotel/motel/extended stay facility
(o) Insurance sales and/or services
(p) Jewelry sales and/or services
(q) Landscaping and/or lawn service business (provided that no chemicals are manufactured or stored on-site)
(r) Library
(s) Mailing, gift wrapping and/or package sales and services
(t) Medical and dental laboratories (no chemicals manufactured on-site)
(u) Museum
(v) Nursery school or child day care center
(w) Upscale consumer goods and services (expressly excluding full-service grocery store)
(x) Personal services including barber, beauty, nail salon, tanning salon
(y) Photography shop or studio
(z) Plant nursery
(aa) Printing, photocopying, film or camera shop
(bb) Restaurant (sit down, not fast food) and food preparation and delivery service (*e.g.* pizza delivery)
(cc) Retail store or shop (non-intensive use only)
(dd) School of dance, music, martial arts or similar school

(ee) Specialized training or education facility
(ff) Sporting goods and/or equipment sales and services
(gg) Staffing and placement
(hh) Tax return preparation and related services
(ii) Telecommunications and/or media services
(jj) Travel services

4. Signage shall be in accordance with any applicable ordinances.

5. The owner or user of the property shall strive to create an upscale project, consistent with the quality of other top-notch commercial and office projects in Gwinnett County.

6. The owner or user of the property shall divert the surface water from approximately four (4) acres of the property so that the surface water from said four (4) acres will not drain into Berkeley Lake, and so that the surface water from only approximately five (5) acres of the property will drain into Berkeley Lake. This diversion of surface water shall be accomplished as a feature of the development of the property unless this requirement violates or does not comply with any applicable law, statute, ordinance, regulation or rule of any local, state or federal governmental entity having jurisdiction over the property, in which case this requirement shall not apply.

7. The Council of the City of Berkeley Lake finds that the appropriate standards and conditions have been met and after consideration of these findings grants the following variances as they relate to this property:

   1. Section 39-305 of the City of Berkeley Lake Zoning Ordinance ("Ordinance") is varied to allow several buildings, structures or uses and customary accessory buildings on the property and on each of the areas so zoned commercial or office-institutional hereunder.

   2. Section 39-1006 1. of the Ordinance is varied to reduce the "District Area" to a minimum of one (1) acre.

   3. Section 39-1105 of the Ordinance is varied to eliminate the requirement for any buffer or screening between the commercial and office-institutional uses on the property.

   4. Notwithstanding any other provisions of the Ordinance and the fact that this property may be used by, conveyed to or owned by separate owners in the future, a variance is granted and it is the interpretation that for all purposes under the Ordinance, this property shall be deemed to be one (1) lot.

IT IS FURTHER ORDAINED that the zoning map of the City of Berkeley Lake be and is hereby amended to reflect the new zoning classifications on and concurrent variances affecting said property and the City Clerk is directed to make the appropriate notifications thereon.

SO ORDAINED, this the 9th day of December, 1999.

ATTEST:

Heather C Ware
City Clerk

Marguerite Cooke
Marguerite Cooke, Mayor

CASE NUMBER RZC-07-054
GCID 2007-1100

BOARD OF COMMISSIONERS

GWINNETT COUNTY

LAWRENCEVILLE, GEORGIA

RESOLUTION

READING AND ADOPTION:

At the regular meeting of the Gwinnett County Board of Commissioners, held in the Justice and Administration Center Auditorium, 75 Langley Drive, Lawrenceville, Georgia.

Present	VOTE
Charles Bannister, Chairman	AYE
Lorraine Green, District 1	AYE
Albert Nasuti, District 2	AYE
Michael Beaudreau, District 3	AYE
Kevin Kenerly, District 4	AYE

On motion of COMM. NASUTI, which carried 5-0, the following resolution was adopted:

A RESOLUTION TO AMEND THE OFFICIAL ZONING MAP

WHEREAS, the Municipal-Gwinnett County Planning Commission has held a duly advertised public hearing and has filed a formal recommendation with the Gwinnett County Board of Commissioners upon an Application to Amend the Official Zoning Map from M-1 to C-2 by GEORGE FLANIGAN for the proposed use of COMMERCIAL RETIAL USES (REDUCTION IN BUFFERS) on a tract of land described by the attached legal description, which

is incorporated herein and made a part hereof by reference; and

WHEREAS, notice to the public regarding said Amendment to the Official Zoning Map has been duly published in THE GWINNETT DAILY POST, the Official News Organ of Gwinnett County; and

WHEREAS, a public hearing was held by the Gwinnett County Board of Commissioners on AUGUST 28, 2007 and objections were not filed.

NOW, THEREFORE, BE IT RESOLVED by the Gwinnett County Board of Commissioners this the 28TH day of AUGUST 2007, that the aforesaid application to amend the Official Zoning Map from M-1 to C-2 is hereby is hereby **APPROVED AS C-1** subject to the following enumerated conditions:

1. To restrict the use of the property as follows:

   A. Retail, service commercial and accessory uses. Outdoor storage shall be prohibited. The following uses shall also be prohibited: convenience stores and dry cleaners. Restaurants without drive-thru windows, banks with drive-thru windows and drug stores are approved as Special Uses.

   B. Abide by all requirements of the Peachtree Corners Activity Center/Corridor Overlay.

   C. Limit the height of all buildings to one story.

2. To satisfy the following site development considerations:

A. Provide a 50-foot buffer adjacent to residentially-zoned property. Adjacent to Mr. Holben's residential property, outside the 50-foot buffer, include a 5-foot high vinyl coated chain link fence and a row of Thuga Green Giants, Leyland Cypress or other evergreen trees as approved by the Director of Planning and Development. The trees shall be 8-feet in height at time of planting.

B. Location and design of driveways shall be subject to review and approval of the Gwinnett County Department of Transportation.

C. Dumpster pick-up and deliveries shall be limited to between 7:00 a.m. and 7:00 p.m.

D. Hours of operation shall be limited to between 7:00 a.m. and 11:00 p.m.

E. No outdoor loud speakers will be allowed. Sound level from any indoor or outdoor speaker shall be 0 decibels measured at the property line.

F. Lighting shall be down-cast and directed in towards the property so that it does not shine into nearby residential properties.

G. Existing billboard on the property shall remain as it is and no other billboard shall be allowed.

H. The owner shall repair or repaint any graffiti or vandalism on the property within 72 hours.

I. Peddlers and parking lot sales are prohibited.

3. Abide by the following requirements, dedications and improvements:

A. Any restaurant uses shall utilize modern odor scrubbing and air filtration equipment to minimize smoke, odor or other affects on surrounding properties. They shall also comply with all County, State and EPA health regulations. Final approval of restaurant design must be reviewed and approved by the Director of Planning.

B. All roof mounted HVAC equipment shall be screened from view.

GWINNETT COUNTY BOARD OF COMMISSIONERS

By: _____
Charles E. Bannister, Chairman

Date Signed: September 17, 2007

ATTEST:

_____
County Clerk/Deputy County Clerk

BOARD OF COMMISSIONERS OF GWINNETT COUNTY GEORGIA

LEGAL DESCRIPTION
Tract One

All that tract or parcel of land lying and being in Land Lot 268 of the 6th Land District, Gwinnett County, Georgia and being more particularly described as follows:

To find **THE POINT OF BEGINNING** commence at the intersections of the Southerly Right-of-Way of Peachtree Industrial Boulevard (R/W varies) and the Easterly Right-of-Way of South Berkeley Lake Road (80' R/W), if extended to form a point; THENCE leaving said point North 62 degrees 34 minutes 46 seconds East for a distance of 40.06 feet to a point on the Southerly Right-of-Way of Peachtree Industrial Boulevard (R/W varies); THENCE continuing along said Right-of-Way North 62 degrees 34 minutes 46 seconds East for a distance of 971.08 feet to and iron pin set, said point being **THE TRUE POINT OF BEGINNING.**

THENCE from said point as thus established and leaving said Right-of-Way of Peachtree Industrial Boulevard North 27 degrees 25 minutes 15 seconds West for a distance of 317.63 feet to an iron pin set; THENCE North 60 degrees 06 minutes 02 seconds East for a distance of 269.40 feet to an iron pin set; THENCE South 27 degrees 25 minutes 17 seconds East for a distance of 329.28 feet to an iron pin set on the Southerly Right-of-Way of Peachtree Industrial Boulevard (R/W varies); THENCE continuing along said Right-of-Way South 62 degrees 34 minutes 46 seconds West for a distance of 269.15 feet to an iron pin set, said point being **THE TRUE POINT OF BEGINNG.**

Said property contains 1.999 acres, as shown on the survey for G.P.'s Enterprises Inc. as Tract One, prepared by Precision Planning Inc., dated November 29, 2005.

RZC 07054

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RECEIVED
OCT 19 2006

All that tract or parcel of land lying and being in Land Lot 268 of the 6th Land District, Gwinnett County, Georgia and being more particularly described as follows:

To find **THE POINT OF BEGINNING** commence at the intersections of the Southerly Right-of-Way of Peachtree Industrial Boulevard (R/W varies) and the Easterly Right-of-Way of South Berkeley Lake Road (80' R/W), if extended to form a point; THENCE leaving said point North 62 degrees 34 minutes 46 seconds East for a distance of 40.06 feet to a point on the Southerly Right-of-Way of Peachtree Industrial Boulevard (R/W varies); THENCE continuing along said Right-of-Way the following two (2) courses and distances North 62 degrees 34 minutes 46 seconds East for a distance of 971.08 feet to and iron pin set; THENCE North 62 degrees 34 minutes 46 seconds East for a distance of 269.15 feet to a point, said point being **THE TRUE POINT OF BEGINNING**

THENCE from said point as thus established and leaving said Right-of-Way North 27 degrees 25 minutes 17 seconds West for a distance of 329.28 feet to an iron pin set; THENCE North 60 degrees 06 minutes 02 seconds East for a distance of 290.20 feet to a ½" rebar found; THENCE South 29 degrees 54 minutes 52 seconds East for a distance of 55.65 feet to an iron pin set; THENCE North 70 degrees 27 minutes 51 seconds East for a distance of 123.78 feet to an iron pin set; THENCE South 30 degrees 03 minutes 59 seconds East for a distance of 269.57 feet to an iron pin set on the Southerly Right-of-Way of Peachtree Industrial Boulevard; THENCE continuing along said Right-of-Way the following five (5) courses and distances South 62 degrees 34 minutes 46 seconds West for a distance of 241.06 feet to a point; THENCE North 27 degrees 07 minutes 24 seconds West for a distance of 63.89 feet to a point; THENCE South 61 degrees 56 minutes 39 seconds West for a distance of 49.53 feet to a point; THENCE South 27 degrees 07 minutes 15 seconds East for a distance of 63.32 feet to a point; THENCE South 62 degrees 34 minutes 46 seconds West for a distance of 136.82 feet to a point, said point being **THE TRUE POINT OF BEGINNING.**

Said property contains 2.999 acres, as shown on the survey for G.P.'s Enterprises Inc. as Tract Two, prepared by Precision Planning Inc., dated November 29, 2005.

RZC 07054

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GWINNETT PLANNING DIVISION

STATE OF GEORGIA
COUNTY OF GWINETT

ORDINANCE NO. O-203-17

AN ORDINANCE TO AMEND THE OFFICAL ZONING MAP OF THE CITY OF BERKELEY LAKE, GEORGIA, ADOPTED NOVEMBER 21, 2013, TO REZONE CERTAIN PROPERTY IN THE CITY OF BERKELEY LAKE FROM GC-A (GWINNETT COUNTY-ANNEXED) TO C-1 (NEIGHBORHOOD BUSINESS); TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

BE IT ORDAINED by the Mayor and City Council of the City of Berkeley Lake, Georgia, that the Official Zoning Map of the City of Berkeley Lake, Georgia dated November 21, 2013, shall be amended by changing the zoning classification of Parcel R6269-158 from GC-A (Gwinnett County-Annexed) to C-1 (Neighborhood Business); which map is and shall be maintained in the office of the city clerk of the City of Berkeley Lake City Hall.

BE IT FURTHER ORDAINED that the use of said property shall be limited to any retail, financial or personal business or service providing convenience goods and services to nearby residential areas, except: gasoline stations; drive-through eating places; automotive sales and service; uses requiring the outdoor display or storage of equipment, vehicles, materials or goods; and pawn shops, title loan or check cashing establishments.

All ordinances and parts of ordinances in conflict herewith are repealed to the extent of any such conflict.

This ordinance shall be effective upon adoption by the Council of the City of Berkeley Lake.

So ordained, this **15th** day of **June, 2017**.

LOIS SALTER
MAYOR

ATTEST:

TOM ROZIER
CITY CLERK

First Read: May 18, 2017
Second Read: June 15, 2017
Adopted: June 15, 2017

STATE OF GEORGIA
COUNTY OF GWINETT

ORDINANCE NO. O-205-17

AN ORDINANCE TO AMEND THE OFFICAL ZONING MAP OF THE CITY OF BERKELEY LAKE, GEORGIA, ADOPTED NOVEMBER 21, 2013, TO REZONE CERTAIN PROPERTY IN THE CITY OF BERKELEY LAKE FROM GC-A (GWINNETT COUNTY-ANNEXED,) TO M-1 (LIGHT INDUSTRIAL); TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

BE IT ORDAINED by the Mayor and City Council of the City of Berkeley Lake, Georgia, that the Official Zoning Map of the City of Berkeley Lake, Georgia dated November 21, 2013, shall be amended by changing the zoning classification of Parcel R6269-031 located at 4487 South Old Peachtree Road from GC-A (Gwinnett County-Annexed) to M-1 (Light Industrial); which map is and shall be maintained in the office of the city clerk of the City of Berkeley Lake City Hall.

BE IT FURTHER ORDAINED that the following special condition of approval shall apply:

1. Any outdoor storage of fertilizers, pesticides, fuels or other chemicals conform to the BMPs of the latest edition of the Georgia Stormwater Manual.

All ordinances and parts of ordinances in conflict herewith are repealed to the extent of any such conflict.

This ordinance shall be effective upon adoption by the Council of the City of Berkeley Lake.

So ordained, this **16th** day of **November, 2017**.

Lois D. Salter

LOIS SALTER
MAYOR

ATTEST:

TOM ROZIER
CITY CLERK

First Read: October 19, 2017
Second Read: November 16, 2017
Adopted: November 16, 2017

CASE NUMBER CIC-05-022

BOARD OF COMMISSIONERS

GWINNETT COUNTY

LAWRENCEVILLE, GEORGIA

RESOLUTION

READING AND ADOPTION:

At the regular meeting of the Gwinnett County Board of Commissioners, held in the Justice and Administration Center Auditorium, 75 Langley Drive, Lawrenceville, Georgia.

Present	VOTE
Charles Bannister, Chairman	AYE
Lorraine Green, District 1	AYE
Albert Nasuti, District 2	AYE
Michael Beaudreau, District 3	ABSENT
Kevin Kenerly, District 4	AYE

On motion of COMM. NASUTI, which carried 4-0, the following resolution was adopted:

A RESOLUTION TO AMEND THE OFFICIAL ZONING MAP

WHEREAS, the Municipal-Gwinnett County Planning Commission has held a duly advertised public hearing and has filed a formal recommendation with the Gwinnett County Board of Commissioners upon an Application to Amend the Official Zoning Map from C-2 to C-2 (CHANGE IN CONDITIONS) by PLANNERS AND ENGINEERS COLLABORATIVE for the proposed use of RESTAURANT WITH DRIVE THROUGH WINDOW on a tract of land described by the attached legal description, which

is incorporated herein and made a part hereof by reference; and

WHEREAS, notice to the public regarding said Amendment to the Official Zoning Map has been duly published in THE GWINNETT DAILY POST, the Official News Organ of Gwinnett County; and

WHEREAS, a public hearing was held by the Gwinnett County Board of Commissioners on DECEMBER 13, 2005 and objections were not filed.

NOW, THEREFORE, BE IT RESOLVED by the Gwinnett County Board of Commissioners this the 13TH day of DECEMBER, 2005, that the aforesaid application to amend the Official Zoning Map from C-2 to C-2 (CHANGE IN CONDITIONS) is hereby APPROVED subject to the following enumerated conditions:

1. To restrict the use of the property as follows:

   A. Office, retail and service commercial and accessory uses. Two restaurants with drive-thru window shall be allowed as shown on the site plan dated December 1, 2005. The restaurant concept shall be a Starbucks or Einstein Bagels-like establishment. The following uses will not be permitted on the site: adult entertainment and novelty stores; billboards; building, electrical or plumbing contractors; equipment rental; group and congregate personal care homes; mobile buildings (beyond necessary construction period); parking lots and garages; lounges that do not serve food (50% revenue from non-alcohol sales); caretaker or watchman quarters as an accessory use that are not permanent structures; carnival rides; auto body repair shops; auto repair shops or tire stores including lubrication or tune-up centers; automotive sales lots and associates service facilities; automotive service stations, with or without fuel pumps; contractors' offices or the outside storage of equipment or materials; heavy equipment and farm

equipment rental or sales and service; machine or welding shops; mini-warehouse storage facilities, mobile home or mobile building leasing or sales; recreation facilities (commercial outdoor, such as miniature golf, driving ranges, water slides, or drive-in theaters); residential or community shelters; taxi cab or limousine services; convenience food stores with fuel pump; automotive parts stores, pest control businesses; automotive car wash; garden supply centers and greenhouses with outside storage; self-service laundries; plumbing, electrical, pool and home building supply showrooms and sales centers; radio, recording or television studios and broadcasting stations that need to erect antenna above roof height; recreation facilities (indoor, such as bowling alleys, skating rinks, shooting ranges and movie theaters); emission inspection stations; building materials sales with outdoor storage.

B. Excluding the corner tract, any outparcel development fronting Old Peachtree Road shall be limited to office-institutional or day care center usage.

2. To satisfy the following site development considerations:

A. Provide a minimum 25-foot natural buffer adjacent to residential zoning. Said 25-foot natural buffer to be enhanced where sparsely vegetated. Buffer is to be enhanced with a fence a minimum of six feet in height. In addition, along that portion of the property line adjacent to the Avocet subdivision, provide an additional 15-foot buffer to be improved with a six-foot high berm and landscaped with evergreen trees or hollies. Buffers to be in place within 90 days of initial land clearing of site.

B. Provide minimum 10-foot wide landscaped strips outside the rights-of-way of Peachtree Industrial Boulevard and Old Peachtree Road.

C. Provide 10-foot wide multi-use paths on South Old Peachtree Road and Peachtree Industrial Boulevard across the entire property frontage. The location, design and construction of the paths will be subject to review and approval by the Gwinnett D.O.T.

D. Dumpsters shall be screened by an opaque fence or wall and pick up hours shall be limited to 8:00 a.m and 7:00 p.m. Monday through Friday and 10:00 a.m. to 5:00 p.m. on Saturday, Sunday and Holidays.

E. Each outparcel site shall be limited to a single monument-type ground sign which shall not exceed 70 square feet in size. Outparcel sites may have one 32 square foot wall sign per elevation. All monument signs to have masonry base matching that of the building. A convenience store may have a maximum of 60 square feet of wall signage on the building and a maximum of 15 square feet of canopy signage per road frontage. No spreader bar signage shall be allowed except as required by the State Fire Marshall.

F. No billboards shall be permitted.

G. Buildings shall be finished with architectural treatments of glass and/or brick, stone, or stucco.

H. Building and landscape plans must be submitted for review and approval by the Director of Planning and Development. Landscaping shall be consistent with the standards of nearby office development.

I. The driveways will be allowed onto South Old Peachtree Road and Peachtree Industrial Boulevard as shown on the site plan prepared by Planners and Engineers Collaborative dated December 1, 2005. All design and construction will be subject to review and approval by the Gwinnett County DOT.

J. All roof HVAC units and store front supports must be screened from view.

K. Outdoor lighting must be of a low-level design with sharp cut-up angles to minimize spill over from the commercial area onto adjacent residential properties.

L. Any rain water gutters which are located to the rear of the buildings adjacent to residential areas shall be piped or directed to the front of the site and not allowed to release storm water directly onto the adjacent residential areas.

M. There shall be no overnight truck parking at the site.

N. Delivery hours shall be limited to 8:00 a.m. and 7:00 p.m. Monday through Friday, and 10:00 a.m. to 5:00 p.m. Saturday, Sunday and Holidays.

O. Parking area shall include landscaped islands with trees.

P. Hours of operation shall be limited from 7:00 a.m. to 1:00 a.m.

Q. Hours of operation for restaurants shall be limited from 6:00 a.m. to 11:00 p.m. and the drive through from 6:00 a.m. to 10:00 p.m.

R. Peddlers or parking lot sales shall be prohibited.

S. Buildings and overall site design shall be constructed so as to discourage graffiti tagging, gathering, loitering or illegal activity. Owner shall repaint or repair any graffiti or vandalism that occurs on the property within 72 hours.

GWINNETT COUNTY BOARD OF COMMISSIONERS

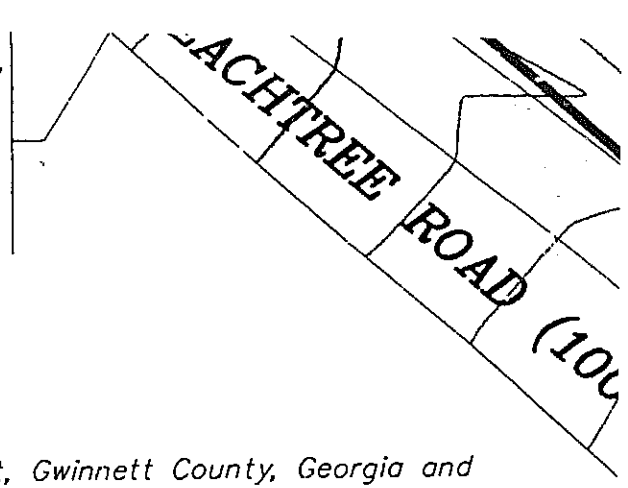
By: _____
Charles E. Bannister, Chairman

Date Signed: 1/13/06

ATTEST:

_____
County Clerk/Deputy County Clerk

(244.40') ARC=243.85'
(11509.16') RAD.11509.16'
(244.40') CH.=243.85'
(N49°05'58"W) N49°33'13"W
(CH. TO S.W.)



LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 270 of the 6th District, Gwinnett County, Georgia and being more particularly described as follows:

BEGINNING at an iron pin set at the southeasterly end of the mitered intersection of the northeasterly right-of-way line of South Old Peachtree Road (100' R/W) with the northerly right-of-way line of Peachtree Industrial Boulevard (R/W Varies), thence along said right-of-way line of South Old Peachtree Road the following courses and distances; North 85 degrees 50 minutes 37 seconds West a distance of 80.27 feet to an iron pin found; thence North 48 degrees 48 minutes 31 seconds West a distance of 234.11 feet to an iron pin found; thence 243.85 feet along an arc of a curve to the left, said curve having a radius of 11,509.16 feet and a chord bearing and distance of North 49 degrees 33 minutes 13 seconds West 243.85 feet to a nail found; thence leaving said right-of-way line North 60 degrees 03 minutes 26 seconds East a distance of 569.58 feet to an iron pin found; thence North 30 degrees 13 minutes 02 seconds West a distance of 154.33 feet to a point; thence North 59 degrees 17 minutes 28 seconds East a distance of 157.03 feet to an iron pin set; thence South 30 degrees 52 minutes 47 seconds East a distance of 202.48 feet to an iron pin found; thence South 41 degrees 37 minutes 14 seconds East a distance of 256.06 feet to an iron pin found; thence South 30 degrees 45 minutes 18 seconds East a distance of 108.69 feet to an iron pin found; thence South 32 degrees 33 minutes 10 seconds East a distance of 75.84 feet to a PK Nail found on the northerly right-of-way line of Peachtree Industrial Boulevard; thence along said right-of-way line 484.38 feet along an arc of a curve to the left, said curve having a radius of 11,534.16 feet and a chord bearing and distance of South 58 degrees 41 minutes 40 seconds West 484.34 feet to an iron pin set; thence South 57 degrees 29 minutes 22 seconds West a distance of 77.85 feet to an iron pin set and the TRUE POINT OF BEGINNING.

Said tract containing 8.117 acres (353,566 square feet).

F

THIS

CIC-05-022

CASE NUMBER RZC-02-005

BOARD OF COMMISSIONERS

GWINNETT COUNTY

LAWRENCEVILLE, GEORGIA

RESOLUTION

READING AND ADOPTION:

At the regular meeting of the Gwinnett County Board of Commissioners, held in the Justice and Administration Center Auditorium, 75 Langley Drive, Lawrenceville, Georgia.

Present	VOTE
Wayne Hill, Chairman	AYE
Marcia Neaton-Griggs, District 1	AYE
Vacant seat, District 2	
John Dunn, District 3	AYE
Kevin Kenerly, District 4	AYE

On motion of CHAIRMAN HILL, which carried 4-0, the following resolution was adopted:

A RESOLUTION TO AMEND THE OFFICIAL ZONING MAP

WHEREAS, the Municipal-Gwinnett County Planning Commission has held a duly advertised public hearing and has filed a formal recommendation with the Gwinnett County Board of Commissioners upon an Application to Amend the Official Zoning Map from C-2 & O-I to C-2, M-1 & O-I by CRESCENT HUNT CORPORATION for the proposed use of COMMERCIAL/RETAIL, LIGHT MANUFACTURING, AND OFFICE USES on a tract of land described by the attached legal description, which

is incorporated herein and made a part hereof by reference; and

WHEREAS, notice to the public regarding said Amendment to the Official Zoning Map has been duly published in THE GWINNETT DAILY POST, the Official News Organ of Gwinnett County; and

WHEREAS, a public hearing was held by the Gwinnett County Board of Commissioners on FEBRUARY 26, 2002 and objections were not filed.

NOW, THEREFORE, BE IT RESOLVED by the Gwinnett County Board of Commissioners this the 26TH day of FEBRUARY, 2002, that the aforesaid application to amend the Official Zoning Map from C-2 & O-I to C-2, M-1 & O-I is hereby APPROVED subject to the following enumerated conditions:

1. To restrict the use of the property as follows:

   A. Retail and service commercial and accessory uses for the southern 3.464-acres of the tract (zoned C-2), as shown on the revised site plan submitted on January 10, 2002, and identified in the legal description submitted by the applicant entitled "C-2 Tract."

   B. Office, office-professional and accessory uses for the northern 4.9982-acres of the tract (zoned O-I) as identified in the legal description submitted by the applicant entitled "O-I Tract."

   C. Light industrial, manufacturing, warehousing and accessory uses for the central 4.4862-acres of the tract (zoned M-1), as shown on the revised site plan submitted January 10, 2002, and identified in the legal description submitted by the applicant entitled "Proposed M-1 Tract."

2. To satisfy the following site development considerations:

A. To provide a minimum 25-foot natural buffer adjacent to Pinckneyville Park. The buffer shall be enhanced with a double staggered row of evergreens eight feet on center where sparsely vegetated. Trees shall be a minimum of six feet in height at the time of planting.

B. Provide a minimum 10-foot wide landscape strip outside the right-of-way of Peachtree Industrial Boulevard.

C. Provide minimum 5-foot wide landscape strips adjacent to internal property lines.

D. Provide 5-foot wide sidewalks adjacent to Peachtree Industrial Boulevard across the entire property.

E. Dumpsters shall be screened by an opaque brick wall. Hours of dumpster pick-up shall be limited to between 7:00 A.M. and 7:00 P.M.

F. Provide interparcel access throughout the development.

G. The shopping center shall be limited to a single monument-type ground sign. Each outparcel site shall be limited to a single monument-type ground sign which shall not exceed 70 square feet in size. Outparcel sites may have one 32 square foot wall sign per elevation. All monument signs shall have a brick base matching that of the building.

H. Billboards shall not be permitted.

I. The buildings identified as 1A and 1B on the revised site plan, dated January 10, 2002 shall be finished with architectural treatments of brick, glass, or pre-cast concrete tilt wall consistent with the submitted elevations; provided however that any pre-cast concrete tilt wall shall be the same color as the brick treatments utilized on building 1. It's further provided that use of pre-cast concrete tilt wall on the front of buildings 1A and 1B shall be subject to prior approval of the Director of Planning and Development and also subject to an appropriate landscape (enhancement) plan approved by the Director of Planning and Development. All other buildings on the property shall be finished with architectural treatments of glass and brick. Free-standing restaurants shall have pitched roofs a minimum of (4:12)

J. Building and landscape plans shall be submitted for review and approval by the Director of Planning and Development.

K. There shall be no more than two curb cuts onto Peachtree Industrial Boulevard. Location of curb cuts subject to review and approval of Gwinnett DOT.

L. All roof HVAC units and storefront supports must be screened from view.

M. Lighting shall be contained in cut-off type luminaries and shall be directed in toward the property so as not to reflect into adjacent properties or roadways.

N. Provide landscaped islands throughout the parking areas per requirements of the Buffer, Landscape and Tree Ordinance.

O. The development of the C-2 and M-1 portions of the property shall be substantially similar to that depicted on the site plan submitted to the Department of Planning and Development on January 10, 2002 with the final site plan for the C-2 and M-1 portions of the property to be approved by the Director of Planning and Development prior to the issuance of development permits.

P. Drive-through restaurants shall be prohibited.

GWINNETT COUNTY BOARD OF COMMISSIONERS

By: F. Wayne Hill
F. Wayne Hill, Chairman

Date Signed: March 8, 2002

ATTEST:

Brenda Maddox
County Clerk

LEGAL DESCRIPTION
PROPOSED M-1 TRACT

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 269 OF THE 6TH DISTRICT, GWINNETT COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY OF PEACHTREE INDUSTRIAL BOULEVARD (150 FOOT RIGHT OF WAY WIDTH AT THAT POINT) WITH THE LAND LOT LINE DIVIDING LAND LOTS 269 AND 270 OF THE 6TH LAND DISTRICT, GWINNETT COUNTY, GEORGIA; THENCE PROCEED ALONG SAID RIGHT OF WAY, NORTH 62 DEGREES 33 MINUTES 55 SECONDS EAST A DISTANCE OF 360.88 FEET TO A POINT; SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE FROM SAID TRUE POINT OF BEGINNING AS THUS ESTABLISHED, ALONG THE SOUTHERLY RIGHT OF WAY OF PEACHTREE INDUSTRIAL BOULEVARD (150 FOOT RIGHT OF WAY WIDTH AT THAT POINT), NORTH 62 DEGREES 33 MINUTES 55 SECONDS EAST A DISTANCE OF 475.00 FEET TO A POINT; THENCE LEAVING SAID RIGHT OF WAY, SOUTH 27 DEGREES 26 MINUTES 05 SECONDS EAST A DISTANCE OF 401.66 FEET TO A POINT; THENCE SOUTH 60 DEGREES 12 MINUTES 50 SECONDS WEST A DISTANCE OF 475.40 FEET TO A POINT; THENCE NORTH 27 DEGREES 26 MINUTES 05 SECONDS WEST A DISTANCE OF 421.16 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF PEACHTREE INDUSTRIAL BOULEVARD BEING THE TRUE POINT OF BEGINNING.

THE ABOVE DESCRIBED PROPERTY IS KNOWN AS THE PROPOSED M-1 TRACT AND CONTAINS 4.4862 ACRES.

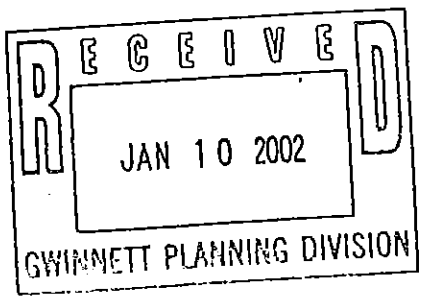
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JAN 10 2002
GWINNETT PLANNING DIVISION

LEGAL DESCRIPTION
C-2 TRACT

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 269 OF THE 6TH DISTRICT, GWINNETT COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY OF PEACHTREE INDUSTRIAL BOULEVARD (150 FOOT RIGHT OF WAY WIDTH AT THAT POINT) WITH THE LAND LOT LINE DIVIDING LAND LOTS 269 AND 270 OF THE 6TH LAND DISTRICT, GWINNETT COUNTY, GEORGIA; THENCE FROM SAID POINT OF BEGINNING AS THUS ESTABLISHED, PROCEED ALONG THE SOUTHERLY RIGHT OF WAY OF PEACHTREE INDUSTRIAL BOULEVARD (150 FOOT RIGHT OF WAY WIDTH AT THAT POINT), NORTH 62 DEGREES 33 MINUTES 55 SECONDS EAST A DISTANCE OF 360.88 FEET TO A POINT; THENCE LEAVING SAID RIGHT OF WAY, SOUTH 27 DEGREES 26 MINUTES 05 SECONDS EAST A DISTANCE OF 421.16 FEET TO A POINT; THENCE SOUTH 60 DEGREES 12 MINUTES 50 SECONDS WEST A DISTANCE OF 343.80 FEET TO A 1/2 INCH RBF IN ROCK PILE ON THE LAND LOT LINE DIVIDING LAND LOTS 269 AND 270; THENCE ALONG THE LAND LOT LINE THE FOLLOWING COURSES AND DISTANCES, NORTH 29 DEGREES 44 MINUTES 17 SECONDS WEST A DISTANCE OF 75.80 FEET TO A POINT; THENCE NORTH 29 DEGREES 44 MINUTES 17 SECONDS WEST A DISTANCE OF 203.95 FEET TO A POINT; THENCE NORTH 29 DEGREES 41 MINUTES 16 SECONDS WEST A DISTANCE OF 155.86 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF PEACHTREE INDUSTRIAL BOULEVARD BEING THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PROPERTY IS KNOWN AS THE C-2 TRACT AND CONTAINS 3.4640 ACRES.

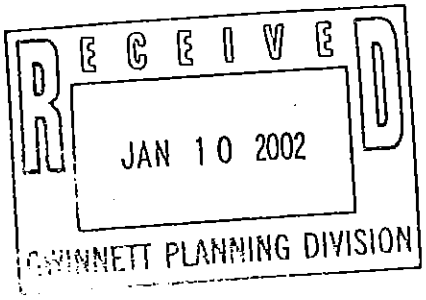


LEGAL DESCRIPTION
O & I TRACT

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 269 OF THE 6TH DISTRICT, GWINNETT COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY OF PEACHTREE INDUSTRIAL BOULEVARD (150 FOOT RIGHT OF WAY WIDTH AT THAT POINT) WITH THE LAND LOT LINE DIVIDING LAND LOTS 269 AND 270 OF THE 6TH LAND DISTRICT, GWINNETT COUNTY, GEORGIA; THENCE PROCEED ALONG SAID RIGHT OF WAY, NORTH 62 DEGREES 33 MINUTES 55 SECONDS EAST A DISTANCE OF 835.88 FEET TO A POINT; SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE FROM SAID TRUE POINT OF BEGINNING AS THUS ESTABLISHED, ALONG THE SOUTHERLY RIGHT OF WAY OF PEACHTREE INDUSTRIAL BOULEVARD (150 FOOT RIGHT OF WAY WIDTH AT THAT POINT), THE FOLLOWING COURSES AND DISTANCES, NORTH 62 DEGREES 33 MINUTES 55 SECONDS EAST A DISTANCE OF 20.00 FEET TO A POINT; THENCE PROCEED ALONG SAID RIGHT OF WAY (RIGHT OF WAY WIDTH VARIES AT THAT POINT), SOUTH 27 DEGREES 26 MINUTES 05 SECONDS EAST A DISTANCE OF 20.00 FEET TO A RIGHT OF WAY MARKER FOUND; THENCE NORTH 62 DEGREES 33 MINUTES 55 SECONDS EAST A DISTANCE OF 70.00 FEET TO A RIGHT OF WAY MARKER FOUND; THENCE NORTH 27 DEGREES 26 MINUTES 05 SECONDS WEST A DISTANCE OF 20.00 FEET TO A 1/2 INCH RBF; THENCE NORTH 62 DEGREES 33 MINUTES 55 SECONDS EAST A DISTANCE OF 330.00 FEET TO A 1/2 INCH RBF; THENCE SOUTH 27 DEGREES 26 MINUTES 05 SECONDS EAST A DISTANCE OF 45.00 FEET TO A POINT; THENCE NORTH 62 DEGREES 33 MINUTES 55 SECONDS EAST A DISTANCE OF 42.10 FEET TO A POINT IN THE CENTERLINE OF A BRANCH; THENCE 428 FEET PLUS OR MINUS ALONG SAID CENTERLINE, AS DESCRIBED BY THE FOLLOWING COURSES AND DISTANCES SOUTH 49 DEGREES 29 MINUTES 24 SECONDS EAST, 23.62 FEET TO A POINT; THENCE SOUTH 16 DEGREES 55 MINUTES 43 SECONDS WEST, 17.70 FEET TO A POINT; THENCE SOUTH 68 DEGREES 22 MINUTES 45 SECONDS EAST, 17.07 FEET TO A POINT; THENCE NORTH 78 DEGREES 13 MINUTES 36 SECONDS EAST, 37.50 FEET TO A POINT; THENCE SOUTH 69 DEGREES 31 MINUTES 35 SECONDS EAST, 29.10 FEET TO A POINT; THENCE SOUTH 81 DEGREES 48 MINUTES 24 SECONDS EAST, 31.07 FEET TO A POINT; THENCE SOUTH 67 DEGREES 36 MINUTES 08 SECONDS EAST, 37.00 FEET TO A POINT; THENCE SOUTH 57 DEGREES 25 MINUTES 17 SECONDS EAST, 55.82 FEET TO A POINT; THENCE SOUTH 43 DEGREES 08 MINUTES 43 SECONDS EAST, 42.16 FEET TO A POINT; THENCE SOUTH 48 DEGREES 41 MINUTES 39 SECONDS EAST, 25.83 FEET TO A POINT; THENCE SOUTH 48 DEGREES 18 MINUTES 39 SECONDS EAST, 9.71 FEET TO A POINT; THENCE NORTH 85 DEGREES 51 MINUTES 37 SECONDS EAST, 21.88 FEET TO A POINT; THENCE SOUTH 41 DEGREES 17 MINUTES 03 SECONDS EAST, 16.45 FEET TO A POINT; THENCE SOUTH 52 DEGREES 03 MINUTES 54 SECONDS EAST, 16.84 FEET TO A POINT; THENCE SOUTH 37 DEGREES 11 MINUTES 26 SECONDS EAST, 20.03 FEET TO A POINT; THENCE SOUTH 64 DEGREES 05 MINUTES 46 SECONDS EAST, 16.48 FEET TO A POINT; THENCE SOUTH 49 DEGREES 00 MINUTES 01 SECONDS EAST, 9.10 FEET TO A POINT; THENCE LEAVING SAID CENTERLINE OF BRANCH, SOUTH 60 DEGREES 12 MINUTES 50 SECONDS WEST A DISTANCE OF 674.85 FEET TO A POINT; THENCE NORTH 27 DEGREES 26 MINUTES 05 SECONDS WEST A DISTANCE OF 401.66 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF PEACHTREE INDUSTRIAL BOULEVARD BEING THE TRUE POINT OF BEGINNING.

THE ABOVE DESCRIBED PROPERTY IS KNOWN AS THE O & I TRACT AND CONTAINS 4.9982 ACRES.



PLANNING PAGE 16

0810

CASE NUMBER RZ-95-079

BOARD OF COMMISSIONERS

GWINNETT COUNTY

LAWRENCEVILLE, GEORGIA

RESOLUTION

READING AND ADOPTION:

At the regular meeting of the Gwinnett County Board of Commissioners, held in the Justice and Administration Center Auditorium, 75 Langley Drive, Lawrenceville, Georgia.

Present	VOTE
Wayne Hill, Chairman	AYE
Tommy Hughes, District 1	AYE
Patti Muise, District 2	AYE
Judy Waters, District 3	AYE
Kevin Kenerly, District 4	AYE

On motion of COMM. MUISE, which carried 5-0, the following resolution was adopted:

A RESOLUTION TO AMEND THE OFFICIAL ZONING MAP

WHEREAS, the Municipal-Gwinnett County Planning Commission has held a duly advertised public hearing and has filed a formal recommendation with the Gwinnett County Board of Commissioners upon an Application to Amend the Official Zoning Map from M-1 to R-60 by PULTE HOME CORPORATION for the proposed use of SINGLE FAMILY SUBDIVISION on a tract of land described by the attached legal description, which

CASE NUMBER RZ-95-079

is incorporated herein and made a part hereof by reference; and

WHEREAS, notice to the public regarding said Amendment to the Official Zoning Map has been duly published in THE GWINNETT POST-TRIBUNE, the Official News Organ of Gwinnett County; and

WHEREAS, a public hearing was held by the Gwinnett County Board of Commissioners on May 23, 1995, and objections were not filed.

NOW, THEREFORE, BE IT RESOLVED by the Gwinnett County Board of Commissioners this the 23rd day of May, 1995, that the aforesaid application to amend the Official Zoning Map from M-1 to R-60 is hereby DENIED.

GWINNETT COUNTY BOARD OF COMMISSIONERS

By: F. Wayne Hill
F. Wayne Hill, Chairman

Date Signed: 6-5-95

ATTEST:

Barbara A. Bullen
Clerk

RECEIVED BY GWINNETT
COUNTY PLANNING DEPARTMENT
BY: LP
DATE: 3-3-95

0612

JN95035B
03/03/95

LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 269 of the 6th District, Gwinnett County, Georgia, and being more particularly described as follows:

Beginning at the intersection of the northwesterly right-of-way line of Peachtree Road and the southwesterly right-of-way line of Berkley Lake Road and proceeding thence along the northwesterly right-of-way line of Peachtree Road, South 555 feet more or less to the point of beginning; continuing thence along said right-of-way line, South 57° 11' 50" West a distance of 337.8 feet to a point; leaving said right-of-way proceeding thence North 36° 04' 08" West a distance of 469.67 feet to a point in the centerline of a creek; proceeding thence along said creek centerline, North 52° 23' 10" West a distance of 487.83 feet to a point; continuing thence North 28° 21' 19" West a distance of 167.16 feet to a point; continuing thence North 53° 03' 43" West a distance of 458.87 feet to a point; continuing thence North 79° 48' 23" West a distance of 142.4 feet to a point; continuing thence North 31° 12' 49" West a distance of 85.70 feet to a point on the southerly right-of-way line of Peachtree Industrial Boulevard; proceeding thence along said right-of-way line, North 61° 26' 26" East a distance of 802.49 feet to a point; leaving said right-of-way line and proceeding thence South 31° 57' 01" East a distance of 1,649.24 feet to a point on the northerly right-of-way line of Peachtree Road and the point of beginning.

Said parcel contains 19.5 acres more or less.

RZ-95-079

KESMODEL & MASON
ATTORNEYS AT LAW
P. O. BOX 2050
DULUTH, GEORGIA 30136

(404) 476-5268
TELECOPIER (404) 497-9416

W. PAUL KESMODEL, JR.

CLAUDE D. MASON

May 17, 1995

Ms. Pattie Muise, Commissioner
Gwinnett County Board of Commissioners
75 Langley Drive
Lawrenceville, Georgia 30245-6900

Gwinnett County Department of
Planning and Development
75 Langley Drive
Lawrenceville, Georgia 30245-6900

Re: Rezoning Application of Pulte Home Corporation
Owner: Estate of Guy Rhoad, Deceased, Et Al.
Tax Parcel: 6-269-011
Rezoning Case Number: RZ-95-079

Dear Ms. Muise and Gwinnett County Department of Planning:

As you know, I represent the owner of the property, being the Estate of Guy C. Rhoad, et al.

In connection with the above-referenced Rezoning Application, Pulte Home Corporation in the process of doing certain feasibility studies and on-site investigations has determined that the property was not suitable or feasible to their development plan and policies for their intended use, and accordingly, they have elected to terminate the contract in accordance with their contract provisions.

Since the owner no longer has a purchaser, the owner has determined that it would like the Application withdrawn and terminated as there will be no further efforts on the part of the owner to pursue the Rezoning Application. This letter will be your authority to terminate further proceedings with respect to the

above-referenced Rezoning Application as it will not be pursued further.

Very truly yours,

W. Paul Kesmodel, Jr.

WPK/thd

safety-kleen®

0615

Via Fax

May 2, 1995

Attention: Ms. Nancy Roney
Planning Commission of Gwinnett County
75 Langley Drive
Lawrenceville, GA 30245-6900

Re: Re-Zoning Request (Case # RZ-95-079)

Dear Members of the Commission:

We at Safety-Kleen are concerned about the subject re-zoning request and urge you to deny it. Residential use on the one-mile segment of South Old Peachtree Road between South Berkley Drive and Peachtree Industrial Boulevard has declined to one house. Commercial and industrial use prevails in this area. Introducing a concentrated residential center to this area of heavy truck usage would most likely result in complaints of public nuisance from the new neighbors against the currently-existing businesses. Our business, for example, located only a few hundred yards from the proposed development, does not exactly blend well with residential goals (peace and quiet, hassle-free roadways, etc.). Delivery trucks come and go through-out the day, especially during rush-hour. Semi trucks make frequent deliveries. Trucks are un-loaded and loaded with drums. That is a noisy operation. Trucks occasionally come in late at night. Business has been increasing and with aggressive growth plans, truck traffic will also increase.

An issue that would further exacerbate potential conflicts between our business and a residential center is the fact that we are a hazardous waste company. "Hazardous waste" is a very emotionally charged phrase in the decade of "Not In My Backyard". We have a permit issued by the state in 1989 and we are in compliance with that permit. From this branch, we provide recycling options to over 3,000 companies in North Georgia, including several hundred in Gwinnett County. The good that a hazardous waste recycling company is doing is overlooked when residents decide they don't like a facility near their residences. Another fact that gets lost in these situations is who was in the neighborhood first. We don't believe it is prudent to provide the opportunity for that kind of controversy in our county. There are many other un-developed tracts of land in Gwinnett County that would be ideally suited for residential use.

We appreciate the fact that a similiar re-zoning request (Case # RZ-94-195) was recently denied by Gwinnett County. That proposed development would have impacted South Old Peachtree Road in a similiar manner to the current request. We urge the Commission to deny the current re-zoning request, consistent with previous actions.

4800 S. OLD PEACHTREE ROAD · NORCROSS · GA 30071
PHONE (404) 662-5151 FAX (404)840-9791

Thank you for your consideration of these comments. If you have questions or desire further information, please feel free to call 662-5151.

Sincerely,

Joseph W. Hartline, CHMM
Sr. Environmental Engineer

Peter Grantham
Branch Manager

PLANNING BOOK 16

4608

CASE NUMBER RZ-95-119

BOARD OF COMMISSIONERS

GWINNETT COUNTY

LAWRENCEVILLE, GEORGIA

RESOLUTION

READING AND ADOPTION:

At the regular meeting of the Gwinnett County Board of Commissioners, held in the Justice and Administration Center Auditorium, 75 Langley Drive, Lawrenceville, Georgia.

Present	VOTE
Wayne Hill, Chairman	AYE
Tommy Hughes, District 1	AYE
Patti Muise, District 2	AYE
Judy Waters, District 3	AYE
Kevin Kenerly, District 4	AYE

On motion of COMM. MUISE, which carried 5-0, the following resolution was adopted:

A RESOLUTION TO AMEND THE OFFICIAL ZONING MAP

WHEREAS, the Municipal-Gwinnett County Planning Commission has held a duly advertised public hearing and has filed a formal recommendation with the Gwinnett County Board of Commissioners upon an Application to Amend the Official Zoning Map from M-1 to C-2 by MCRAE & STOLZ, INC. C/O WOODY GALLOWAY for the proposed use of COMMERCIAL/RETAIL SHOPPING CENTER (REDUCTION IN BUFFERS) on a tract of land described by the attached legal description, which

CASE NUMBER RZ-95-119

is incorporated herein and made a part hereof by reference; and

WHEREAS, notice to the public regarding said Amendment to the Official Zoning Map has been duly published in THE GWINNETT DAILY POST, the Official News Organ of Gwinnett County; and

WHEREAS, a public hearing was held by the Gwinnett County Board of Commissioners on November 28, 1995, and objections were filed.

NOW, THEREFORE, BE IT RESOLVED by the Gwinnett County Board of Commissioners this the 28th day of November, 1995, that the aforesaid application to amend the Official Zoning Map from M-1 to C-2 is hereby APPROVED subject to the following conditions:

1. To restrict the use of the property as follows:

   A. Office, retail and service commercial and accessory uses. No restaurants with drive-thru windows shall be allowed except in the northeast corner of the site in an area within 250 feet of the property's northern boundary and within 250 feet of the property's eastern boundary. The following uses will not be permitted on the site: billboards; building, electrical or plumbing contractors; equipment rental; group and congregate personal care homes; mobile buildings (beyond necessary construction period); parking lots and garages; lounges that do not serve food (50% revenue from non-alcohol sales); caretaker or watchman quarters as an accessory use that are not permanent structures; carnival rides; auto body repair shops; auto repair shops or tire stores including lubrication or tune-up centers; automotive sales lots and associates service facilities; automotive service stations, with or without fuel pumps; contractors' offices or the outside storage of equipment or materials; heavy equipment and farm equipment rental or sales and service; machine or welding shops; mini-warehouse storage facilities, mobile home or mobile building leasing or sales;

recreation facilities (commercial outdoor, such as miniature golf, driving ranges, water slides, or drive-in theaters); residential or community shelters; taxi cab or limousine services; convenience food stores with fuel pump; automotive parts stores, pest control businesses; automotive car wash; garden supply centers and greenhouses with outside storage; self-service laundries; plumbing, electrical, pool and home building supply showrooms and sales centers; radio, recording or television studios and broadcasting stations that need to erect antenna above roof height; recreation facilities (indoor, such as bowling alleys, skating rinks, shooting ranges and movie theaters); emission inspection stations; building materials sales with outdoor storage.

B. Excluding the corner tract, any outparcel development fronting Old Peachtree Road shall be limited to office-institutional or day care center usage.

2. To satisfy the following site development considerations:

A. Provide a minimum 25-foot natural buffer adjacent to residential zoning. Said 25-foot natural buffer to be enhanced where sparsely vegetated. Buffer is to be enhanced with a fence a minimum of six feet in height. In addition, along that portion of the property line adjacent to the Avocet subdivision, provide an additional 15-foot buffer to be improved with a six-foot high berm and landscaped with evergreen trees or hollies. Buffers to be in place within 90 days of initial land clearing of site.

B. Provide minimum 10-foot wide landscaped strips outside the rights-of-way of Peachtree Industrial Boulevard and Old Peachtree Road.

C. Provide five-foot wide sidewalks adjacent to Peachtree Industrial Boulevard and Old Peachtree Road. Sidewalks may be located within the landscaped strips.

D. Dumpsters shall be screened by an opaque fence or wall and pick up hours shall be limited to 7:00 a.m and 7:00 p.m. Monday through Friday and 10:00 a.m. to 5:00 p.m. on Saturday, Sunday and Holidays.

CASE NUMBER RZ-95-119

E. Each outparcel site shall b limited to a single monument-type ground sign which shall not exceed 70 square feet in size. Outparcel sites may have one 32 square foot wall sign per elevation. All monument signs to have masonry base matching that of the building. A convenience store may have a maximum of 60 square feet of wall signage on the building and a maximum of 15 square feet of canopy signage per road frontage. No spreader bar signage shall be allowed except as required by the State Fire Marshall.

F. No billboards shall be permitted.

G. Buildings shall be finished with architectural treatments of glass and/or brick, stone, or stucco.

H. Building and landscape plans must be submitted for review and approval by the Director of Planning and Development. Landscaping shall be consistent with the standards of nearby office development.

I. There shall be only one full service curb cut along Old Peachtree Road with a second location to be right-turn-in/right-turn-out only. There shall be no more than two curb cuts along Peachtree Industrial Boulevard. Location of curb cuts shall be subject to review and approval of the Gwinnett Department of Transportation.

J. All roof HVAC units and store front supports must be screened from view.

K. Outdoor lighting must be of a low-level design with sharp cut-up angles to minimize spill over from the commercial area onto adjacent residential properties.

L. Any rain water gutters which are located to the rear of the buildings adjacent to residential areas shall be piped or directed to the front of the site and not allowed to release storm water directly onto the adjacent residential areas.

M. There shall be no overnight truck parking at the site.

N. Delivery hours shall be limited to 7:00 a.m. and 7:00 p.m. Monday through Friday, and 10:00 a.m. to 5:00 p.m. Saturday, Sunday and Holidays.

CASE NUMBER RZ-95-119

O. Parking area shall include landscaped islands with trees.

P. Hours of operation shall be limited from 7:00 a.m. to 1:00 a.m.

GWINNETT COUNTY BOARD OF COMMISSIONERS

By: F. Wayne Hill
F. Wayne Hill, Chairman

Date Signed: 12-8-95

ATTEST:

Barbara G. Bruce
Clerk

1013

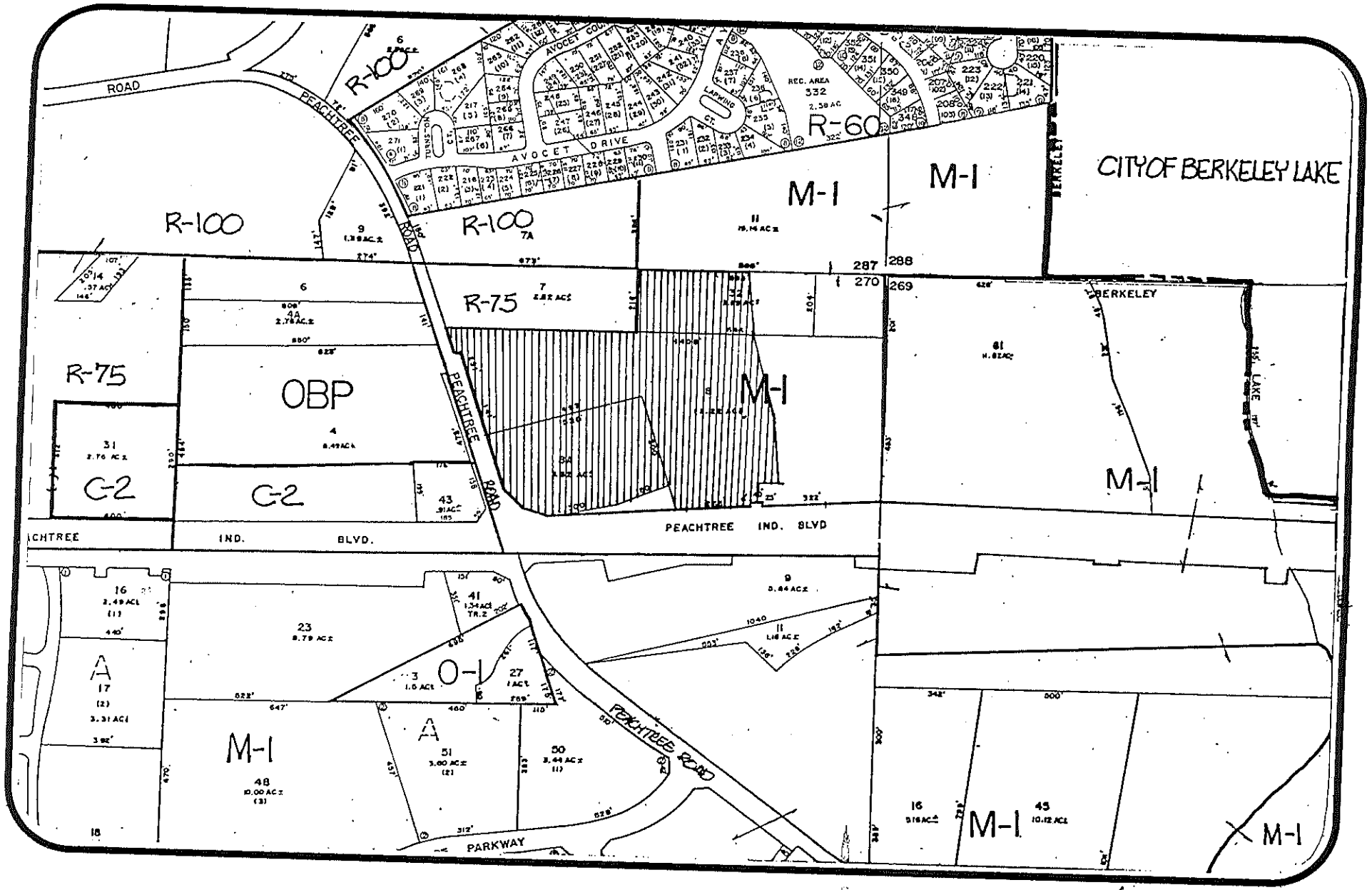
LAND DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 270, Sixth District, Gwinnett County, Georgia; lying in the Northwest corner of the intersection of Peachtree Industrial Boulevard with Old Peachtree Road; and containing 10.745 acres of land and being more particularly described as follows:

BEGINNING at the intersection of the North margin of Old Peachtree Road (right-of-way varies) with the mitre of the West margin of Peachtree Industrial Boulevard (right-of way varies); thence along the North margin of Old Peachtree Road North 48° 50' 00" West, 234.19 feet to a point; thence 244.40 feet along the arc of a curve to the left having a radius of 11,509.16 feet and a chord bearing and distance of North 49° 26' 30" West, 244.40 feet to a point; thence departing Old Peachtree Road North 60° 07' 20" East, 569.25 feet to a point; thence North 30° 11' 36" West, 155.00 feet to a point; thence North 59° 48' 24" East, 300.00 feet to a point; thence South 42° 10' 36" East, 187.64 feet to a point; thence South 50° 55' 45" East, 232.88 feet to a point; thence South 38° 44' 56" East, 175.47 feet to a point on the West margin of Peachtree Industrial Boulevard thence along Peachtree Industrial Boulevard the nine following courses and distances, 40.49 feet along the arc of a curve to the left having a radius of 11,599.16 feet and a chord bearing and distance of South 60° 56' 26" West, 40.49 feet to a point; thence South 29° 09' 34" East, 50.00 feet to a point; thence 20.91 feet along the arc of a curve to the left having a radius of 11,549.16 feet and a chord bearing and distance of South 60° 47' 19" West, 20.91 feet to a point; thence South 29° 15' 47" East, 15.00 feet to a point; thence 263.46 feet along the arc of a curve to the left having a radius of 11,534.16 feet and a chord bearing and distance of South 60° 04' 37" West, 263.45 feet to a point; thence North 49° 06' 12" West, 65.28 feet to a point; thence South 47° 36' 44" West, 326.85 feet to a point; thence 50.77 feet along the arc of a curve to the left having a radius of 11,534.16 feet and a chord bearing and distance of South 57° 36' 34" West, 50.77 feet to a point; thence South 57° 29' 00" West, a distance of 77.85 feet to a point; thence North 85° 47' 23" West, 80.24 feet to the TRUE POINT OF BEGINNING.

RECEIVED BY GWINNETT
COUNTY PLANNING DEPARTMENT
BY: LP
DATE: 5-5-95

RZ-95-119



6 District

RZ-95-119

NORTH

CASE NUMBER RZ-99-147

BOARD OF COMMISSIONERS

GWINNETT COUNTY

LAWRENCEVILLE, GEORGIA

RESOLUTION

READING AND ADOPTION:

At the regular meeting of the Gwinnett County Board of Commissioners, held in the Justice and Administration Center Auditorium, 75 Langley Drive, Lawrenceville, Georgia.

Present	VOTE
Wayne Hill, Chairman	AYE
Tommy Hughes, District 1	AYE
Patti Muise, District 2	AYE
Judy Waters, District 3	AYE
Kevin Kenerly, District 4	AYE

On motion of COMM. MUISE, which carried 5-0, the following resolution was adopted:

A RESOLUTION TO AMEND THE OFFICIAL ZONING MAP

WHEREAS, the Municipal-Gwinnett County Planning Commission has held a duly advertised public hearing and has filed a formal recommendation with the Gwinnett County Board of Commissioners upon an Application to Amend the Official Zoning Map from M-1 to C-2 by EAGLE REAL ESTATE ADVISORS for the proposed use of COMMERCIAL/RETAIL on a tract of land described by the attached legal description, which

is incorporated herein and made a part hereof by reference; and

WHEREAS, notice to the public regarding said Amendment to the Official Zoning Map has been duly published in THE GWINNETT DAILY POST, the Official News Organ of Gwinnett County; and

WHEREAS, a public hearing was held by the Gwinnett County Board of Commissioners on JANUARY 25, 2000, and objections were not filed.

NOW, THEREFORE, BE IT RESOLVED by the Gwinnett County Board of Commissioners this the 25TH day of JANUARY, 2000, that the aforesaid application to amend the Official Zoning Map from M-1 to C-2 **(APPROVED AS C-2 & O-I)** is hereby **APPROVED AS C-2 (SOUTHERN PORTION) AND O-I (NORTHERN PORTION)** subject to the following enumerated conditions:

1. To restrict the use of the property as follows:

   A. Retail and service commercial and accessory uses for the southern portion of the tract (zoned C-2), as shown on the revised site plan for the Shops of Avalon dated December 17, 1999 and submitted December 21, 1999.

   B. Office, Office-Professional and accessory uses for the northern portion of the tract (zoned O-I), as shown on the revised site plan for the Shops of Avalon dated December 17, 1999 and submitted December 21, 1999.

2. To satisfy the following site development considerations:

   A. Provide a minimum 25-foot natural buffer adjacent to Pinckneyville Park. The buffer shall be enhanced with a double staggered row of evergreens eight feet on center where sparsely vegetated. Trees shall be a minimum of six feet in height at the time of planting.

B. Provide a minimum 10-foot wide landscape strip outside the right-of-way of Peachtree Industrial Boulevard.

C. Provide minimum 5-foot wide landscape strips adjacent to internal property lines.

D. Provide five-foot wide sidewalks adjacent to Peachtree Industrial Boulevard across the entire property.

E. Dumpsters shall be screened by an opaque brick wall. Hours of dumpster pick-up shall be limited to between 7 a.m. and 7 p.m.

F. Provide interparcel access throughout the development.

G. The shopping center shall be limited to a single monument-type ground sign. Each outparcel site shall be limited to a single monument-type ground sign which shall not exceed 70 square feet in size. Outparcel sites may have one 32 square foot wall sign per elevation. All monument signs shall have a brick base matching that of the building.

H. Billboards shall not be permitted.

I. Buildings shall be finished with architectural treatments of glass and brick, consistent with the submitted elevations. Freestanding restaurants shall have pitched roofs a minimum of (4:12).

J. Building and landscape plans shall be submitted for review and approval by the Director of Planning and Development.

K. There shall be no more than two curb cuts onto Peachtree Industrial Boulevard. Location of curb cuts subject to review and approval of Gwinnett DOT.

L. All roof HVAC units and storefront supports must be screened from view.

M. Lighting shall be contained in cut-off type luminaries and shall be directed in toward the property so as not to reflect into adjacent properties or roadways.

N. Provide landscaped islands throughout the parking areas. At a minimum, landscaped islands shall consist of a 75 square foot planted area per eighteen (18) spaces of double row parking with a 100 square foot planted area at the end of each row. These landscaped islands shall include at least one tree per island. Trees shall be a minimum of six feet in height at the time of planting.

O. The development shall be substantially similar to that depicted on the site plan submitted to the Planning Commission on December 21, 1999 with the final site plan to be approved by the Director of Planning and Development prior to the issuance of development permits.

P. No drive-through restaurants shall be permitted.

GWINNETT COUNTY BOARD OF COMMISSIONERS

By: F. Wayne Hill
F. Wayne Hill, Chairman

Date Signed: Feb 7, 2000

ATTEST:

Brenda Maddox
County Clerk

Exhibit "B"

Description of Property

ALL THAT TRACT OR PARCEL of land lying and being in Land Lot 269, 6th District, Gwinnett County, Georgia, and being more particularly described as follows:

To find the TRUE POINT OF BEGINNING, follow the common boundary line of Land Lots 269 and 270 of the 6th Land District of Gwinnett County, Georgia to the point at which said common line intersects the southeastern right-of-way of Peachtree Industrial Boulevard (width of right-of-way varies), at an iron pin set.

FROM THE TRUE POINT OF BEGINNING, proceed North 66° 49' 46" East a distance of 445.46 feet to a point; thence North 27° 26' 05" West a distance of 75.00 feet to a point; thence North 62° 33' 55" East a distance of 410.00 feet to a point; thence South 27° 26' 05" East a distance of 20.00 feet to a point; thence North 62° 33' 55" East a distance of 70.00 feet to a point; thence North 27° 26' 05" West a distance of 20.00 feet to a point; thence North 62° 33' 55" East a distance of 330.00 feet to a point; thence South 27° 26' 05" East a distance of 45.00 feet to a point; thence North 62° 33' 55" East a distance of 42.10 feet to a point; thence North 39° 11' 47" West a distance of 0.45 feet to a right-of-way marker found, said right-of-way marker representing *Point "A"* for purposes of this legal description; the property line proceeds thence from *Point "A"* in a clockwise direction following along the center line of a Branch an approximate distance of ±428 feet to a ½-inch r-bar set at a 2-½-inch pipe found 6.0 feet from the center line, said ½-inch r-bar representing *Point "B"* for purposes of this description. The ±428 feet distance between *Point "A"* and *Point "B"* is bounded by the following courses and distances: beginning at *Point "A,"* proceed South 49° 29' 24" East a distance of 23.62 feet; thence South 16° 55' 43" West a distance of 17.70 feet; thence South 68° 22' 45" East a distance of 17.07 feet; thence North 78° 13' 36" East a distance of 37.50 feet; thence South 69° 31' 35" East a distance of 29.10 feet; thence South 81° 48' 24" East a distance of 31.07 feet; thence South 67° 36' 08" East a distance of 37.00 feet; thence South 57° 25' 17" a distance of 55.82 feet; thence South 43° 08' 43" East a distance of 42.16 feet; thence South 48° 41' 39" East a distance of 25.83 feet; thence South 48° 18' 39" East a distance of 9.71 feet; thence North 85° 51' 37" East a distance of 21.88 feet; thence South 41° 17' 03" East a distance of 16.45 feet; thence South 52° 03' 54" East a distance of 16.84 feet; thence South 37° 11' 26" East a distance of 20.03 feet; thence South 64° 05' 46" East a distance of 16.48 feet; thence South 49° 00' 01" East a distance of 9.10 feet to a ½-inch r-bar set, said r-bar being *Point "B;"* thence proceeding South 60° 12' 50" West a distance of 1494.05 feet to a ½-inch r-bar found; thence North 29° 44' 17" West a distance of 279.75 feet to a point; thence proceeding North 29° 41' 16" West a distance of 35.42 feet to a 1-inch tube found; thence proceeding North 29° 41' 16" West a distance of 78.53 feet to the TRUE POINT OF BEGINNING.

CASE NUMBER RZ-00-037

BOARD OF COMMISSIONERS

GWINNETT COUNTY

LAWRENCEVILLE, GEORGIA

RESOLUTION

READING AND ADOPTION:

At the regular meeting of the Gwinnett County Board of Commissioners, held in the Justice and Administration Center Auditorium, 75 Langley Drive, Lawrenceville, Georgia.

Present	VOTE
Wayne Hill, Chairman	AYE
Tommy Hughes, District 1	AYE
Patti Muise, District 2	AYE
Judy Waters, District 3	AYE
Kevin Kenerly, District 4	AYE

On motion of COMM. MUISE, which carried 5-0, the following resolution was adopted:

A RESOLUTION TO AMEND THE OFFICIAL ZONING MAP

WHEREAS, the Municipal-Gwinnett County Planning Commission has held a duly advertised public hearing and has filed a formal recommendation with the Gwinnett County Board of Commissioners upon an Application to Amend the Official Zoning Map from M-1 to C-2 by JOHN HARRISON, SR. for the proposed use of COMMERCIAL RETAIL USES on a tract of land described by the attached legal description, which

is incorporated herein and made a part hereof by reference; and

WHEREAS, notice to the public regarding said Amendment to the Official Zoning Map has been duly published in THE GWINNETT DAILY POST, the Official News Organ of Gwinnett County; and

WHEREAS, a public hearing was held by the Gwinnett County Board of Commissioners on MARCH 28, 2000, and objections were not filed.

NOW, THEREFORE, BE IT RESOLVED by the Gwinnett County Board of Commissioners this the 28TH day of MARCH, 2000, that the aforesaid application to amend the Official Zoning Map from M-1 to C-2 is hereby APPROVED subject to the following enumerated conditions:

1. To restrict the use of the property as follows:

   A. Office, retail and service commercial and accessory uses.

2. To satisfy the following site development considerations:

   A. Provide a minimum 10-foot wide landscape strip outside the rights-of-way of Peachtree Industrial Boulevard and South Old Peachtree Road.

   B. Provide minimum 5-foot wide landscape strips adjacent to internal property lines.

   C. Provide five-foot wide sidewalks adjacent to Peachtree Industrial Boulevard and South Old Peachtree Road across the entire property frontage.

D. Dumpsters shall be screened by an opaque brick wall. Hours of dumpster pick-up shall be limited to between 7 a.m. and 7 p.m.

E. Provide interparcel access throughout the development.

F. The shopping center shall be limited to a single monument-type ground sign. Each outparcel site shall be limited to a single monument-type ground sign which shall not exceed 70 square feet in size. Outparcel sites may have one 32 square foot wall sign per elevation. All monument signs shall have a brick base matching the building.

G. Billboards shall not be permitted.

H. Buildings shall be finished with architectural treatments of glass and brick. Freestanding buildings other than the primary shopping center building shall have pitched roofs a minimum of (4:12).

I. Building and landscape plans shall be submitted for review and approval by the Director of Planning and Development.

J. Location of curb cuts subject to review and approval of Gwinnett DOT.

K. All roof HVAC units and storefront supports must be screened from view.

L. Lighting shall be contained in cut-off type luminaries and shall be directed in toward the property so as not to reflect into adjacent properties or roadways.

3. To abide by the following requirements, dedications and improvements:

A. On South Old Peachtree Road only, dedicate at no cost to Gwinnett County the necessary, but not more than 10 feet for either the right-of-way and easements for the construction of the transportation improvement project (PN# 9626) at South Old Peachtree Road and Peachtree Industrial Boulevard.

B. Coordinate with Gwinnett Department of Transportation regarding access to existing median break on Peachtree Industrial Boulevard. The subject property shall share access to the median break with the adjoining property to the northeast.

C. Provide interparcel access with the adjacent property to the northeast.

D. Proposed driveways on South Old Peachtree and Peachtree Industrial Boulevard are subject to review and approval of the Gwinnett Department of Transportation.

GWINNETT COUNTY BOARD OF COMMISSIONERS

By: F. Wayne Hill
F. Wayne Hill, Chairman

Date Signed: April 5, 2006

ATTEST:

Brenda Mad Addox
County Clerk

LAND DESCRIPTION

All that tract or parcel of land lying in Land Lots 270 of the 6th District, Gwinnett County, Georgia, and being more particularly described as follows:

To find the true point of beginning, begin at a point formed by the center lines of Peachtree Industrial Blvd. and South Peachtree Rd.

THENCE in a southeasterly direction for a distance of 160 feet to a point, said point also being known as the TRUE POINT OF BEGINNING;

THENCE North 57 degrees 28 minutes 27 seconds East for a distance of 27.76 feet to a point;

THENCE North 59 degrees 49 minutes 44 seconds East for a distance of 1022.24 feet to a point;

THENCE South 27 degrees 26 minutes 05 seconds East for a distance of 35.00 feet to a point;

THENCE North 66 degrees 49 minutes 46 seconds East for distance of 92.45 feet to a point;

THENCE South 29 degrees 41 minutes 16 seconds East for a distance of 78.53 feet to a point;

THENCE South 29 degrees 41 minutes 16 seconds East for a distance of 35.42 feet to a point;

THENCE South 37 degrees 14 minutes 54 seconds West for a distance of 430.00 feet to a point;

THENCE North 74 degrees 06 minutes 00 seconds West for a distance of 136.16 feet to a point;

THENCE South 52 degrees 03 minutes 01 seconds West for a distance of 553.80 feet to a point lying on the easterly right of way of Old Peachtree Rd.

THENCE North along said right of way for a distance of 330.00 feet to a point;

THENCE North 04 degrees 15 minutes 13 seconds East for a distance of 59.88 feet to a point; said point also being known as the TRUE POINT OF BEGINNING. Said tract contains 7.026-acres, more or less.

REVIEWED BY GWINNETT COUNTY PLANNING DEPARTMENT

BY: RW

DATE: 10/13/99

R2-00-037

CASE NUMBER RZC-01-006

BOARD OF COMMISSIONERS

GWINNETT COUNTY

LAWRENCEVILLE, GEORGIA

RESOLUTION

READING AND ADOPTION:

At the regular meeting of the Gwinnett County Board of Commissioners, held in the Justice and Administration Center Auditorium, 75 Langley Drive, Lawrenceville, Georgia.

Present	VOTE
Wayne Hill, Chairman	AYE
Marcia Neaton-Griggs, District 1	NAY
Patti Muise, District 2	AYE
John Dunn, District 3	AYE
Kevin Kenerly, District 4	AYE

On motion of COMM. MUISE, which carried 4-1, the following resolution was adopted:

A RESOLUTION TO AMEND THE OFFICIAL ZONING MAP

WHEREAS, the Municipal-Gwinnett County Planning Commission has held a duly advertised public hearing and has filed a formal recommendation with the Gwinnett County Board of Commissioners upon an Application to Amend the Official Zoning Map from M-1 to C-2 by FOREST PARKWAY CENTER, LLC for the proposed use of CONVENIENCE STORE on a tract of land described by the attached legal description, which

is incorporated herein and made a part hereof by reference; and

WHEREAS, notice to the public regarding said Amendment to the Official Zoning Map has been duly published in THE GWINNETT DAILY POST, the Official News Organ of Gwinnett County; and

WHEREAS, a public hearing was held by the Gwinnett County Board of Commissioners on APRIL 24, 2001 and objections were not filed.

NOW, THEREFORE, BE IT RESOLVED by the Gwinnett County Board of Commissioners this the 22nd day of MAY, 2001, that the aforesaid application to amend the Official Zoning Map from M-1 to C-2 is hereby APPROVED subject to the following enumerated conditions:

1. To restrict the use of the property as follows:

   A. Office, retail and service commercial and accessory uses. Restaurants with a drive-through shall be prohibited.

2. To satisfy the following site development considerations:

   A. Provide a minimum 10-foot wide landscape strip outside the rights-of-way of Peachtree Industrial Boulevard and South Old Peachtree Road.

   B. Provide minimum 5-foot wide landscape strips adjacent to internal property lines.

   C. Dumpsters shall be screened by a 100% opaque brick wall and 100% opaque gate. Hours of dumpster pick-up shall be limited to between 7 a.m. and 7 p.m.

   D. Provide interparcel access with adjacent developments.

E. Buildings shall be finished with architectural treatments of glass and brick and shall have a pitched roof (minimum of 4:12). Canopy supports shall be constructed of brick matching the exterior of the building with a matching pitched roof.

F. Billboards shall not be permitted.

G. Signage shall be limited to a single monument-type ground sign with a brick base matching the exterior of the building. Signage shall not exceed 6 feet in height and shall not exceed 70 square feet in size. Wall signage shall be limited to one 32 square foot wall sign per elevation.

H. Building and landscape plans shall be submitted for review and approval by the Director of Planning and Development.

I. Access shall be limited to the two shared curb cuts as shown on the submitted site plan.

J. All roof HVAC units and storefront supports must be screened from view.

K. Lighting shall be contained in cut-off type luminaries and shall be directed in toward the property so as not to reflect into adjacent properties or roadways.

L. No outdoor product displays shall be allowed.

GWINNETT COUNTY BOARD OF COMMISSIONERS

By: _____
F. Wayne Hill, Chairman

Date Signed: June 12, 2001

ATTEST:

_____
County Clerk

LEGAL DESCRIPTION FOR:

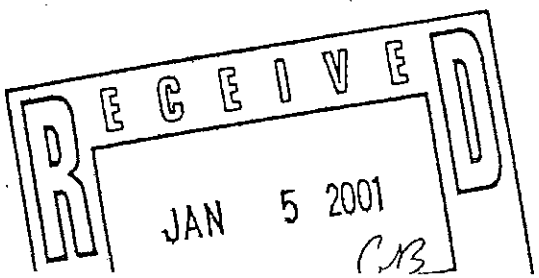
Forest Parkway Center, LLC

Peachtree Industrial Boulevard / South Old Peachtree

Exhibit A

ALL THAT TRACT or parcel of land lying and being in Land Lot 270 of the 6th District, Gwinnett County, Georgia, containing1.35 acres, as shown on a plat of survey for Forest Parkway Center LLC by Appalachian Surveying Company, Inc. (William F. Rolader, Georgia Registered Land Surveyor No. 2042), dated May 5, 2000, and more particularly described according to said plat as follows:

TO FIND THE POINT OF BEGINNING; begin at southeast right-of-way intersection of Peachtree Industrial Boulevard and South Old Peachtree; running thence along right-of-way south 86 degrees 17 minutes 00 seconds east 80.03 feet to a point; thence running along right-of-way of South Old Peachtree south 49 degrees 32 minutes 41 seconds east 111.69 feet to a point; thence running along said right-of-way line of South Old Peachtree along a curve to the left an arc distance of 103.62 feet, said arc having a radius of 789.30 feet being subtended by a chord bearing and distance of south 53 degrees 13 minutes 19 seconds east 103.54 feet to a point; thence leaving said right-of-way and running south 32 degrees 12 minutes 22 seconds west 202.79 feet to a point; thence running north 49 degrees 26 minutes 00 seconds west 351.15 feet to a point along the right-of-way of Peachtree Industrial Boulevard; thence running along right-of-way of Peachtree Industrial Boulevard north 56 degrees 53 minutes 00 seconds east 151.69 feet being the TERMINUS POINT of this description.



CASE NUMBER CIC-06-034
GCID 2006-1511

BOARD OF COMMISSIONERS
GWINNETT COUNTY
LAWRENCEVILLE, GEORGIA
RESOLUTION

READING AND ADOPTION:

At the regular meeting of the Gwinnett County Board of Commissioners, held in the Justice and Administration Center Auditorium, 75 Langley Drive, Lawrenceville, Georgia.

Present	VOTE
Charles Bannister, Chairman	AYE
Lorraine Green, District 1	AYE
Albert Nasuti, District 2	AYE
Michael Beaudreau, District 3	AYE
Kevin Kenerly, District 4	AYE

On motion of COMM. NASUTI, which carried 5-0, the following resolution was adopted:

A RESOLUTION TO AMEND THE OFFICIAL ZONING MAP

WHEREAS, the Municipal-Gwinnett County Planning Commission has held a duly advertised public hearing and has filed a formal recommendation with the Gwinnett County Board of Commissioners upon an Application to Amend the Official Zoning Map from C-2 to C-2 (CHANGE IN CONDITIONS) by JIM SUDDES to ALLOW A RESTAURANT WITH DRIVE-THRU on a tract of land described by the attached legal description, which

is incorporated herein and made a part hereof by reference; and

WHEREAS, notice to the public regarding said Amendment to the Official Zoning Map has been duly published in THE GWINNETT DAILY POST, the Official News Organ of Gwinnett County; and

WHEREAS, a public hearing was held by the Gwinnett County Board of Commissioners on FEBRUARY 27, 2007 and objections were filed.

NOW, THEREFORE, BE IT RESOLVED by the Gwinnett County Board of Commissioners this the 20TH day of MARCH 2007, that the aforesaid application to amend the Official Zoning Map from C-2 to C-2 (CHANGE IN CONDITIONS) is hereby **APPROVED** subject to the following enumerated conditions:

1. To restrict the use of the property as follows:

   A. Office, retail and service commercial and accessory uses. Three restaurants with drive-thru windows shall be allowed. The following uses will not be permitted on the site: adult entertainment and novelty stores; billboards; building, electrical or plumbing contractors; equipment rental; group and congregate personal care homes; mobile buildings (beyond necessary construction period); parking lots and garages; lounges that do not serve food (50% revenue from non-alcohol sales); caretaker or watchman quarters as an accessory use that are not permanent structures; carnival rides; auto body repair shops; auto repair shops or tire stores including lubrication or tune-up centers; automotive sales lots and associated service facilities; automotive service stations, with or without fuel pumps; contractors' offices or the outside storage of equipment or materials; heavy equipment and farm equipment rental

or sales and service; machine or welding shops; mini-warehouse storage facilities, mobile home or mobile building leasing or sales; recreation facilities (commercial outdoor, such as miniature golf, driving ranges, water slides, or drive-in theaters); residential or community shelters; taxi cab or limousine services; convenience food stores with fuel pumps; automotive parts stores, pest control businesses; automotive car washes; garden supply centers and greenhouses with outside storage; self-service laundries; plumbing, electrical, pool and home building supply showrooms and sales centers; radio, recording or television studios and broadcasting stations that need to erect antennas above roof height; recreation facilities (indoor, such as bowling alleys, skating rinks, shooting ranges and movie theaters); emission inspection stations; building materials sales with outdoor storage.

B. Excluding the corner tract, any outparcel development fronting Old Peachtree Road shall be limited to office-institutional or day care center usage.

C. On the 1.2-acre corner lot, if the use is a fast food restaurant, the pick up drive-thru window shall be located on the South Old Peachtree Road side of the building, as shown in the attached site plan.

D. Signage shall be used to encourage the use of Peachtree Industrial Boulevard (for entrance/exit) and to discourage blocking the intersection (South Old Peachtree Road entrance/exit).

E. All drive-thru restaurants shall have food ordered directly at a window with no speaker system.

F. The only speaker system allowed shall be for banking transactions handled at the bank drive-thru.

G. Any coffee or donut type establishment that is part of the 12,600 square foot retail center is a permissible use.

H. All external lighting fixtures shall be designed to deflect the light downward to remain on the site, and the source of all external lighting shall be shielded from view from all residential housing.

I. All restaurants on the property shall filter or "scrub" cooking exhaust air to insure that grease, smoke, and odor is removed prior to release into the atmosphere to recognized industry standards, to be determined by Director of Planning and Development (this shall not apply to bakery and donut shops).

2. To satisfy the following site development considerations:

A. The buffer adjacent to R-TH residential zoning may be reduced to the landscape strip as shown on the approved construction plans for the C-2 property.

B. Provide minimum 10-foot wide landscaped strips outside the rights-of-way of Peachtree Industrial Boulevard and South Old Peachtree Road.

C. Provide 10-foot wide multi-use paths on South Old Peachtree Road and Peachtree Industrial Boulevard across the entire property frontage. The location, design and construction of the paths will be subject to review and approval by the Gwinnett D.O.T.

D. Dumpsters shall be screened by an opaque fence or wall and pick up hours shall be limited to 8:00 a.m and 7:00 p.m. Monday through Friday and 10:00 a.m. to 5:00 p.m. on Saturday, Sunday and Holidays.

E. Each outparcel site shall be limited to a single monument-type ground sign which shall not exceed 70 square feet in size. Outparcel sites may have one 32 square foot wall sign per elevation. All monument signs to have masonry base matching that of the building. A convenience store may have a maximum of 60 square feet of wall signage on the building and a maximum of 15 square feet of canopy signage per road frontage. No spreader bar signage shall be allowed except as required by the State Fire Marshall.

F. No billboards shall be permitted.

G. Buildings shall be finished with architectural treatments of glass and/or brick, stone, or stucco.

H. Building and landscape plans must be submitted for review and approval by the Director of Planning and Development. Landscaping shall be consistent with the standards of nearby office development.

I. The driveways will be allowed onto South Old Peachtree Road and Peachtree Industrial Boulevard as shown on the site plan prepared by Planners and Engineers Collaborative dated December 1, 2005. All design and construction will be subject to review and approval by the Gwinnett County D.O.T.

J. All roof HVAC units and storefront supports must be screened from view.

K. Outdoor lighting must be of a low-level design with sharp cut-up angles to minimize spill over from the commercial area onto adjacent residential properties.

L. Any rain water gutters which are located to the rear of the buildings adjacent to residential areas shall be piped or directed to the front of the site and not allowed to release storm water directly onto the adjacent residential areas.

M. There shall be no overnight truck parking at the site.

N. Delivery hours shall be limited to 7:00 a.m. and 7:00 p.m. Monday through Friday, and 10:00 a.m. to 5:00 p.m. Saturday, Sunday and Holidays.

O. Parking area shall include landscaped islands with trees.

P. Hours of operation shall be limited from 7:00 a.m. to 1:00 a.m.

Q. Hours of operation for restaurants shall be limited from 5:00 a.m. to 11:00 p.m. and the drive through from 5:00 a.m. to 11:00 p.m.

R. Peddlers or parking lot sales shall be prohibited.

S. Buildings and overall site design shall be constructed so as to discourage graffiti tagging, gathering, loitering or illegal activity. Owner shall repaint or repair any graffiti or vandalism that occurs on the property within 72 hours.

GWINNETT COUNTY BOARD OF COMMISSIONERS

By: _____
Charles E. Bannister, Chairman

Date Signed: 4/12/07

ATTEST:

_____
County Clerk/Deputy County Clerk

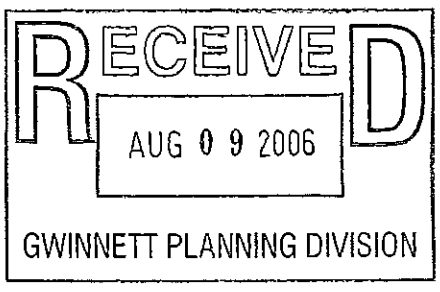
ZONING LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 270 of the 6th District, Gwinnett County, Georgia and being more particularly described as follows:

BEGINNING at an iron pin found at the southeasterly end of the mitered intersection of the northeasterly right-of-way line of South Old Peachtree Road (100' R/W) with the northerly right-of-way line of Peachtree Industrial Boulevard (R/W Varies), thence along said right-of-way line of South Old Peachtree Road the following courses and distances thence North 85 degrees 50 minutes 37 seconds West a distance of 80.27 feet to an iron pin found; thence North 48 degrees 48 minutes 31 seconds West a distance of 230.80 feet to a point; thence South 58 degrees 35 minutes 59 seconds West a distance of 106.53 feet to a point; thence North 72 degrees 05 minutes 52 seconds East a distance of 14.93 feet to a point; thence South 58 degrees 35 minutes 59 seconds West a distance of 396.04 feet to a point; thence North 31 degrees 29 minutes 32 seconds West a distance of 42.13 feet to a point; thence South 58 degrees 27 minutes 39 seconds to a distance of 173.43 to a point; thence South 41 degrees 37 minutes 14 seconds East a distance of 37.06 feet to an iron pin found; thence South 30 degrees 45 minutes 18 seconds East a distance of 108.69 feet to a PK nail found on the northerly right-of-way line of Peachtree Industrial Boulevard ; thence along said right of way line 484.38 feet along an arc of a curve to the left, said curve having a radius of 11,534.16 feet and a chord bearing and distance of South 58 degrees 41 minutes 40 seconds West 484.34 feet to a point; thence South 57 degrees 29 minutes 22 seconds West a distance of 77.85 feet to a point and the TRUE POINT OF BEGINNING.

Said tract containing 3.89acres

CIC 06034



City of Berkeley Lake, Georgia

Standard Drawings

August 23, 2026

V3 DRAFT

Overview

These City of Berkely Lake Standard Drawings contain modified Gwinnett County Department of Planning and Development standard drawings and Berkeley Lake-specific standard drawings.

These standard drawings illustrate minimum acceptable standards for land development activities authorized under the City of Berkeley Lake Unified Development Ordinance; however, these standards will not supersede more restrictive prudent design requirements or good engineering practice as applied to specific situations on a case-by-case basis.

Unless otherwise specified on these standard drawings or in the Unified Development Ordinance, all construction must meet or exceed the minimum standards established by the Georgia Department of Transportation.

Standard Drawings

Gwinnett Detail 101: Local or Minor Collector

Gwinnett Detail 102: Example of Geotextile Used in Drainage Applications

Gwinnett Detail 103: Mortar Rubble – Granite Retaining Wall, Leve Backfill

Gwinnett Detail 104: Mortar Rubble – Concrete Gravity Retaining Wall

Gwinnett Detail 105: Mortar Rubble – Concrete Cantilever Retaining Wall

Gwinnett Detail 106: Cross-Tie Retaining Wall

Gwinnett Detail 107: Concrete Cantilever Detention Pond Retaining Wall Height ≤10’

Gwinnett Detail 108: Concrete Cantilever Detention Pond Retaining Wall Height >10’

Gwinnett Detail 201: Temporary Erosion Control – Silt Gates Type 1, 2, 3, and 4

Gwinnett Detail 202: Stone Pad Construction Exit and Filter Berm

Gwinnett Detail 203: Construction of a Silt Fence

Gwinnett Detail 301: Standard Residential Turn-Arounds

Gwinnett Detail 302: Cul-de-Sac Minimum Lengths

Gwinnett Detail 303: Temporary Vehicular Turnaround

Gwinnett Detail 304: Vertical Alignment at Intersection with Local or Minor Collector Street

Gwinnett Detail 305: Intersection Detail #1 T-Intersection Only – Minor or Major Collector

Gwinnett Detail 306: Intersection Detail #2 T-Intersection Only – Arterial or Major Collector

Gwinnett Detail 307: Intersection Detail #3 T- Arterial or Major Collector

Berkely Lake Detail: Driveway Type 1

Berkely Lake Detail: Driveway Type 2

Berkely Lake Detail: Driveway Type 3

Berkely Lake Detail: Driveway Type 4

Gwinnett Detail 313: Commercial and Industrial Driveways

Gwinnett Detail 314: Driveways with Tapered Entrances - Concrete Valley Gutters

Gwinnett Detail 314: Typical Sidewalk Section

Gwinnett Detail 401A: Major Arterial Decel Lane Typ. Section

Gwinnett Detail 401B: Major Arterial Decel Lane Typ. Section

Gwinnett Detail 401C: Major Arterial Decel Lane Typ. Section

Gwinnett Detail 401D: Major Arterial Decel Lane Typ. Section

Gwinnett Detail 401E: Widening with Overlay for Major Arterials

Gwinnett Detail 401F: Widening with Overlay for Major Arterials

Gwinnett Detail 401G: Widening with Overlay for Major Arterials

Gwinnett Detail 401H: Widening with Overlay for Major Arterials

Gwinnett Detail 402: Residential Subdivision Street (Pavement)

Berkeley Lake Detail: Utility Placement in Right-of-Way

Gwinnett Detail 502: Utility Street Cuts and Structure Adjustment

Gwinnett Detail 801: Multi-Trunk Tree Planting

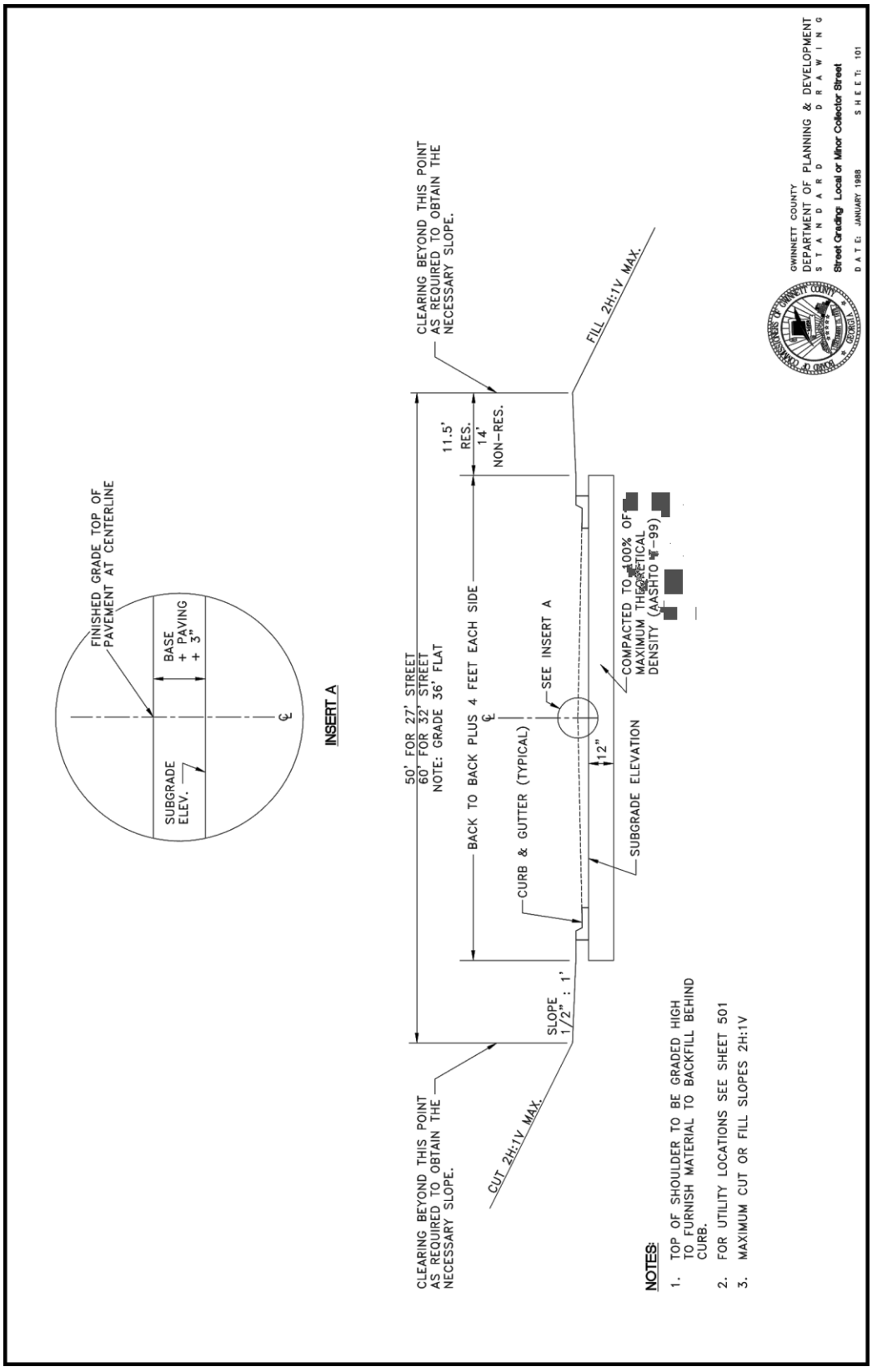
Gwinnett Detail 802: Evergreen Tree Planting

Gwinnett Detail 803: Deciduous Tree Planting

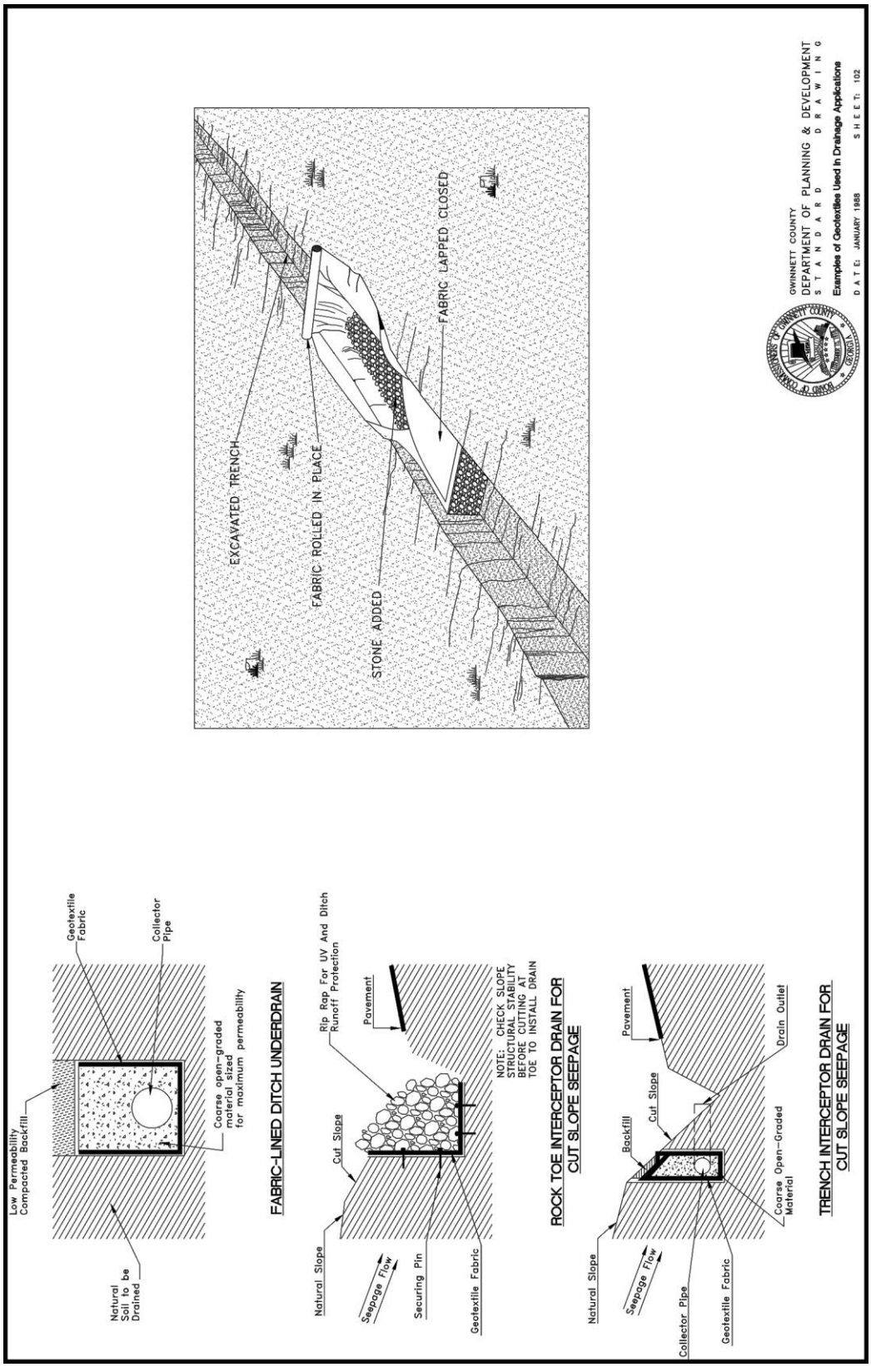
Gwinnett Detail 804: Shrub and Groundcover Planting

Gwinnett Detail 901: Beam Type Guardrail

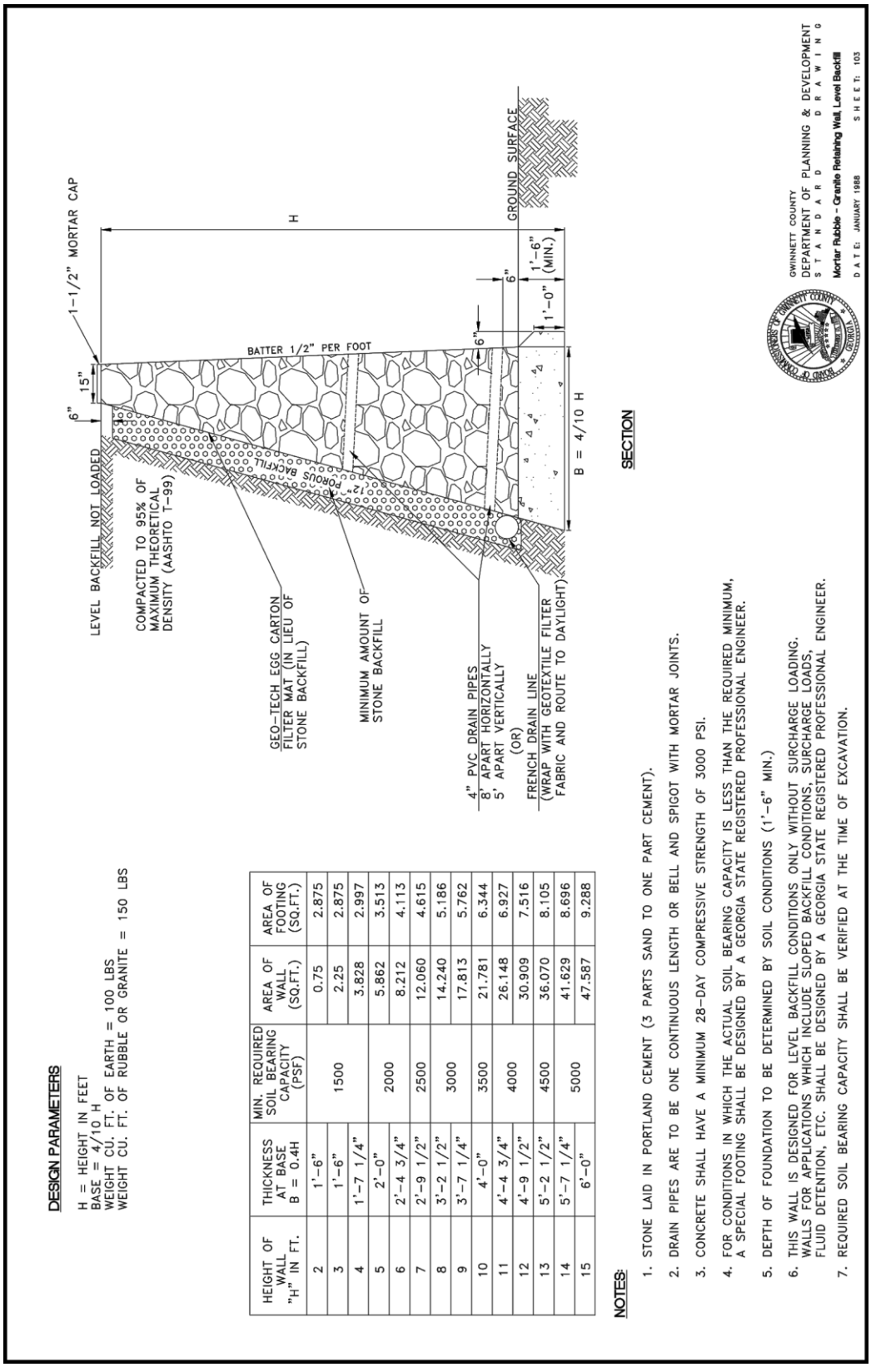
Gwinnett Detail 101: Local or Minor Collector



Gwinnett Detail 102: Example of Geotextile Used in Drainage Applications



Gwinnett Detail 103: Mortar Rubble – Granite Retaining Wall, Leve Backfill



DESIGN PARAMETERS

H = HEIGHT IN FEET
BASE = 4/10 H
WEIGHT CU. FT. OF EARTH = 100 LBS
WEIGHT CU. FT. OF RUBBLE OR GRANITE = 150 LBS

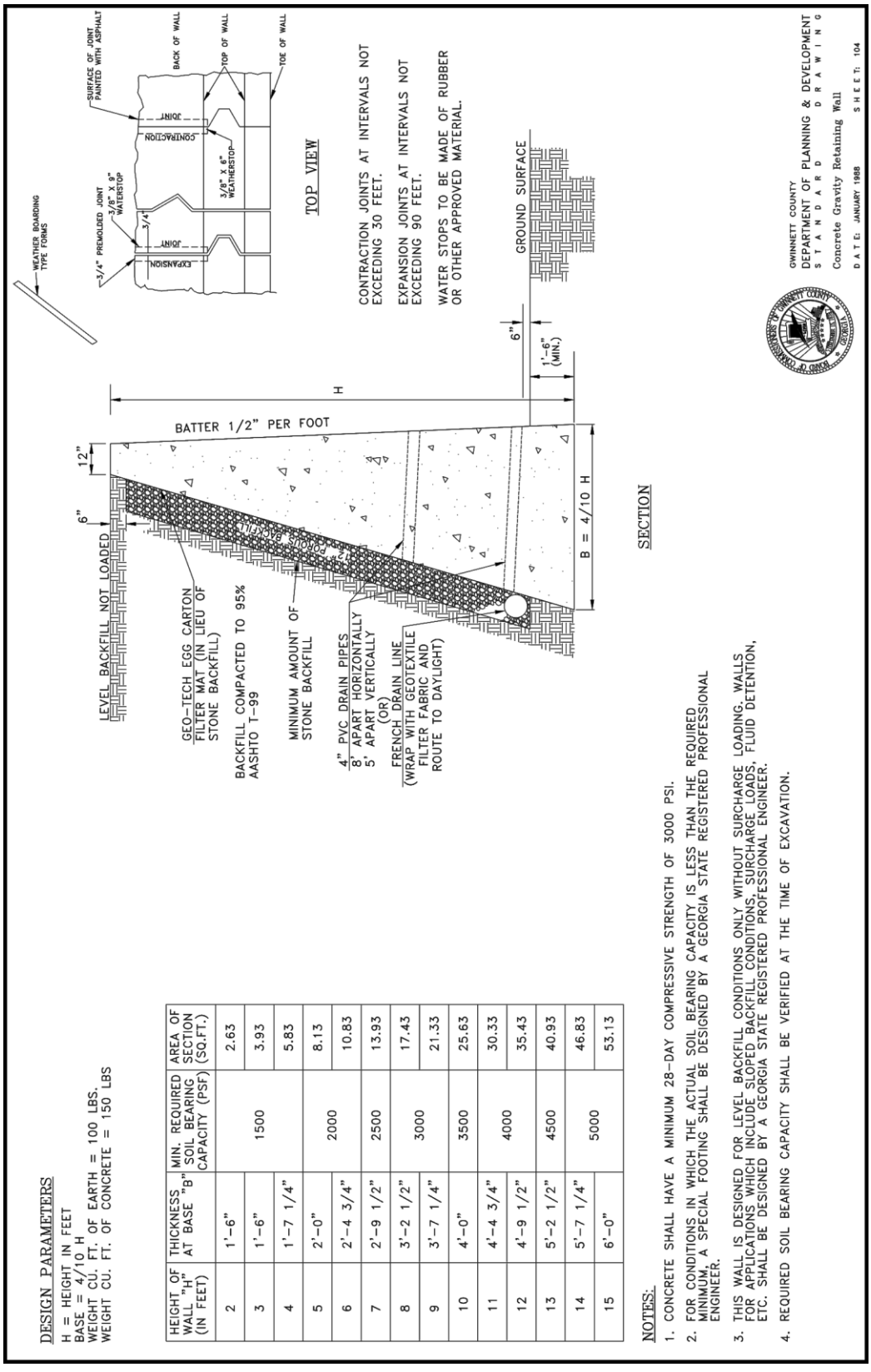
HEIGHT OF WALL "H" IN FT.	THICKNESS AT BASE B = 0.4H	MIN. REQUIRED SOIL BEARING CAPACITY (PSF)	AREA OF WALL (SQ.FT.)	AREA OF FOOTING (SQ.FT.)
2	1'-6"	1500	0.75	2.875
3	1'-6"		2.25	2.875
4	1'-7 1/4"		3.828	2.997
5	2'-0"	2000	5.862	3.513
6	2'-4 3/4"		8.212	4.113
7	2'-9 1/2"	2500	12.060	4.615
8	3'-2 1/2"	3000	14.240	5.186
9	3'-7 1/4"		17.813	5.762
10	4'-0"	3500	21.781	6.344
11	4'-4 3/4"	4000	26.148	6.927
12	4'-9 1/2"		30.909	7.516
13	5'-2 1/2"	4500	36.070	8.105
14	5'-7 1/4"	5000	41.629	8.696
15	6'-0"		47.587	9.288

NOTES:

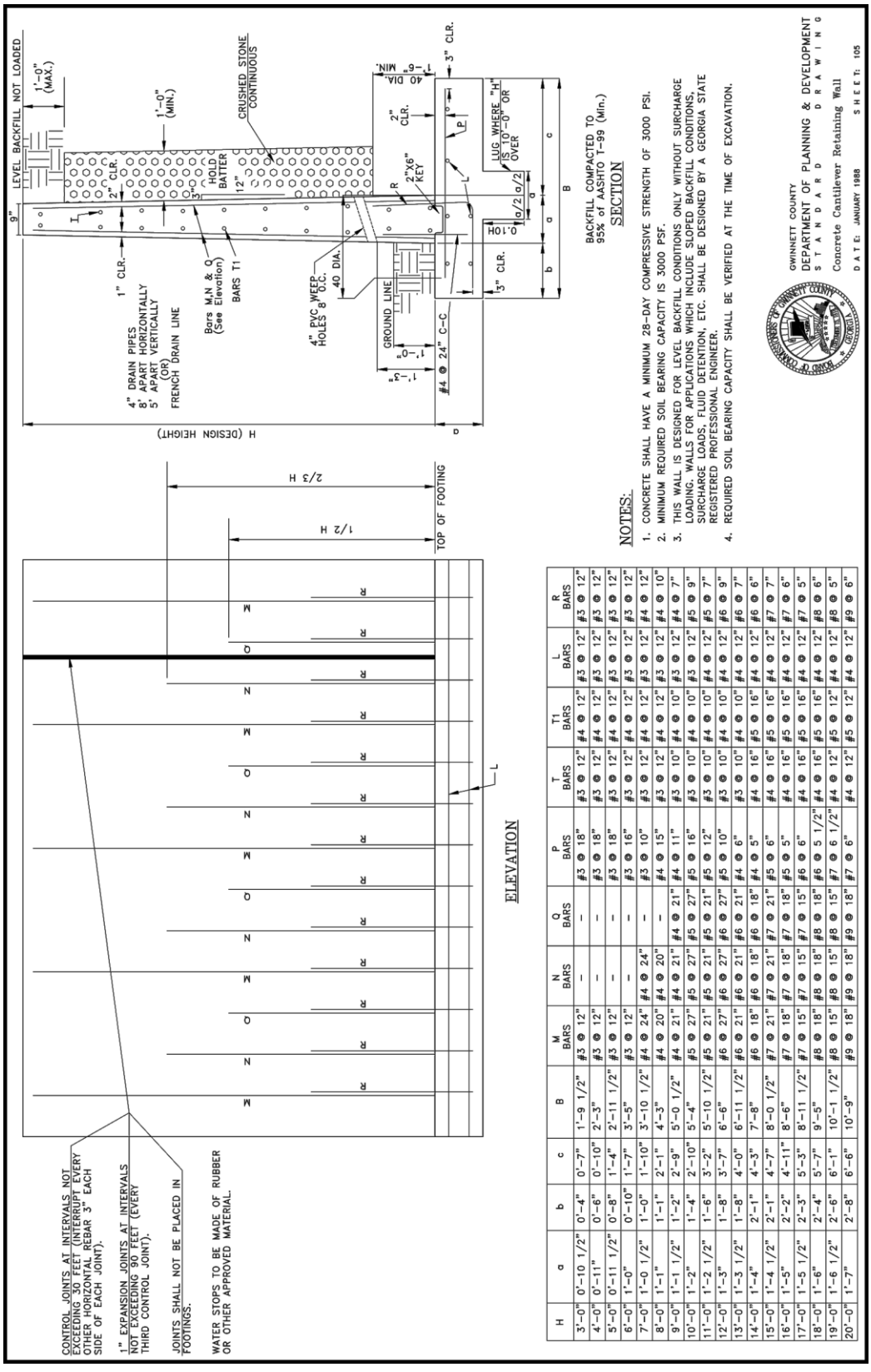
1. STONE LAID IN PORTLAND CEMENT (3 PARTS SAND TO ONE PART CEMENT).
2. DRAIN PIPES ARE TO BE ONE CONTINUOUS LENGTH OR BELL AND SPIGOT WITH MORTAR JOINTS.
3. CONCRETE SHALL HAVE A MINIMUM 28-DAY COMPRESSIVE STRENGTH OF 3000 PSI.
4. FOR CONDITIONS IN WHICH THE ACTUAL SOIL BEARING CAPACITY IS LESS THAN THE REQUIRED MINIMUM, A SPECIAL FOOTING SHALL BE DESIGNED BY A GEORGIA STATE REGISTERED PROFESSIONAL ENGINEER.
5. DEPTH OF FOUNDATION TO BE DETERMINED BY SOIL CONDITIONS (1'-6" MIN.)
6. THIS WALL IS DESIGNED FOR LEVEL BACKFILL CONDITIONS ONLY WITHOUT SURCHARGE LOADING. WALLS FOR APPLICATIONS WHICH INCLUDE SLOPED BACKFILL CONDITIONS, SURCHARGE LOADS, FLUID DETENTION, ETC. SHALL BE DESIGNED BY A GEORGIA STATE REGISTERED PROFESSIONAL ENGINEER.
7. REQUIRED SOIL BEARING CAPACITY SHALL BE VERIFIED AT THE TIME OF EXCAVATION.

GWINNETT COUNTY
DEPARTMENT OF PLANNING & DEVELOPMENT
STANDARD DRAWING
Mortar Rubble – Granite Retaining Wall, Level Backfill
DATE: JANUARY 1988 SHEET: 103

Gwinnett Detail 104: Mortar Rubble – Concrete Gravity Retaining Wall

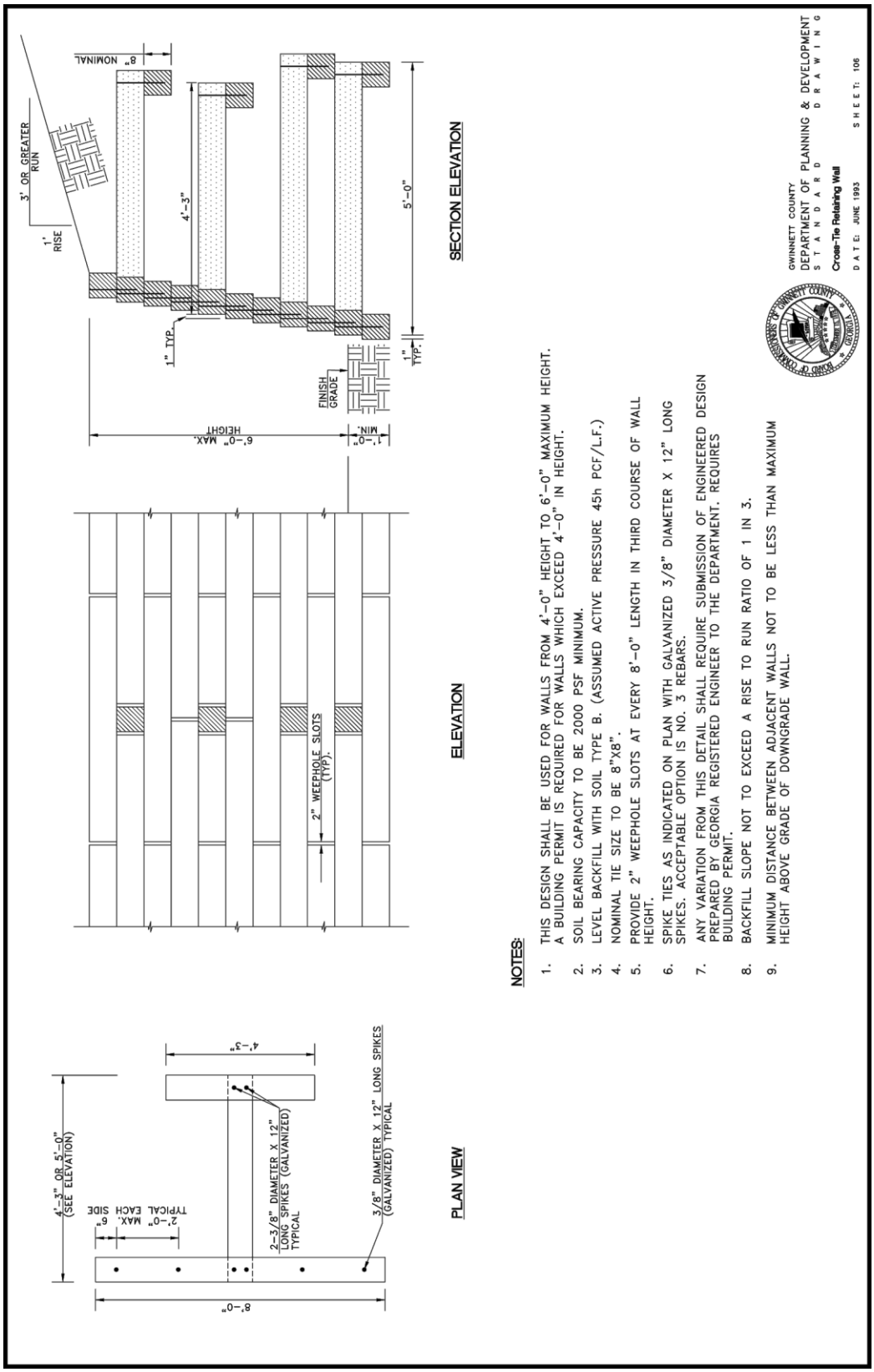


Gwinnett Detail 105: Mortar Rubble – Concrete Cantilever Retaining Wall

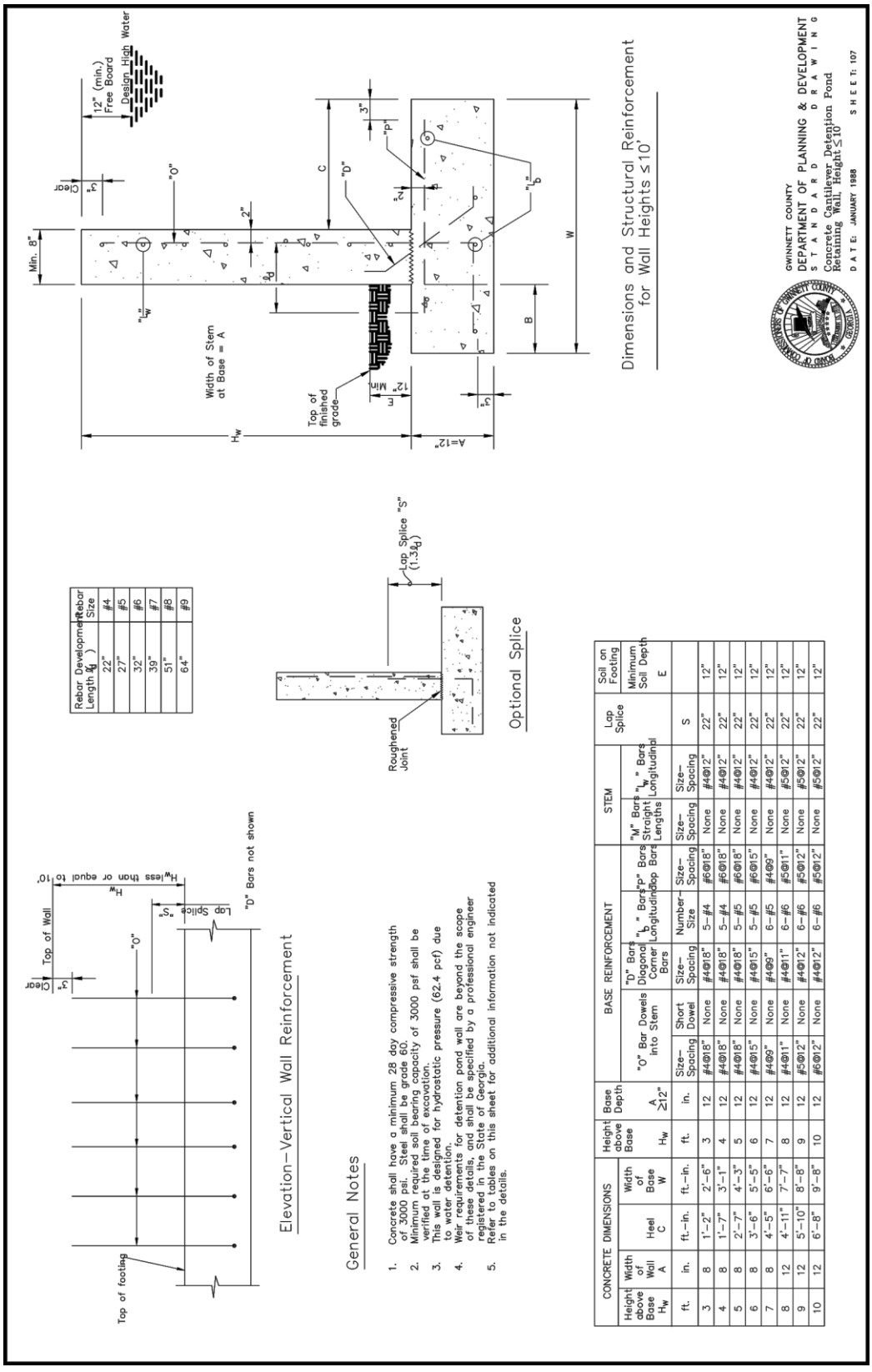


H	a	b	c	B	M BARS	N BARS	Q BARS	P BARS	T BARS	T1 BARS	L BARS	R BARS
3'-0"	0'-10 1/2"	0'-4"	0'-7"	1'-9 1/2"	#3 @ 12"	–	–	#3 @ 18"	#3 @ 12"	#4 @ 12"	#3 @ 12"	#3 @ 12"
4'-0"	0'-11"	0'-6"	0'-10"	2'-3"	#3 @ 12"	–	–	#3 @ 18"	#3 @ 12"	#4 @ 12"	#3 @ 12"	#3 @ 12"
5'-0"	0'-11 1/2"	0'-8"	1'-4"	2'-11 1/2"	#3 @ 12"	–	–	#3 @ 18"	#3 @ 12"	#4 @ 12"	#3 @ 12"	#3 @ 12"
6'-0"	1'-0"	0'-10"	1'-7"	3'-5"	#3 @ 12"	–	–	#3 @ 16"	#3 @ 12"	#4 @ 12"	#3 @ 12"	#3 @ 12"
7'-0"	1'-0 1/2"	1'-0"	1'-10"	3'-10 1/2"	#4 @ 24"	#4 @ 24"	–	#3 @ 10"	#3 @ 12"	#4 @ 12"	#3 @ 12"	#4 @ 12"
8'-0"	1'-1"	1'-1"	2'-1"	4'-3"	#4 @ 20"	#4 @ 20"	–	#4 @ 15"	#3 @ 12"	#4 @ 12"	#3 @ 12"	#4 @ 10"
9'-0"	1'-1 1/2"	1'-2"	2'-9"	5'-0 1/2"	#4 @ 21"	#4 @ 21"	#4 @ 21"	#4 @ 11"	#3 @ 10"	#4 @ 10"	#3 @ 12"	#4 @ 7"
10'-0"	1'-2"	1'-4"	2'-10"	5'-4"	#5 @ 27"	#5 @ 27"	#5 @ 27"	#5 @ 16"	#3 @ 10"	#4 @ 10"	#3 @ 12"	#5 @ 9"
11'-0"	1'-2 1/2"	1'-6"	3'-2"	5'-10 1/2"	#5 @ 21"	#5 @ 21"	#5 @ 21"	#5 @ 12"	#3 @ 10"	#4 @ 10"	#4 @ 12"	#5 @ 7"
12'-0"	1'-3"	1'-8"	3'-7"	6'-6"	#6 @ 27"	#6 @ 27"	#6 @ 27"	#5 @ 10"	#3 @ 10"	#4 @ 10"	#4 @ 12"	#6 @ 9"
13'-0"	1'-3 1/2"	1'-8"	4'-0"	6'-11 1/2"	#6 @ 21"	#6 @ 21"	#6 @ 21"	#4 @ 6"	#3 @ 10"	#4 @ 10"	#4 @ 12"	#6 @ 7"
14'-0"	1'-4"	2'-1"	4'-3"	7'-8"	#6 @ 18"	#6 @ 18"	#6 @ 18"	#4 @ 5"	#4 @ 16"	#5 @ 16"	#4 @ 12"	#6 @ 6"
15'-0"	1'-4 1/2"	2'-1"	4'-7"	8'-0 1/2"	#7 @ 21"	#7 @ 21"	#7 @ 21"	#5 @ 6"	#4 @ 16"	#5 @ 16"	#4 @ 12"	#7 @ 7"
16'-0"	1'-5"	2'-2"	4'-11"	8'-6"	#7 @ 18"	#7 @ 18"	#7 @ 18"	#5 @ 5"	#4 @ 16"	#5 @ 16"	#4 @ 12"	#7 @ 6"
17'-0"	1'-5 1/2"	2'-3"	5'-3"	8'-11 1/2"	#7 @ 15"	#7 @ 15"	#7 @ 15"	#6 @ 6"	#4 @ 16"	#5 @ 16"	#4 @ 12"	#7 @ 5"
18'-0"	1'-6"	2'-4"	5'-7"	9'-5"	#8 @ 18"	#8 @ 18"	#8 @ 18"	#6 @ 5 1/2"	#4 @ 16"	#5 @ 16"	#4 @ 12"	#8 @ 6"
19'-0"	1'-6 1/2"	2'-6"	6'-1"	10'-1 1/2"	#8 @ 15"	#8 @ 15"	#8 @ 15"	#7 @ 6 1/2"	#4 @ 12"	#5 @ 12"	#4 @ 12"	#8 @ 5"
20'-0"	1'-7"	2'-8"	6'-6"	10'-9"	#9 @ 18"	#9 @ 18"	#9 @ 18"	#7 @ 6"	#4 @ 12"	#5 @ 12"	#4 @ 12"	#9 @ 6"

Gwinnett Detail 106: Cross-Tie Retaining Wall



Gwinnett Detail 107: Concrete Cantilever Detention Pond Retaining Wall Height ≤10’



GWINNETT COUNTY
DEPARTMENT OF PLANNING & DEVELOPMENT
STANDARD DRAWING
Concrete Cantilever Detention Pond Retaining Wall Height ≤10’
DATE: JANUARY 1988 SHEET: 107

Dimensions and Structural Reinforcement for Wall Heights ≤10’

Design High Water
12" (min.) Free Board
Clear
"O"
Min. 8"
"W"
"L"
2"
C
"D"
"P"
3"
"b"
Width of Stem at Base = A
Top of finished grade
12" Min.
H_w
A=12"
B
W

Rebar Development Length (l_d)

Rebar Size	Rebar Development Length (l_d)
#4	22"
#5	27"
#6	32"
#7	39"
#8	51"
#9	64"

Optional Splice

Lap Splice "S" (1.3l_d)
Roughened Joint

Elevation–Vertical Wall Reinforcement

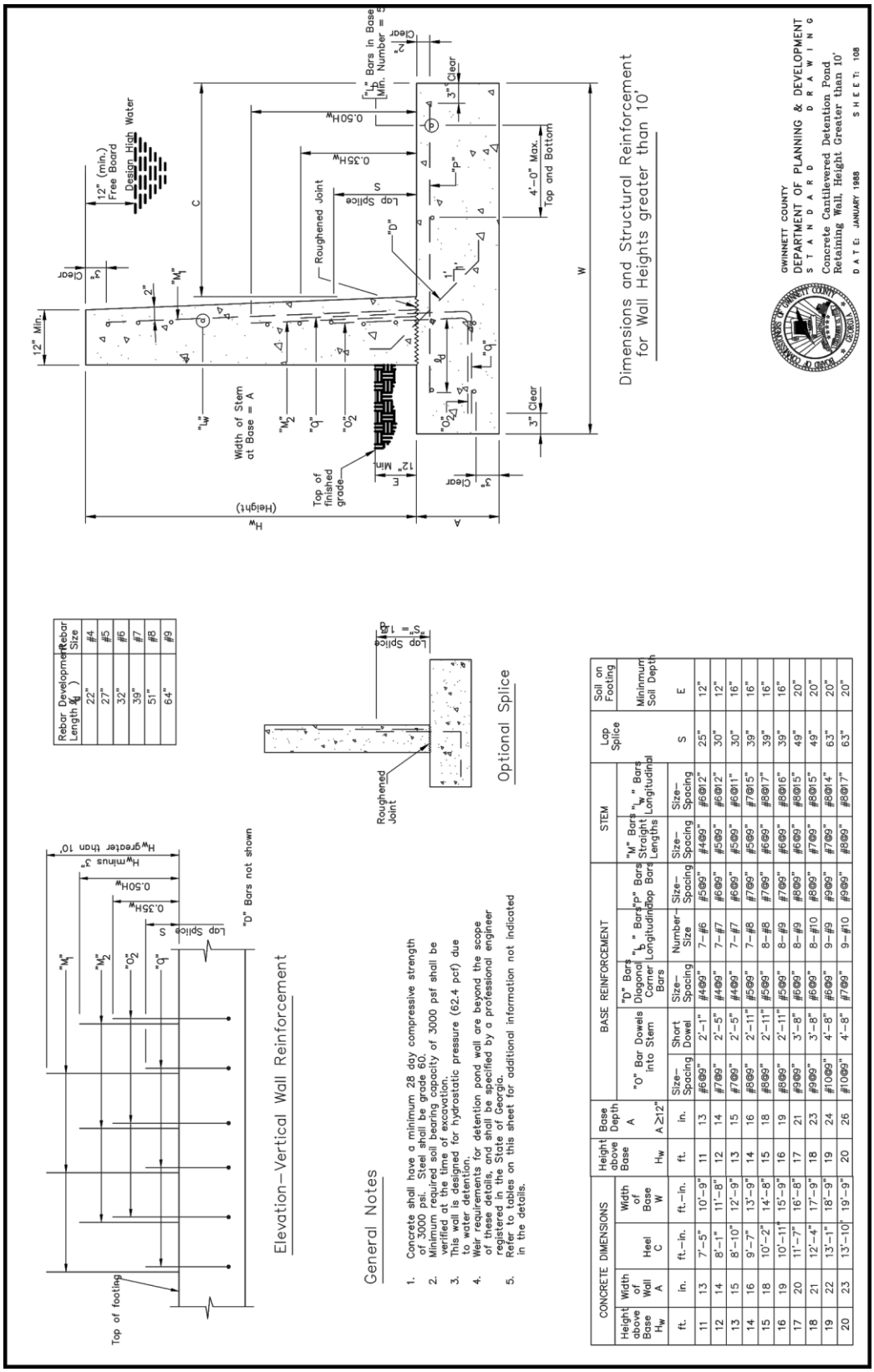
Clear
Top of Wall
"O"
H_w less than or equal to 10’
H_w
Lap Splice "S"
"D" Bars not shown
Top of footing

General Notes

1. Concrete shall have a minimum 28 day compressive strength of 3000 psi. Steel shall be grade 60.
2. Minimum required soil bearing capacity of 3000 psf shall be verified at the time of excavation.
3. This wall is designed for hydrostatic pressure (62.4 pcf) due to water detention.
4. Weir requirements for detention pond wall are beyond the scope of these details, and shall be specified by a professional engineer registered in the State of Georgia.
5. Refer to tables on this sheet for additional information not indicated in the details.

CONCRETE DIMENSIONS				Height above Base	BASE REINFORCEMENT						STEM			Lap Splice	Soil on Footing
Height above Base H_w	Width of Wall A	Heel C	Width of Base W	H_w	Base Depth $A \geq 12"$	"O" Bar Dowels into Stem		"D" Bar Diagonal Corner Bars	"L" Bars Longitudinal	"P" Bars Top Bars	"M" Bars Straight Lengths	"L" Bars Longitudinal		S	Minimum Soil Depth E
						Size–Spacing	Short Dowel	Size–Spacing	Number Size	Size–Spacing	Size–Spacing	Size–Spacing			
ft.	in.	ft.–in.	ft.–in.	ft.	in.										
3	8	1’–2”	2’–6”	3	12	#4@18”	None	#4@18”	5–#4	#6@18”	None	#4@12”		22”	12”
4	8	1’–7”	3’–1”	4	12	#4@18”	None	#4@18”	5–#4	#6@18”	None	#4@12”		22”	12”
5	8	2’–7”	4’–3”	5	12	#4@18”	None	#4@18”	5–#5	#6@18”	None	#4@12”		22”	12”
6	8	3’–6”	5’–5”	6	12	#4@15”	None	#4@15”	5–#5	#6@15”	None	#4@12”		22”	12”
7	8	4’–5”	6’–6”	7	12	#4@9”	None	#4@9”	6–#5	#4@9”	None	#4@12”		22”	12”
8	12	4’–11”	7’–7”	8	12	#4@11”	None	#4@11”	6–#6	#5@11”	None	#5@12”		22”	12”
9	12	5’–10”	8’–8”	9	12	#5@12”	None	#4@12”	6–#6	#5@12”	None	#5@12”		22”	12”
10	12	6’–8”	9’–8”	10	12	#6@12”	None	#4@12”	6–#6	#5@12”	None	#5@12”		22”	12”

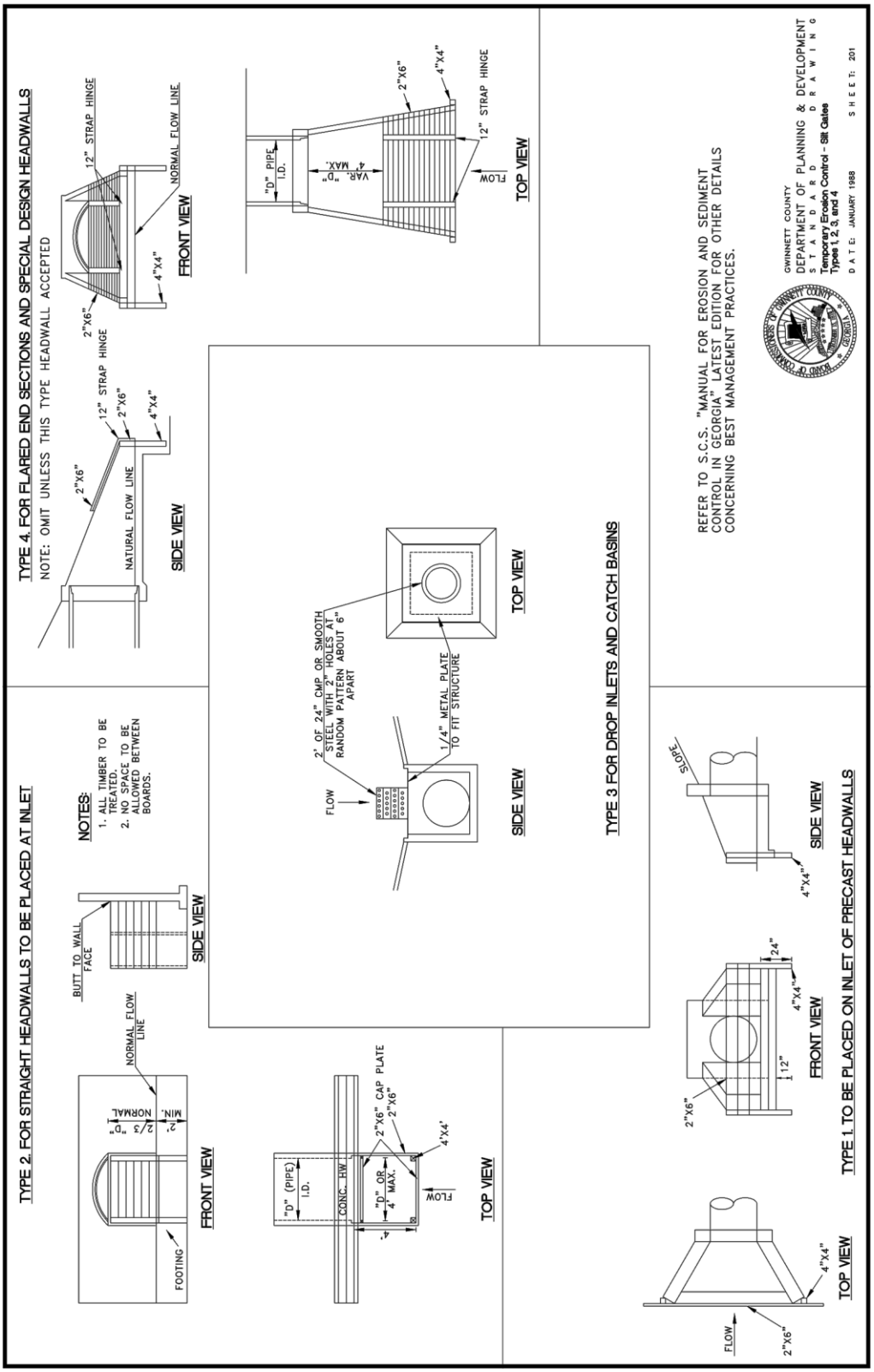
Gwinnett Detail 108: Concrete Cantilever Detention Pond Retaining Wall Height >10’



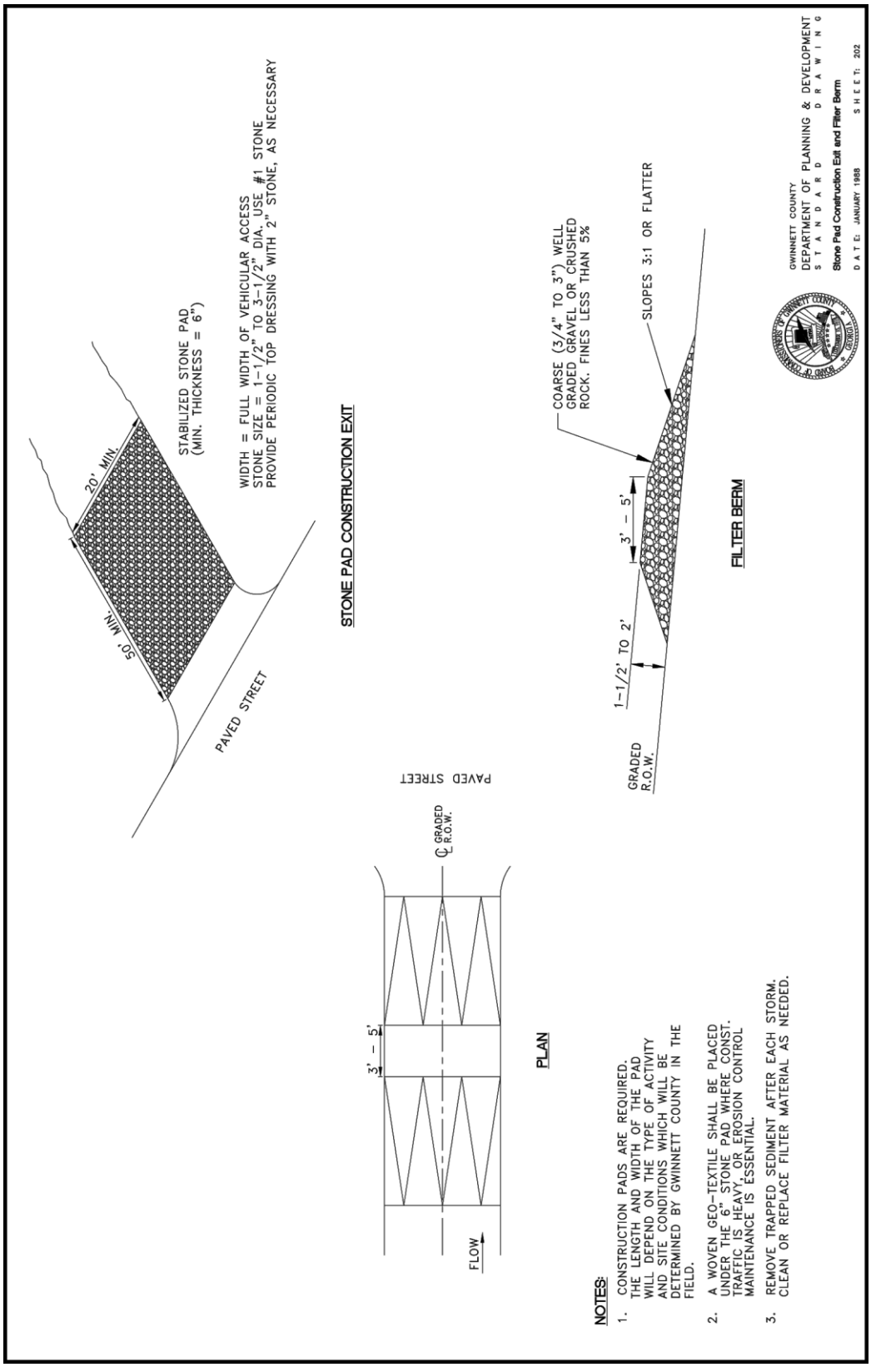
Rebar Size	Rebar Development Length (L_d)
#4	22"
#5	27"
#6	32"
#7	39"
#8	51"
#9	64"

CONCRETE DIMENSIONS				Height above Base	Base Depth	BASE REINFORCEMENT					STEM		Lap Splice	Soil on Footing
Height above Base H_w	Width of Wall A	Heel C	Width of Base W	H_w	A ≥12"	"O" Bar Dowels into Stem		"D" Bars Diagonal Corner Bars	"L" Bars Longitudinal	"P" Bars Top Bars	"W" Bars Straight Lengths	"L" Bars "W" Bars Longitudinal		Minimum Soil Depth
						Size–Spacing	Short Dowel	Size–Spacing	Number–Size	Size–Spacing	Size–Spacing	Size–Spacing	S	E
ft.	in.	ft.–in.	ft.–in.	ft.	in.	#6@6"	2'–1"	#4@6"	7–#6	#5@6"	#4@6"	#6@12"	25"	12"
11	13	7'–5"	10'–9"	11	13	#6@6"	2'–5"	#4@6"	7–#7	#6@6"	#5@6"	#6@12"	30"	12"
12	14	8'–1"	11'–8"	12	14	#7@6"	2'–5"	#4@6"	7–#7	#6@6"	#5@6"	#6@11"	30"	16"
13	15	8'–10"	12'–9"	13	15	#7@6"	2'–5"	#4@6"	7–#7	#6@6"	#5@6"	#6@11"	30"	16"
14	16	9'–7"	13'–9"	14	16	#8@6"	2'–11"	#5@6"	7–#8	#7@6"	#5@6"	#7@15"	39"	16"
15	18	10'–2"	14'–8"	15	18	#8@6"	2'–11"	#5@6"	8–#8	#7@6"	#6@6"	#8@17"	39"	16"
16	19	10'–11"	15'–9"	16	19	#8@6"	2'–11"	#5@6"	8–#9	#7@6"	#6@6"	#8@16"	39"	16"
17	20	11'–7"	16'–8"	17	21	#9@6"	3'–8"	#6@6"	8–#9	#8@6"	#6@6"	#8@15"	49"	20"
18	21	12'–4"	17'–9"	18	23	#9@6"	3'–8"	#6@6"	8–#10	#8@6"	#7@6"	#8@15"	49"	20"
19	22	13'–1"	18'–9"	19	24	#10@6"	4'–8"	#6@6"	9–#9	#9@6"	#7@6"	#8@14"	63"	20"
20	23	13'–10"	19'–9"	20	26	#10@6"	4'–8"	#7@6"	9–#10	#9@6"	#8@6"	#8@17"	63"	20"

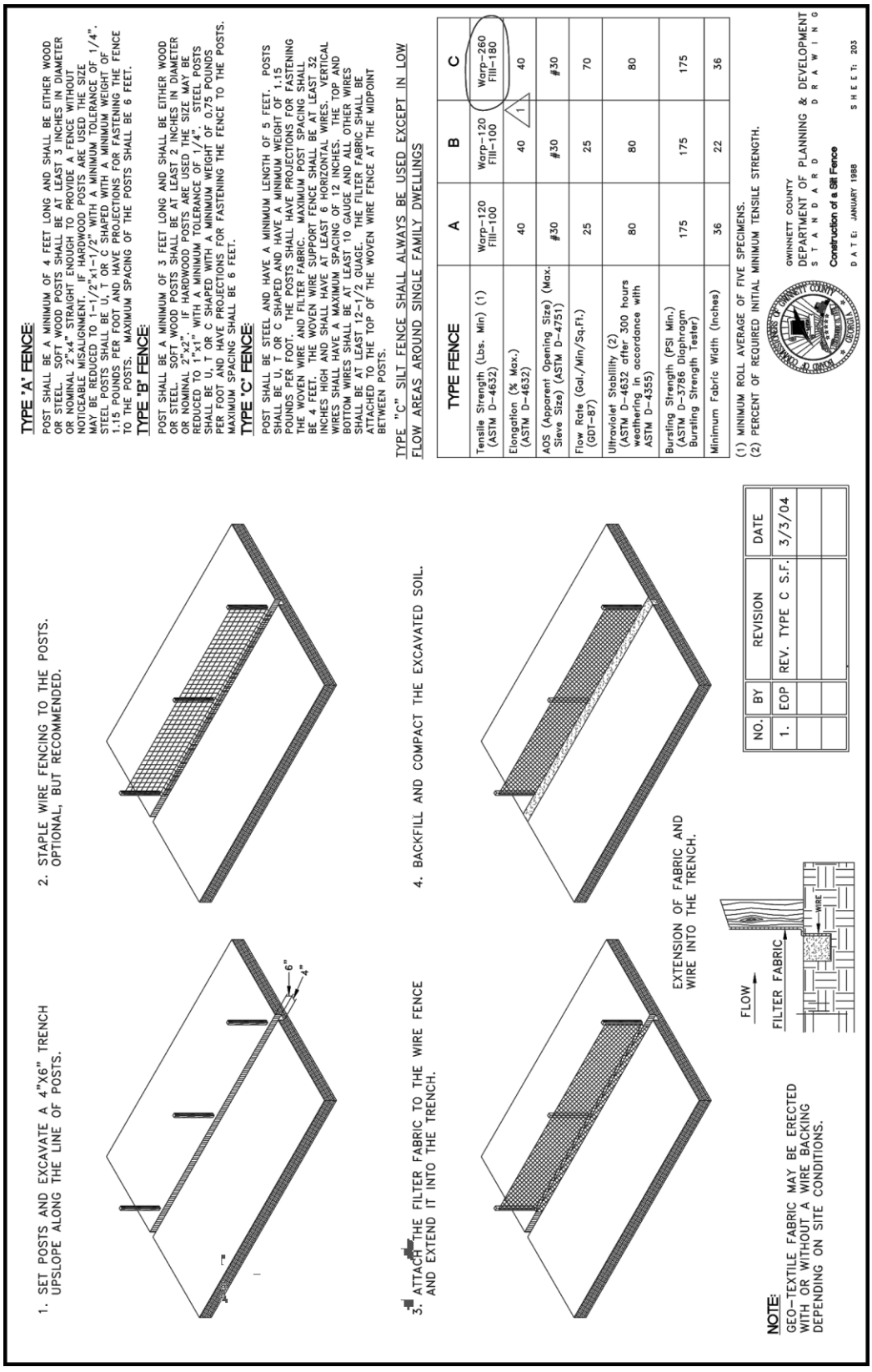
Gwinnett Detail 201: Temporary Erosion Control – Silt Gates Type 1, 2, 3, and 4



Gwinnett Detail 202: Stone Pad Construction Exit and Filter Berm

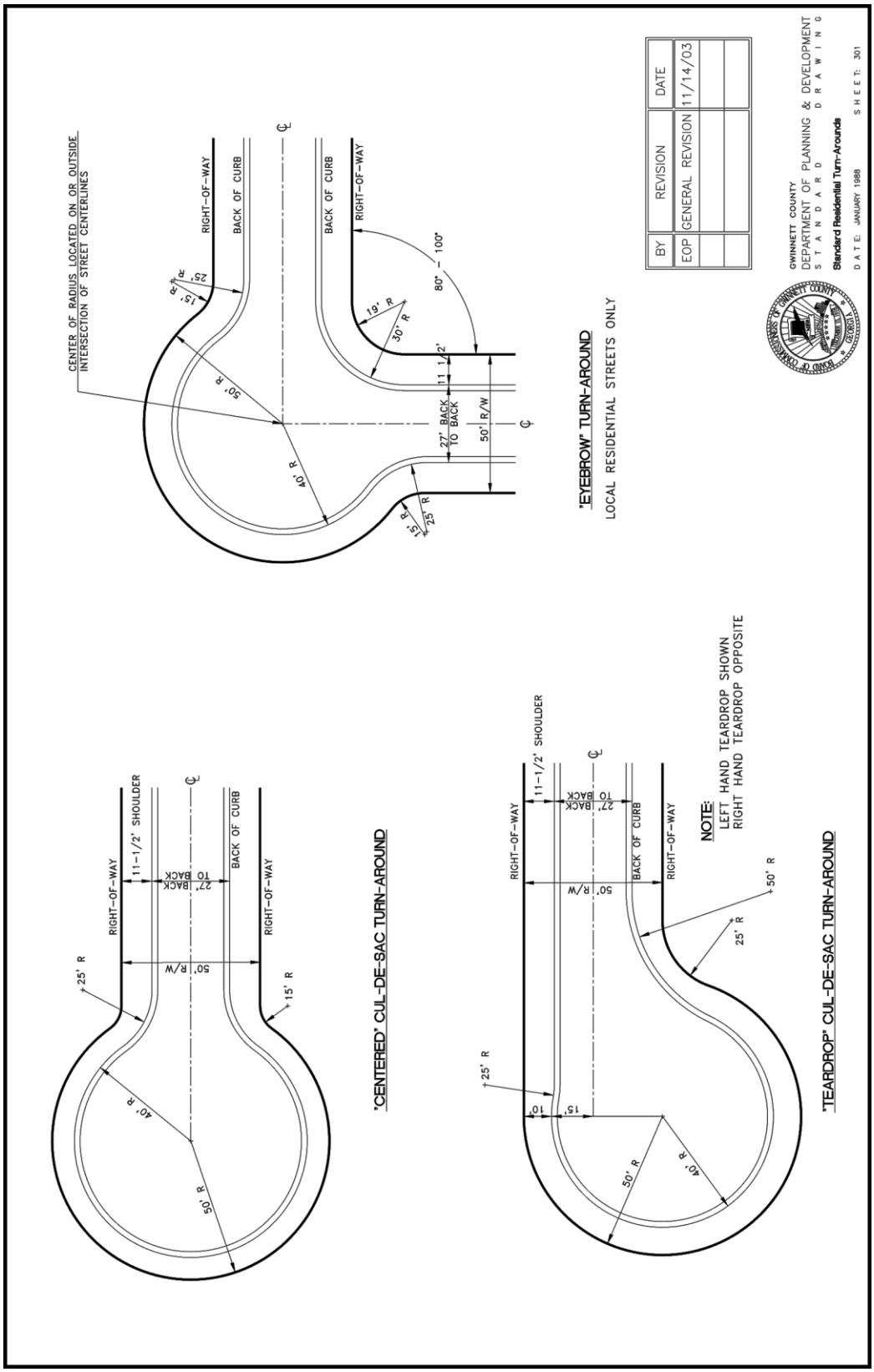


Gwinnett Detail 203: Construction of a Silt Fence

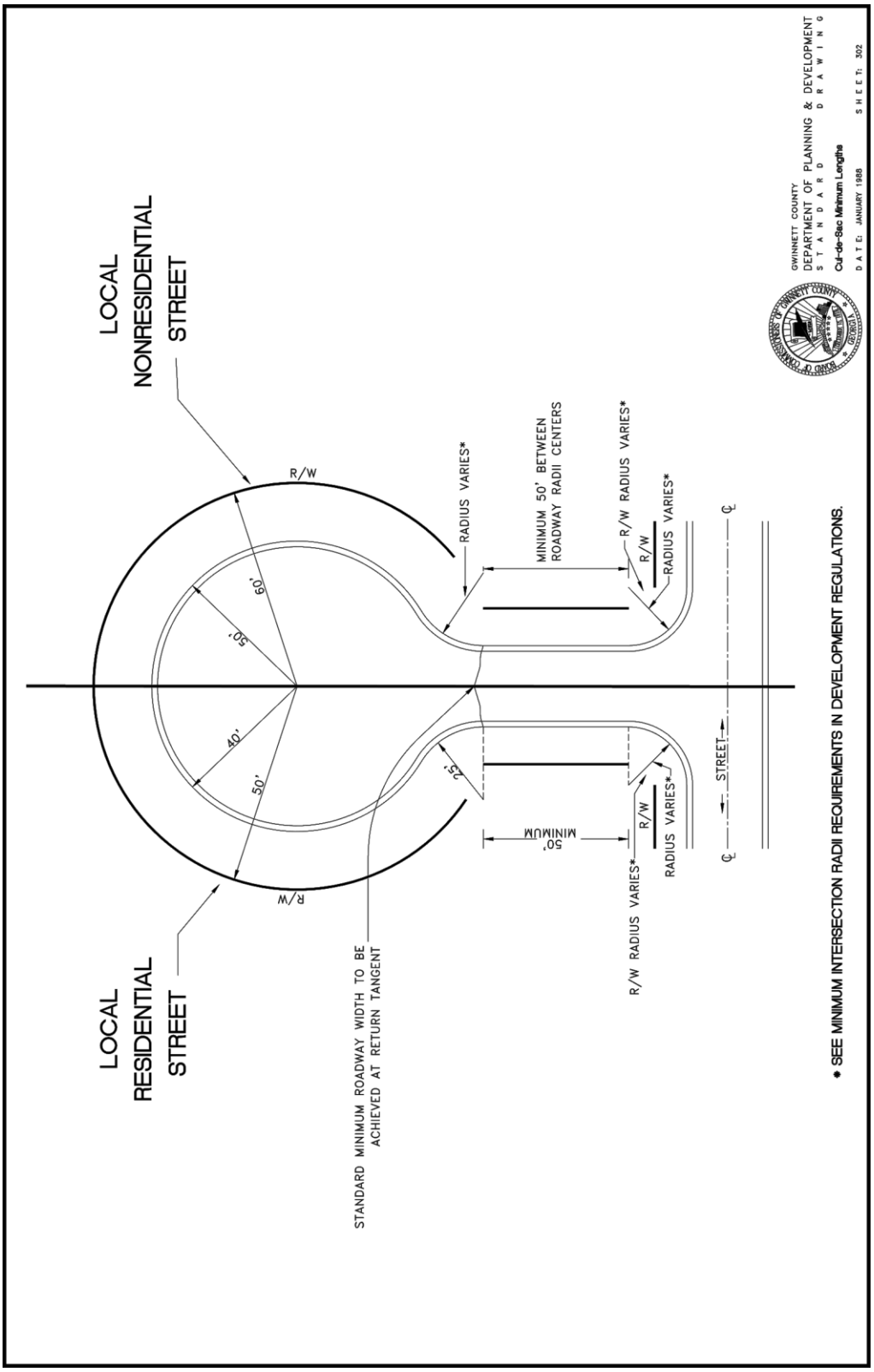


TYPE FENCE	A	B	C
Tensile Strength (Lbs. Min) (1) (ASTM D-4632)	Warp-120 Fill-100	Warp-120 Fill-100	Warp-260 Fill-180
Elongation (% Max.) (ASTM D-4632)	40	40	40
AOS (Apparent Opening Size) (Max. Sieve Size) (ASTM D-4751)	#30	#30	#30
Flow Rate (Gal./Min/Sq.Ft.) (GDT-87)	25	25	70
Ultraviolet Stability (2) (ASTM D-4632 after 300 hours weathering in accordance with ASTM D-4355)	80	80	80
Bursting Strength (PSI Min.) (ASTM D-3786 Diaphragm Bursting Strength Tester)	175	175	175
Minimum Fabric Width (Inches)	36	22	36

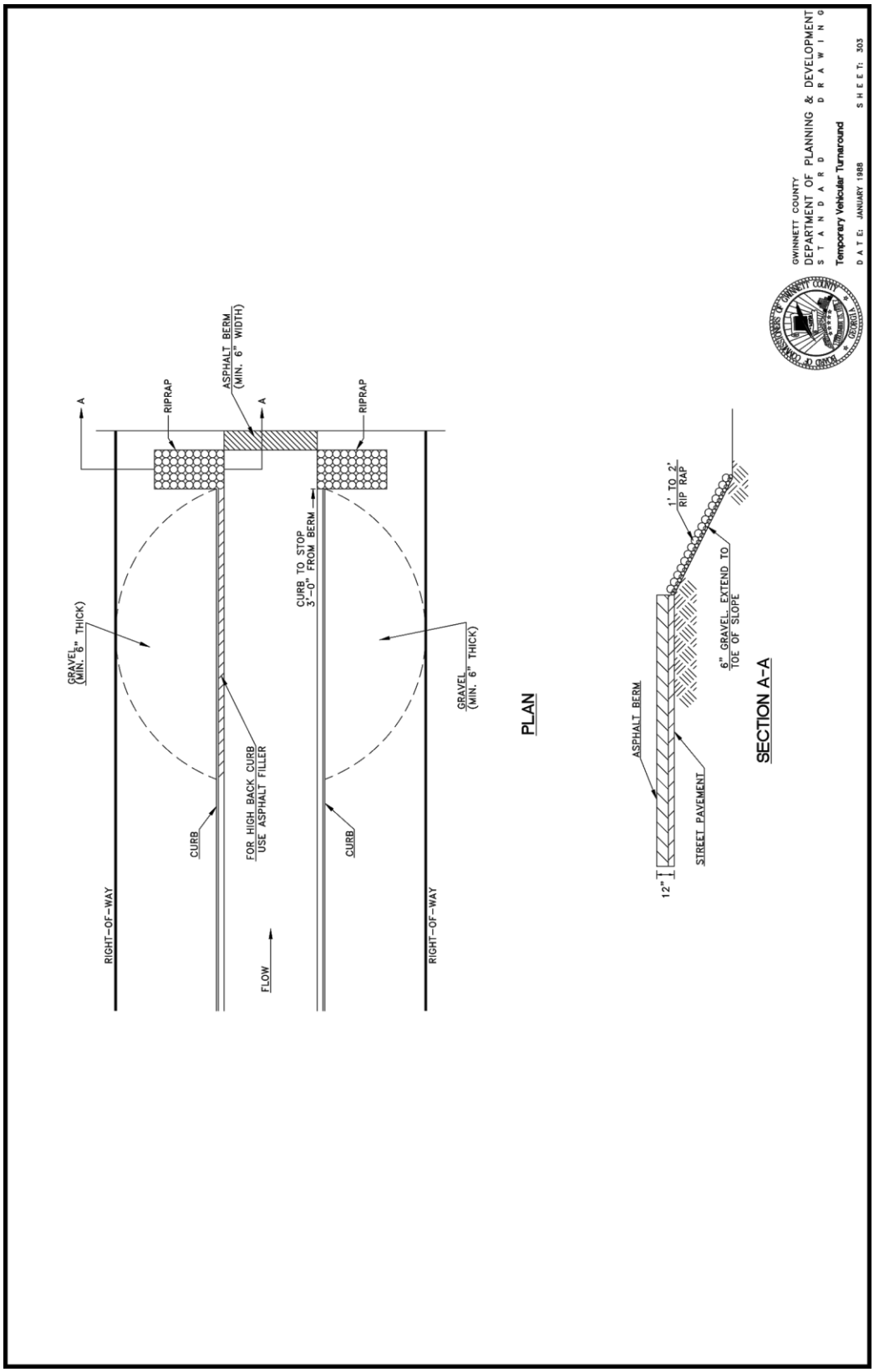
Gwinnett Detail 301: Standard Residential Turn-Arounds



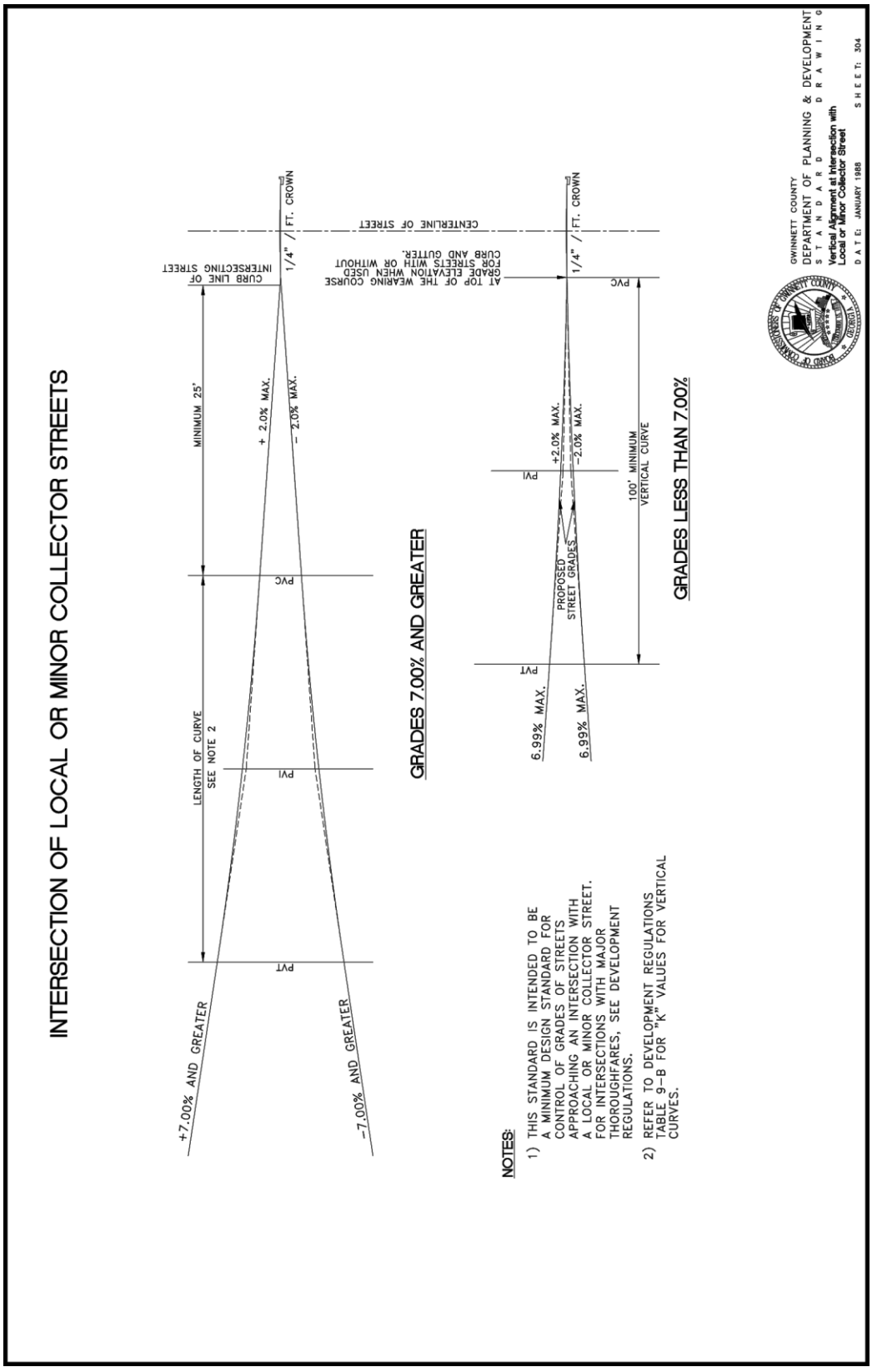
Gwinnett Detail 302: Cul-de-Sac Minimum Lengths



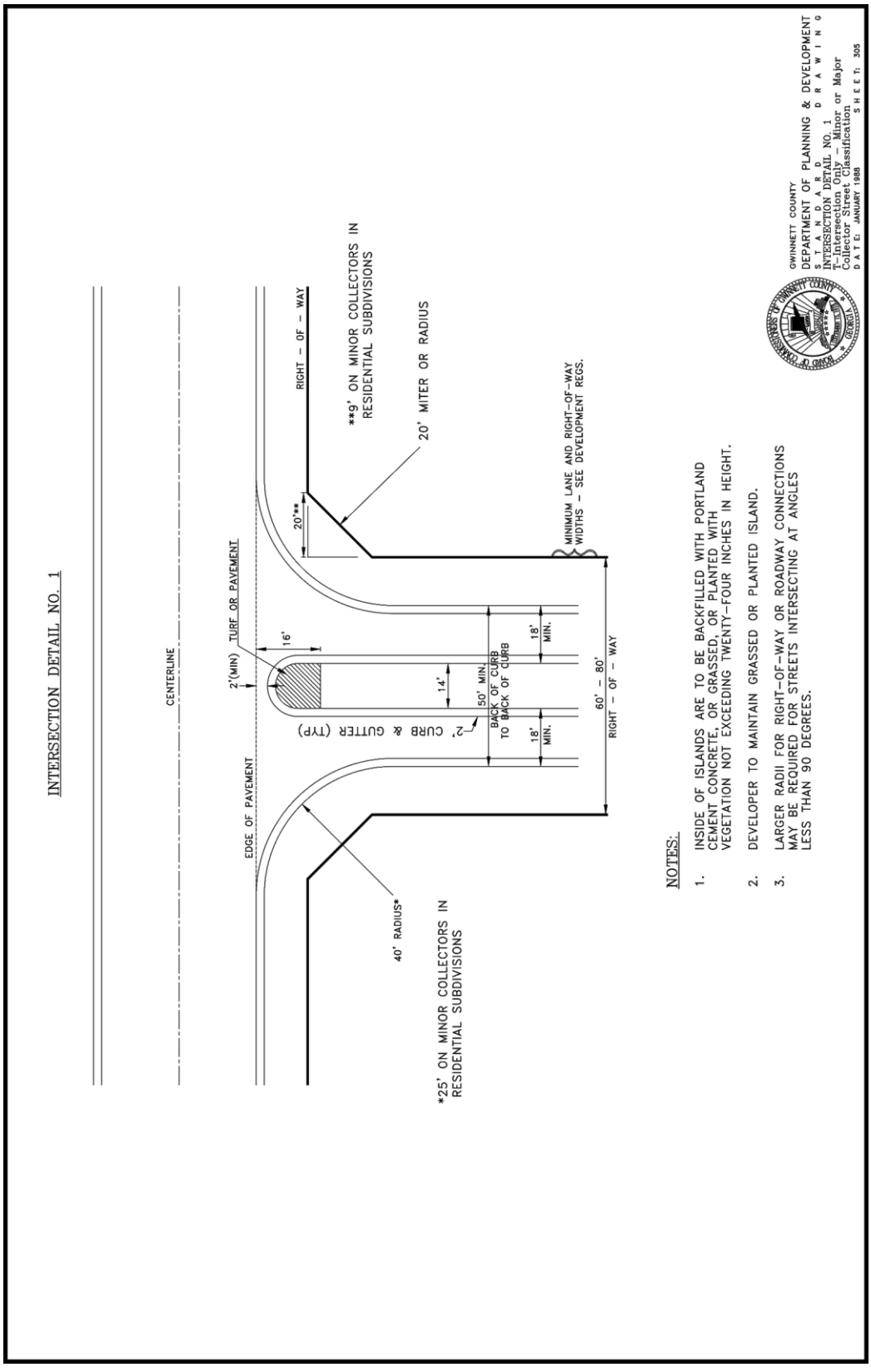
Gwinnett Detail 303: Temporary Vehicular Turnaround



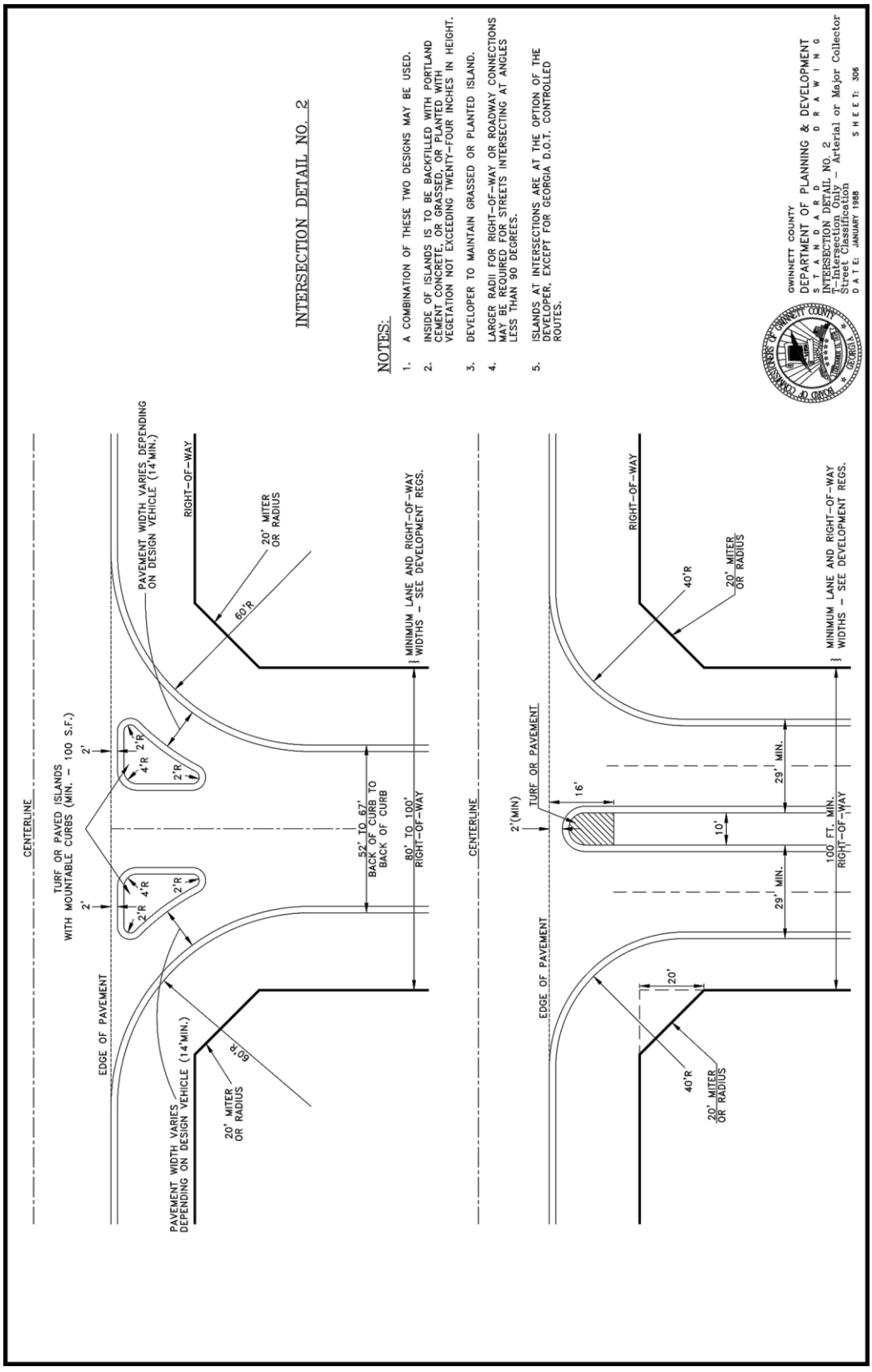
Gwinnett Detail 304: Vertical Alignment at Intersection with Local or Minor Collector Street



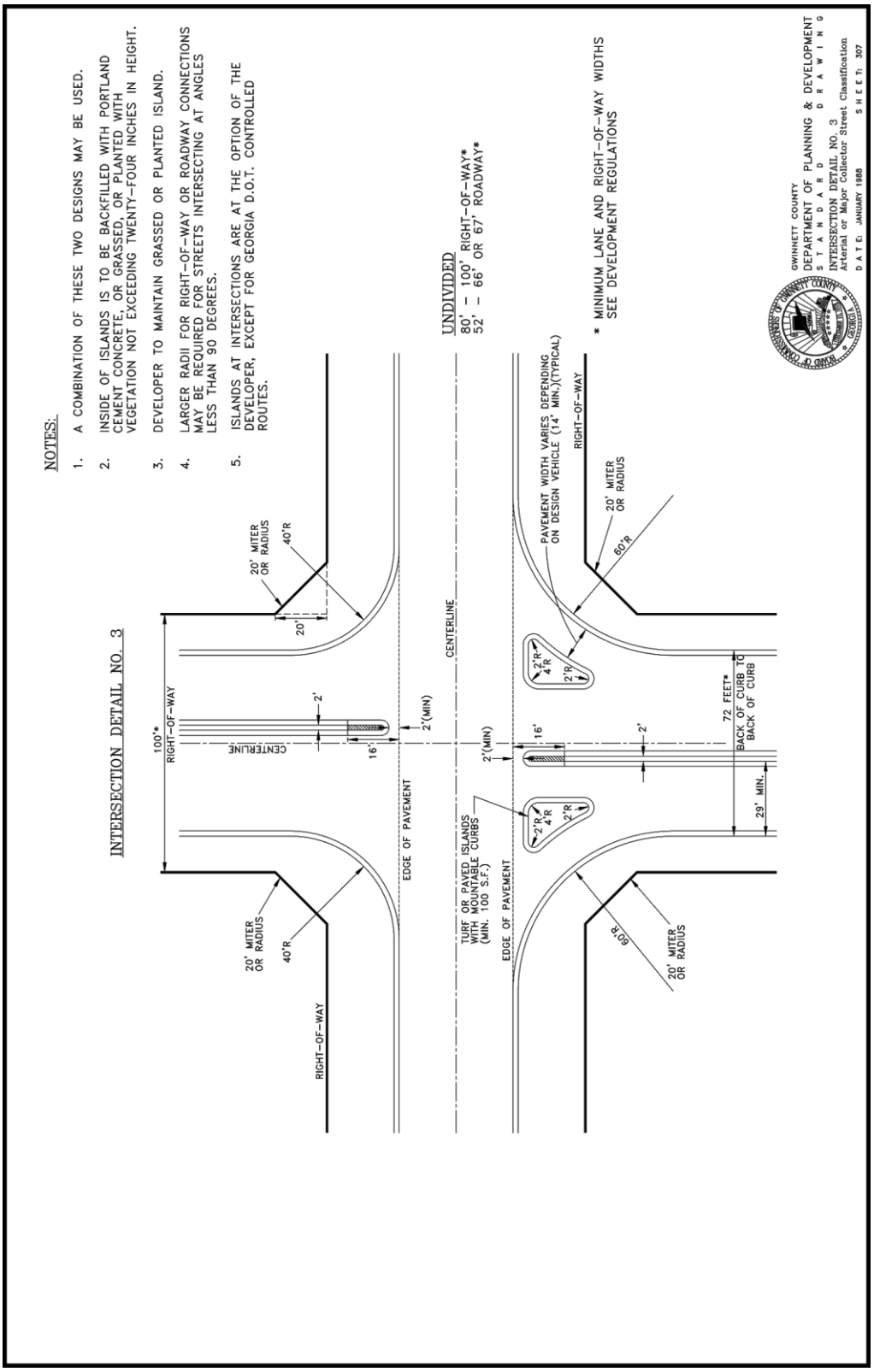
Gwinnett Detail 305: Intersection Detail #1 T-Intersection Only – Minor or Major Collector



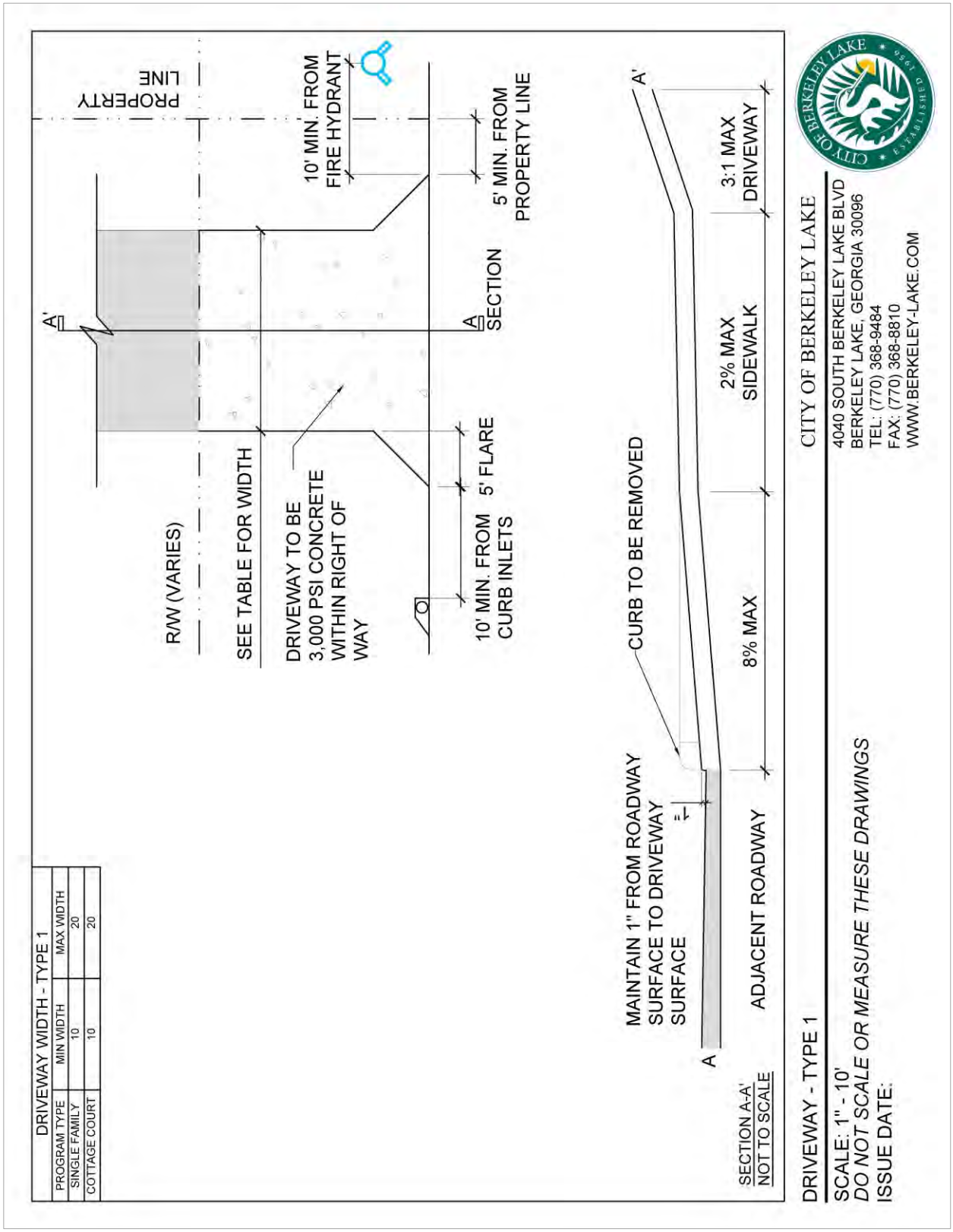
Gwinnett Detail 306: Intersection Detail #2 T-Intersection Only – Arterial or Major Collector



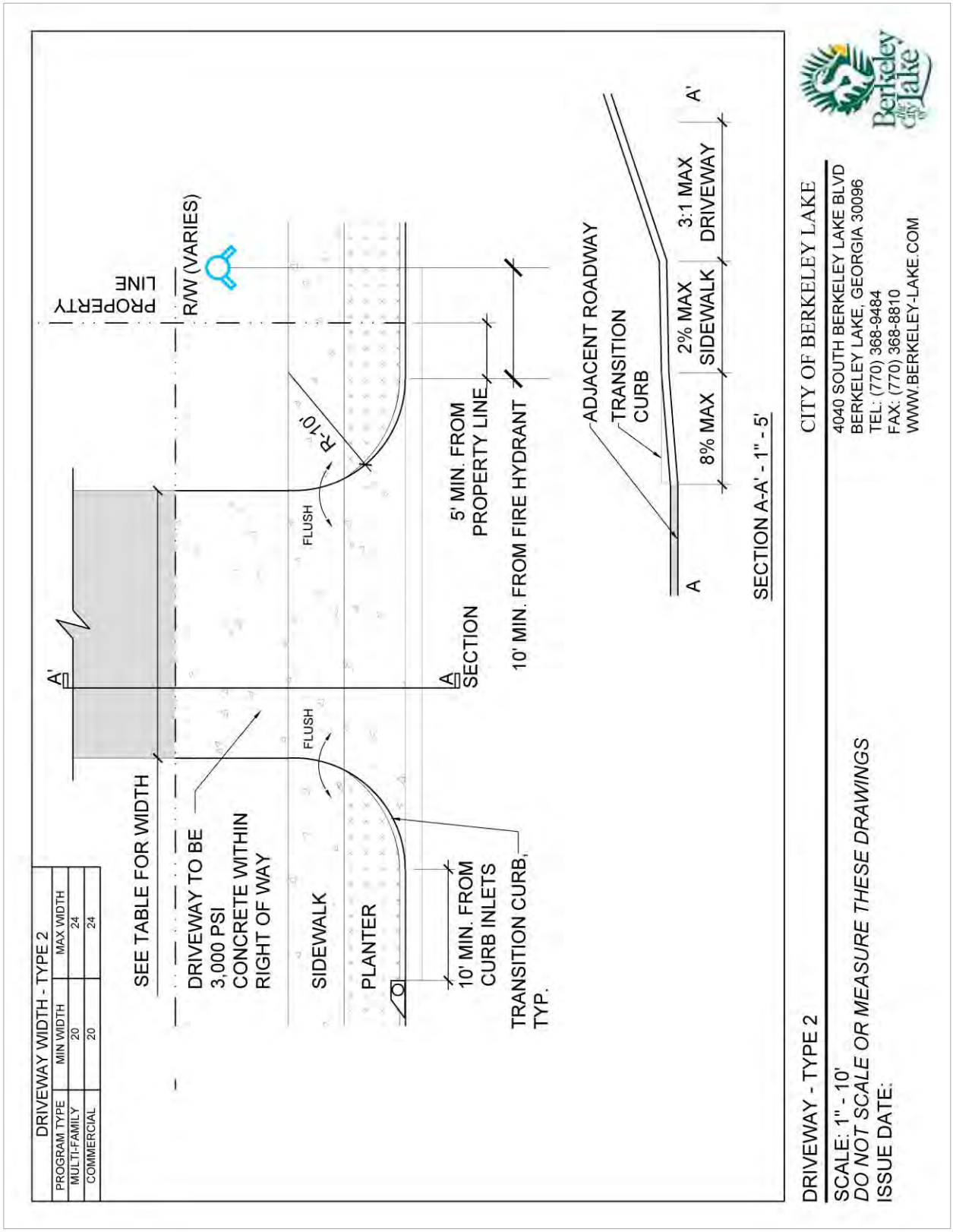
Gwinnett Detail 307: Intersection Detail #3 T- Arterial or Major Collector



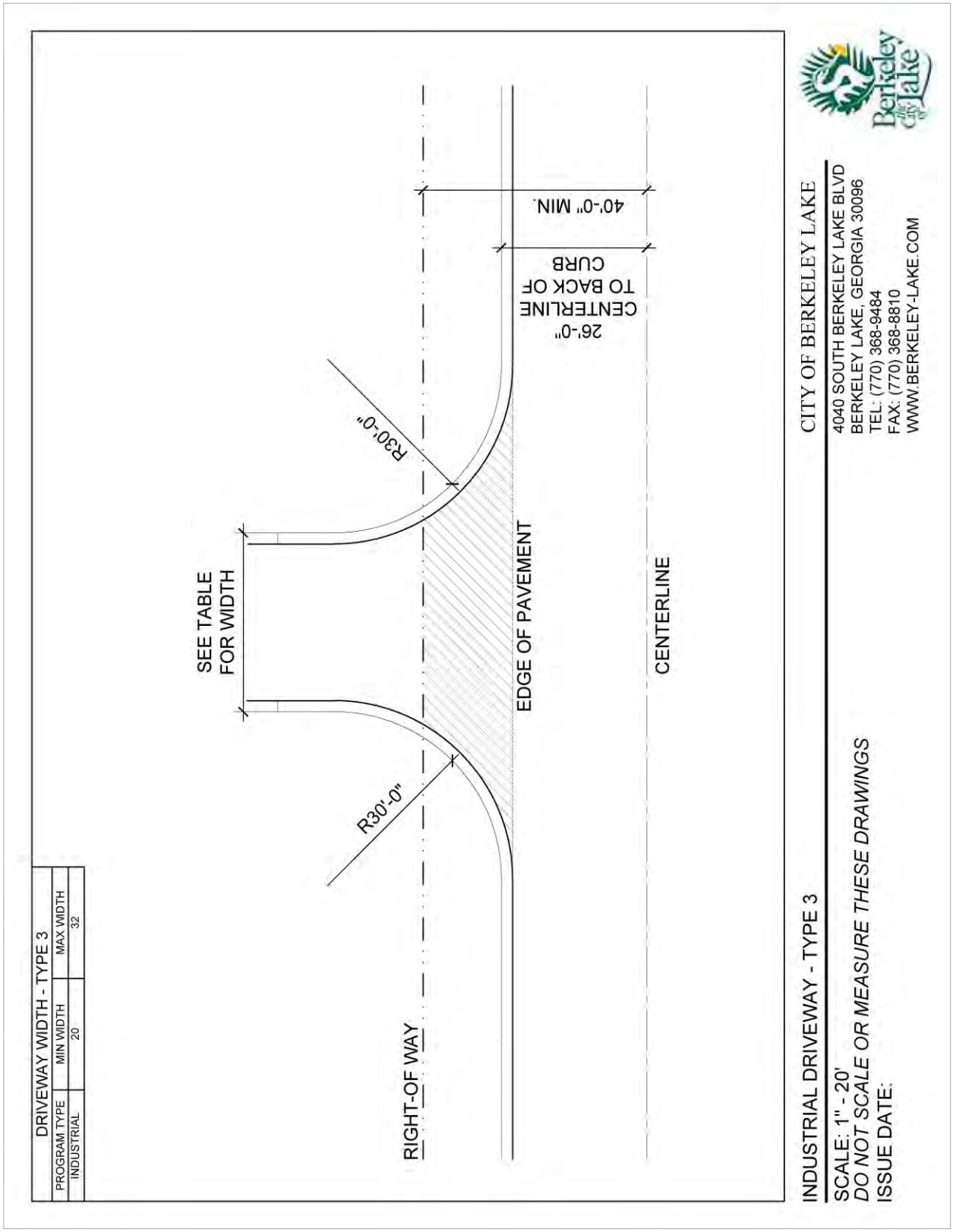
Berkely Lake Detail: Driveway Type 1



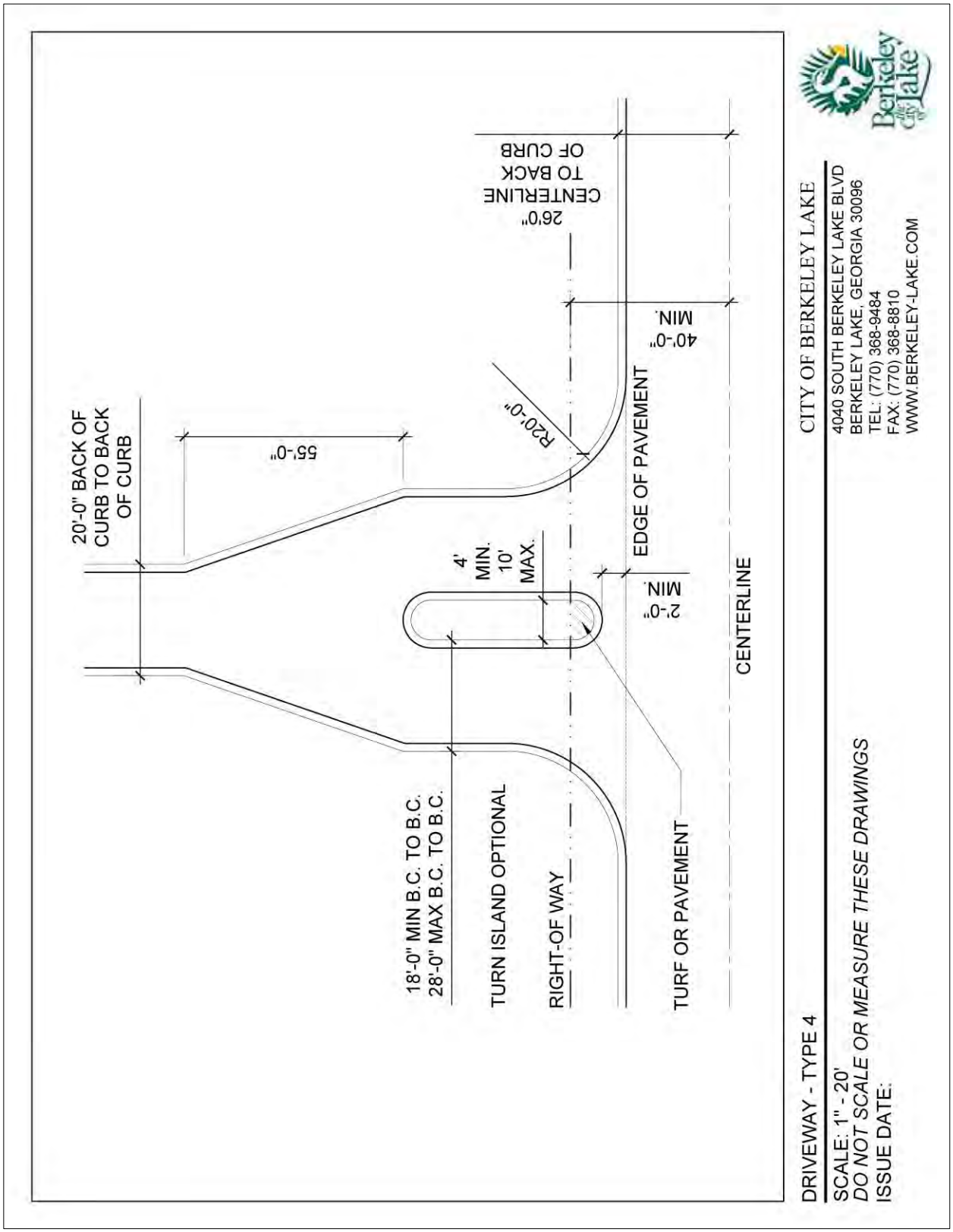
Berkely Lake Detail: Driveway Type 2



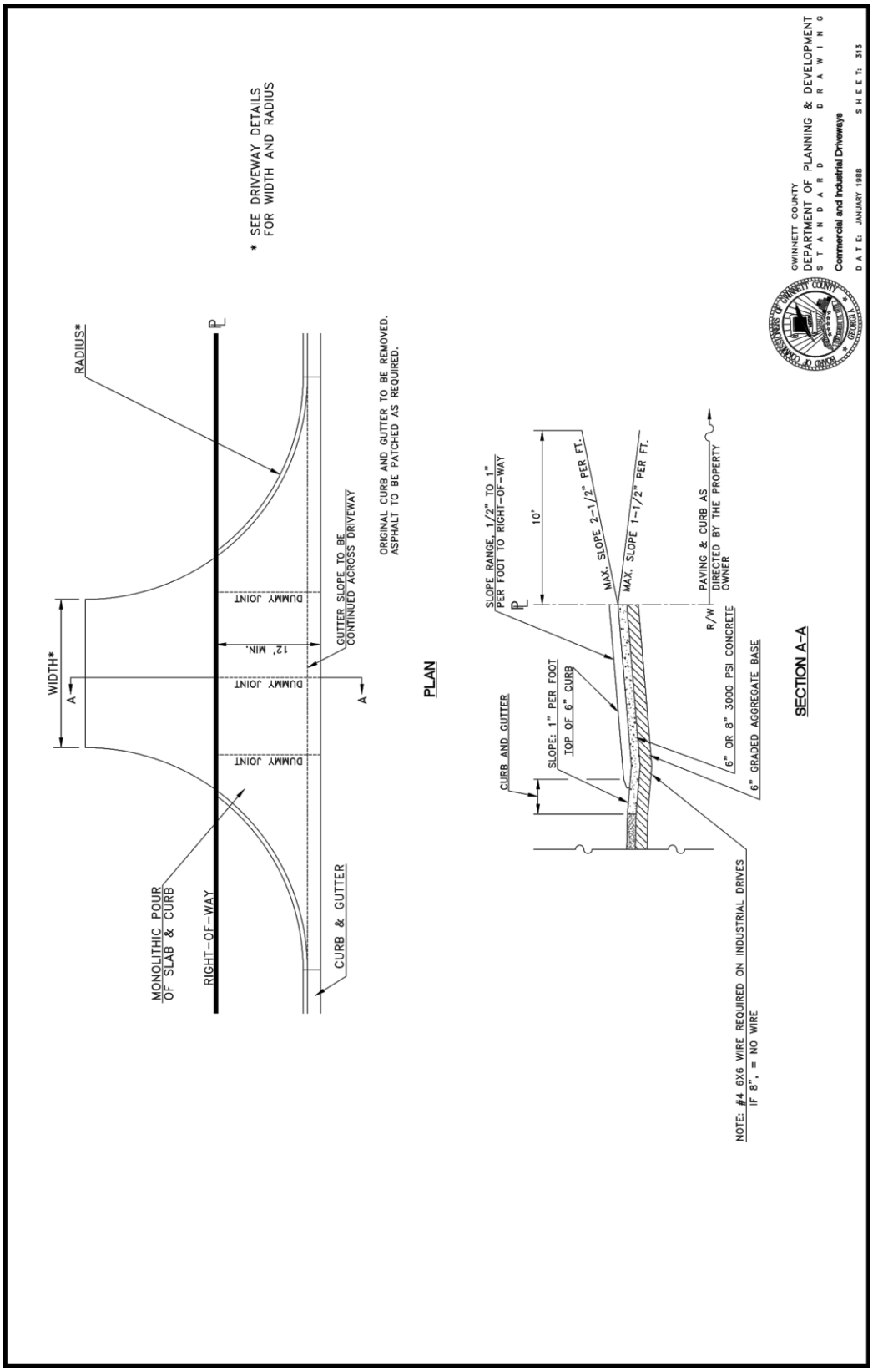
Berkely Lake Detail: Driveway Type 3



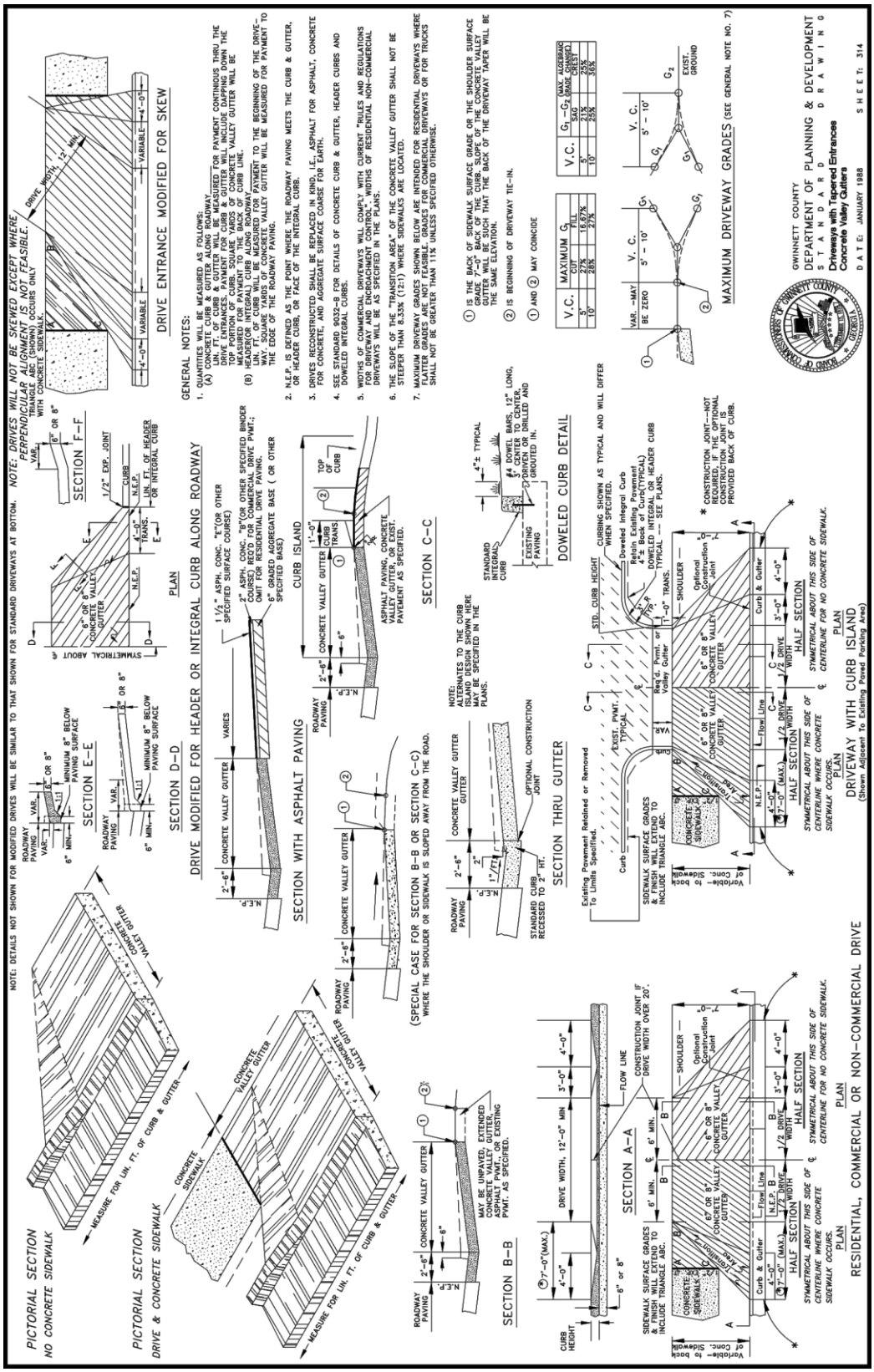
Berkely Lake Detail: Driveway Type 4



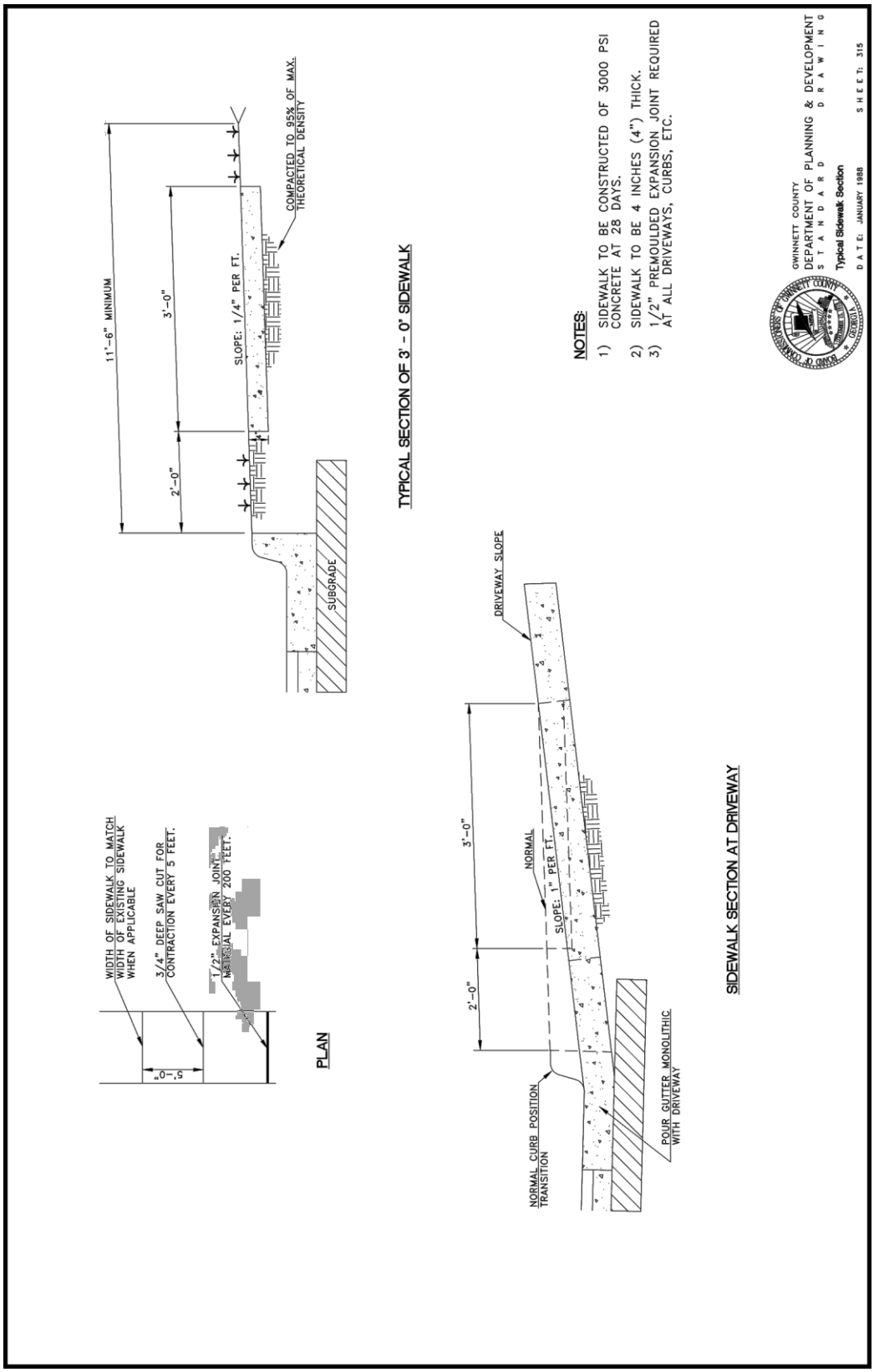
Gwinnett Detail 313: Commercial and Industrial Driveways



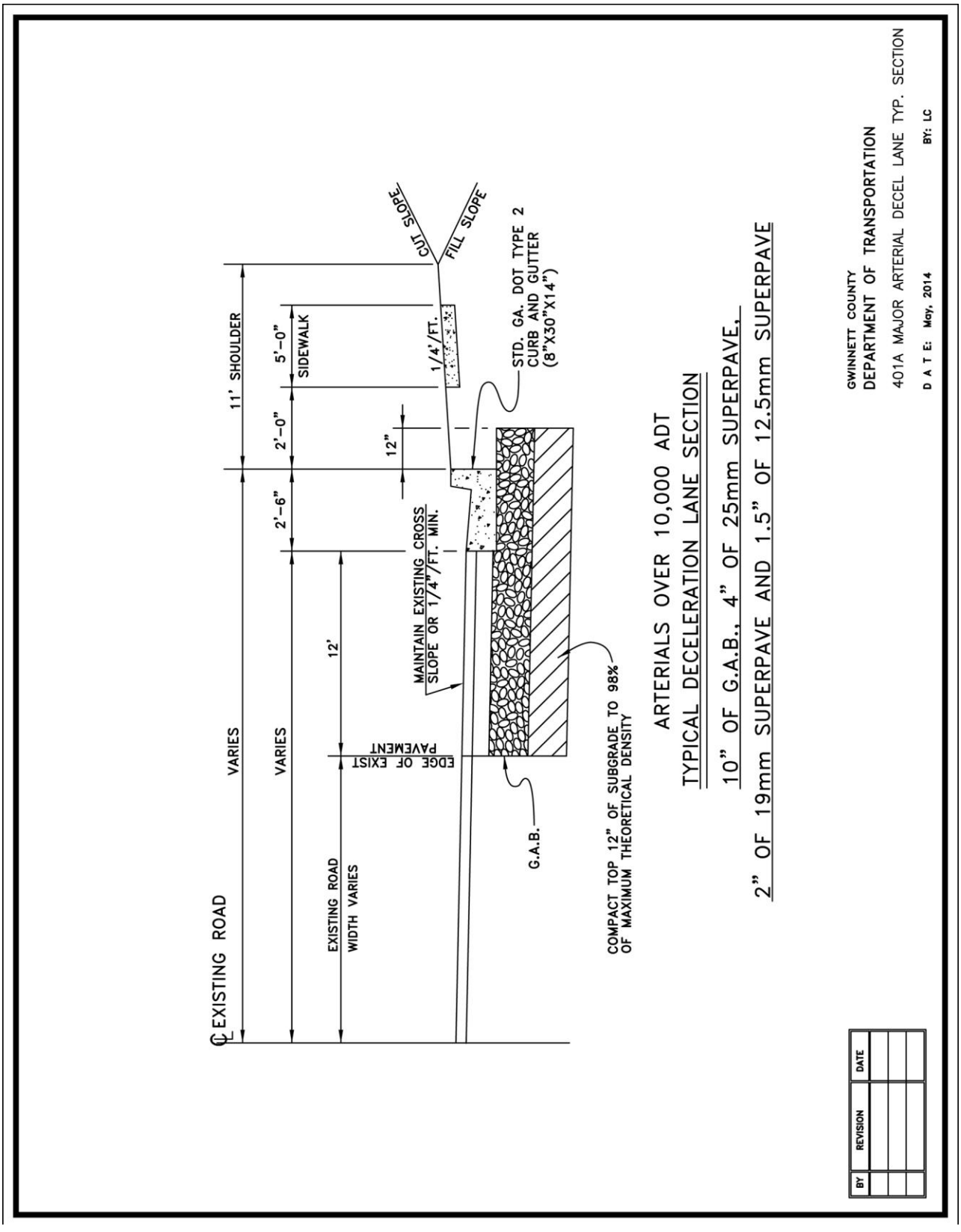
Gwinnett Detail 314: Driveways with Tapered Entrances - Concrete Valley Gutters



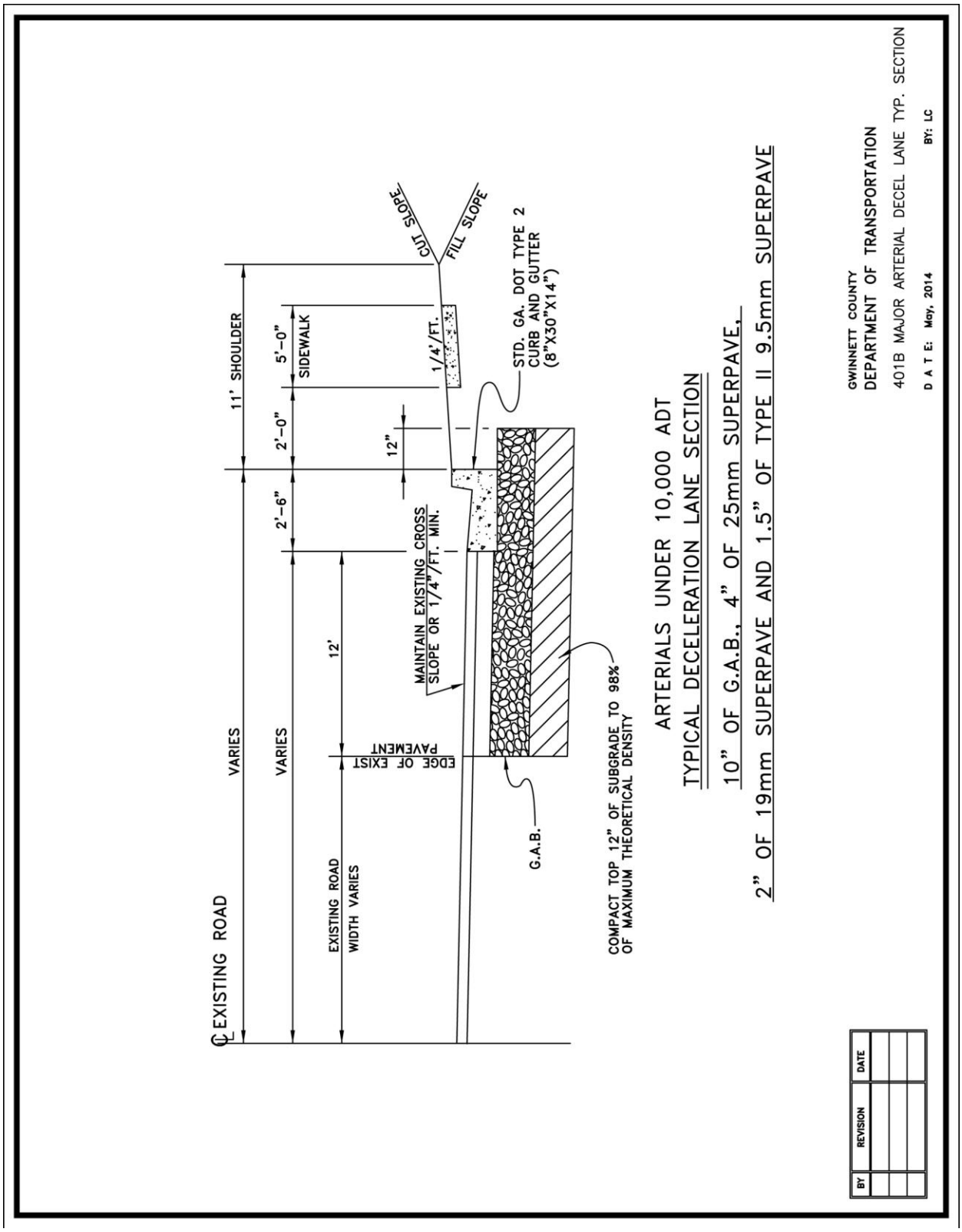
Gwinnett Detail 314: Typical Sidewalk Section



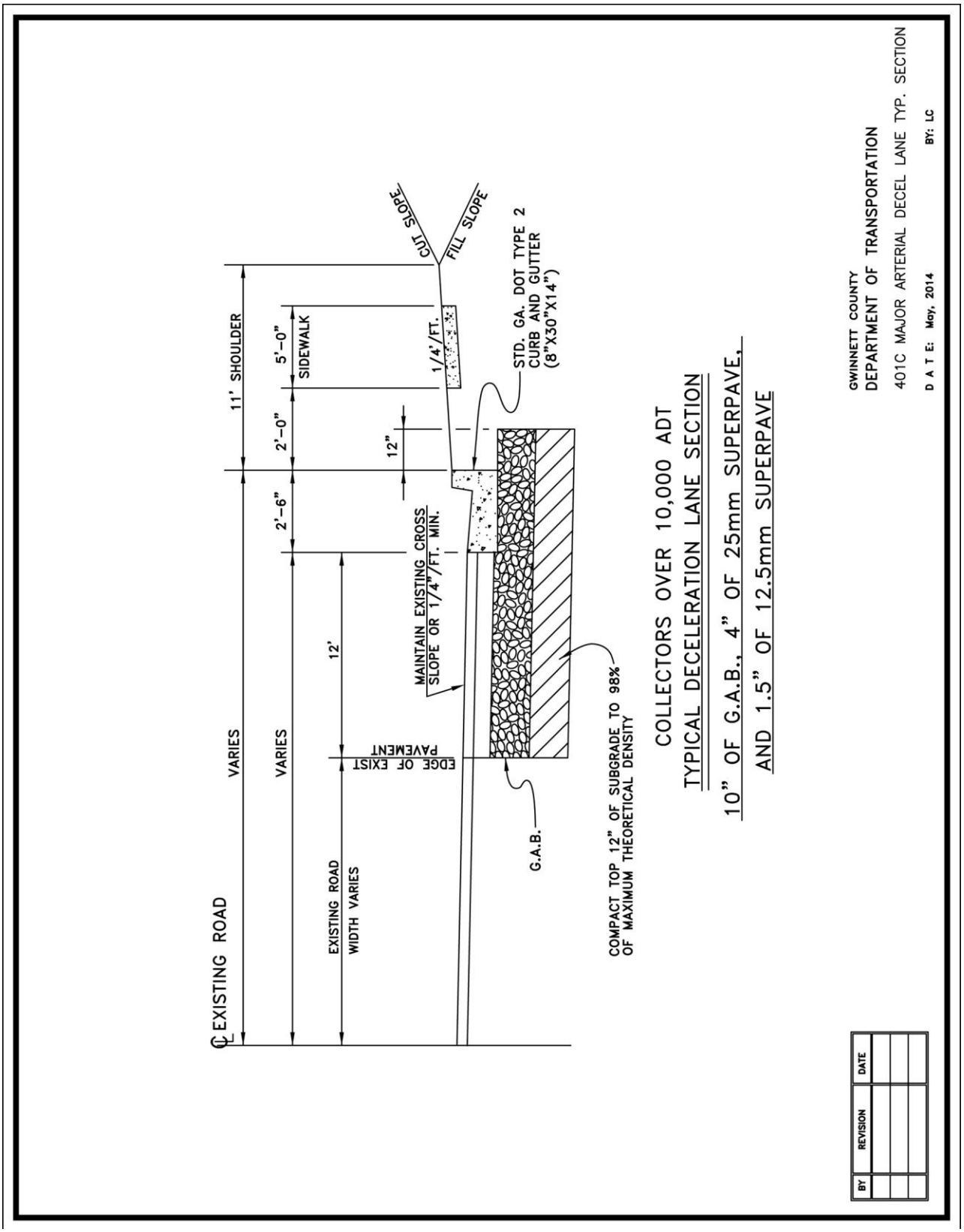
Gwinnett Detail 401A: Major Arterial Decel Lane Typ. Section



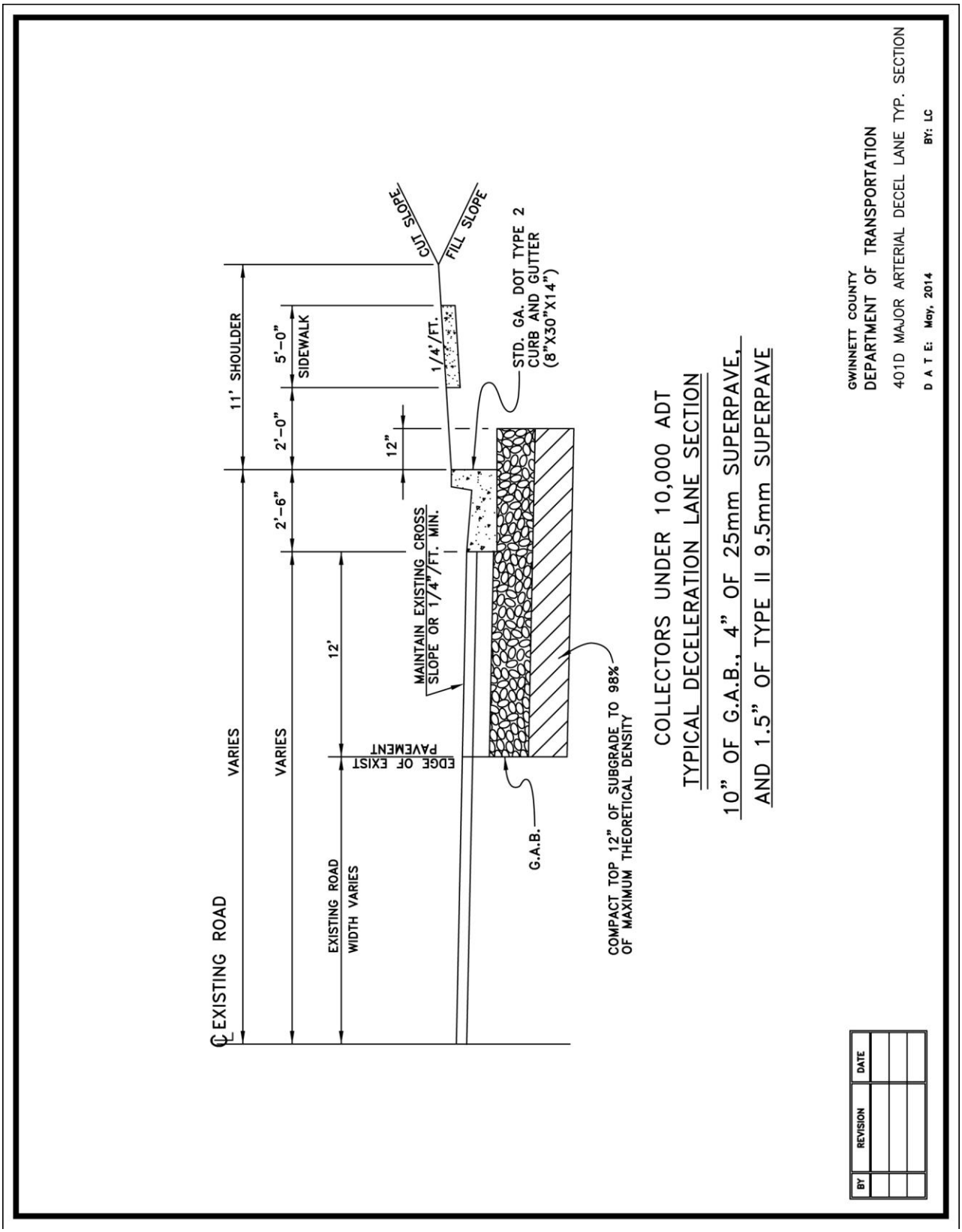
Gwinnett Detail 401B: Major Arterial Decel Lane Typ. Section



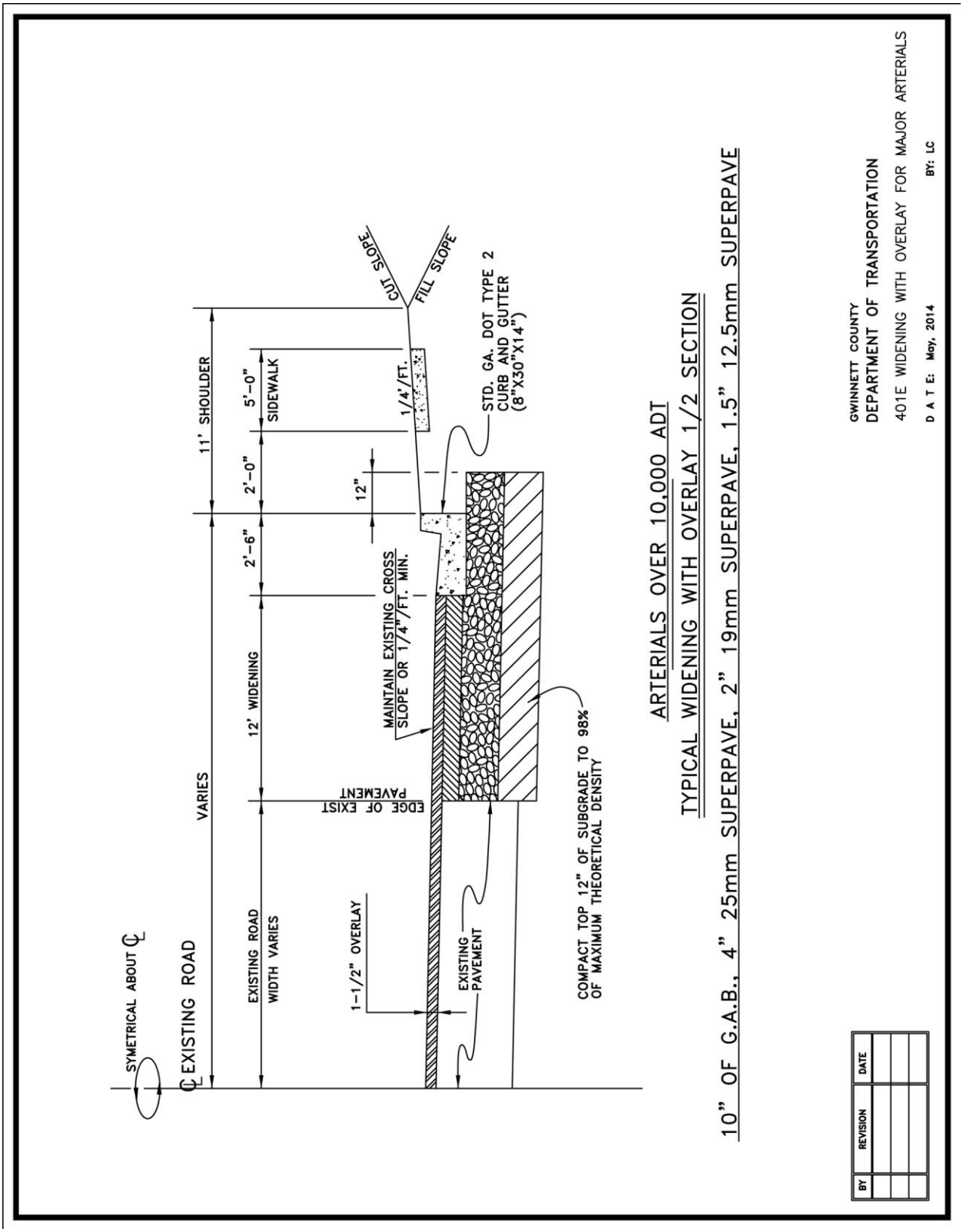
Gwinnett Detail 401C: Major Arterial Decel Lane Typ. Section



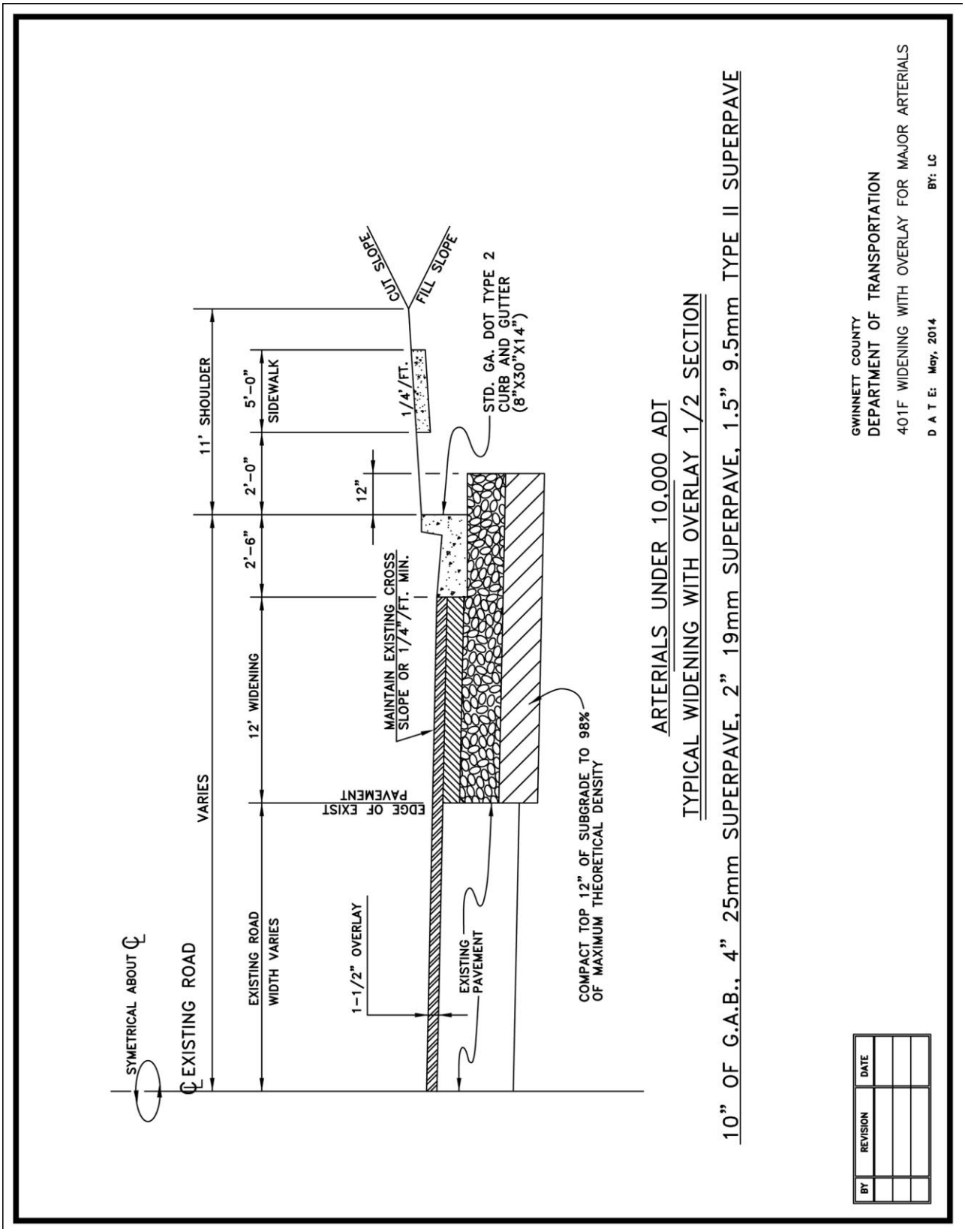
Gwinnett Detail 401D: Major Arterial Decel Lane Typ. Section



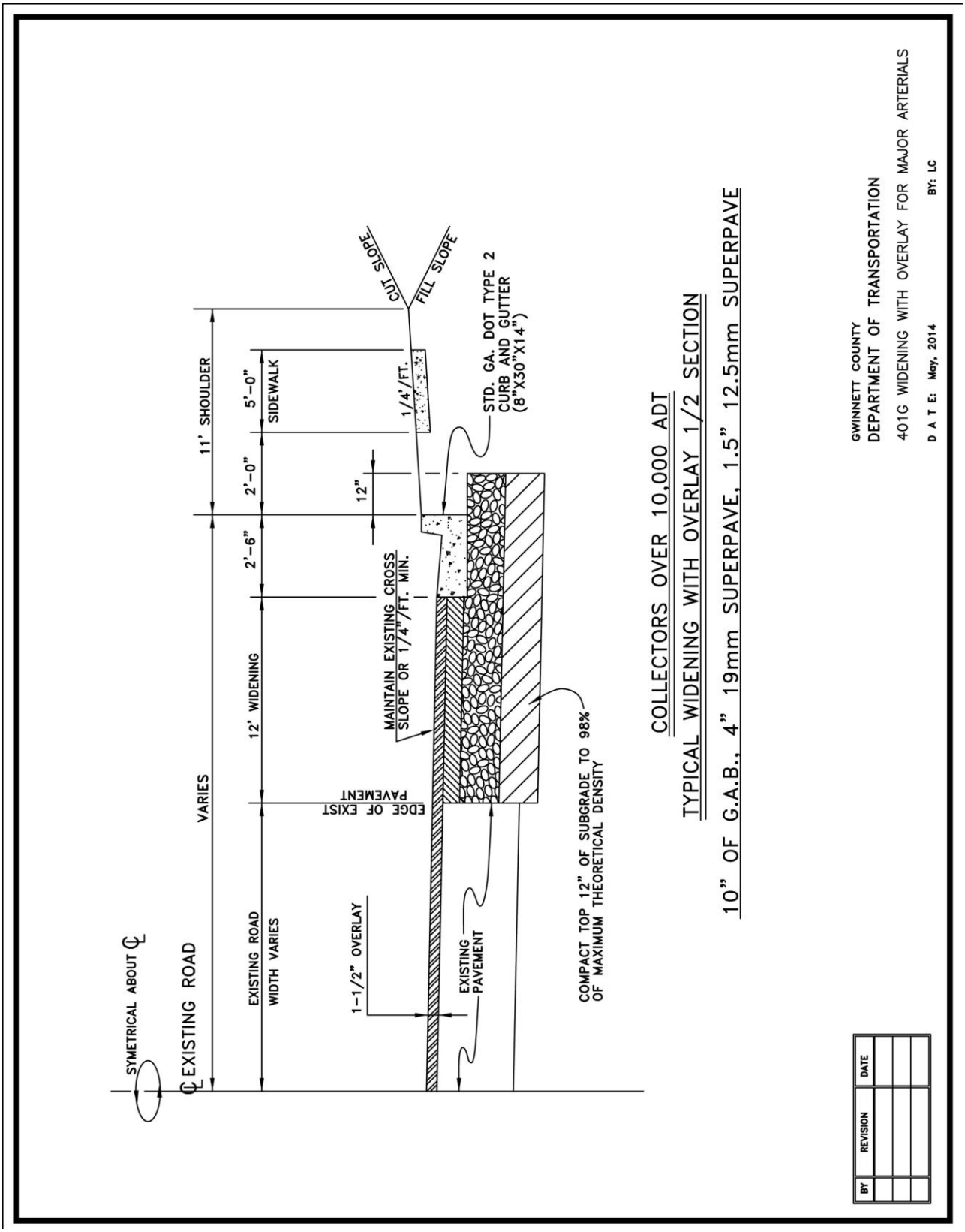
Gwinnett Detail 401E: Widening with Overlay for Major Arterials



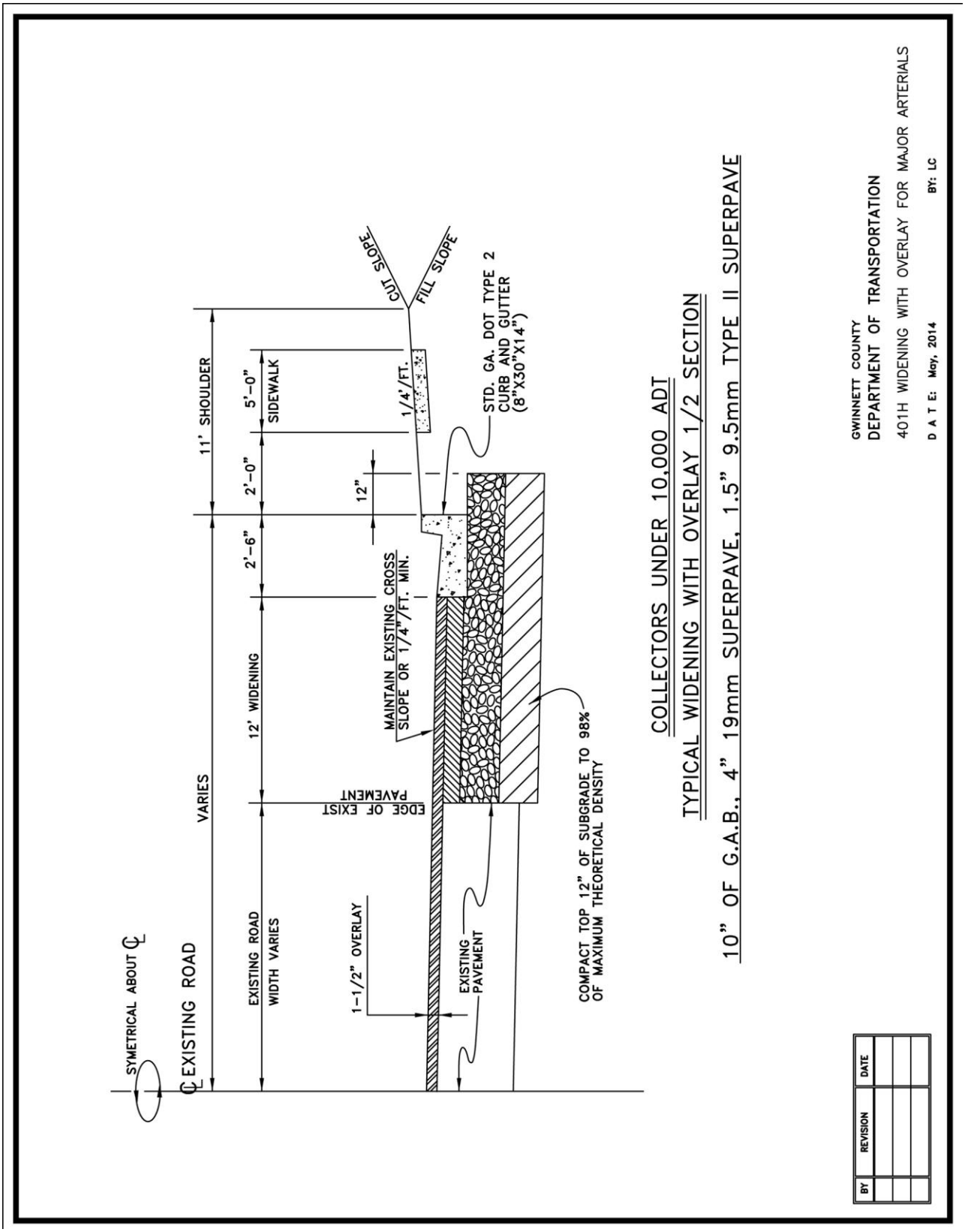
Gwinnett Detail 401F: Widening with Overlay for Major Arterials



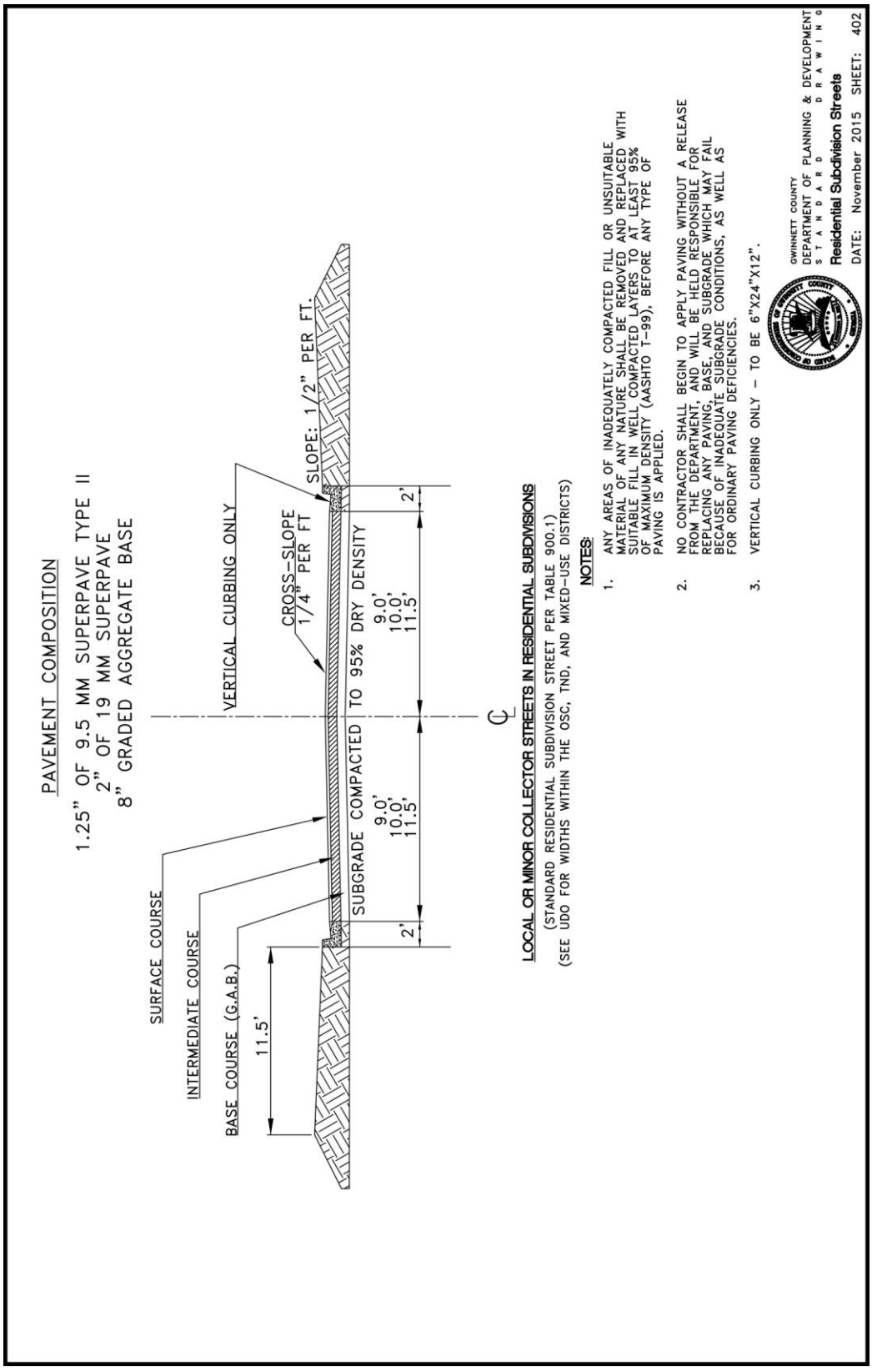
Gwinnett Detail 401G: Widening with Overlay for Major Arterials



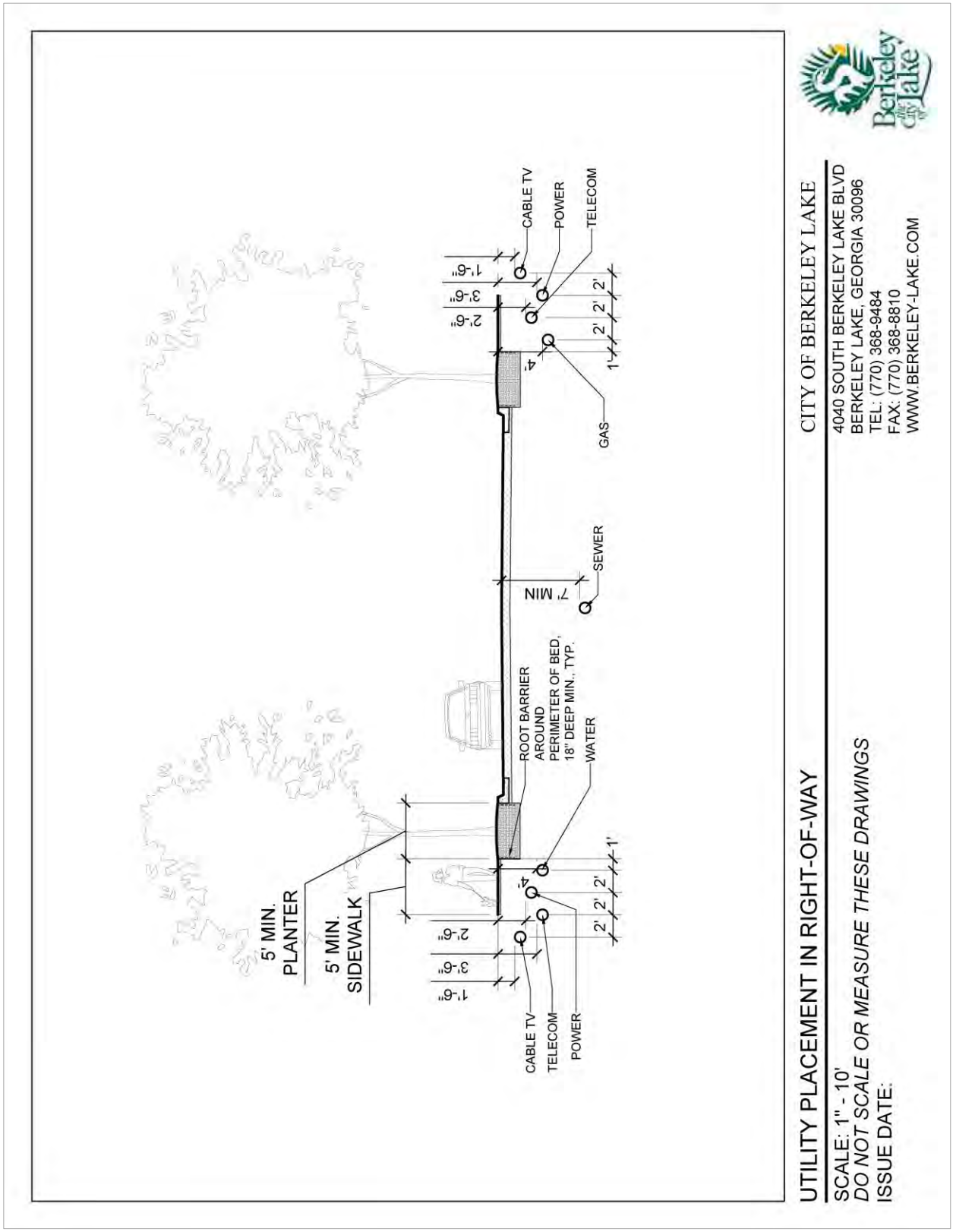
Gwinnett Detail 401H: Widening with Overlay for Major Arterials



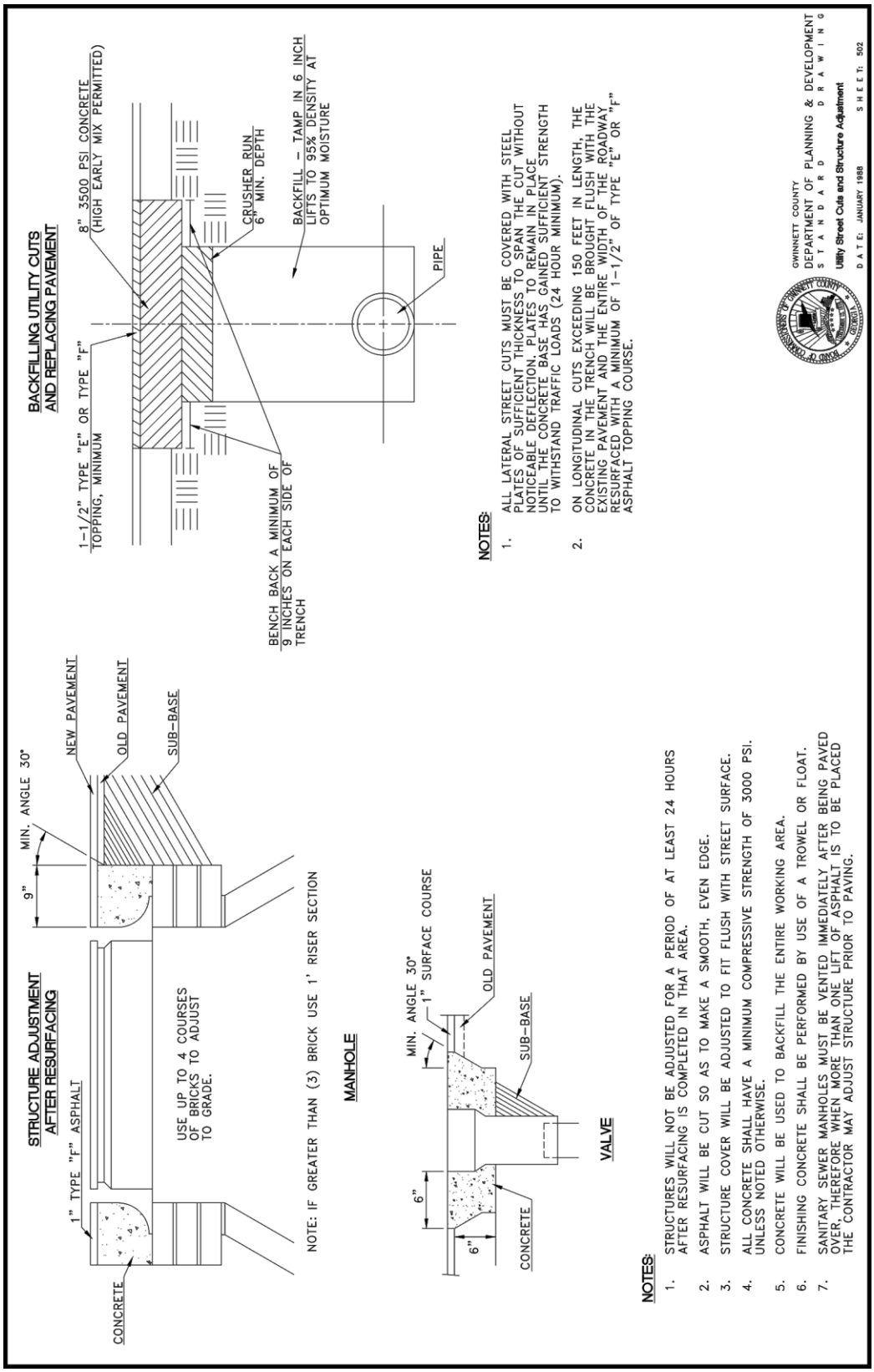
Gwinnett Detail 402: Residential Subdivision Street (Pavement)



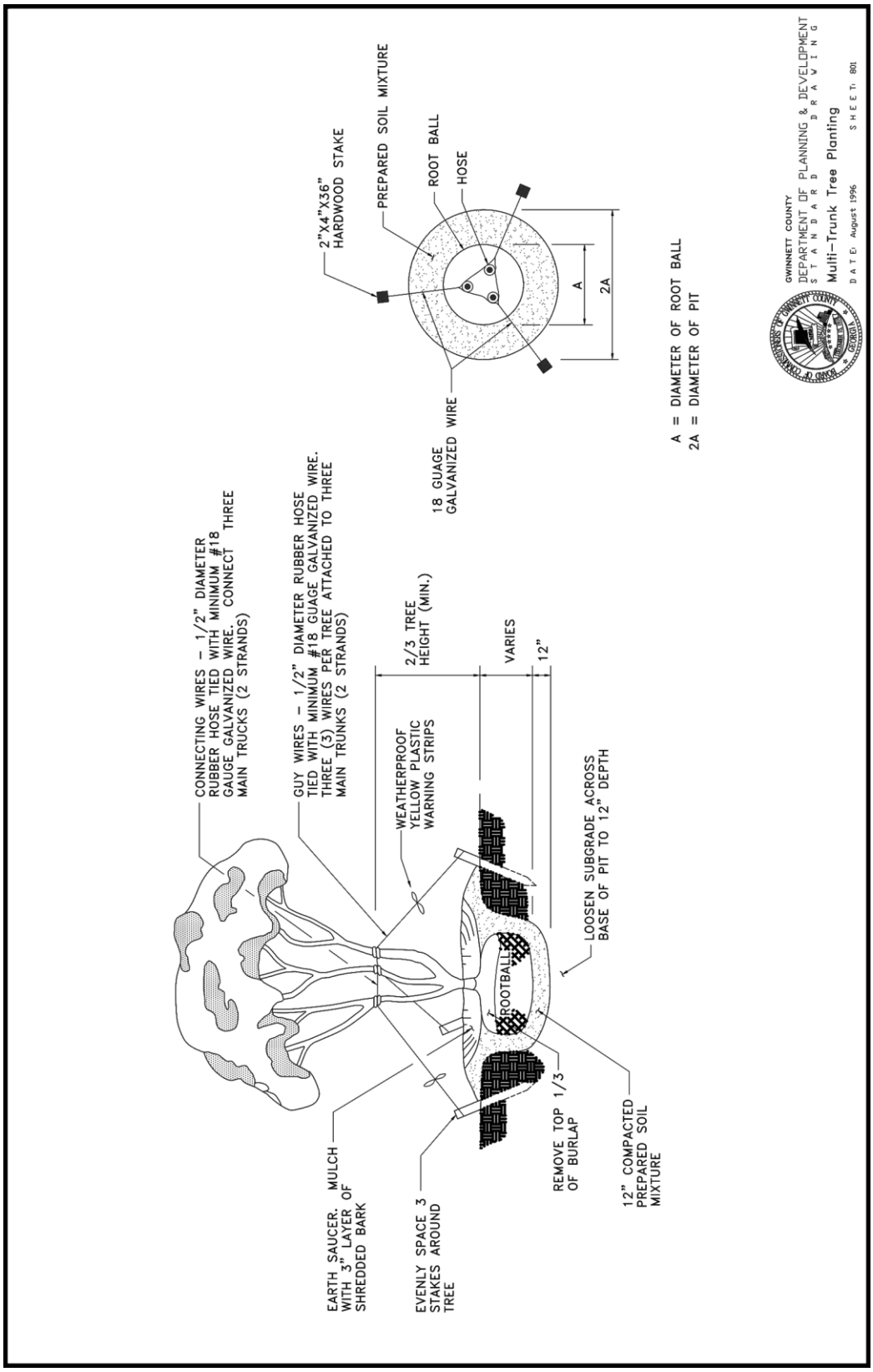
Berkeley Lake Detail: Utility Placement in Right-of-Way



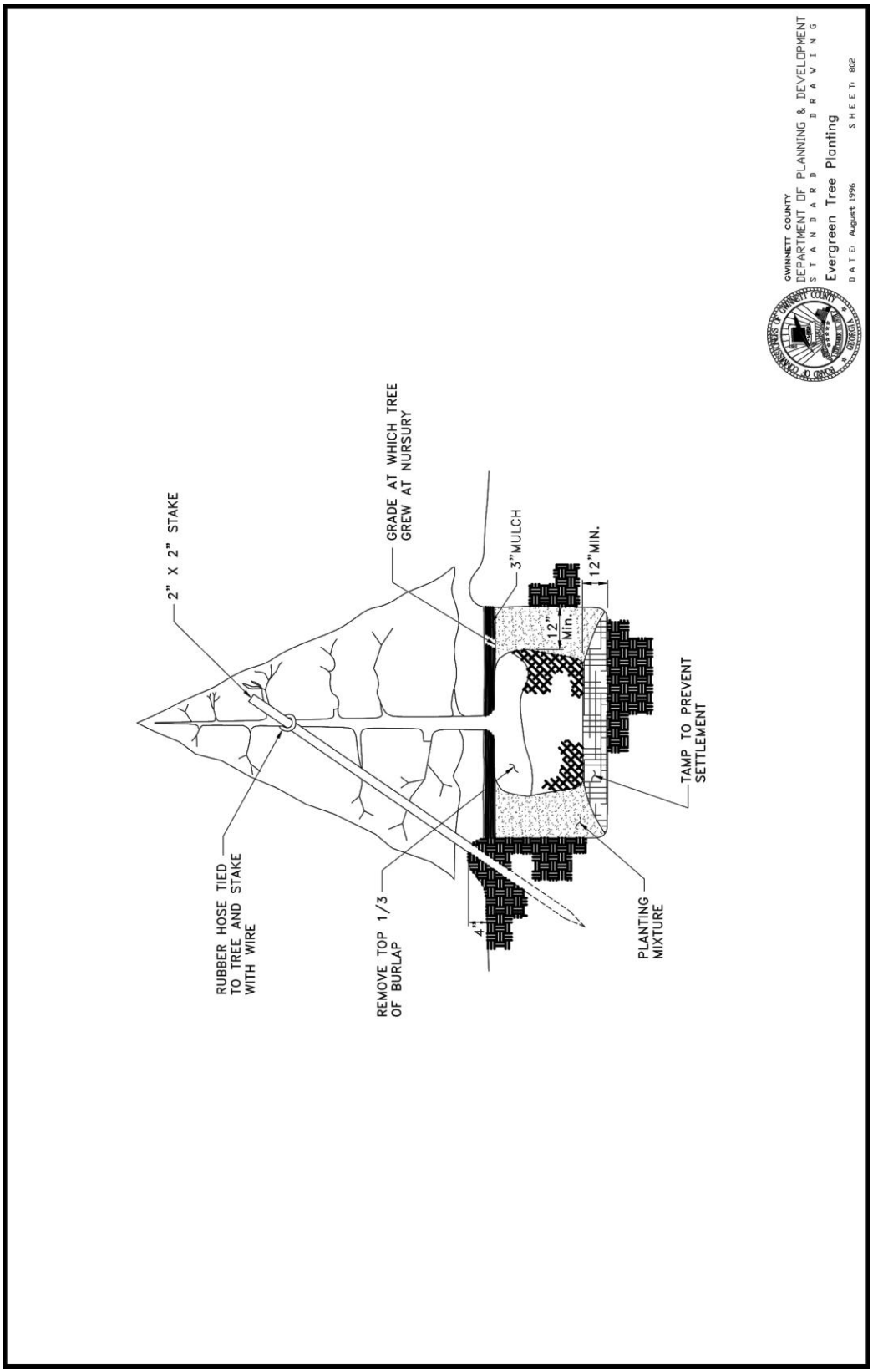
Gwinnett Detail 502: Utility Street Cuts and Structure Adjustment



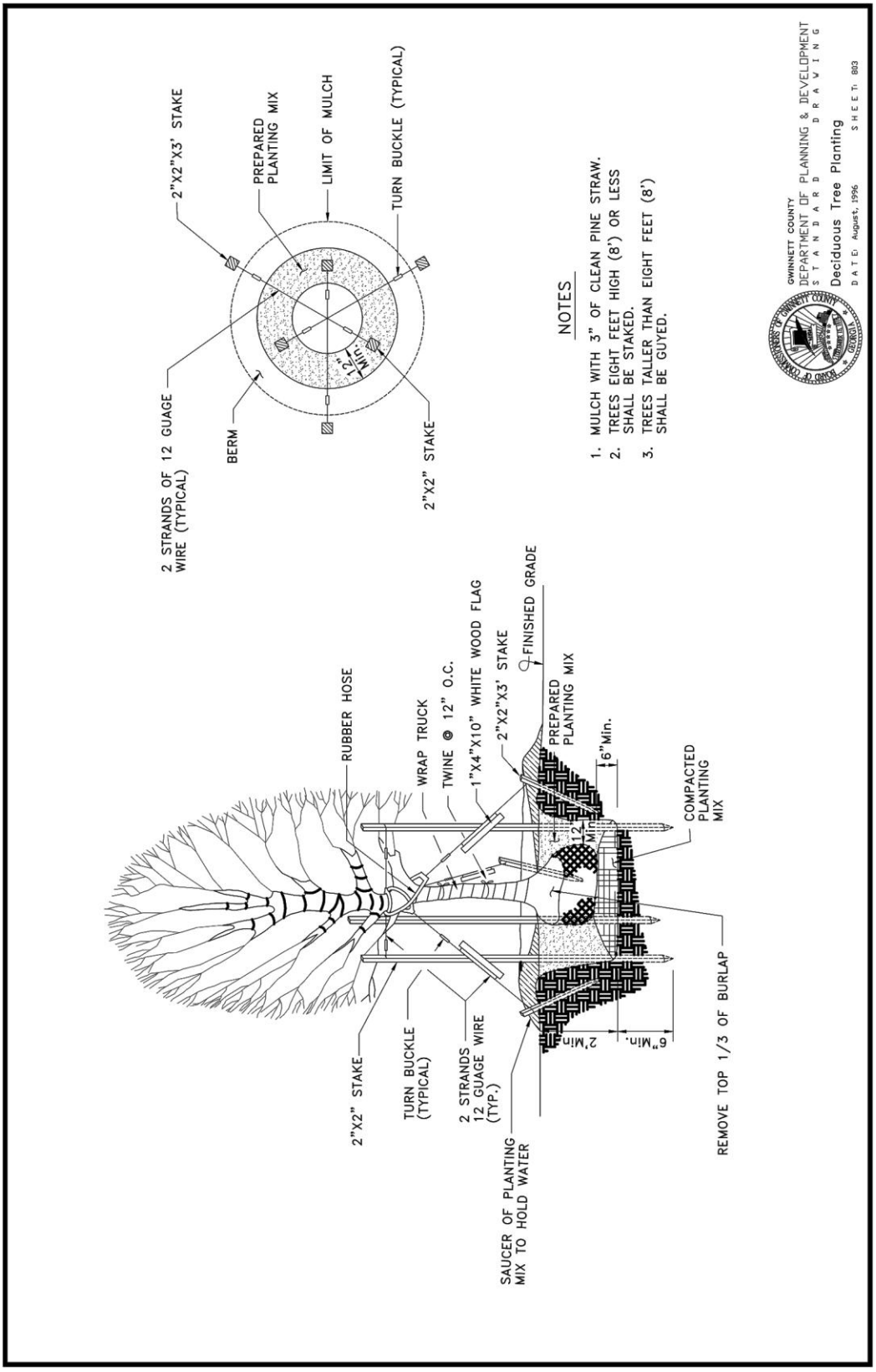
Gwinnett Detail 801: Multi-Trunk Tree Planting



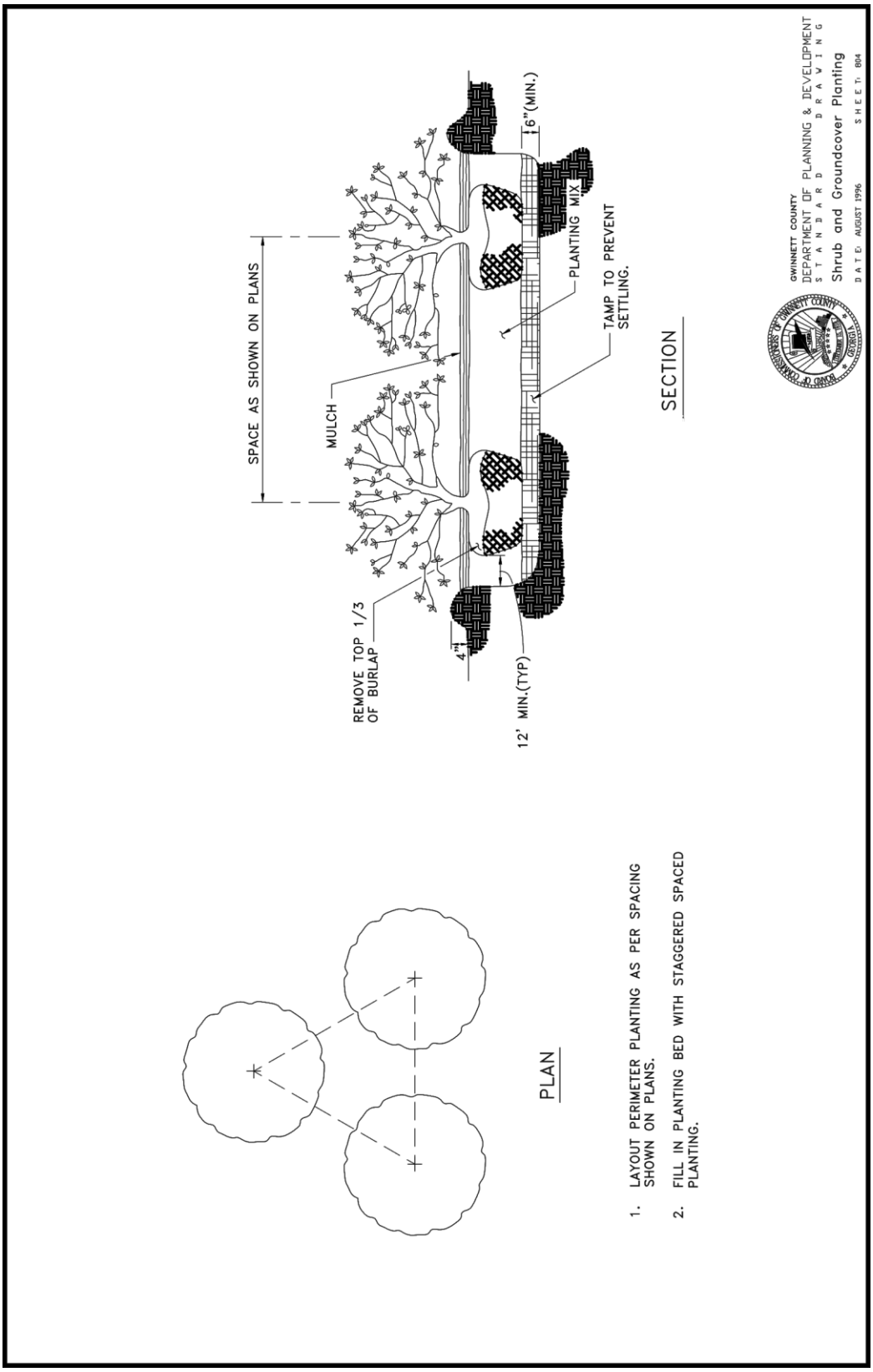
Gwinnett Detail 802: Evergreen Tree Planting



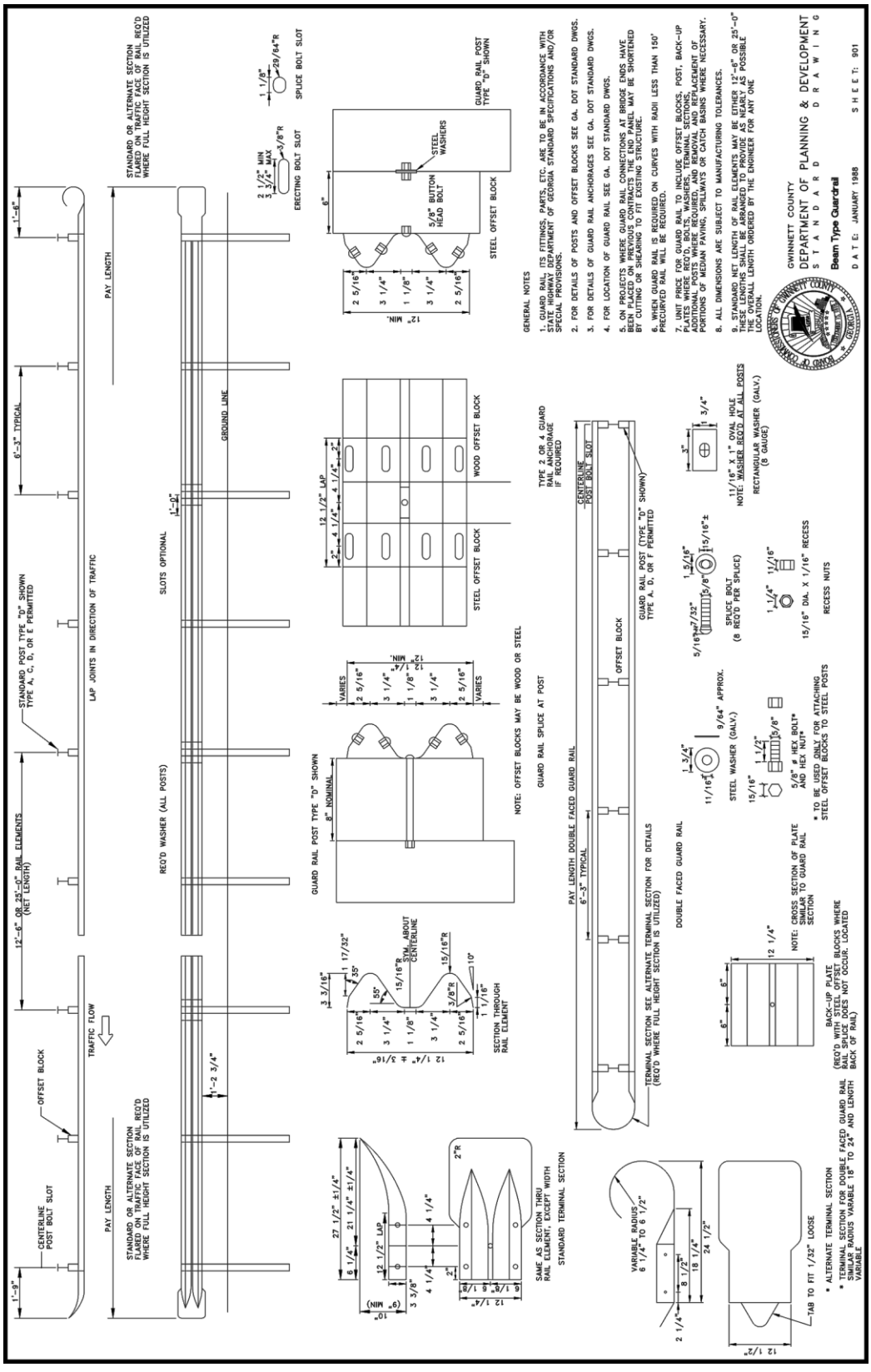
Gwinnett Detail 803: Deciduous Tree Planting



Gwinnett Detail 804: Shrub and Groundcover Planting



Gwinnett Detail 901: Beam Type Guardrail



Subject: Proposal for Temporary Energy Fuel Charge Berkeley Lake, GA

Dear Mrs. Leigh Threadgill, City Administrator

WM values our ongoing relationship with the City of Berkeley Lake and remains committed to providing reliable, high-quality service to the community.

We are writing to provide an update on current market conditions and formally request consideration of a temporary Energy Fuel Charge under our agreement.

The waste and recycling services provided to The City of Berkeley Lake depend on a complex network of collection vehicles, transfer operations, disposal facilities, recycling processing, and transportation infrastructure. Like many essential service industries, these operations are affected by broader economic and energy market conditions.

In recent months, global energy markets have experienced significant volatility driven by inflationary pressures, refinery constraints, supply chain disruptions, and geopolitical events, including the conflict involving Iran. While these events occur far from our community, their impact can be felt locally through increases in fuel prices and transportation costs. Even when domestic fuel supplies remain stable, global market pressures can increase the cost of the refined fuels used to operate collection trucks, transfer stations, landfills, and recycling facilities.

As a result, the cost of delivering reliable waste and recycling services has increased at a pace that exceeds the adjustments contemplated under standard contract pricing mechanisms. These changes are outside the control of both the City of Berkeley Lake and WM, yet they have materially affected the cost of providing essential services.

Throughout this period, WM has worked diligently to manage these impacts while maintaining consistent service levels for residents and businesses. We have absorbed a substantial portion of these rising costs and continued investing in the personnel, equipment, facilities, and infrastructure necessary to ensure dependable service.

Given the magnitude of these extraordinary market conditions, WM is proposing a temporary Energy Fuel Charge as a separate line item rather than a permanent change to the base rate. The requested charge is supported by a transparent, data-driven methodology based on publicly available fuel indices and our internal fuel calculator.

Proposed Temporary Charge Calculation :
· Baseline fuel cost at contract January 1, 2026 (Quarter 1 of 2026)
· Current blended fuel cost (Diesel + CNG): 23.50%
· % Increase: 5.69%
· Proposed temporary fuel charge: $1.45 per month
· Duration: 3 months (subject to review)
· Supporting attachment: Fuel Calculator Output below

PSS Energy Surcharge Calculator

Updated October2026

Link to Calculator - https://www.wm.com/us/en/terms/energy-surcharge

Collection & Transfer Station Surcharge

	Diesel	CNG	Surcharge Output
Q121	2.89	3.56	11.95%
Q221	3.21	2.94	13.06%
Q321	3.36	4.36	14.46%
Q421	3.66	4.77	16.00%
Q122	4.29	4.66	18.77%
Q222	5.48	7.48	25.52%
Q322	5.16	7.99	24.35%
Q422	5.06	5.55	22.66%
Q123	4.40	2.65	18.24%
Q223	3.94	2.16	15.93%
Q323	4.27	2.59	17.62%
Q423	4.24	2.74	17.57%
Q124	3.97	2.13	16.05%
Q224	3.85	2.09	15.49%
Q324	3.69	2.11	14.79%
Q424	3.53	2.44	14.24%
Q125	3.63	4.15	15.56%
Q225	3.56	3.19	14.75%
Q325	3.76	3.03	15.57%
Q425	3.71	3.75	15.71%
Q126	4.06	4.80	17.81%
Q226	5.38	2.95	22.70%
0326	5.57	2.87	23.50%

		Surcharge %
Timeframe to Compare	Q126	17.81%
Current Surcharge		23.50%
Increase in current surcharge in bps		569
Corresponding Fixed Surcharge or EI amount		5.69%

Example

Current Rate	$25.50
Increase Amount	5.69%
New Rate	$26.95
Temp rate change per month	$1.45

The temporary Energy Fuel Charge will:
· Will Appear as a separate line item for transparency to mirror your invoices
· Remain fixed for three months to support budget predictability
· Be reviewed mid-cycle and adjusted if fuel prices decline or increase further

We have already billed for the last Quarter so this would take effect on the first billing cycle of 2027 which is 12/10/2026.

Our request is intended to address short-term fuel volatility, not permanently change the base rate. By using a separate, time-limited charge, Berkeley Lake can maintain clear visibility into the cost driver while helping preserve the safe, reliable, and uninterrupted service that residents and businesses depend upon every day. Thank you for your continued collaboration.

Sincerely,

Steve Edwards

Steve Edwards, PSS Manager
770 560-4025 / sedward1@wm.com

RESOLUTION 2026-05

STATE OF GEORGIA
COUNTY OF GWINNETT

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BERKELEY LAKE TO FACILITATE STUDY AND IMPROVEMENT OF THE LAND USE ORDINANCES AND DEVELOPMENT REGULATIONS GOVERNING DEVELOPMENT IN THE CITY AND ADOPTION OF A UNIFIED DEVELOPMENT CODE FOR THE CITY

WHEREAS, the Mayor and Council of the City of Berkeley Lake are in the process of reviewing and modifying the Zoning Ordinance, and other land use ordinances and other development regulations for the City of Berkeley Lake; and

WHEREAS, development in the City will impact the economic wellbeing and public health, as well as the safety and welfare of the citizens; and

WHEREAS, development pressures have resulted in the need to evaluate the City's policies, and the regulations and standards applicable to land use; and

WHEREAS, the City is considering the policies, regulations and standards governing development and land use to encourage quality growth and development in Berkeley Lake; and

WHEREAS, the Mayor and Council are considering the experiences and challenges of other counties and municipalities that are experiencing the challenges of growth and development; and

WHEREAS, the City desires to consider recent developments in the law and in practice in the regulation of land use in light of the policies, regulations and standards as they may be modified by the adoption of a new Unified Development Ordinance; and

WHEREAS, the City remains in the process of developing and approving a new Unified Development Ordinance; and

WHEREAS, the Mayor and Council deem it in the best interest of the citizens of the City of Berkeley that no requests or applications for annexation, changes of conditions on prior approvals, conditional uses, waivers, amendments to the Zoning Map or requests or applications for rezoning property in the City shall be accepted by the City while the City studies the experiences, challenges and recent developments and revises its Zoning Ordinance or other development regulations; and

WHEREAS, the Mayor and Council believe that completing this process will require an additional two months;

NOW, THEREFORE, the Mayor and Council of the City of Berkeley Lake do hereby resolve that the City shall continue to consider revisions to land use ordinances and other development regulations impacting land use in the City and the drafting and adoption of a Unified Development Ordinance;

AND FURTHER that the City shall not accept any application or requests for annexation, changes to conditions on prior approvals, conditional uses, waivers, amendments to the Zoning Map or requests for zoning or rezoning of any property in the City from the date of execution of this Resolution through and including January 22, 2026, or the date upon which the City lifts this moratorium, whichever first occurs.

PASSED, ADOPTED AND APPROVED this ____ day of _____, 2026.

_____
Lois Salter, Mayor

ATTESTED BY:

_____

Leigh Threadgill, City Clerk

Approved as to form:

_____
Thomas M. Mitchell, City Attorney